

Citation: *Dr. Cyr v Vitalité Health Network*, 2026 NBKB 132

Court File No.: MM-68-2026

IN THE COURT OF KING'S BENCH OF NEW BRUNSWICK

TRIAL DIVISION

JUDICIAL DISTRICT OF MONCTON

BETWEEN:

DR. VALÉRIE-ANNE CYR,

APPLICANT

-and-

**REGIONAL HEALTH AUTHORITY A, doing
business as VITALITÉ HEALTH NETWORK,**

RESPONDENT

DECISION

BEFORE: Justice Maya Hamou

DATES OF HEARING: May 15 and June 15, 2026

DATE OF DECISION: June 22, 2026

APPEARANCES: Renée Fontaine and Julie Young, counsel appearing on behalf of
Dr. Valérie-Anne Cyr

Vincent Charest and Daniel Surette, K.C., counsel appearing on
behalf of Vitalité Health Network

OVERVIEW

1. This matter involves an Application for Judicial Review brought by Dr. Valérie-Anne Cyr, (“Dr. Cyr”) against Regional Health Authority A, doing business as Vitalité Health Network (“Vitalité”). Dr. Cyr is seeking to quash a December 16, 2025, Decision by Vitalité (the “Decision”) that imposed a 12-month suspension of privileges and a condition of indefinite supervision on her practice following the death of a patient.
2. Specifically, Dr. Cyr seeks:
 - (1) by way of Judicial Review, the quashing of Vitalité’s Board of Directors’ (the “Board”) Decision adopting the recommendations of the Review Panel in its report of October 30, 2025.
 - (2) that the report of the Review Panel (the “Report”) be removed into the Court and quashed.
 - (3) that all references to the Report, the Decision, and the suspension be removed from Dr. Cyr’s records and requests that Vitalité be prohibited and barred from referring or communicating the Report, Decision, or suspension for any purpose or to anyone.
3. Dr. Cyr maintains the Decision issued by the Board lacked procedural fairness and was unreasonable. Vitalité maintains the process outlined in their bylaws (the “Bylaws”) was followed and that the Decision of the Board should not be interfered with.

Procedural Background

4. Vitalité filed a preliminary Motion requesting the striking of the Notice of Application and of the Affidavit and Supplemental Affidavit of Dr. Cyr under Rule 23.01(1)(b) and, in the alternative, under Rule 27.09 of the *Rules of Court*. Additionally, Vitalité requested the striking of paragraphs from the Affidavit of Dr. Cyr under Rules 4.05(2) and 39.01(4) of the *Rules of Court*.
5. The Motion was heard ahead of the Application for Judicial Review on May 15, 2026. The relief sought in the Motion was largely dismissed. Only paragraphs 155 to 162 of the Affidavit of Dr. Cyr were struck as they contained legal arguments and characterizations of the Review Panel’s reasoning. The Court issued an oral decision following the arguments of the parties.

6. Following the Court's oral decision on Vitalité's Motion, late in the day, Vitalité sought an adjournment to enable the filing of responding affidavits. Of note, Vitalité had previously chosen to file no responding affidavits on the Application. The Court issued a second oral decision in court granting the adjournment following arguments of the parties.

Factual Background

7. The Decision under review in this case arose following a complaint filed against Dr. Cyr. The complaint was not provided to Dr. Cyr; however, Dr. Cyr was advised that the initial investigation involved an incident which took place in the early morning hours of January 27, 2025, during her work shift at Stella-Maris-de-Kent Hospital ("SMKH"). Dr. Cyr was in the 14th hour of a 20-hour shift at SMKH when she was notified by a nurse of the arrival of a 33-year-old female patient complaining of chest pain and presenting with a history of myocarditis. While resting in a room adjacent to the Emergency Department, Dr. Cyr spoke with the nurse, assessed the situation by telephone, and directed the nurse to conduct tests to further assess the situation (cardiac workup, ECG and blood tests). The patient's condition deteriorated and Dr. Cyr attended the bedside to initiate resuscitation efforts, but the patient died in the Emergency Department.
8. Vitalité immediately removed Dr. Cyr from the hospital schedule and initiated an investigation. Dr. Cyr provided a response to the complaint with no knowledge of the complainant and with no access to the relevant medical charts.
9. The matter was later referred to a Review Panel which held a three-day hearing in October 2025. The hearing took place more than 60 days after the events in question, beyond the time contemplated by the Bylaws, for various reasons. Between March and May 2025, Dr. Cyr made several disclosure requests that went unanswered and received Vitalité's witness list only a few days before the hearing. The Review Panel was provided with a joint Book of Documents and heard evidence from 10 witnesses, including Dr. Cyr, four physicians, four nurses, and one expert witness. The hearing proceeded *in camera*, and the Review Panel denied Dr. Cyr's request to record it without giving reasons. The Review Panel ultimately concluded that Dr. Cyr was negligent.
10. The Report of the Review Panel does not summarize the evidence of the witnesses, nor does it address Dr. Lasher's opinion evidence. Significant disputes of fact emerged from the testimony of witnesses before the Review Panel (as reflected in affidavits filed on the

Application), yet the Review Panel fails to address credibility or reliability of those witnesses. It also contains no findings of fact where the evidence was contradictory and does not indicate why the evidence of certain witnesses was preferred over that of others.

11. The Review Panel did not address on which basis the care or decisions made by Dr. Cyr fell below the standard of care expected of an emergency physician or amounted to negligence. It also failed to address why conducting an assessment via telephone and requesting investigative testing before bedside evaluation would breach the applicable standard of care.
12. Finally, the Review Panel did not address the consideration of the factors set out in the Bylaws as it relates to its choice of disciplinary sanctions.
13. On December 16, 2025, the Board adopted the Report of the Review Panel, including its recommendations, in its entirety. The Board refused to be provided with copies of the record before the Review Panel, refused to hear submissions on the evidence, and imposed a 10-minute speaking limit on each party. The Board provided no reasons for its Decision which was made by a majority of the Board members; not a unanimous Board.
14. For the reasons that follow the Court quashes the Decision of the Board, including the Report of the Review Panel and remits the matter for determination in accordance with the directions of the Court..

ISSUES

15. This matter gives rise to the following issues:

- What is the decision under review? Is the Report of the Review Panel subject to judicial review or does it form part of the Decision of the Board?
- Did Vitalité breach procedural fairness in rendering its Decision?
- Was Vitalité's Decision reasonable?
- What is the appropriate remedy?
- What costs are recoverable by Dr. Cyr?
- Should the Court direct that references to the Report of the Review Panel, the Decision of the Board, and the consequential suspension be removed from Vitalité's records? Or that any information relating to these not be referred to or communicated?

ANALYSIS

Decision Under Review

16. On Judicial Review, the Court must first start its analysis by identifying the decision. That is, asking itself, “what is the decision under review?”, “where does the decision start and where does it end?”
17. The parties agree that the decision under review in this case is the December 16, 2025, Decision of the Board to suspend Dr. Cyr’s medical privileges for a twelve-month period and to impose a condition for an indefinite period of indirect supervision upon her return to practice. However, the Court must determine, for the purpose of the current review, where the Decision starts. Both parties acknowledge that since the Board adopted the Report without further explanation, the Report and the Decision are viewed as a whole for the purpose of this Judicial Review.
18. Justice Petrie in *McConnell Transport Ltd. v The Minister of Justice and Public Safety of New Brunswick*, 2020 NBQB 51, at paragraph 22, quoting Justice Stratas of the Federal Court of Appeal, addressed the question of administrative processes and judicial reviews. Justice Petrie concluded that a judicial review is only available after the administrative process has run its course. Justice Petrie found that administrative decision-making processes cannot be fragmented and subjected to judicial review. He also found that portions of the process are not subject to judicial review until a final decision is rendered.
19. In reviewing Vitalité’s Bylaws, sections C.7.0 and C.8.0 outline the process for dealing with a complaint and the nature of complaints giving rise to discipline against members of the medical staff. If the matter is not resolved at the early stages of the assessment, the matter proceeds to discipline through the composition of a Review Panel (section C.10 of the Bylaws). The Review Panel is then directed to follow the process and hearing procedures set out in sections C.11 and C.12 of the Bylaws. The Report, including recommendations of the Review Panel, are reviewed by the Board and lead to a final and binding decision (section C.13 of the Bylaws).
20. In *Comité exécutif du Collège des médecins du Québec c Pilorgé*, 2013 QCCA 869 (“*Pilorgé*”), the Quebec Court of Appeal stated that where an administrative decision maker provides no independent reasons and adopts a report with recommendations, both the decision and the report are subject to review.

21. In this case, while the Report of the Review Panel and Decision of the Board are two distinct steps performed by two distinct groups in the administrative process, it remains that the Report of the Review Panel is not a stand-alone reviewable decision subject to judicial review. Rather, in this case, the Report of the Review Panel forms part of the administrative process that led to the Decision of the Board and formed the basis for the Decision of Board.
22. As such, both the Report of the Review Panel and the Decision of the Board are subject to the Court's scrutiny in the context of this judicial review.

Procedural Fairness

23. The law requires that the rules of procedural fairness be respected; there is no deferential standard that applies in the circumstances (*Landry v Attorney General of New Brunswick*, 2020 NBCA 38, and *Wilson v Department of Social Development*, 2024 NBCA 41, para 42). Both parties in this case agree that procedural fairness is owed but disagree on its scope and whether it was breached.
24. Both parties referenced *Baker v Canada (Minister of Citizenship and Immigration)*, [1999] 2 SCR 817, 1999 CanLII 699 (SCC) ("*Baker*"), at paragraphs 21 to 28 to suggest that procedural fairness depends on several factors, including:
- (1) The nature of the decision and the process followed.
 - (2) The nature of the statutory scheme and the terms of the statute pursuant to which the decision maker operates.
 - (3) The importance of the decision to the person affected.
 - (4) The legitimate expectations of the person challenging the decision.
 - (5) The choices of procedure made by the decision maker.
25. As noted by Dr. Cyr, and the Court agrees, in addressing the nature of the decision and the process followed, "the more the process provided for, the function of the tribunal, the nature of the decision-making body, and the determinations that must be made to reach a decision resemble judicial decision-making, the more likely it is that procedural protections closer to the trial model will be required by the duty of fairness" (*Knight v Indian Head School Division No. 19*, 1990 CanLII 138 (SCC), page 683, and *Baker*, para 23). The nature of the decision and the process followed in the circumstances give rise to a higher degree of procedural fairness.

26. Regarding the statutory and regulatory scheme, including the Bylaws, greater protection will be required where no right of appeal is provided. In the circumstances, a decision of the Board is not subject to appeal proper suggesting a higher degree of procedural fairness.
27. As it pertains to the importance of the Decision, a high standard of procedural fairness is required where a person's profession or employment is at stake (*Trinh v Acadie-Bathurst Health Authority*, 2005 NBQB 103, para 35, and *Finkle v Nova Scotia Health Authority*, 2025 NSSC 373, paras 70 and 71 ("*Finkle*"). Vitalité suggests Dr. Cyr's medical license was not revoked and that she remained on the Atlantic Registry but simultaneously acknowledges that sanctions from governing bodies might follow. Additionally, Vitalité raised the fact that Dr. Cyr was a *locum* physician taking shifts rather than being a salaried employee. Nonetheless, the Court finds that this is a situation where Dr. Cyr's employment is at stake and her ability to work in the province was at risk of possible constraints imposed through the discipline process. Thus, suggesting a higher degree of procedural fairness was warranted.
28. On the question of legitimate expectations and choice of procedure, Vitalité suggests the Bylaws establish the expectations and Vitalité asserts the process outlined in the Bylaws was followed. The Bylaws in this case set a certain minimum standard or requirement, however, it is possible that in applying the Bylaws, Vitalité creates some inequities that lead to breaches of procedural fairness.
29. At the decision-making stage, at the Board, including the Report of the Review Panel, in view of the *Baker* considerations and the circumstances of this case, Dr. Cyr was entitled to a higher level of procedural fairness (*Finkle*, paras 70 and 71).
30. Dr. Cyr contends that procedural fairness was not respected at three steps of the process. (1) The investigation – Dr. Cyr alleges she was asked to respond to an Incident Report without being provided the specific complaint and without being provided the charts for the patient in question. (2) The Review Panel – Dr. Cyr alleges Vitalité provided delayed disclosure, identified their witnesses only five days before the hearing and refused to produce her personnel file. Additionally, the Review Panel refused to allow Dr. Cyr to record the proceedings despite her offer to personally pay for a stenographer to do so. And (3) the Board – Dr. Cyr alleges the Board imposed a 10-minute limit on the parties, muted the microphone of her counsel before the conclusion of their submissions and refused to consider the documentary record, relying solely on the Report of the Review Panel for their Decision.

31. Vitalité's arguments on procedural fairness center around its suggestion that their Bylaws were followed. Vitalité maintains that section C.13.0.2 of the Bylaws states that the parties are not entitled to a formal hearing before the Board and suggests that the 10-minute limit imposed on the speaking time was an additional opportunity to speak above and beyond the proceedings before the Review Panel. Additionally, Vitalité maintains that the nature of the proceeding before the Board was not an opportunity to conduct a second evidentiary hearing or duplicate the three-day hearing that took place before the Review Panel. Effectively, Vitalité states that if the process outlined in the Bylaws was followed, the process must be procedurally fair. However, Vitalité acknowledged that if, by their operation, the Bylaws did create a breach of procedural fairness, the Decision would be subject to judicial scrutiny.
32. As previously mentioned, the discipline provisions involving the constitution of a Review Panel are outlined in section C.10 of the Bylaws. The Review Panel is then directed to follow the process and hearing procedures set out in sections C.11 and C.12 of the Bylaws. The Review Panel is required to prepare a written report containing its conclusions, recommendations, and related reasons (section C.11.0.5 of the Bylaws). In this case, as the Report of the Review Panel proposed an alteration of the physician's privileges, the Report, including its recommendations, was submitted to the Board for review under section C.11.0.7 of the Bylaws. Under the parameters outlined in section C.13 of the Bylaws, the Board reviewed the Report of the Review Panel which led to the final and binding Decision issued by the Board. While under section C.13.0.6 of the Bylaws the Board is permitted to compel a formal hearing to be held before its decision is made if it is not satisfied that it has all the information, no such hearing took place in this case. It is unclear whether such a hearing before the Board would normally involve evidence or simply arguments. However, it appears from the structure of the Bylaws that a hearing, including the collection of evidence, only occurs at the Review Panel stage.
33. The Board, in rendering its Decision in this case, relied solely on the Report provided by the Review Panel and the 10-minute submissions of Counsel. No other documents and no other information were permitted before the Board. Highlighting that the Report of the Review Panel contained no summary of the facts or references to documents, Counsel for Dr. Cyr pled with Dr. Desrosiers, the CEO of Vitalité and secretary of the Board, to be permitted to present the Board with the previous responses to the complaint offered by Dr. Cyr and the report of the expert, Dr. Lasher. Counsel for Dr. Cyr also alleged a breach of procedural fairness was caused by the imposition of the 10-minute submission constraints. These requests and

concerns were raised prior to the Board's Decision, however several received no response from Vitalité.

34. Vitalité's responded to the request made by Dr. Cyr's Counsel to have the Board consider the documents tendered to the Review Panel by referencing sections of the Bylaws: specifically, sections C.13.0.1 and C.13.0.2; these sections of the Bylaws state that the Board must study the Report of the Review Panel (including its recommendations).
35. The Board ultimately accepted, by resolution, the recommendations contained in the Report of the Review Panel. The Decision of December 16, 2025, was communicated by way of copied correspondence to Dr. Cyr on December 18, 2025. The Minutes of the Board, which simply indicate the Board's acceptance of the Review Panel recommendation by a majority decision of the Board, were provided to Counsel for Dr. Cyr on February 20, 2026.
36. Here is where the problem lies, the Report from the Review Panel is three pages long. The analysis of the Report is found in five paragraphs; five paragraphs which address the situation that arose in the emergency department on the night of January 26 to 27, 2025, the testimony of ten witnesses, including Dr. Cyr and the three nurses who were present during the incident, and the testimony of an expert witness on the practice of emergency medicine in rural hospitals. The analysis portion of the Report reads as follows:

Le Comité a déterminé qu'une négligence est survenue dans la gestion clinique du cas. Malgré deux appels de l'infirmière signalant l'arrivée d'une patiente présentant une douleur rétrosternale, la Dre Cyr a choisi de demeurer au repos et n'a pas procédé à une évaluation directe. L'information transmise par l'infirmière pouvait être incomplète, ce qui rendait la décision clinique plus difficile. Toutefois, la responsabilité de la prise en charge demeure celle du médecin traitant. La délégation d'actes sans avoir vu la patiente représente un risque que la Dre Cyr a assumé en toute connaissance de cause.

Même si les témoignages recueillis étaient parfois contradictoires, le Comité estime disposer des éléments nécessaires pour rendre une décision éclairée. L'avis de l'expert consulté a également été pris en compte dans l'analyse.

La patiente avait été classée CTAS 3, mais une réévaluation aurait possiblement permis de la catégoriser CTAS 2. Une présence médicale plus rapide aurait facilité son installation dans un secteur mieux adapté à ses besoins, permis une prise de connaissance plus rapide de l'ECG préhospitalier, et favorisé la participation médicale à l'établissement d'un accès veineux.

Le comité tient à souligner que la réanimation a été menée de façon adéquate et conforme aux protocoles ACLS (Advanced Cardiovascular Life Support).

Entin, même si la Dre Cyr a choisi de ne pas évaluer la patiente immédiatement rien n'indique qu'elle ait agi avec l'intention de nuire.

37. Following this “analysis,” the Report of the Review Panel included four recommendations: (1) the withdrawal of privileges for a one-year period; (2) the indirect supervision of Dr. Cyr’s practice for an indeterminate period; (3) the competencies and medical knowledge of Dr. Cyr were not questioned; and (4) the review of organizational culture for night shifts to ensure patients are assessed according to prescribed timelines and to ensure that long night shifts are not the norm but the exception.
38. A party affected by a decision has a right to be heard; being heard provides legitimacy to the process (*R v Nahanee*, 2022 SCC 37, paras 77 and 78). In this case, aside from the Report of the Review Panel and the 10-minute submissions of each party, the Board did not hear the parties. The Board has a responsibility to hear the parties; that responsibility cannot be delegated to the Review Panel. After all, the Board is the decision maker and limiting its role to a review of cursory results is an exercise in rubber stamping. If the Report of the Review Panel had included a fulsome detailing of the position of the parties, or the evidence, or the conclusion – the situation may have been different. Moreover, the Board remained unmoved by the exhortation of Counsel for Dr. Cyr to engage in a process which would have resulted in the assessment of a more fulsome record or cured some of the procedural fairness concerns. This Court views the failure to hear the affected party as a breach of procedural fairness.
39. The Court concludes that the Board’s failure to hear Dr. Cyr, including its consideration of the deficient Report of the Review Panel, breached procedural fairness.

Reasonableness

40. The parties agree the standard of review in this matter is governed by the Supreme Court’s decision in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 (“*Vavilov*”), wherein the Supreme Court held that reasonableness is the presumptive standard of review for administrative decisions.
41. The key elements from *Vavilov*, as they pertain to a reasonableness review in this case, may be summarized as follows:

- (1) The purpose of reasons in a decision is to demonstrate justification, transparency and intelligibility (para 81).
 - (2) A decision is reasonable if it is based on an internally coherent and rational chain of analysis and is justified in relation to the facts and the law that constrain the decision maker (para 85).
 - (3) A reviewing Court cannot disregard a flawed reasoning process and substitute its own justification to save the decision's outcome (para 96).
 - (4) The onus is on the party challenging the decision to show that it is unreasonable. The shortcomings of a decision must be serious or central to the merits of the decision rather than merely superficial or peripheral for it to be found unreasonable (para 100).
 - (5) The reviewing Court must refrain from reweighing or reassessing the evidence absent exceptional circumstances. The decision maker assesses the evidence and makes factual findings (para 125).
 - (6) The decision maker does not need to respond to every minor point or line of analysis but must meaningfully grapple with key issues and central arguments raised by the parties (para 128).
42. Dr. Cyr argues that the Board's decision is unreasonable as it lacks justification, transparency and intelligibility. Specifically, Dr. Cyr argues that: (1) the Report contains no findings of fact or assessment of witness credibility; (2) the Report disregarded the expert evidence of Dr. Lasher regarding the standard of care and substituted its own medical judgment without explanation; and (3) the sanction imposed is disproportionate to other cases involving the death of a patient.
43. Vitalité argues that the Board's Decision is reasonable as the Decision involved the exercise of analyzing specialized expertise and warrants deference from the Court. Specifically, Vitalité argues that: (1) the reasoning path of the Decision is clear in that Dr. Cyr was responsible for the patient's care and that delegating that care via telephone without bedside assessment was a risk Dr. Cyr assumed; (2) the Review Panel was entitled to give Dr. Lasher's expert opinion less weight because it was allegedly based on the false premise that Dr. Cyr was not aware the nurses were failing to obtain IV access on the patient where other witnesses testified she was informed; and (3) the Court should not "re-weigh" the evidence as the Review Panel was best positioned to assess clinical negligence in an emergency setting.

44. In the circumstances of this case, the Board made a Decision. No reasons were provided for the Board's Decision and by all indications, the Board relied solely upon the Report of the Review Panel in addition to brief, time limited, submissions of Counsel to render that Decision. The Board adopted the Report of the Review Panel, including its line of reasoning.
45. Again, this is where the problem lies, the Report of the Review Panel is three pages long. The analysis of the Report is found in five paragraphs; five paragraphs which address the situation that arose in the emergency department on the night of January 26 to 27, 2025, the testimony of ten witnesses, including Dr. Cyr and the three nurses who were present during the incident (some of whom presented contradicting evidence), and the testimony of an expert witness on the practice of emergency medicine in rural hospitals.
46. The Court agrees with Dr. Cyr that the Report of the Review Panel is unintelligible and unreasonable for the following reasons:
- (1) It contains no discernable line of analysis connecting the evidence and the conclusions of negligence.
 - (2) It contains bare conclusions of negligence, absent context or factual findings.
 - (3) It does not identify which witnesses were relied upon.
 - (4) It does not identify how it resolved inconsistent witness testimony.
 - (5) It disregards uncontradicted expert opinion evidence without explanation.
 - (6) It contains no analysis or justification for the recommended twelve-month suspension.
47. As noted by the Quebec Court of Appeal in *Pilorgé*, where the decision maker provides no independent reasons and instead adopts a report including recommendations, both the decision and the report are subject to the Court's review for reasonableness. If the report lacks intelligibility, adequate findings of fact or proper reasoning, the decision maker cannot ratify or rubber stamp the report (*Pilorgé*, para 46).
48. Contrary to the *Pilorgé* matter, in this case, it appears the Bylaws confer a different role upon the Review Panel and the Board. The Board is ultimately the decision maker relying on the Report of the Review Panel who heard the evidence and submissions. In *Pilorgé*, the decision maker had been provided with a record of evidence; an important distinguishing factor. Considering the division of roles that appears from the Bylaws, the Review Panel must provide fulsome reasons that enable the Board to make an informed decision. For example, in this

case, competing versions of facts were presented; the decision maker, in such a case, must explain the basis for preferring one version over the other – whether through the Report of the Review Panel or at the Board (*Karkanis v College of Physicians and Surgeons*, 2014 ONSC 7018, para 52).

49. For these reasons, the Court concludes the Decision, including the Report of the Review Panel was unreasonable.

Remedy on Judicial Review

50. The parties disagree on the applicable remedy for a breach of procedural fairness and unreasonable Decision.
51. Dr. Cyr requests the Decision of the Board and the Report of the Review Panel be quashed. Vitalité requests the Decision, if quashed, be remitted to the Review Panel or to the Board with direction.
52. When a reviewing Court quashes a decision, the usual remedy is to return the decision to the decision maker for reconsideration with the benefit of the Court's reasoning (*Vavilov*, para 141). Quashing the decision and declining to remit the matter to the decision maker may be appropriate where it becomes evident to the Court, during the review, that a particular outcome is inevitable and that remitting the matter would serve no useful purpose (*Vavilov*, para 142).
53. In the circumstances of this case, as previously noted, the Review Panel heard evidence for three days and prepared a brief and cursory Report which could not enable the Board to determine the matter with finality. The Court is in a similar situation; faced with insufficient information to determine the matter. As it was inappropriate for the Board to render a decision without a more fulsome Report, it is also inappropriate for the Court to step into the shoes of the Review Panel and Board to do so.
54. As previously noted, the Report of the Review Panel review panel was deficient in several regards, nonetheless, the members of the Review Panel heard the evidence adduced over three days and should be able to provide a more fulsome Report to allow the Board to fulfil its mandate (Section C.11.0.5 of the Bylaws). In its current form the Report of the Review Panel is insufficient. Even with the Board's ability to require a formal hearing if not satisfied that it has all the information that it requires to render a decision, without a fulsome Report, the Board cannot fulfil its mandate (Section C.13.0.6 of the Bylaws).

55. Additionally, while Dr. Cyr has already served a suspension period, the matter is not moot. A determination of the complaint and discipline process remains necessary considering the collateral consequences.
56. Consequently, the Court quashes the Decision of the Board, including the Report of the Review Panel, and remits the matter for determination in accordance with the directions of the Court.

Vitalité Records and Referral and Communication of Records

57. Dr. Cyr requests that any references to the Report of the Review Panel, the Decision of the Board, and the consequential suspension imposed be removed from Vitalité's records. Additionally, Dr. Cyr also requests that information about these not be referred to or communicated externally.
58. Dr. Cyr contends that physicians are required to renew their medical licenses and hospital privileges on a regular basis and that during this process, physicians are required to disclose past disciplinary action to governing regulatory bodies. If the Report of the Review Panel, the Decision of the Board, and the suspension are not removed from Dr. Cyr's file, she claims the information will impact her professional standing.
59. Dr. Cyr relies on the case of *Papadopoulos v College of Physicians and Surgeons of New Brunswick* (unreported (November 2, 2022), Saint John, SJM-27-2022 (NBKB) ("*Papadopoulos*")), in which the Court ordered the removal of all references to a physician's license suspension from official records and prohibited the regulator from referring to or communicating that suspension for any purpose.
60. Vitalité objects to removing the information from its records as it claims the Court does not have jurisdiction to make this order in the context of a judicial review and suggests that it must be able to comply with its reporting obligations.
61. It is noteworthy that the decision cited by Dr. Cyr, *Papadopoulos*, involved a decision of the College of Physicians and Surgeons of New Brunswick, the regulating body, and not a decision by a Regional Health Authority. Additionally, in that case, the Court addressed suspension on an interim basis rather than a final determination. Due to a change in policies, a final determination would never be made in the circumstances, and this formed the basis for the Application to vacate the interim suspension issued by the College of Physicians and

Surgeons of New Brunswick. The application of the *Papadopoulos* decision in this case is limited.

62. In this case, as previously explained, the Court has quashed the Decision of the Board, including the Report of the Review Panel, and has remitted the matter for determination in accordance with the directions of the Court.
63. As it concerns Vitalité's reporting obligations, a decision which is quashed is no longer in effect and is no longer valid. Thus, as a result, the Decision of the Board, including the Report of the Review Panel or the consequential suspension issued should no longer forms part of Vitalité's records and should no longer be subject to reporting obligations.
64. Nonetheless, while the Court quashed the Decision of the Board, including the Report of the Review Panel, the Court is cognisant that the complaint and discipline process remains underway. These processes must be permitted to take their course, and any records or required reporting arising therefrom will not be constrained.

Costs

65. Dr. Cyr seeks costs on the Application based on Rule 59 - Tariff "E" of the *Rules of Court*. Specifically, Dr. Cyr seeks costs in the range of \$2,500 to \$4,000 on the Application, and costs of \$1,500 on the Motion heard prior to the Application. Additionally, Dr. Cyr requests the Court use the multipliers outlined in guideline 4 of Rule 59 – Tariff "E" of the *Rules of Court*. The multipliers may be applied based on the complexity of the matter, the importance of the matter to the parties, the reasonableness of the parties, the amount of time and effort involved in preparing for and conducting the hearing, the amount involved, and the consideration that the Application is determinative of the entire matter.
66. First, as it relates to costs requested on Vitalité's Motion, which focused extensively on striking portions of the Affidavit of Dr. Cyr, the Court notes that resolving such admissibility issues has become a lengthy but necessary preliminary exercise to streamline hearings. Although Vitalité was largely unsuccessful on the relief sought, the Court commended Vitalité for formally raising the issues ahead of the hearing by way of Motion. As the Motion effectively formed part of the preliminary arguments on the Application, the Court finds that awarding additional cost on the Motion is not warranted in the circumstances.
67. Second, as it relates to the use of multipliers, the Court finds that this is an appropriate case for the use of multiplier 2. Starting with costs of \$2,500 set out in the range for costs on

Applications, this represents \$5,000. Dr. Cyr, because of the breach of procedural fairness and the unreasonableness of the Decision of the Board, lost the ability to access shifts with Vitalité starting on the date the complaint was issued in January of 2025. Though the Court notes an award of costs is not an award of damages, increased costs in this case recognize the importance of the matter to Dr. Cyr and the thoroughness of submissions advanced by Dr. Cyr.

68. Third, the hearing of the Application, including the Motion, proceeded over two days. In line with guideline 5 of Tariff “E,” an additional \$1,500 applies to the additional hearing day.
69. The Court deems costs of \$6,500, inclusive of disbursements, to be just and appropriate in the circumstances of this case.

DISPOSITION

70. The Application for Judicial Review is granted. The Decision of the Board to suspend the medical privileges of Dr. Cyr and indefinitely impose a supervision condition on her practice dated December 16, 2025, including the Report of the Review Panel is quashed and remitted for determination in accordance with the directions of the Court.
71. Vitalité shall pay Dr. Cyr costs of \$6,500 inclusive of disbursements.

Justice Maya Hamou
Court of King's Bench of New Brunswick