

**COLLEGE OF LICENSED PRACTICAL NURSES OF ALBERTA**

**IN THE MATTER OF  
A HEARING UNDER *THE HEALTH PROFESSIONS ACT*,**

**AND IN THE MATTER OF A HEARING REGARDING  
THE CONDUCT OF KEVIN WOLKOWYCKI**

**DECISION OF THE HEARING TRIBUNAL  
OF THE  
COLLEGE OF LICENSED PRACTICAL NURSES OF ALBERTA**

**IN THE MATTER OF A HEARING UNDER THE *HEALTH PROFESSIONS ACT* REGARDING THE  
CONDUCT OF KEVIN WOLKOWYCKI, LPN #27361, WHILE A MEMBER OF THE COLLEGE OF  
LICENSED PRACTICAL NURSES OF ALBERTA (“CLPNA”)**

**DECISION OF THE HEARING TRIBUNAL**

**(1) Hearing**

The hearing was conducted via videoconference on June 15, 2020 with the following individuals present:

**Hearing Tribunal:**

Kimberley Chin, Licensed Practical Nurse (“LPN”) Chairperson  
Kelly Anesty, LPN  
Nancy Brook, Public Member

**Staff:**

Katrina Haymond, Legal Counsel for the Complaints Consultant, CLPNA  
Kevin Oudith, Complaints Consultant, CLPNA

**Investigated Member:**

Kevin Wolkowycki, LPN (“Mr. Wolkowycki or “Investigated Member”)  
Kathie Milne, AUPE Representative for the Investigated Member

**(2) Preliminary Matters**

The hearing was open to the public.

There were no objections to the members of the Hearing Tribunal hearing the matter, and no Hearing Tribunal member identified a conflict. There were no objections to the jurisdiction of the Hearing Tribunal.

The Hearing was conducted by way of an Agreed Statement of Facts and Acknowledgement of Unprofessional Conduct and a Joint Submission on Penalty.

**(3) Background**

Mr. Wolkowycki was an LPN within the meaning of the Act at all material times, and more particularly, was registered with CLPNA as an LPN at the time of the complaint. Mr. Wolkowycki was initially licensed as an LPN in Alberta on November 12, 2004.

By letter dated December 16, 2019, the CLPNA received a complaint (the “Complaint”) from Ms. Laurie Loowell, Director, HR Business Partnerships, at Alberta Health Services pursuant to s. 57 of the *Health Professions Act* (the “Act”). Ms. Loowell had delegated the investigation of the matter to Danuta Kolodziej, Unit Manager at Sturgeon Community Hospital, who authored the Complaint Reporting form and stated that Mr. Wolkowycki, LPN, received a written warning in regards to an allegation that Mr. Wolkowycki was rough in the manner in which he provided care to a patient.

In accordance with s. 55(2)(d) of the Act, the Complaints Director appointed Judy Palyga, Investigator for the CLPNA (the “Investigator”), to conduct an investigation into the Complaint.

By way of letter dated December 19, 2019, the Complaints Director provided Mr. Wolkowycki with notice of the Complaint, and informed Mr. Wolkowycki that due to the nature of the alleged conduct, she was recommending to Jeanne Weis, Executive Officer for the CLPNA, that Mr. Wolkowycki’s practice permit be immediately suspended under section 65(1)(b) of the Act. The Complaints Director provided Ms. Weis’ contact information, and informed Mr. Wolkowycki that he was able to submit a written submission if he did not feel a suspension was warranted in the circumstances.

The Complaints Director requested an immediate suspension of Mr. Wolkowycki’s practice permit under section 65(1)(b) of the Act to Ms. Weis by letter on December 19, 2019.

Ms. Weis provided Mr. Wolkowycki and the Complaints Director with notice of her Decision on Suspension of Practice Permit, dated December 30, 2019. Ms. Weis decided that a suspension was not justified in the circumstances but did impose a condition on Mr. Wolkowycki’s practice permit pursuant to section 65(1)(b) of the Act that immediately required Mr. Wolkowycki to practice in the direct presence of one or more regulated health care providers.

Subsequently, Ms. Sandy Davis, Complaints Director for the CLPNA, delegated her powers under Part 4 of the Act to Kevin Oudith, Complaints Consultant (the “Complaints Consultant”) pursuant to s. 20 of the Act.

On February 5, 2020, the Investigator concluded the investigation and submitted the Investigation Report to the CLPNA.

Following receipt of the Investigation Report, the Complaints Consultant determined there was sufficient evidence that the matter should be referred to the Hearings Director in accordance with s. 66(3)(a) of the Act. Mr. Wolkowycki received notice that the Complaint was referred to a hearing as well as a Statement of Allegations and Investigation Report under cover of letter dated March 30, 2020.

A Notice of Hearing was served upon Mr. Wolkowycki under cover of letter dated June 2, 2020.

Mr. Wolkowycki has waived the 30 days’ notice required under s. 77 of the Act.

**(4) Allegations**

The Allegations in the Revised Statement of Allegations (the “Allegations”) are:

It is alleged that **KEVIN WOLKOWYCKI, LPN**, while practising as a Licensed Practical Nurse engaged in unprofessional conduct by:

On or about January 1, 2019 did one or more of the following with respect to client SL:

- a) Failed to provide adequate privacy and dignity when SL was in the shower;
- b) Used unprofessional communication by raising his voice, engaging in a heated discussion, and calling SL a “drama queen” or words to that effect;
- c) Failed to respect SL’s request to have another regulated health care provider take over SL’s care in a timely manner;
- d) Removed SL’s posterior right thigh dressing in a rough manner; and
- e) Inappropriately documented on SL’s Nursing Assessment and Care Record by documenting care provided by another regulated health care professional.

**(5) Admission of Unprofessional Conduct**

Section 70 of the Act permits an investigated member to make an admission of unprofessional conduct. An admission under s. 70 of the Act must be acceptable in whole or in part to the Hearing Tribunal.

Mr. Wolkowycki acknowledged unprofessional conduct to all the allegations as evidenced by his signature on the Agreed Statement of Facts and Acknowledgement of Unprofessional Conduct and verbally admitted unprofessional conduct to all the allegations set out in the Statement of Allegations during the hearing.

Legal Counsel for the Complaints Consultant submitted, where there is an admission of unprofessional conduct, the Hearing Tribunal should accept the admission absent exceptional circumstances.

**(6) Exhibits**

The following exhibits were entered at the hearing:

- Exhibit #1: Notice of Hearing

Exhibit #2: Agreed Statement of Facts and Acknowledgement of Unprofessional Conduct

Exhibit #3: Joint Submission on Penalty

**(7) Evidence**

The evidence was adduced by way of Agreed Statement of Facts, and no witnesses were called to give *viva voce* testimony. The Hearing Tribunal accepts the evidence set out in the Agreed Statement of Facts which was admitted as Exhibit #2.

**(8) Decision of the Hearing Tribunal and Reasons**

The Hearing Tribunal is aware it is faced with a two-part task in considering whether a regulated member is guilty of unprofessional conduct. First, the Hearing Tribunal must make factual findings as to whether the alleged conduct occurred. If the alleged conduct occurred, it must then proceed to determine whether that conduct rises to the threshold of unprofessional conduct in the circumstances.

The Hearing Tribunal has reviewed the documents included in Exhibit #2 and finds as facts the events as set out in the Agreed Statement of Facts.

The Hearing Tribunal also accepts Mr. Wolkowycki's admission of unprofessional conduct as set out in the Agreed Statement of Facts as described above. Based on the evidence and submissions before it, the Hearing Tribunal did not identify exceptional circumstances that would justify not accepting the admission of unprofessional conduct from Mr. Wolkowycki.

**Allegation 1**

Kevin Wolkowycki admitted on or about January 1, 2019 he did one or more of the following with respect to client SL:

- a) Failed to provide adequate privacy and dignity when SL was in the shower;
- b) Used unprofessional communication by raising his voice, engaging in a heated discussion, and calling SL a “drama queen” or words to that effect;
- c) Failed to respect SL’s request to have another regulated health care provider take over SL’s care in a timely manner;
- d) Removed SL’s posterior right thigh dressing in a rough manner; and
- e) Inappropriately documented on SL’s Nursing Assessment and Care Record by documenting care provided by another regulated health care professional.

## *Facts*

By way of background, Mr. Wolkowycki was initially registered with the CLPNA on November 12, 2008 and has been a regulated member of the CLPNA at all times material to the allegations. Mr. Wolkowycki began working at the Sturgeon Community Hospital in 2008, and at all material times to the allegations Mr. Wolkowycki worked as an LPN at the Sturgeon Community Hospital.

On January 1, 2019, Jennifer Yule, Health Care Aide (“HCA”) was assisting SL while she was having a shower in the bathroom. While client SL was taking a shower, Mr. Wolkowycki, who was assigned to provide care to client SL, repeatedly opened the shower door without a need to provide care and in spite of the fact that client SL asked him not to.

Sometime after client SL’s shower, Ms. Yule was assisting SL in the bathroom and asked Mr. Wolkowycki to change the dressings on the backs of her legs. While Mr. Wolkowycki began to change the dressings, SL indicated that she was pain and began to cry. Mr. Wolkowycki spoke to client SL in a heated manner, telling her that she was being a “drama queen” when she said that she could not stand up and thought that she would fall despite SL’s concerns, Mr. Wolkowycki proceeded to remove a dressing from client SL’s posterior right thigh. When removing the dressing, Mr. Wolkowycki did so in a rough manner, causing SL pain and the skin to bleed. Client SL requested that Mr. Wolkowycki cease to provide care and requested that another regulated health care provider take over her care. Mr. Wolkowycki continued to try to provide care to client SL despite her request.

Following this incident, a daughter of a patient in the same room as SL (“Mrs. R.”) approached Ms. Punzulan, the Charge Nurse, to report her concerns. Ms. Punzulan reassigned Mr. Wolkowycki’s colleague, CS, to provide care to client SL.

Mr. Wolkowycki failed to have another regulated health care provider take over client SL’s care in a timely manner, and continued to provide care to SL until SL’s care was re-assigned to CS.

Following the above incident with client SL, Mr. Wolkowycki recorded on SL’s Nursing Assessment and Care Record that his colleague, CS, performed client SL’s medication administration and changed her abdominal dressing in spite of the fact that Mr. Wolkowycki was not the care provider for the completion of those tasks.

The Hearing Tribunal considered the facts included in the Agreed Statement of Facts and Mr. Wolkowycki’s admission of unprofessional conduct. The Hearing Tribunal found that the facts and documents included in Exhibit #2 prove that the conduct for Allegation 1 did in fact occur.

## *Unprofessional Conduct*

The Hearing Tribunal finds that the conduct admitted to amounts to unprofessional conduct as defined in s. 1(1)(pp) of the Act, in particular, the Hearing Tribunal found the following definitions of unprofessional conduct have been met:

i. **Displaying a lack of knowledge of or lack of skill or judgment in the provision of professional services:** Mr. Wolkowycki displayed a serious lack of knowledge, skill and judgment with his interactions with client SL. He did not respect client SL's wishes and privacy not to open the door while she was in the shower. Then when he spoke to client SL in a rough manner and removed her bandage causing her pain;

ii. **Contravention of the Act, a code of ethics or standards of practice:** Mr. Wolkowycki's actions are in direct contravention of the Act, the CLPNA Code of Ethics and the CLPNA Standards of Practice for LPNs, as set out specifically in more detail below. LPNs are to provide competent, committed and compassionate care, none of which Mr. Wolkowycki displayed with his treatment of SL; and

iii. **Conduct that harms the integrity of the regulated profession:** Mr. Wolkowycki's conduct directly harms the integrity of the profession in that he was disrespectful to client SL with her wishes and with the manner in which he spoke to her.

1. *CLPNA Code of Ethics*

Mr. Wolkowycki acknowledges that the conduct breached one or more of the following principles and standards set out in CLPNA's Code of Ethics ("CLPNA Code of Ethics"):

**Principle 1: Responsibility to the Public** - LPNs, as self-regulating professionals, commit to provide safe, effective, compassionate and ethical care to members of the public. Principle 1 specifically provides that LPNs:

- 1.1 Maintain standards of practice, professional competence and conduct.
- 1.5: Provide care directed toward the health and well-being of the person, family and community.

**Principle 2: Responsibility to Clients** – LPNs have a commitment to provide safe and competent care for their clients. Principle 2 specifically provides that LPNs:

- 2.1: Respect the right and responsibility of clients to be informed and make decisions about their health care.
- 2.1.1: Respect and support client choices.
- 2.6: Provide care to each client recognizing their individuality and their right to choice.
- 2.7: Develop trusting, therapeutic relationships, while maintaining professional boundaries.

**Principle 3: Responsibility to the Profession** – LPNs have a commitment to their profession and foster the respect and trust of their clients, health care colleagues and the public. Principle 3 specifically provides that LPNs:

- 3.1 Maintain the standards of the profession and conduct themselves in a manner that upholds the integrity of the profession.
- 3.3 Practise in a manner that is consistent with the privilege and responsibility of self-regulation.

Mr. Wolkowycki’s behaviour breached the Principles of the Code of Ethics in that his actions were disrespectful and rude towards patient SL. He did not demonstrate compassionate care and professional competence.

Further, his actions had the potential to diminish the profession in the eyes of the public and failed to demonstrate behaviours that reflect the integrity of the profession and his actions were inconsistent with the privilege of self-regulation.

*CLPNA Standards of Practice*

Mr. Wolkowycki acknowledges that the conduct breached one or more of the following principles and standards set out in CLPNA’s Standards of Practice for Licensed Practical Nurses in Canada (“CLPNA Standards of Practice”):

**Standard 1: Professional Accountability and Responsibility** – LPNs are accountable for their practice and responsible for ensuring that their practice and conduct meet both the standards of the profession and legislative requirements. Standard 1 specifically provides that LPNs:

- 1.1. Practice to their full range of competence within applicable legislation, regulations, by-laws and employer policies.
- 1.6. Take action to avoid and/or minimize harm in situations in which client safety and well-being are compromised.
- 1.9 Practice in a manner consistent with ethical values and obligations of the Code of Ethics for Licensed Practical Nurses.
- 1.10: Maintain documentation and reporting according to established legislation, regulations, laws, and employer policies.

**Standard 3: Service to the Public and Self-Regulation** – LPNs practice nursing in collaboration with clients and other members of the health care team to provide and improve health care services in the best interests of the public. Standard 3 specifically provides that LPNs:



- 3.1: Engage clients in a therapeutic nurse-client relationship as active partners for mutual planning of and decisions about their care.
- 3.3: Support and contribute to an environment that promotes and supports safe, effective and ethical practice.
- 3.6. Demonstrate an understanding of self-regulation by following the standards of practice, the code of ethics and other regulatory requirements.

**Standard 4: Ethical Practice** – LPNs uphold, promote and adhere to the values and beliefs as described in the Canadian Council for Practical Nurse Regulators (CCPNR) Code of Ethics. Standard 4 specifically provides that LPNs:

- 4.1 Practice in a manner consistent with ethical values and obligations of the Code of Ethics for LPNs.
- 4.7: Communicate in a respectful, timely, open and honest manner.
- 4.10: Practice with honesty and integrity to maintain the values and reputation of the profession.

Mr. Wolkowycki’s actions breached the Standards of Practice in that he failed to ensure that his practice was conducted in accordance with the requirements binding on him. His conduct was not consistent with ethical values and obligations for LPNs, it does not demonstrate recognition of his limits or minimizing harm.

Further, although there was no evidence of harm in the hearing, his treatment of SL had the potential to cause emotional or psychological harm. He failed to apply his knowledge and professional judgment as the basis of his practice.

His treatment of client SL was not in service to an environment of a safe, healthy, and ethical practice.

### *Conclusion*

The Hearing Tribunal accepted Mr. Wolkowycki’s admission of unprofessional conduct. As expressed above, the conduct underlying this allegation, which included disrespectful conduct in relation to a patient, is something that the CLPNA treats very seriously. Overall, Mr. Wolkowycki’s actions diminished, not enhanced, the interests of his patients, the public and the profession and they did not demonstrate an understanding and appreciation of self-regulation.

The Hearing Tribunal also finds the conduct breached the CLPNA Code of Ethics and the CLPNA Standards of Practice as set out above and that such breaches are sufficiently serious to constitute unprofessional conduct.

**(9) Joint Submission on Penalty**

The Complaints Consultant and Mr. Wolkowycki made a joint submission with respect to penalty, which was entered as Exhibit #3. The parties jointly submitted the following proposal to the Hearing Tribunal for consideration:

1. The Hearing Tribunal's written reasons for decision (“the Decision”) shall serve as a reprimand.
2. Mr. Wolkowycki shall pay 25% of the costs of the investigation and hearing to be paid over a period of **36 months** from service of the letter advising of the final costs once the same have been confirmed.
3. Mr. Wolkowycki shall read and reflect on the following CLPNA documents. These documents are available on CLPNA’s website <http://www.clpna.com/> under “Governance” and will be provided. Mr. Wolkowycki shall provide to the Complaints Consultant, a written reflection of 500 – 750 words, satisfactory to the Complaints Consultant, on how the CLPNA documents will impact their professional practice within **30 days** of service of the Decision:
  - a. Code of Ethics for Licensed Practical Nurses in Canada;
  - b. Standards of Practice for Licensed Practical Nurses in Canada;
  - c. CLPNA Practice Policy: Professional Responsibility & Accountability;
  - d. CLPNA Practice Policy: Documentation;
  - e. CLPNA Competency Profile A1: Critical Thinking;
  - f. CLPNA Competency Profile A2: Clinical Judgment and Decision Making;
  - g. CLPNA Competency Profile C4: Professional Ethics;
  - h. CLPNA Competency Profile C5: Accountability and Responsibility;
  - i. CLPNA Competency Profile D1: Communication and Collaborative Practice;
  - j. CLPNA Competency Profile D2: Therapeutic Nurse-Patient Relationship;
  - k. CLPNA Competency Profile D4: Conflict Management; and
  - l. CLPNA Competency Profile E4: Wound Care.

If such documents become unavailable, they may be substituted by equivalent documents approved in advance in writing by the Complaints Consultant.

4. In the event the reflective paper is not satisfactory to the Complaints Consultant, Mr. Wolkowycki shall within two (2) weeks of being notified by the Complaints Consultant the reflective paper is not satisfactory, or such longer period as determined by the Complaints

Consultant at their sole discretion, submit a revised paper that is acceptable to the Complaints Consultant.

5. Mr. Wolkowycki shall complete the **LPN Ethics Course** available online at <http://www.learninglpn.ca/index.php/courses>. Mr. Wolkowycki shall provide the Complaints Consultant with a certificate confirming successful completion of the course within **30 days** of service of the Decision.
6. Mr. Wolkowycki shall complete, at his own cost, the following course: **Professionalism in Nursing** located on website [www.jcollinsconsulting.com](http://www.jcollinsconsulting.com). Mr. Wolkowycki shall provide the Complaints Consultant, with a certificate confirming successful completion of the course within **6 months** of service of the Decision.

If such course becomes unavailable, an equivalent course may be substituted where approved in advance in writing by the Complaints Consultant.

7. Mr. Wolkowycki shall complete the following course: **Elder Abuse Self-Study Course** available on CLPNA website at [www.clpna.com](http://www.clpna.com). Mr. Wolkowycki shall provide the Complaints Consultant, with a certificate confirming successful completion of the course within **90 days** of service of the Decision.
8. Mr. Wolkowycki shall complete the following course: **Relational Practice Self-Study Course** available on CLPNA website at [www.clpna.com](http://www.clpna.com). Mr. Wolkowycki shall provide the Complaints Consultant, with a certificate confirming successful completion of the course within **90 days** of service of the Decision.
9. Mr. Wolkowycki shall complete the following quizzes offered on-line by [learningnurse.org](http://learningnurse.org). Kevin Wolkowycki shall provide the Complaints Consultant, with a certificate confirming successful completion of the quizzes within **90 days** of service of the Decision.

- a) 11.7 - Wound Care
- b) 15.1 – Managing Patient Rage

If one or both quizzes become unavailable, an equivalent quiz may be substituted where approved in advance in writing by the Complaints Consultant.

10. Mr. Wolkowycki will be required to submit performance appraisal(s) from his immediate supervisor(s) at all facilities where he is employed, subject to the following terms and conditions:
  - a) The supervisor(s) will provide written confirmation that they have reviewed a copy of the Decision;
  - b) The supervisor will provide the CLPNA with a performance evaluation, indicating whether they have any concerns with respect to Mr. Wolkowycki's performance, and

in particular in reference to the conduct found to constitute unprofessional conduct by the Hearing Tribunal in its decision;

- c) The performance evaluation must be provided within three months of the date of service of the Decision on Mr. Wolkowycki;
- d) If the performance evaluation(s) are not satisfactory, the Complaints Consultant may, in his discretion, request a further performance evaluation from Mr. Wolkowycki's employer(s) which will be due three months after the first performance evaluation was provided;
- e) If at any time the supervisor(s) identify concerns regarding Mr. Wolkowycki's performance, the Complaints Director may treat the information as a complaint in accordance with s. 56 of the HPA.

11. The condition requiring Mr. Wolkowycki to practice subject to supervision will remain in place until Mr. Wolkowycki provides proof to the Complaints Consultant that he has successfully completed the requirements set out above at paragraphs 3-10.

12. The orders set out above at paragraphs 2-10 will appear as conditions on Mr. Wolkowycki's practice permit and the CLPNA's Public Registry subject to the following:

- a) The requirement to complete the courses, quizzes, performance evaluation and self-reflection outlined at paragraphs 3-10 will appear as "monitoring orders (conduct)", on Mr. Wolkowycki's practice permit and the Public Registry until the orders below have been satisfactorily completed;
  - i. Reading/Reflective Paper;
  - ii. LPN Ethics Course;
  - iii. Professionalism in Nursing Course;
  - iv. Elder Abuse Self Study Course;
  - v. Relational Practice Self Study Course;
  - vi. Wound Care Quiz;
  - vii. Managing Patient Rage Quiz; and
  - viii. Performance evaluation(s).
- b) The requirement to practice subject to supervision will continue to appear on Mr. Wolkowycki's practice permit and the Public Registry until he provides proof to the Complaints Consultant that he has successfully completed the requirements set out above at paragraphs 3-10; and
- c) The requirement to pay costs, will appear as "Conduct Costs/Fines" on Mr. Wolkowycki's practice permit and the Public Registry until all costs have been paid as set out above at paragraph 2.

13. The conditions on Mr. Wolkowycki's practice permit and on the Public Registry will be removed upon completion of each of the requirements set out above at paragraph 12.

14. Mr. Wolkowycki shall provide the CLPNA with his contact information, including home mailing address, home and cellular telephone numbers, current e-mail address and current

employment information. Mr. Wolkowycki will keep his contact information current with the CLPNA on an ongoing basis.

15. Should Mr. Wolkowycki be unable to comply with any of the deadlines for completion of the penalty orders identified above, the deadlines may, upon written request, be extended for a reasonable period of time with the written consent of the Complaints Consultant.
16. Should Mr. Wolkowycki fail or be unable to comply with any of the above orders for penalty, or if any dispute arises regarding the implementation of these orders, the Complaints Consultant may do any or all of the following:
  - (a) Refer the matter back to a Hearing Tribunal, which shall retain jurisdiction with respect to penalty;
  - (b) Treat Mr. Wolkowycki's non-compliance as information for a complaint under s. 56 of the Act; or
  - (c) In the case of non-payment of the costs described in paragraph 2 above, suspend Mr. Wolkowycki's practice permit until such costs are paid in full or the Complaints Consultant is satisfied that such costs are being paid in accordance with a schedule of payment agreed to by the Complaints Consultant.

Legal Counsel for the Complaints Consultant submitted the primary purpose of orders from the Hearing Tribunal is to protect the public. The Hearing Tribunal is aware that s. 82 of the Act sets out the available orders the Hearing Tribunal is able to make if unprofessional conduct is found.

The Hearing Tribunal is aware, while the parties have agreed on a joint submission as to penalty, the Hearing Tribunal is not bound by that submission. Nonetheless, as the decision-maker, the Hearing Tribunal should defer to a joint submission unless the proposed sanction is unfit, unreasonable or contrary to public interest. Joint submissions make for a better process and engage the member in considering the outcome. A rejection of a carefully crafted agreement would undermine the goal of fostering cooperation through joint submissions and may significantly impair the ability of the Complaints Director to enter into such agreements. If the Hearing Tribunal had concerns with the proposed sanctions, the proper process is to notify the parties, articulate the reasons for concern, and give the parties an opportunity to address the concerns.

The Hearing Tribunal therefore carefully considered the Joint Submission on Penalty proposed by Mr. Wolkowycki and the Complaints Consultant.

#### **(10) Decision on Penalty and Conclusions of the Hearing Tribunal**

The Hearing Tribunal recognizes its orders with respect to penalty must be fair, reasonable and proportionate, taking into account the facts of this case.

The orders imposed by the Hearing Tribunal must protect the public from the type of conduct that Mr. Wolkowycki has engaged in. In making its decision on penalty, the Hearing Tribunal

considered a number of factors identified in *Jaswal v Newfoundland Medical Board* [1986] NJ No 50 (NLSC-TD), specifically the following:

- **The nature and gravity of the proven allegations**
  - The conduct in issue is serious in nature. LPNs should have a compassionate manner with patients. No LPN should harm a patient and all LPNs should be cognizant of potential risks.
- **The age and experience of the investigated member**
  - Mr. Wolkowycki is not a new member of the CLPNA, as he was registered in 2008. Therefore, he is an experienced nurse and should have known that his conduct was unacceptable.
- **The previous character of the investigated member and in particular the presence or absence of any prior complaints or convictions**
  - There were no prior complaints or convictions brought to the Hearing Tribunal.
- **The age and mental condition of the victim, if any**
  - The Hearing Tribunal was not given information about the victim.
- **The number of times the offending conduct was proven to have occurred**
  - There was only a single incident during one shift, there was no pattern demonstrated and the conduct was not ongoing.
- **The role of the investigated member in acknowledging what occurred**
  - The Hearing Tribunal would like to commend Mr. Wolkowycki for acknowledging his conduct and cooperating with the CLPNA during the investigation.
- **The impact of the incident(s) on the victim, and/or**
  - Mr. Wolkowycki was disrespectful and rude to a patient and took an action which injured her and caused her to seek alternate nursing care. Although the Hearing Tribunal had no evidence on this point, the Hearing Tribunal feels that this conduct was degrading to patient SL and would have a negative impact on her.
- **The need to promote specific and general deterrence and, thereby to protect the public and ensure the safe and proper practice**
  - Regarding specific deterrence, the Hearing Tribunal feels that the recommended sanctions will bring home to Mr. Wolkowycki that the conduct that he engaged in is serious in nature and not what is expected of LPNs.
  - Regarding general deterrence, the public should also be made aware that this type of behaviour will not be tolerated by the CLPNA and such behaviour will be dealt with in a serious manner. The CLPNA does have a discipline process in place which helps to ensure that LPNs are competent and self-regulated professionals and the public needs to be reassured that this standard is upheld. In the case of Mr. Wolkowycki, the sanctions will discourage others from engaging in the same conduct.

- **The need to maintain the public’s confidence in the integrity of the profession**
  - The proposed sanctions will demonstrate to the public that the profession is working to address concerns within its membership and work towards ensuring all members are highly skilled and practice ethically.

It is important to the profession of LPNs to maintain the Code of Ethics and Standards of Practice, and in doing so to promote specific and general deterrence and, thereby, to protect the public. The Hearing Tribunal has considered this in the deliberation of this matter, and again considered the seriousness of the Investigated Member’s actions. The penalties ordered in this case are intended, in part, to demonstrate to the profession and the public that actions and unprofessional conduct such as this is not tolerated and it is intended that these orders will, in part, act as a deterrent to others.

After considering the proposed orders for penalty, the Hearing Tribunal finds the Joint Submission on Penalty is appropriate, reasonable and serves the public interest and therefore accepts the parties’ proposed penalties.

**(11) Orders of the Hearing Tribunal**

The Hearing Tribunal is authorized under s. 82(1) of the Act to make orders in response to findings of unprofessional conduct. The Hearing Tribunal makes the following orders pursuant to s. 82 of the Act:

1. The Hearing Tribunal's written reasons for decision (“the Decision”) shall serve as a reprimand.
2. Mr. Wolkowycki shall pay 25% of the costs of the investigation and hearing to be paid over a period of **36 months** from service of the letter advising of the final costs once the same have been confirmed.
3. Mr. Wolkowycki shall read and reflect on the following CLPNA documents. These documents are available on CLPNA’s website <http://www.clpna.com/> under “Governance” and will be provided. Mr. Wolkowycki shall provide to the Complaints Consultant, a written reflection of 500 – 750 words, satisfactory to the Complaints Consultant, on how the CLPNA documents will impact their professional practice within **30 days** of service of the Decision:
  - a. Code of Ethics for Licensed Practical Nurses in Canada;
  - b. Standards of Practice for Licensed Practical Nurses in Canada;
  - c. CLPNA Practice Policy: Professional Responsibility & Accountability;
  - d. CLPNA Practice Policy: Documentation;
  - e. CLPNA Competency Profile A1: Critical Thinking;
  - f. CLPNA Competency Profile A2: Clinical Judgment and Decision Making;

- g. CLPNA Competency Profile C4: Professional Ethics;
- h. CLPNA Competency Profile C5: Accountability and Responsibility;
- i. CLPNA Competency Profile D1: Communication and Collaborative Practice;
- j. CLPNA Competency Profile D2: Therapeutic Nurse-Patient Relationship;
- k. CLPNA Competency Profile D4: Conflict Management; and
- l. CLPNA Competency Profile E4: Wound Care.

If such documents become unavailable, they may be substituted by equivalent documents approved in advance in writing by the Complaints Consultant.

- 4. In the event the reflective paper is not satisfactory to the Complaints Consultant, Mr. Wolkowycki shall within two (2) weeks of being notified by the Complaints Consultant the reflective paper is not satisfactory, or such longer period as determined by the Complaints Consultant at their sole discretion, submit a revised paper that is acceptable to the Complaints Consultant.
- 5. Mr. Wolkowycki shall complete the **LPN Ethics Course** available online at <http://www.learninglpn.ca/index.php/courses>. Mr. Wolkowycki shall provide the Complaints Consultant with a certificate confirming successful completion of the course within **30 days** of service of the Decision.
- 6. Mr. Wolkowycki shall complete, at his own cost, the following course: **Professionalism in Nursing** located on website [www.jcollinsconsulting.com](http://www.jcollinsconsulting.com). Mr. Wolkowycki shall provide the Complaints Consultant, with a certificate confirming successful completion of the course within **6 months** of service of the Decision.

If such course becomes unavailable, an equivalent course may be substituted where approved in advance in writing by the Complaints Consultant.

- 7. Mr. Wolkowycki shall complete the following course: **Elder Abuse Self-Study Course** available on CLPNA website at [www.clpna.com](http://www.clpna.com). Mr. Wolkowycki shall provide the Complaints Consultant, with a certificate confirming successful completion of the course within **90 days** of service of the Decision.
- 8. Mr. Wolkowycki shall complete the following course: **Relational Practice Self-Study Course** available on CLPNA website at [www.clpna.com](http://www.clpna.com). Mr. Wolkowycki shall provide the Complaints Consultant, with a certificate confirming successful completion of the course within **90 days** of service of the Decision.



9. Mr. Wolkowycki shall complete the following quizzes offered on-line by [learningnurse.org](http://learningnurse.org). Kevin Wolkowycki shall provide the Complaints Consultant, with a certificate confirming successful completion of the quizzes within **90 days** of service of the Decision.
  - a) 11.7 - Wound Care
  - b) 15.1 – Managing Patient Rage

If one or both quizzes become unavailable, an equivalent quiz may be substituted where approved in advance in writing by the Complaints Consultant.

10. Mr. Wolkowycki will be required to submit performance appraisal(s) from his immediate supervisor(s) at all facilities where he is employed, subject to the following terms and conditions:
  - a) The supervisor(s) will provide written confirmation that they have reviewed a copy of the Decision;
  - b) The supervisor will provide the CLPNA with a performance evaluation, indicating whether they have any concerns with respect to Mr. Wolkowycki's performance, and in particular in reference to the conduct found to constitute unprofessional conduct by the Hearing Tribunal in its decision;
  - c) The performance evaluation must be provided within three months of the date of service of the Decision on Mr. Wolkowycki;
  - d) If the performance evaluation(s) are not satisfactory, the Complaints Consultant may, in his discretion, request a further performance evaluation from Mr. Wolkowycki's employer(s) which will be due three months after the first performance evaluation was provided;
  - e) If at any time the supervisor(s) identify concerns regarding Mr. Wolkowycki's performance, the Complaints Director may treat the information as a complaint in accordance with s. 56 of the HPA.

11. The condition requiring Mr. Wolkowycki to practice subject to supervision will remain in place until Mr. Wolkowycki provides proof to the Complaints Consultant that he has successfully completed the requirements set out above at paragraphs 3-10.

12. The orders set out above at paragraphs 2-10 will appear as conditions on Mr. Wolkowycki's practice permit and the CLPNA's Public Registry subject to the following:

- a) The requirement to complete the courses, quizzes, performance evaluation and self-reflection outlined at paragraphs 3-10 will appear as "monitoring orders (conduct)", on Mr. Wolkowycki's practice permit and the Public Registry until the orders below have been satisfactorily completed;
  - i. Reading/Reflective Paper;
  - ii. LPN Ethics Course;
  - iii. Professionalism in Nursing Course;
  - iv. Elder Abuse Self Study Course;

- v. Relational Practice Self Study Course;
  - vi. Wound Care Quiz;
  - vii. Managing Patient Rage Quiz; and
  - viii. Performance evaluation(s).
- b) The requirement to practice subject to supervision will continue to appear on Mr. Wolkowycki's practice permit and the Public Registry until he provides proof to the Complaints Consultant that he has successfully completed the requirements set out above at paragraphs 3-10; and
  - c) The requirement to pay costs, will appear as "Conduct Costs/Fines" on Mr. Wolkowycki's practice permit and the Public Registry until all costs have been paid as set out above at paragraph 2.
13. The conditions on Mr. Wolkowycki's practice permit and on the Public Registry will be removed upon completion of each of the requirements set out above at paragraph 12.
14. Mr. Wolkowycki shall provide the CLPNA with his contact information, including home mailing address, home and cellular telephone numbers, current e-mail address and current employment information. Mr. Wolkowycki will keep his contact information current with the CLPNA on an ongoing basis.
15. Should Mr. Wolkowycki be unable to comply with any of the deadlines for completion of the penalty orders identified above, the deadlines may, upon written request, be extended for a reasonable period of time with the written consent of the Complaints Consultant.
16. Should Mr. Wolkowycki fail or be unable to comply with any of the above orders for penalty, or if any dispute arises regarding the implementation of these orders, the Complaints Consultant may do any or all of the following:
- (d) Refer the matter back to a Hearing Tribunal, which shall retain jurisdiction with respect to penalty;
  - (e) Treat Mr. Wolkowycki's non-compliance as information for a complaint under s. 56 of the Act; or
  - (f) In the case of non-payment of the costs described in paragraph 2 above, suspend Mr. Wolkowycki's practice permit until such costs are paid in full or the Complaints Consultant is satisfied that such costs are being paid in accordance with a schedule of payment agreed to by the Complaints Consultant.

The Hearing Tribunal believes these orders adequately balances the factors referred to in Section 10 above and are consistent with the overarching mandate of the Hearing Tribunal, which is to ensure that the public is protected.

Under Part 4, s. 87(1)(a),(b) and 87(2) of the Act, the Investigated Member has the right to appeal:

**"87(1)** An investigated person or the complaints director, on behalf of the college, may commence an appeal to the council of the decision of the hearing tribunal by a written notice of appeal that

- (a) identifies the appealed decision, and
- (b) states the reasons for the appeal.

**(2)** A notice of appeal must be given to the hearings director within 30 days after the date on which the decision of the hearing tribunal is given to the investigated person.”

**DATED THE 15<sup>TH</sup> OF JULY 2020 IN THE CITY OF EDMONTON, ALBERTA.**

**THE COLLEGE OF LICENSED PRACTICAL NURSES OF ALBERTA**



Kimberley Chin, LPN  
Chair, Hearing Tribunal

