

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 JOEL HARESCO**

**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 JOEL HARESCO, LPN #36596, WHILE A MEMBER OF THE COLLEGE OF LICENSED
PRACTICAL NURSES OF ALBERTA (“CLPNA”)**

DECISION OF THE HEARING TRIBUNAL

(1) Hearing

The hearing was conducted at the Chateau Nova Yellowhead in Edmonton, Alberta on September 10, 2020 with the following individuals present:

Hearing Tribunal:

Kimberley Chin, Licensed Practical Nurse (“LPN”), Chairperson
Deanna Lang, LPN
James Lees, Public Member

Staff:

Katrina Haymond, Legal Counsel for the Complaints Director, CLPNA
Sandy Davis, Complaints Director, CLPNA

Investigated Member:

Joel Haresco, LPN (“Mr. Haresco” or “Investigated Member”)

(2) Preliminary Matters

The hearing was open to the public.

When the hearing began, the Chairperson of the Hearing Tribunal advised the Investigated Member he had the right to legal counsel under section 72(1) of the Health Professions Act (“the Act”). The Investigated Member confirmed he wished to proceed with the hearing without legal counsel.

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. Haresco 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. Haresco was initially licensed as an LPN in Alberta on May 27, 2013.

On November 27, 2019, the College of Licensed Practical Nurses of Alberta (“CLPNA”) received a complaint from Douglas Boisvert, Manager, Referral, Access Advice, Placement, Information & Destination (RAAPID), (Facility) in Edmonton, Alberta (the “Complaint”). The Complaint was sent pursuant to s. 57 of the Act notifying the CLPNA that Mr. Joel Haresco, LPN, had been suspended for three days, without pay.

By way of letter dated November 29, 2019, Sandy Davis, the Complaints Director of the CLPNA (the “Complaints Director”) provided Mr. Haresco with notice of the Complaint and notified him that Judy Palyga, Investigator for the CLPNA (the “Investigator”) was appointed to conduct an investigation into the Complaint. The Complaints Director also informed Mr. Haresco that due to the nature of the alleged conduct, she was recommending to Jeanne Weis, Executive Officer for the CLPNA, that Mr. Haresco’s practice permit be immediately suspended under section 65(1)(b) of the Act until the completion of the investigation and/or all disciplinary proceedings. The Complaints Director provided Ms. Weis’ contact information, and informed Mr. Haresco that he was able to provide written submissions if he did not feel a suspension was warranted in the circumstances.

The Complaints Director requested an immediate suspension of Mr. Haresco’s practice permit under section 65(1)(b) of the Act to Ms. Weis by letter on November 29, 2019.

Ms. Weis provided Mr. Haresco and the Complaints Director with notice of her Decision on Suspension of Practice Permit, dated December 9, 2019. Ms. Weis decided that a condition would be placed on Mr. Haresco’s practice permit requiring him to practice in the presence of one or more regulated health care providers.

On March 8, 2020, the Investigator concluded the investigation into the Complaint and submitted the Investigation Report to CLPNA.

Following receipt of the Investigation Report, the Complaints Director determined there was sufficient evidence to refer the matter to the Hearings Director for a hearing in accordance with s. 66(3)(a) of the Act. Mr. Haresco received notice the matter was referred to a hearing as well as a copy of the Investigation Report and Statement of Allegations under cover of letter dated April 24, 2020.

A Notice of Hearing, Notice to Attend and Notice to Produce was served upon Mr. Haresco under cover of letter dated June 15, 2020.

A Revised Notice of Hearing, Notice to Attend and Notice to Produce was served upon Mr. Haresco under cover of letter dated July 27, 2020.

(4) Allegations

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

“It is alleged that **JOEL HARESCO, LPN**, while practicing as a Licensed Practical Nurse engaged in unprofessional conduct by:

1. On or between April 2019 – September 2019, engaged in inappropriate behavior directed toward co-worker B.L., particulars of which include:
 - a. Repeatedly brought snacks for B.L. at work;
 - b. Called her “sunshine”;
 - c. Sent B.L. written notes on a number of occasions, including a note that said he loved her;
 - d. Gave B.L. a bracelet;
 - e. Took pictures of B.L. on a number of occasions;
 - f. In or about June 2019, held B.L.’s hand while they were taking the bus;
 - g. In or about July 2019, while walking together to the car;
 - i. Held B.L.’s hand;
 - ii. Attempted to kiss B.L. on the lips then kissed B.L.’s cheek instead after she turned her head; and
 - iii. Gave B.L. a hug;
 - h. In or about July 2019, sent B.L. messages on Facebook Messenger commenting on her appearance;
 - i. In or about July or August 2019, while in the Raapid Office, attempted to kiss B.L. on the lips then kissed B.L.’s cheek instead after she turned her head;

- j. On August 9, 2019, sent B.L. a message on Facebook Messenger with a meme of a women standing with her legs apart with an image of the Eiffel Tower pointing toward her crotch;
- k. Drove past B.L.’s house and looked at her back yard.

It is further alleged that your conduct constitutes “unprofessional conduct” as defined in s. 1(1)(pp)(i)(ii)(xii) of the *Health Professions Act*, R.S.A. 2000, c. H-7, in particular your conduct breaches one or more of the following:

1. *Standards of Practice for Licensed Practical Nurses on Boundary Violations*, Standard 8.2;
2. *Standards of Practice for Licensed Practical Nurses in Canada*, Standard 4, Indicator 4.9; and
3. *Code of Ethics for Licensed Practical Nurses in Canada*: Principle 3: Responsibility to the Profession, Indicator 3.1, 3.4.”

(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. Haresco 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 Director 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: Statement of Allegations
- 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 finds that the allegations set out against Mr. Haresco are factually proven.

The Hearing Tribunal also accepts Mr. Haresco'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. Haresco.

Allegation 1

Mr. Haresco admitted that on or between April 2019 – September 2019, he engaged in inappropriate behavior directed toward co-worker B.L., particulars of which include:

- a. Repeatedly brought snacks for B.L. at work;
- b. Called her “sunshine”;
- c. Sent B.L. written notes on a number of occasions, including a note that said he loved her;
- d. Gave B.L. a bracelet;
- e. Took pictures of B.L. on a number of occasions;
- f. In or about June 2019, held B.L.’s hand while they were taking the bus;

- g. In or about July 2019, while walking together to the car;
 - i. Held B.L.'s hand;
 - ii. Attempted to kiss B.L. on the lips then kissed B.L.'s cheek instead after she turned her head; and
 - iii. Gave B.L. a hug;
- h. In or about July 2019, sent B.L. messages on Facebook Messenger commenting on her appearance;
- i. In or about July or August 2019, while in the Raapid Office, attempted to kiss B.L. on the lips then kissed B.L.'s cheek instead after she turned her head;
- j. On August 9, 2019, sent B.L. a message on Facebook Messenger with a meme of a women standing with her legs apart with an image of the Eiffel Tower pointing toward her crotch;
- k. Drove past B.L.'s house and looked at her back yard.

By way of background, Mr. Haresco began working with co-worker B.L., an LPN, in the Repatriation Area of the RAAPID facility. Mr. Haresco and B.L. became friends and often would ride the bus together, as they lived close to each other. Beginning on or around April 2019, Mr. Haresco began to leave notes and snacks for B.L. He continued the behavior even after B.L. had requested that he stop this behavior.

Following a medical appointment that B.L. had, Mr. Haresco left a note on her desk stating, "I love you and miss you." As a gift for B.L.'s wedding, Mr. Haresco bought B.L. a bracelet. He brought the bracelet to work and gave it to her as a present. After giving her the bracelet, Mr. Haresco requested to take a picture of B.L. wearing the bracelet.

Over the course of the summer of 2019, Mr. Haresco repeatedly took pictures of B.L. This was at work as well as other places, like the bus stop on the way to/from work. When asked, B.L. would deny Mr. Haresco permission to take the pictures; however, he would persist and take the photos despite not having her consent. On or around June 2019, while on the bus to/from work Mr. Haresco and B.L. were seated next to each other. Mr. Haresco took hold of B.L.'s hand and held it for a number of blocks, until B.L. was able to extricate herself. At this time, Mr. Haresco told B.L. that he thought of her as a daughter.

On or around July 2019, Mr. Haresco and B.L. were walking to his car at the bus station in order to drive to their homes. On the way to his car Mr. Haresco attempted to kiss B.L. on the lips. She turned her head and Mr. Haresco kissed her on the cheek instead. Mr. Haresco then hugged B.L. and congratulated her on her upcoming wedding. B.L. then began avoiding Mr. Haresco, making efforts to avoid taking the transit with him.

On or about July 2019, Mr. Haresco sent a message to B.L. via Facebook Messenger stating “You’re still cute, though...even if you’re chubby...” Also, on or around July 11, 2019, Mr. Haresco send B.L. a message via Facebook Messenger calling her “Sunshine” and that he had brought her a tuna sandwich for lunch and leche flan for dessert. He then stated that he did not want B.L. “to go hungry & become thinner as ur (sic) wedding day gets closer. Ur (sic) dress might become loose & d (sic) won’t look nice.” On or about July 26, 2019, Mr. Haresco sent B.L. a message that stated, “You’ve such a nice disposition even under great pressure BB. (Bus Buddy) I’m so proud & happy to work w/ you! Good job Sunshine!”

Mr. Haresco made two further attempts to kiss B.L. in or around July and August 2019. One attempt was outside of his vehicle at the bus station, and the second occasion, while working in the RAAPID office. Mr. Haresco approached B.L.’s cubicle and attempted to kiss B.L. on the lips, B.L. moved her head and he kissed her on her cheek.

On August 9, 2019, Mr. Haresco sent B.L. a message on Facebook Messenger with a picture of a woman in a short skirt standing with her legs apart, and an image of the Eiffel Tower pointing towards her crotch. He included a message that said B.L. should “sit back & enjoy d (sic) best view of Eiffel Tower!”

In or about August 2019, B.L. noticed a vehicle which looked like Mr. Haresco’s drive by her backyard. He later made a comment to B.L. that he knew she had a barbecue on her backyard deck. Mr. Haresco confirms that he did drive by B.L.’s house in or about August 2019.

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;
- ii. Contravention of the Act, a code of ethics or standards of practice;
- iii. Conduct that harms the integrity of the regulated profession;

Mr. Haresco displayed a severe lack of knowledge, skill and judgment in the provision of professional services. His conduct towards B.L. was increasingly inappropriate over the course of his employment at RAAPID, and he did not listen when B.L. asked him to stop the behaviors.

Mr. Haresco’s conduct breached the following principles and standards set out in CLPNA’s Code of Ethics (“CLPNA Code of Ethics” and CLPNA’s Standards of Practice for Licensed Practical Nurses in Canada (“CLPNA Standards of Practice”):

CLPNA Code of Ethics:

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; and

3.4 Promote workplace practices and policies that facilitate professional practice in accordance with the principles, standards, laws and regulations under which they are accountable.

CLPNA Standards of Practice:

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:

4.9 Support and contribute to healthy and positive practice environments

Standard 8: Other types of Boundary violations — Standards of Practice for LPNs on Boundary Violations.

Standard 8 specifically provides that LPNs:

8.2 An LPN must maintain professional boundaries with their colleagues and co-workers. Boundary Violations can be related to behaviors between an LPN and a co-worker in areas such as an incident, or repeated incidents, of objectionable or unwelcome conduct, behavior or remarks and sharing of unwanted sexually explicit content of a sexual nature by an LPN towards a colleague that the LPN knows or ought reasonably to know will or would cause offence or humiliation.

Mr. Haresco's actions towards B.L. are in direct contravention of the Code of Ethics and Standards of Practice. His conduct was inappropriate and intrusive, and when instructed to stop by B.L. he did not listen. These offences are very serious in nature and are taken as such by the Hearing Tribunal. Mr. Haresco did not show B.L. respect in that his behavior was increasingly inappropriate for a work environment, and then continued outside of work. B.L. had a right to come to work and not feel threatened by her co-workers due to inappropriate advances.

(9) Joint Submission on Penalty

The Complaints Director and Mr. Haresco jointly proposed to the Hearing Tribunal a Joint Submission on Penalty, which was entered as Exhibit #3. The Joint Submission on Penalty proposed the following sanctions to the Hearing Tribunal for consideration:

1. The Hearing Tribunal's written reasons for decision (“the Decision”) shall serve as a reprimand.
2. Mr. Haresco shall pay 25% of the costs of the investigation and hearing to be paid on or before 36 months from the date of service of the written decision. A letter advising of the final costs will be forwarded when final costs have been confirmed.
3. Mr. Haresco’s practice permit shall be suspended for a total of **one (1) month** from the date of the hearing. Mr. Haresco is required to **immediately** advise CLPNA of any other employers he is currently employed with as a Licensed Practical Nurse. Pursuant to section 119(1)(b) of the Act the CLPNA Registrar is required to inform his employers of the immediate suspension of his practice permit.
4. Mr. Haresco 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. Haresco shall provide the Complaints Director with a signed declaration attesting he has completed the required readings within **thirty (30) days** of the written Decision:
 - i. Code of Ethics for Licensed Practical Nurses in Canada;
 - ii. Standards of Practice for Licensed Practical Nurses in Canada;
 - iii. CLPNA Practice Policy: Professional Responsibility & Accountability;
 - iv. CLPNA Practice Guideline: Professional Boundaries;
 - v. CLPNA Practice Guideline: Addressing Co-Worker Abuse in the Workplace;
 - vi. CLPNA’s Standards of Practice on Boundary Violations;
 - vii. CLPNA Policy: Client & Co-Worker Abuse;
 - viii. CLPNA Competency Profile A1: Critical Thinking; and
 - ix. CLPNA Competency Profile C4: Professional Ethics.

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

5. Mr. Haresco shall, complete the following remedial education, at his cost, and shall provide the Complaints Director with documentation confirming successful completion within **eight (8) months** of service of the written Decision:

- i. Code of Ethics Learning Module – offered online by Learning Nurse at <https://www.learningnurse.org/index.php/e-learning/lpn-code-of-ethics>
- ii. Review the Professional Boundaries Video – What LPNs need to know – offered by CLPNA at <https://www.youtube.com/watch?v=R6u5lwWgbU8&feature=youtu.be>
- iii. Professional Boundaries in Nursing – offered online by John Collins Consulting at https://www.icollinsconsulting.com/images/Outlines/lpn/MODULE_OUTLINE - PROFESSIONAL BOUNDARIES IN NURSING.pdf

If such course/s become unavailable, an equivalent course/s may be substituted where approved in advance in writing by the Complaints Director.

6. The sanctions set out above at paragraphs 4 to 5 will appear as a condition/conditions on Mr. Haresco’s practice permit and the Public Registry subject to the following:

- a) The requirement to complete the remedial education and readings outlined at paragraphs 4 to 5 will appear as “CLPNA Monitoring Orders (Conduct)”, on Mr. Haresco’s practice permit and the Public Registry until the below sanctions have been satisfactorily completed;
 - i. Required CLPNA’s Readings;
 - ii. Code of Ethics Learning Module;
 - iii. Professional Boundaries Video; and
 - iv. Professional Boundaries in Nursing.
- v. The requirement to pay costs will appear as “Conduct Cost/Fines” on Mr. Haresco’s practice permit and the Public Registry until all costs have been paid as set out above at paragraph 2.

7. The conditions on Mr. Haresco's practice permit and on the Public Registry will be removed upon completion of each of the requirements set out above at paragraphs 4 to 5.
8. Mr. Haresco 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. Haresco will keep his contact information current with the CLPNA on an ongoing basis.
9. Should Mr. Haresco 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 Director.
10. Should Mr. Haresco 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 Director 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. Haresco'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. Haresco's practice permit until such costs are paid in full or the Complaints Director is satisfied that such costs are being paid in accordance with a schedule of payment agreed to by the Complaints Director.

Legal Counsel for the Complaints Director 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 has 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 through further submissions to the Hearing Tribunal.

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

(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. Haresco 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:

1. The nature and gravity of the proven allegations;
2. The age and experience of the investigated member;
3. The previous character of the investigated member and in particular the presence or absence of any prior complaints or convictions;
4. The age and mental condition of the victim, if any;
5. The number of times the offending conduct was proven to have occurred;
6. The role of the investigated member in acknowledging what occurred;
7. Whether the investigated member has already suffered other serious financial or other penalties as a result of the allegations having been made;
8. The impact of the incident(s) on the victim;
9. The presence of absence of any mitigating circumstances;
10. The need to promote specific and general deterrence and, thereby to protect the public and ensure the safe and proper practice;
11. The need to maintain the public's confidence in the integrity of the profession; and
12. The range of sentence in other similar cases.

The Hearing Tribunal considered each of the *Jaswal* factors, as set out below:

- **The nature and gravity of the proven allegations**
 - The conduct of Mr. Haresco is significant and his conduct was extremely inappropriate towards his colleague B.L.
- **The age and experience of the investigated member**
 - Mr. Haresco is not a new LPN; with his experience as an LPN since 2007, he should have known his conduct with regard to the allegations was unacceptable.
- **The previous character of the investigated member and in particular the presence or absence of any prior complaints or convictions**
 - The Hearing Tribunal was not made aware of any prior complaints or convictions.

- **The age and mental condition of the victim, if any:**
 - The Hearing Tribunal was not made aware of any factors relating to the victim.
- **The number of times the offending conduct was proven to have occurred**
 - There was a series of significant events that occurred from the time of Mr. Haresco's hire at RAAPID to his suspension in October 2019.
- **The role of the investigated member in acknowledging what occurred**
 - The Hearing Tribunal would like to commend Mr. Haresco for his acknowledgement of the proven allegations and his cooperation with the College during this investigation.
- **Whether the investigated member has already suffered other serious financial or other penalties as a result of the allegations having been made**
 - Mr. Haresco received a 3-day suspension without pay from RAAPID.
- **The impact of the incident(s) on the victim**
 - Mr. Haresco's actions were inappropriate towards B.L. and no doubt had an impact on her. One example of this was her decision to stay late after work to avoid taking the bus with him.
- **The presence or absence of any mitigating circumstances**
 - None were presented to the Hearing Tribunal.
- **The need to promote specific and general deterrence and, thereby to protect the public and ensure the safe and proper practice**
 - The Hearing Tribunal considered specific deterrence in respect of Mr. Haresco and concluded that the sanctions proposed bring home the seriousness of the allegations and serve as a sufficient specific reprimand with appropriate remedial action. In addition, the proposed sanctions promote general deterrence by being a significant and thorough response to the finding of unprofessional conduct in this case, which the Hearing Tribunal found to include concerning and serious conduct on the part of Mr. Haresco.
- **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 practicing ethically.

- **The range of sentence in other similar cases**

- The Hearing Tribunal was not made aware of the sentences in other similar cases.

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. Haresco shall pay 25% of the costs of the investigation and hearing to be paid on or before **thirty six (36) months** from the date of service of the written decision. A letter advising of the final costs will be forwarded when final costs have been confirmed.
3. Mr. Haresco's practice permit shall be suspended for a total of **one (1) month** from the date of the hearing. Mr. Haresco is required to **immediately** advise CLPNA of any other employers he is currently employed with as a Licensed Practical Nurse. Pursuant to section 119(1)(b) of the Act the CLPNA Registrar is required to inform his employers of the immediate suspension of your practice permit.
4. Mr. Haresco 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. Haresco shall provide the Complaints Director with a signed declaration attesting he has completed the required readings within **thirty (30) days** of the written Decision:
 - i. Code of Ethics for Licensed Practical Nurses in Canada;
 - ii. Standards of Practice for Licensed Practical Nurses in Canada;

- iii. CLPNA Practice Policy: Professional Responsibility & Accountability;
- iv. CLPNA Practice Guideline: Professional Boundaries;
- v. CLPNA Practice Guideline: Addressing Co-Worker Abuse in the Workplace;
- vi. CLPNA's Standards of Practice on Boundary Violations;
- vii. CLPNA Policy: Client & Co-Worker Abuse;
- viii. CLPNA Competency Profile A1: Critical Thinking; and
- ix. CLPNA Competency Profile C4: Professional Ethics.

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

5. Mr. Haresco shall, complete the following remedial education, at his cost, and shall provide the Complaints Director with documentation confirming successful completion within **eight (8) months** of service of the written Decision:

- i. Code of Ethics Learning Module – offered online by Learning Nurse at <https://www.learningnurse.org/index.php/e-learning/lpn-code-of-ethics>
- ii. Review the Professional Boundaries Video – What LPNs need to know – offered by CLPNA at <https://www.youtube.com/watch?v=R6u5lwWgbU8&feature=youtu.be>
- iii. Professional Boundaries in Nursing – offered on line by John Collins Consulting at [https://www.jcollinsconsulting.com/images/Outlines/lpn/MODULE OUTLINE - PROFESSIONAL BOUNDARIES IN NURSING.pdf](https://www.jcollinsconsulting.com/images/Outlines/lpn/MODULE_OUTLINE - PROFESSIONAL BOUNDARIES IN NURSING.pdf)

If such course/s become unavailable, an equivalent course/s may be substituted where approved in advance in writing by the Complaints Director.

6. The sanctions set out above at paragraphs 4 to 5 will appear as a condition/conditions on Mr. Haresco's practice permit and the Public Registry subject to the following:

- a) The requirement to complete the remedial education and readings outlined at paragraphs 4 to 5 will appear as "CLPNA Monitoring Orders (Conduct)", on Mr.

Haresco's practice permit and the Public Registry until the below sanctions have been satisfactorily completed;

- i. Required CLPNA's Readings;
- ii. Code of Ethics Learning Module;
- iii. Professional Boundaries Video; and
- iv. Professional Boundaries in Nursing.

b) The requirement to pay costs will appear as "Conduct Cost/Fines" on Mr. Haresco's practice permit and the Public Registry until all costs have been paid as set out above at paragraph 2.

7. The conditions on Mr. Haresco's practice permit and on the Public Registry will be removed upon completion of each of the requirements set out above at paragraphs 4 to 5.
8. Mr. Haresco 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. Haresco will keep his contact information current with the CLPNA on an ongoing basis.
9. Should Mr. Haresco 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 Director.
10. Should Mr. Haresco 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 Director 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. Haresco 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. Haresco's practice permit until such costs are paid in full or the Complaints Director is satisfied that such costs are being paid in accordance with a schedule of payment agreed to by the Complaints Director.

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 18TH DAY OF DECEMBER 2020 IN THE CITY OF EDMONTON, ALBERTA

THE COLLEGE OF LICENSED PRACTICAL NURSES OF ALBERTA



Kimberley Chin, LPN
Chair, Hearing Tribunal