

**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 AMANDA DANIELS**

**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 AMANDA DANIELS, LPN #40277, 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 Teleconference using Zoom on January 27, 2021 with the following individuals present:

**Hearing Tribunal:**

Kelly Annesty, Licensed Practical Nurse (“LPN”) Chairperson  
Patricia Riopel, LPN  
Alan Naranin, LPN  
Nancy Brook, Public Member

**Staff:**

Ayla Akgungor, Legal Counsel for the Complaints Consultant, CLPNA  
Kevin Oudith, Complaints Consultant, CLPNA

**Investigated Member:**

Amanda Daniels, LPN (“Ms. Daniels” 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**

Ms. Daniels was an LPN within the meaning of the *Health Professions Act* (“Act”) at all material times, and more particularly, was registered with CLPNA as an LPN at the time of the complaint. Ms. Daniels was initially licensed as an LPN in Alberta on May 8, 2015.

A complaint letter dated March 4, 2020 was received by the CLPNA from Laurie Loowell, Director, HR Business Partnerships for Alberta Health Services (the "Complaint"). The Complaint was made pursuant to s. 57(1) of the Act and advised that Ms. Amanda Daniels, LPN, had been terminated from her employment with Alberta Health Services ("AHS") as a result of being unfit to practice due to intoxication, theft from the workplace, falsifying narcotic co-signatures and sexual misconduct towards coworkers.

In accordance with s. 65(1)(b) of the Act, Ms. Sandy Davis, Complaints Director for the CLPNA (the "Complaints Director") made a recommendation to Ms. Jeanne Weis, Chief Executive Officer of the CLPNA (the "Chief Executive Officer"), to immediately suspend Ms. Daniel's practice permit.

The Chief Executive Officer suspended Ms. Daniels' practice permit effective March 5, 2020 and notified Ms. Daniels of the suspension by way of a letter dated March 5, 2020.

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.

Ms. Daniels received notice of the Complaint and the investigation by letter dated March 4, 2020.

On June 11, 2020, the Investigator concluded the investigation into the Complaint and submitted the Investigation Report to the CLPNA.

The Complaints Director delegated her authority under Part 4 of the Act to Kevin Oudith, Complaints Consultant for the CLPNA (the "Complaints Consultant"), pursuant to s. 20 of the Act.

Following the Investigation Report, the Complaints Consultant referred aspects of the Complaint to the Hearings Director in accordance with s. 66(3)(a) of the Act. Ms. Daniels received notice that the matters were referred to a hearing as well as a copy of the Statement of Allegations and Investigation Report under cover of letter dated November 12, 2020.

Following the recommendation of the Complaints Consultant, by way of letter dated November 12, 2020, the Chief Executive Officer lifted the suspension of Ms. Daniels' practice permit.

A Notice of Hearing, Notice to Attend and Notice to Produce was served upon Ms. Daniels under cover of letter dated December 28, 2020. The letter advised the Hearing would take place remotely via videoconference.

#### **(4) Allegations**

The Allegations in the Statement of Allegations (the "Allegations") are:

"It is alleged that AMANDA DANIELS, LPN, while practising as a Licensed Practical Nurse engaged in unprofessional conduct by:

1. On or about July 28, 2019, failed to recognize own fitness to practice.

2. On or about July 28, 2019 removed a 10 ml Saline Syringe Flush from a hospital supply room for personal use, without authorization.
3. On or about August 5, 2019 did one or more of the following with respect to client WE:
  - (a) Failed to adequately assess and/or document on client WE's Nursing Assessment and Care Record, as required;
  - (b) Inaccurately documented receiving client WE into care at 0715 hours;
  - (c) Failed to perform and/or document a head to toe assessment of client WE;
  - (d) Failed to administer Magnesium Rougier 30 mg, and Pantoloc 40 mg scheduled at 0730 hours in a timely manner;
  - (e) Failed to administer Mucomyst 400 mg, Bisoprolol Fumarate 1.25 mg, Diclofenac Diethylamine 2.32 %, Fluticasone 100 mcg – Vilanterol 25 mcg inhaler, Synthroid 25 mcg, Salbutamol 2.5 mg nebuLe, Selenium 50 mcg, Sucralfate In Glaxal Base 4%, Tamsulosin CR 0.4 mg, Spiriva Inhaler 18 mcg, Vitamin A 10000 IU, Vitamin D3 2000 IU, and Stresstabs with Zinc scheduled at 0800 hours in a timely manner; and
  - (f) Failed to document on the Nursing Assessment and Care Record the reason why WE's medication was held at 0730 hours and 0800 hours.
4. On or about August 5, 2019 falsified colleague EJ's initials on client AM's Medication Administration Record as having witnessed the wastage of Hydromorphone 0.5 mg at 1130 hours, when colleague EJ did not witness the wastage or consent to having her initials used to indicate that she witnessed the wastage.
5. In or around January to May 2019, failed to demonstrate respectful or professional behavior towards colleague AR by doing one of more of the following:
  - (a) Showing an inappropriate picture or pictures of herself to AR at the workplace; and/or
  - (b) Asking AR to help find her lost "clit ring" at the workplace.
6. In or around early 2019, failed to demonstrate respectful or professional behavior towards colleague KL by doing one or more of the following:
  - (a) Rubbing KL's back;
  - (b) Asking KL if she was wearing a bra;
  - (c) Commenting on KL's breasts; and/or
  - (d) Asking to see a picture of KL's breasts."

**(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.

Ms. Daniels acknowledged unprofessional conduct to all the allegations as evidenced by her 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: 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 also accepts Ms. Daniels'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 Ms. Daniels.

### Allegation 1

Ms. Daniels admitted on or about July 28, 2019, she failed to recognize her own fitness to practice.

On July 28, 2019, Ms. Daniels was scheduled to work a double shift at the Royal Alexandra Hospital. Ms. Daniels had an overtime shift from 0700 to 1515 hours followed by her regular shift from 1500 to 2315 hours.

Ms. Daniels arrived approximately 45 minutes late for her 0700 hour shift. While performing her duties, the family of a patient reported that Ms. Daniels was staggering, unable to keep her eyes open, was dropping instruments, confused as to which medications to administer and was rude in her response to questions. The family requested that another LPN be assigned to care for their mother.

In response to this request, [REDACTED] SJ [REDACTED], RN and Assistant Head Nurse, spoke with the family and assessed Ms. Daniels. It was determined that Ms. Daniels was not fit to practice. Ms. Daniels was sent home at the end of her 0700 – 1515 hours shift and was not permitted to work her 1500 to 2315 hours shift.

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;

Ms. Daniels displayed a lack of knowledge of or a lack of skill or judgment in the provision of professional services by failing to recognize her own fitness to practice. It was reported that Ms. Daniels was staggering, unable to keep her eyes open, dropping instruments, confused as to which medications to administer and rude to her patients when they were asking her questions. Ms. Daniels was late for her shift and appeared to not be feeling well and it is expected of an LPN that if they are not fit to practice due to health then they will not report to work and take their shift off until they are fit to practice. Ms. Daniels showed a lack in judgment in coming to work when she was not fit to practice.

Ms. Daniels did not abide by the CLPNA Code of Ethics or the CLPNA Standards of Practice as acknowledged by Ms. Daniels in the Agreed Statement of Facts and Acknowledgement of Unprofessional Conduct. The Hearing Tribunal finds the conduct breached the CLPNA Code of Ethics and the CLPNA Standards of Practice and that such breaches are sufficiently serious to constitute unprofessional conduct for the reasons set out below.

The 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:

Ms. Daniels acknowledges that her conduct breached one or more of the following requirements in the Code of Ethics for Licensed Practical Nurses in Canada adopted by the CLPNA on June 3, 2013, which states as follows:

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 states that LPNs:

- 1.1 Maintain standards of practice, professional competence, and conduct.
- 1.5 Provide care directed to the health and well-being of 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 states that LPNs:

- 2.8 Use evidence and judgement to guide nursing decisions.
- 2.9 Identify and minimize risks to clients.

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 states 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 Practice in a manner that is consistent with the privilege and responsibility of self-regulation.

Principle 4: Responsibility to Colleagues – LPNs develop and maintain positive, collaborative relationships with nursing colleagues and other health professionals. Principle 4 specifically states that LPNs:

- 4.2 Collaborate with colleagues in a cooperative, constructive, and respectful manner with the primary goal of providing safe, competent, ethical, and appropriate care to individuals, families, and communities.

Principle 5: Responsibility to Self – LPNs recognize and function within their personal and professional competence and value system. Principle 5 specifically states that LPNs:

- 5.1 Demonstrate honesty, integrity and trustworthiness in all interactions.
- 5.3 Accept responsibility for knowing and acting consistently with the principles, practice standards, laws and regulations in which they are accountable.
- 5.5 Inform the appropriate authority in the event of becoming unable to practice safely, competently and/or ethically.
- 5.8 Maintain the required mental and physical wellness to meet the responsibilities of their role.

CLPNA Standards of Practice:

Ms. Daniels acknowledges that her conduct breached one or more of the following Standards of Practice for Licensed Practical Nurses in Canada adopted by the CLPNA on June 3, 2013.

Standard 1: 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 states 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.
- 1.7 Incorporate established client safety principles and quality assurance/improvement activities into LPN practice.
- 1.9 Practice in a manner consistent with ethical values and obligations of the Code of Ethics for LPNs.
- 1.10 Maintain documentation and reporting according to established legislation, regulations, laws, and employer policies.

Standard 2: Knowledge Based Practice: LPNs possess knowledge obtained through practical nurse preparation and continuous learning relevant to their professional LPN practice. Standard 2 specifically states that LPNs:

- 2.2 Apply knowledge from nursing theory and science, other disciplines, evidence to inform decision-making and LPN practice.

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 states that LPNs:

- 3.3 Support and contribute to an environment that promotes and supports safe, effective, and ethical practice.
- 3.4 Promote a culture of safety by using established occupational health and safety practices, infection control, and other safety measures to protect clients, self and colleagues from illness and injury.
- 3.5 Provide relevant and timely information to clients and co-workers.
- 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 states that:

- 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.
- 4.9 Support and contribute to healthy and positive environments.
- 4.10 Practice with honesty and integrity to maintain the values and reputation of the profession.

A regulated professional must be aware when they are fit to practice and when they are not. Ms. Daniels should not have attended to work in a state which would cause risk to those under her care and detract from the overall environment of care she should have been contributing to. In this way she failed her responsibility to herself by not acting with integrity – it was necessary for others to intervene to prevent her from continuing to practice. Her actions were not supportive of an environment of safe practice. Overall, attending to work in the state as described in the Allegation is not in keeping with the values of her profession or her obligations to others. In this way she breached both the Code of Ethics and the Standards of Practice and did so in a manner sufficiently serious to constitute unprofessional conduct.

### Allegation 2

Ms. Daniels admitted that on or about July 28, 2019, she removed a 10 ml Saline Syringe Flush from a hospital supply room for personal use, without authorization.

On July 28, 2019 at approximately 1600 hours, Ms. Daniels was observed by SH, RN removing a 10ml Saline Syringe Flush from the supply room. As Ms. Daniels had been deemed unfit to practice and sent home, SH asked Ms. Daniels what she was doing.

Ms. Daniels told SH that she needed the 10ml Saline Syringe Flush for her nipples. Ms. Daniels left with the syringe.

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;

Ms. Daniels displayed a lack of knowledge of or a lack of skill or judgment in the provision of professional services by removing hospital supplies for her own personal use. Ms. Daniels was approached by another staff member who asked why she was removing the supplies to which Ms. Daniels admitted that they were for personal use. Ms. Daniels displayed a lack of judgment in that she was made aware by her co-worker that Ms. Daniels should not remove the hospital supplies; regardless of this, Ms. Daniels removed the supplies anyway. It is expected by an employer that employees are not to be removing hospital supplies for their personal use which amounts to theft.

Ms. Daniels did not abide by the CLPNA Code of Ethics or the CLPNA Standards of Practice as acknowledged by Ms. Daniels in the Agreed Statement of Facts and Acknowledgement of Unprofessional Conduct. The Hearing Tribunal finds the conduct breached the CLPNA Code of Ethics and the CLPNA Standards of Practice and that such breaches are sufficiently serious to constitute unprofessional conduct.

Ms. Daniels did not abide by the provisions of the CLPNA Code of Ethics or the CLPNA Standards of Practice set out above. Removing an item from a workplace supply room is theft. This action displays a lack of honesty and integrity on the part of Ms. Daniels. Her behaviour is a failure in her responsibility to her colleagues as it undermines trust placed in her. A member of the public who was aware of this conduct would call Ms. Daniels and her profession into question and is not demonstrative of an understanding of the privilege of self-regulation.

### Allegation 3

Ms. Daniels admitted that on or about August 5, 2019, she did one or more of the following with respect to client WE:

- (a) Failed to adequately assess and/or document on client WE's Nursing Assessment and Care Record, as required;
- (b) Inaccurately documented receiving client WE into care at 0715 hours;
- (c) Failed to perform and/or document a head to toe assessment of client WE;
- (d) Failed to administer Magnesium Rougier 30 mg, and Pantoloc 40 mg scheduled at 0730 hours in a timely manner;
- (e) Failed to administer Mucomyst 400 mg, Bisoprolol Fumarate 1.25 mg, Diclofenac Diethylamine 2.32 %, Fluticasone 100 mcg – Vilanterol 25 mcg inhaler, Synthroid 25 mcg, Salbutamol 2.5 mg nebulae, Selenium 50 mcg, Sucralfate In Glaxal Base 4%, Tamsulosin CR 0.4 mg, Spiriva Inhaler 18 mcg, Vitamin A 10000 IU, Vitamin D3 2000 IU, and Stresstabs with Zinc scheduled at 0800 hours in a timely manner; and

- (f) Failed to document on the Nursing Assessment and Care Record the reason why WE's medication was held at 0730 hours and 0800 hours.

On August 5, 2019, Ms. Daniels worked a 0700 to 1515 hours shift at the Royal Alexandra Hospital. Ms. Daniels arrived approximately 30 minutes late for her shift.

Ms. Daniels was assigned to care for patient WE. At approximately 0930 hours, Ms. Daniels told EJ, RN that patient WE would not wake up to take his medications. EJ checked on patient WE and found him to be deceased.

On review of patient WE's medical records, it was discovered that Ms. Daniels did not document an assessment of patient WE on the Nursing Assessment and Care Record (NACR).

Ms. Daniels did not arrive to work until sometime after 0730 hours. Ms. Daniels was not present to receive patient WE into care at 0715 hours.

Ms. Daniels did not administer any of patient WE's medications as scheduled at 0730 hours or 0800 hours. Ms. Daniels documented on patient WE's Medication Administration Record (MAR) that all of patient WE's medications were "HN". "HN" is code for "Held Nursing Assessment". Ms. Daniels failed to document on patient WE's NACR why the medications were HN.

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;

Ms. Daniels displayed a lack of knowledge of or a lack of skill or judgment in the provision of professional services by failing to adequately assess or document on her patient. Ms. Daniels failed to do a head to toe assessment of WE which is a core competency of an LPN. It is expected that a Head to Toe assessment take place on a patient when the LPN receives that patient into their care. A Head to Toe assessment is a core competency of an LPN. Ms. Daniels also failed to administer the patient's medications according to the physician's orders. Medication administration is a core competency of an LPN as well as the "medication rights" to which an LPN is expected to adhere to. By not engaging with these core competencies, Ms. Daniels demonstrated a lack of skill, knowledge and judgment.

Ms. Daniels did not abide by the provisions of the CLPNA Code of Ethics or the CLPNA Standards of Practice set out above. Keeping timely and accurate records as well as proper medication administration are fundamental to the practice of an LPN. LPNs are trained to carry out these tasks in order to serve the best interests of those under their care and LPNs are expected to carry out these important functions accurately and in a manner that enhances outcomes for clients. The conduct in this Allegation was not in keeping with those goals or the values of the LPN

profession. Ms. Daniels' conduct left the client at risk because an incomplete record cannot be relied upon for the purpose of assessing a client's health over time --- to identify trends or address concerning variances. In this way Ms. Daniels engaged in conduct which constitutes unprofessional conduct.

#### Allegation 4

Ms. Daniels admitted that on or about August 5, 2019, she falsified colleague EJ's initials on client AM's Medication Administration Record as having witnessed the wastage of Hydromorphone 0.5 mg at 1130 hours, when colleague EJ did not witness the wastage or consent to having her initials used to indicate that she witnessed the wastage.

Ms. Daniels worked a shift on August 5, 2019 and was assigned patient AM.

The MAR for patient AM noted a wastage of 0.5mg of Hydromorphone at 1130 hours. EJ, RN observed that her initials were placed on the MAR as having witnessed the wastage. EJ did not observe the wastage and did not consent to having her initials used to indicate that she witnessed the wastage.

EJ asked Ms. Daniels why her initials had been inserted on the MAR. Ms. Daniels told EJ that "she didn't think she'd mind" and that "it wasn't a big deal".

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;

Ms. Daniels displayed a lack of knowledge of or a lack of skill or judgment in the provision of professional services by falsifying a Medication Administration Record and recording her colleague's initials on the document as a medication wastage. EJ did not observe the wastage and did not consent to having her initials used to indicate that she did in fact witness the wastage. Ms. Daniels failed to adhere to the core competencies of Medication Administration to which LPNs are expected to adhere to and in doing so displayed a lack of judgment.

Ms. Daniels did not abide by the CLPNA Code of Ethics or the CLPNA Standards of Practice as acknowledged by Ms. Daniels in the Agreed Statement of Facts and Acknowledgement of Unprofessional Conduct. The Hearing Tribunal finds the conduct breached the CLPNA Code of Ethics and the CLPNA Standards of Practice and that such breaches are sufficiently serious to constitute unprofessional conduct.

There are important objectives which the procedures around medications are designed to achieve. To first actively breach such procedures and then to brush off an inquiry into the same

discloses a real lack of understanding for the obligations and responsibilities of a regulated professional. It also shows a lack of accountability which is a keystone to an LPN's practice. Using another team member's name to suggest they had witnessed something which they had not places that team member at risk and displays poor judgment. In this way, Ms. Daniels breached the provisions of the Code of Ethics and Standards of Practice set out above and did so to a degree that such breaches constitute unprofessional conduct.

#### Allegation 5

Ms. Daniels admitted that in or around January to May 2019, she failed to demonstrate respectful or professional behavior towards colleague AR by doing one of more of the following:

- (a) Showing an inappropriate picture or pictures of herself to AR at the workplace; and/or
- (b) Asking AR to help find her lost "clit ring" at the workplace.

In or around January to May 2019, on at least two occasions, Ms. Daniels showed her colleague AR sexually explicit photos on her cell phone. The photos were of Ms. Daniels. The first photo was of Ms. Daniels shooting a gun wearing only boots and thong underwear. The second was of Ms. Daniels crouching in a squat position wearing only black thong underwear. AR did not ask or want to see these photos. They were shown to her without warning and while she was engaged in the course of her work duties.

In this same timeframe, in the middle of a shift and while AR was attending to a patient, Ms. Daniels approached AR and in a loud voice requested help searching for her "clit ring". Ms. Daniels explained that it must have fallen off somewhere on the unit. Ms. Daniels again asked AR later in the shift if she had seen it. The request made AR feel uncomfortable.

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;

Ms. Daniels displayed a lack of knowledge of or a lack of skill or judgment in the provision of professional services by being disrespectful to her colleague by showing inappropriate pictures of herself in the workplace. Ms. Daniels should not have shown her colleague sexually explicit photos. Ms. Daniels' colleague did not ask to see the pictures and they were shown to her without any warning and while Ms. Daniels was in the course of her work duties. Ms. Daniels asked her colleague, in a loud voice if someone could help her find her "clit ring", while her colleague was attending to a patient. When Ms. Daniels did not find her "clit ring", she then asked her colleague for assistance again later in the shift. Ms. Daniels displayed a lack of judgment by discussing her genitals in the workplace and in front of patients.

Ms. Daniels did not abide by the CLPNA Code of Ethics or the CLPNA Standards of Practice as acknowledged by Ms. Daniels in the Agreed Statement of Facts and Acknowledgement of Unprofessional Conduct. The Hearing Tribunal finds the conduct breached the CLPNA Code of Ethics and the CLPNA Standards of Practice and that such breaches are sufficiently serious to constitute unprofessional conduct.

Ms. Daniels used vulgar language in the workplace and to a co-worker. She did so in a manner which detracted from the care of clients and placed her colleague in a difficult position. Her behaviour was not respectful of those around her and showed a lack of integrity. Ms. Daniels' language and behaviour were both of a nature that cause serious concern about her judgment and are not in keeping with the values of the LPN profession nor with the privilege of self-regulation.

### Allegation 6

Ms. Daniels admitted that in or around early 2019, she failed to demonstrate respectful or professional behavior towards colleague KL by doing one or more of the following:

- (a) Rubbing KL's back;
- (b) Asking KL if she was wearing a bra;
- (c) Commenting on KL's breasts; and/or
- (d) Asking to see a picture of KL's breasts.

In early 2019, while working an evening shift, Ms. Daniels approached colleague KL from behind, in the hallway and rubbed her back. KL asked why Ms. Daniels had done this. Ms. Daniels responded that it was to see if KL was wearing a bra. Ms. Daniels then stated that KL's breasts looked different that day and asked if she could see a picture of what KL's breasts usually looked like. KL asked Ms. Daniels if Ms. Daniels was asking to see her naked. Ms. Daniels offered to show her a naked picture of herself in return. KL felt uncomfortable and left the conversation.

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;

Ms. Daniels displayed a lack of knowledge of or a lack of skill or judgment in the provision of professional services by failing to demonstrate respectful and professional behavior towards her colleague. Ms. Daniels failed to demonstrate this behavior by rubbing her colleague's back and then asking her colleague about her breasts. Ms. Daniels also asked to see a picture of her colleague's breasts and then offered in turn to show her colleague a picture of her own breasts. Ms. Daniels should have not rubbed her colleague's back as it is not appropriate to just walk towards someone and to touch them, especially to see if they are wearing a bra or not. In respect

to Ms. Daniels asking her colleague to show her a picture of her breasts to see what they usually looked like, this is highly inappropriate behavior especially within the workplace. Ms. Daniels also offered to show her colleague a naked picture of herself which is also inappropriate. All of this conduct shows Ms. Daniels did not exercise judgment in her interactions with this colleague.

The Hearing Tribunal finds that Ms. Daniels breached those provisions of the Code of Ethics and Standards of Practice previously set out and that she did so in a manner which was sufficiently serious to constitute unprofessional practice.

All persons are entitled to bodily integrity and to be free from unwanted advances. Ms. Daniels' conduct in the workplace setting in relation to a co-worker was wholly inappropriate and showed a disregard for the dignity of her co-worker. Her actions are likely to contribute to an unhealthy work environment which is not in the public interest or in the interests of any person seeking care there. It is patent that this conduct denigrated a colleague and cast serious doubts upon whether Ms. Daniels understands the privilege enjoyed by self-regulated professionals and the obligations that accompany it.

**(9) Joint Submission on Penalty**

The Complaints Consultant and Ms. Daniels 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. Ms. Daniels shall pay 25% of the costs of the investigation and hearing, to be paid over a period of 48 months from service of the Decision:
  - a) A letter advising of the final costs will be forwarded when final costs have been confirmed.
  - b) Ms. Daniels shall notify the Complaints Consultant when she has secured employment, whether as an LPN or otherwise; and
  - c) Payments of costs will not commence until the first of the month after she has secured employment; and
  - d) Should Ms. Daniels secure employment prior to service of the Costs Letter, payment of costs shall commence on the first of the month following service of the Costs Letter.
3. Ms. Daniels 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. Ms. Daniels shall provide to the Complaints Consultant a written reflection

of 500 – 750 words, satisfactory to the Complaints Consultant, addressing how the following CLPNA documents will impact her professional practice within **60 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 C7: Fitness to Practice; and
- i. CLPNA Competency Profile U: Medication Management.

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

In the event the reflective paper is not satisfactory to the Complaints Consultant, Ms. Daniels 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 in his sole discretion, submit a revised paper that is acceptable to the Complaints Consultant.

4. Ms. Daniels shall complete the **LPN Ethics Course** available online at <https://www.learningnurse.org/index.php/e-learning/lpn-code-of-ethics>. Ms. Daniels shall provide the Complaints Consultant with a certificate confirming successful completion of the course within **90 days** of service of the Decision.
5. Ms. Daniels shall complete, at her own cost, the **Healing the Healer** course available online at <https://pedagogyeducation.com/Class-Catalog/General/Healing-the-Healer.aspx>. Ms. Daniels shall provide the Complaints Consultant with a certificate confirming successful completion of the course within **90 days** of service of the Decision.
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7. Ms. Daniels shall complete the **Medication Administration Self-Study Course** available online at <https://studywithclpna.com/medicationadministration/>. Ms. Daniels shall provide the Complaints Consultant with a certificate confirming successful completion of the course within **90 days** of service of the Decision.
8. Should any of the course(s) at paragraphs 4-7 become unavailable, then Ms. Daniels shall request in writing to be assigned an alternative course **prior to the deadline**. The Complaints Consultant shall, in his sole discretion, reassign a course. Ms. Daniels will be notified by the Complaints Consultant, in writing, advising of the new course required.
9. The sanctions set out above at paragraphs 2 - 8 will appear as conditions on Ms. Daniels' practice permit and the Public Registry subject to the following:
  - a) The requirement to complete the remedial education and readings/reflection paper outlined at paragraphs 3 - 8 will appear as "CLPNA Monitoring Orders (Conduct)", on Ms. Daniels' practice permit and the Public Registry until the below sanctions have been satisfactorily completed;
    - i. Readings/Reflection Paper;
    - ii. LPN Ethics Course;
    - iii. Healing the Healer Course;
    - iv. Do You Reflect a Positive Image of Nursing Course; and
    - v. Medication Administration Self-Study Course.
  - b) The requirement to pay costs, will appear as "Conduct Cost/Fines" on Ms. Daniels' practice permit and the Public Registry until all costs have been paid as set out above at paragraph 2.
10. The conditions on Ms. Daniels' practice permit and on the Public Registry will be removed upon completion of each of the requirements set out above at paragraph 9.
11. Ms. Daniels shall provide the CLPNA with her contact information, including home mailing address, home and cellular telephone numbers, current e-mail address and current employment information. Ms. Daniels will keep her contact information current with the CLPNA on an ongoing basis.

12. Should Ms. Daniels 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.
13. Should Ms. Daniels 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 Ms. Daniels' 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 Ms. Daniels' 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 through further submissions to the Hearing Tribunal.

The Hearing Tribunal therefore carefully considered the Joint Submission on Penalty proposed by Ms. Daniels 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, considering the facts of this case.

The orders imposed by the Hearing Tribunal must protect the public from the type of conduct that Ms. Daniels 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 age and experience of the investigated member
- The previous character of the investigated member and in particular the presence or absence of any prior complaints or convictions
- The age and mental condition of the victim, if any
- The number of times the offending conduct was proven to have occurred
- The role of the investigated member in acknowledging what occurred
- Whether the investigated member has already suffered other serious financial or other penalties as a result of the allegations having been made
- The impact of the incident(s) on the victim, and/or
- The presence or absence of any mitigating circumstances
- The need to promote specific and general deterrence and, thereby to protect the public and ensure the safe and proper practice
- The need to maintain the public's confidence in the integrity of the profession
- The range of sentence in other similar cases

**The nature and gravity of the proven allegations:** The conduct at issue is significant as it deals with basic core competencies for an LPN which are medications, documentation, and assessments. It also is serious in that it deals with a failure of fitness to practice, the removal of hospital supplies for personal use without authorization, and disrespectful conduct of a sexual nature towards two (2) separate colleagues. This conduct is quite serious and does require significant penalties.

**The age and experience of the investigated member:** Ms. Daniels has been registered with the CLPNA since May 8, 2015. At the time of the allegations Ms. Daniels had been an LPN for approximately four (4) years. At this point of her career Ms. Daniels should have been able to demonstrate these core competencies of an LPN. Ms. Daniels also should have been able to recognize her fitness to practice. Ms. Daniels was also acting inappropriate towards her colleagues in a sexual nature and regardless of her age or experience Ms. Daniels would be aware that this is inappropriate behavior.

**The previous character of the investigated member and in particular the presence or absence of any prior complaints or convictions:** There are no prior complaints or convictions with respect to Ms. Daniels.

**The number of times the offending conduct was proven to have occurred:** Ms. Daniels engaged in unprofessional conduct in a variety of ways: she attended to work when unfit to practice, attempted to remove hospital property for her own use, and engaged in inappropriate sexual behaviours. This shows a real lack of understanding on Ms. Daniels' part of what it means to be a regulated professional. This was an aggravating factor with respect to penalty.

**The role of the investigated member in acknowledging what occurred:** Ms. Daniels did acknowledge the allegations that were brought forward to the CLPNA by her employer. Ms. Daniels did provide the Hearing Tribunal with an Agreed Statement of Facts, which demonstrated to the Hearing Tribunal that Ms. Daniels took responsibility and accountability for her actions.

**Whether the investigated member has already suffered other serious financial or other penalties as a result of the allegations having been made:** Ms. Daniels was terminated from Alberta Health Services as a result of this conduct and that did come with a financial consequence for her.

**The impact of the incident(s) on the patient:** No direct information on the impact on any patient was presented to the Hearing Tribunal.

**The presence or absence of any mitigating circumstances:** The Hearing Tribunal was not made aware of any mitigating circumstances.

**The need to promote specific and general deterrence and, thereby to protect the public and ensure the safe and proper practice:** Specific deterrence is required to keep Ms. Daniels from repeating the same conduct in the future. General deterrence is required to ensure that other members of the LPN profession do not engage in similar conduct as well as to make sure that it is known that this type of conduct will not be tolerated by the CLPNA. LPNs are recognized as independent and capable members of the healthcare team and follow self-regulation and the public needs to be reassured that this standard is upheld.

**The need to maintain the public's confidence in the integrity of the profession:** The CLPNA deals with the actions of its members when they engage in unprofessional conduct. The CLPNA will deal with any breaches in the CLPNA Code of Ethics and the CLPNA Standards of Practice in a way that reflects the seriousness of the conduct and for the purpose of protecting the public.

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. Ms. Daniels shall pay 25% of the costs of the investigation and hearing, to be paid over a period of 48 months from service of the Decision:
  - a) A letter advising of the final costs will be forwarded when final costs have been confirmed.
  - b) Ms. Daniels shall notify the Complaints Consultant when she has secured employment, whether as an LPN or otherwise; and
  - c) Payments of costs will not commence until the first of the month after she has secured employment; and
  - d) Should Ms. Daniels secure employment prior to service of the Costs Letter, payment of costs shall commence on the first of the month following service of the Costs Letter.
3. Ms. Daniels 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. Ms. Daniels shall provide to the Complaints Consultant a written reflection of 500 – 750 words, satisfactory to the Complaints Consultant, addressing how the following CLPNA documents will impact her professional practice within **60 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 C7: Fitness to Practice; and
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If such documents become unavailable, they may be substituted by equivalent documents approved in advance in writing by the Complaints Consultant.

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13. Should Ms. Daniels 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 Ms. Daniels' 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 Ms. Daniels' 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 4<sup>th</sup> DAY OF MARCH 2021 IN THE CITY OF EDMONTON, ALBERTA.**

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

A handwritten signature in cursive script that reads "Kelly Anesty".

Kelly Anesty, LPN  
Chair, Hearing Tribunal