

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 ANGELIKA LAL**

**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 ANGELIKA LAL, LPN #44820, 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 May 26, 2021 with the following individuals present:

Hearing Tribunal:

Michelle Stolz, Licensed Practical Nurse (“LPN”) Chairperson
Jeff Bell, LPN
Juane Priest, Public Member
Archana Chaudray, Public Member

Staff:

Jason Kully, Legal Counsel for the Complaints Officer, CLPNA
Kevin Oudith, Complaints Officer, CLPNA

Investigated Member:

Angelika Lal, LPN (“Ms. Lal” 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. Lal was an LPN within the meaning of the Act at all material times, and more particularly, was registered with the CLPNA as an LPN at the time of the complaint. Ms. Lal was initially licensed as an LPN in Alberta on September 1, 2017.

The CLPNA received a complaint dated November 6, 2020 (the “Complaint”) from Laurie Loowell, Director, HR Business Partnership at Alberta Health Services (“AHS”) in Edmonton, Alberta, pursuant to s. 57 of the *Health Professions Act* (the “Act”). The Complaint advised Ms. Angelika Lal, LPN, had been terminated for cause from her employment at the Royal Alexandra Hospital on November 3, 2020 for shouting inappropriate statements and using inappropriate and excessive physical force while providing care to a vulnerable patient on September 9, 2020.

The Complaints Director, Sandy Davis (“Complaints Director”), delegated her authority and powers under Part 4 of the Act regarding the Complaint to Susan Blatz, Complaints Consultant for the CLPNA (“Complaints Consultant”), pursuant to s. 20 of the Act.

By way of letter dated November 18, 2020, the Complaints Consultant provided Ms. Lal with notice of the Complaint and notice that she had appointed Judith Palyga (the “Investigator”) to conduct an investigation into the Complaint. The Complaints Consultant also informed Ms. Lal that due to the nature of the alleged conduct, she was recommending to Jeanne Weis, Chief Executive Officer for the CLPNA, that Ms. Lal’s practice permit be immediately suspended under s. 65(1)(b) of the Act.

The Complaints Consultant requested that Ms. Weis impose an immediate suspension of Ms. Lal’s practice permit under s. 65(1)(b) of the Act by letter on November 18, 2020. Ms. Lal received a copy of this letter and its corresponding attachments.

By letter dated November 24, 2020, Ms. Weis declined the request for an interim suspension of Ms. Lal’s practice permit and notified Ms. Lal accordingly.

On December 12, 2020, the Investigator concluded the investigation into the Complaint and submitted an investigation report to the Complaints Consultant.

After review of the investigation report, the Complaints Consultant determined there was sufficient evidence that the issues raised in the Complaint should be referred to the Hearings Director in accordance with s. 66(3)(a) of the Act. Ms. Lal received notice the matters were referred to a hearing, as well as a copy of the Statement of Allegations and the Investigation Report, on January 20, 2021.

A Notice of Hearing, Notice to Attend and Notice to Produce was served upon Ms. Lal under cover of letter dated April 8, 2021.

(4) Allegations

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

“It is alleged that Angelika Lal, LPN, while practising as a Licensed Practical Nurse engaged in unprofessional conduct by:

- 1) On or about September 9, 2020, did one or more of the following when providing care to client MET:
 - a) Used inappropriate and excessive physical force, particulars of which include one or more of the following:
 - a. Forcibly grabbing MET's wrists;
 - b. Leaning her body weight onto MET; and
 - c. Shoving MET's arms into MET's chest and face.
 - b) Communicated in an inappropriate manner, particulars of which include one or more of the following:
 - a. Saying "Shut up" or "Be quiet" or words to that effect in an aggressive manner;
 - b. Saying "Oh yah, I'm the one with a few screws loose" or words to that effect in a sarcastic manner;
 - c. Instructing MET to "Stop screaming" or words to that effect; and
 - d. Advising, in MET's presence, that MET was the most difficult patient to work with due to her dementia.
- 2) On or about September 9, 2020, struck the arm of a female patient residing in Room 9 with her hand in retaliation to the patient hitting her."

(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. Lal 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 Officer 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 Angelika Lal'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 Angelika Lal.

Allegation 1

Ms. Lal admitted that on or about September 9, 2020, she did one or more of the following when providing care to client MET:

- a) Used inappropriate and excessive physical force, particulars of which include one or more of the following:
 - a. Forcibly grabbing MET's wrists;
 - b. Leaning her body weight onto MET; and
 - c. Shoving MET's arms into MET's chest and face.
- b) Communicated in an inappropriate manner, particulars of which include one or more of the following:
 - a. Saying "Shut up" or "Be quiet" or words to that effect in an aggressive manner;

- b. Saying “Oh yah, I’m the one with a few screws loose” or words to that effect in a sarcastic manner;
- c. Instructing MET to “Stop screaming” or words to that effect; and
- d. Advising, in MET’s presence, that MET was the most difficult patient to work with due to her dementia.

On September 9, 2020, Ms. Lal worked a shift as an LPN on PCU 32 at the Royal Alexandra Hospital from 0700 hours to 1915 hours. There were a number of nursing students from the University of Alberta who were assigned to work on PCU 32 as part of their practicum. On September 9, 2020, Ms. Lal provided care to MET at approximately 1900 hours in MET’s room because MET’s intravenous catheter had come out and there was blood on MET’s gown and bed. MET was an elderly female patient who had dementia.

Ms. Lal was accompanied by two nursing students while providing care to MET. MET was distraught and confused when Ms. Lal and the students entered the room. Ms. Lal did not explain the care that was going to be provided. Ms. Lal then forcibly grabbed MET’s wrists to keep them out of the way while she attempted to sort out the IV tubing. MET began screaming and MET stated she was in pain. MET yelled for Ms. Lal to stop but Ms. Lal did not stop and continued to grab MET’s wrists. MET tried to resist Ms. Lal’s restraint, but Ms. Lal leaned and shifted her body weight onto MET to hold MET down. MET was shouting and crying and telling Ms. Lal that she was hurting her.

During this interaction, Ms. Lal told the nursing students that MET was “the most difficult” patient to work with because of her dementia. Ms. Lal also laughed through the interaction. MET told Ms. Lal that Ms. Lal had a “few screws loose” in her head. Ms. Lal then replied, in a sarcastic manner, “Oh yea, I’m the one with a few screws loose”, thereby suggesting that MET was the one with a “few screws loose” in her head. MET became increasingly agitated as a result of Ms. Lal’s forcible restraint and verbal comments. MET stated that Ms. Lal was crazy. Ms. Lal then responded by shouting “shut up” into MET’s face. Ms. Lal also told MET to “be quiet” and to “stop screaming”. Ms. Lal then forcibly shoved MET’s arms into MET’s chest and face. This caused MET to shout louder and to scream and cry. MET continued to cry as Ms. Lal left the room. The nursing students stayed with MET to ensure MET was okay.

The nursing students felt distraught and did not know what to do during the incident. On September 11, 2020, the nursing students reported to their Clinical Instructor that Ms. Lal had verbally and physically assaulted a patient on September 9, 2020. The nursing students were asked to write down what they had witnessed.

The Hearing Tribunal finds that the conduct admitted 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 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; and
- xii. Conduct that harms the integrity of the regulated profession.

Ms. Lal's conduct showed a disregard for MET, a person in her care. Ms. Lal proceeded to use force after she began to provide care to MET without explanation as to what that care would involve or why it was necessary. Mr. Lal continued to apply force despite MET's protests and indications of pain and distress. In doing so, Ms. Lal displayed a serious lack of judgment and also engaged in conduct harmful to her profession.

These factors are amplified in light of the fact that MET was a particularly vulnerable person due to her age and dementia diagnosis. Furthermore, Ms. Lal engaged in this conduct in the presence of the students completing their practicum. Ms. Lal ought to have been acting as a role model but instead she caused concern and distress.

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 ("Standards of Practice") as set out below.

CLPNA Code of Ethics:

Ms. Lal acknowledge that her conduct breached one or more of the following requirements in the Code of Ethics adopted by 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 provides that LPNs:

- 1.1 Maintain standards of practice, professional competence, and conduct.
- 1.5 Provide care directed to 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:

- 2.8 Use evidence and judgement to guide nursing decisions; and
- 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 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 Practice in a manner that is consistent with the privilege and responsibility of self-regulation.

Principle 5: Responsibility to Self – LPNs recognize and function within their personal and professional competence and value systems. Principle 5 specifically provides 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 under which they are accountable. **CLPNA Standards of Practice:**

Ms. Lal acknowledged that her conduct breached one or more of the following CLPNA Standards of Practice adopted by CLPNA on June 3, 2013, which states as follows:

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.

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:

- 3.3 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.
- 3.6 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.
- 4.6. Maintain professional boundaries in the nurse/client therapeutic relationship at all times.
- 4.7. Communicate in a respectful, timely, open, and honest manner.

- 4.9 Support and contribute to healthy and positive practice environments.

Ms. Lal failed to maintain the standards of practice by failing to provide care directed to the well-being of the patient. She was verbally and physically hostile towards a client in her care.

Ms. Lal failed to use judgement to guide her nursing decisions. She not only physically restrained the patient in a hostile manner but was also demeaning and disrespectful to the client. Her actions did not minimize risk but instead apparently harmed this client.

Ms. Lal did not maintain the standards of the profession. She failed to conduct herself in a manner that upholds the integrity of the profession. Her actions are serious and are never acceptable. Ms. Lal's physically and verbally hostile actions are not in line with practicing in a manner that is consistent with the responsibility of self-regulation.

Ms. Lal's actions failed to demonstrate integrity and trustworthiness. The patients under her care in these allegations were elderly and depended on Ms. Lal to provide safe competent care. Unfortunately, Ms. Lal's aggressive actions did not uphold the expectations of the profession. The actions in this Hearing are serious and are not consistent with the principles, practice standards, law and regulations in which she was accountable to.

Ms. Lal failed to practice in a manner that is consistent with the ethical value and obligations outlined in the Code of Ethics for LPNs. Instead of taking action to avoid and/or minimize harm, her action created harm to the patients. Her actions were hostile and very concerning.

Ms. Lal's actions failed to contribute to an environment that promotes ethical practice as well as failed to promote a culture of safety. Ms. Lal did not protect the clients under her care from injury and her actions had the potential to cause, not only physical, but also emotional injury.

Ms. Lal failed to practice in a manner that is consistent with the ethical values and obligations outlined in the Code of Ethics. She failed to communicate in a respectful manner to the clients involved in these allegations.

All of the foregoing findings are, again, amplified by reason that Ms. Lal engaged in this conduct in front of LPN students. In doing so, she demonstrated very poor judgment and undermined the ethics of her profession rather than practice consistently with them. Her actions also impacted the LPN students who were her colleagues. Her actions detracted from, rather than supported and contributed, to a healthy and positive practice environment. The Hearing Tribunal is particularly concerned that Ms. Lal engaged in this conduct when she should have been acting as a mentor and role model.

Allegation 2:

Ms. Lal admitted that on or about September 9, 2020, she struck the arm of a female patient residing in Room 9 with her hand in retaliation to the patient hitting her.

On September 9, 2020, Ms. Lal worked a shift as an LPN on PCU 32 at the Royal Alexandra Hospital from 0700 hours to 1915 hours. On September 9, 2020, sometime between 1500 hours and 1915 hours, Ms. Lal provided peri-care to an elderly female patient who resided in Room 9 on PCU 32. The patient was lying on the patient's side on the bed and Ms. Lal was standing on one side of the bed with the patient facing Ms. Lal. The patient reached out and hit Ms. Lal on her hand or arm area. Ms. Lal immediately reacted and retaliated by striking the patient's left arm. The patient appeared to be frightened after the incident.

The Hearing Tribunal finds that the conduct admitted 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; and
- xii. Conduct that harms the integrity of the regulated profession.

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 ("Standards of Practice") as set out for substantially the same reasons as already discussed.

Further to the comments previously made, the Hearing Tribunal notes Ms. Lal did not use judgment to guide her when she was physically aggressive and struck the patient. Again, rather than minimizing risk she increased risk and arguably introduced harm.

(9) Joint Submission on Penalty

The Complaints Officer and Ms. Lal 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. Lal shall pay 25% of the costs of the investigation and hearing in equal monthly installments over a period of **thirty six (36) months** from the date of service of the Decision, or over such other period of time as agreed to by the Complaints Consultant.
 - a. A letter advising of the final costs will be forwarded when final costs have been confirmed.

3. Ms. Lal's practice permit will be subject to a condition of supervised practice at **all** facilities where Ms. Lal is employed in the capacity of an LPN for a period totaling 200 hours, subject to the following terms and conditions:
 - a. The supervisor(s) must be an RN or LPN;
 - b. Ms. Lal must provide her supervisor(s) with a copy of the executed Agreed Statement of Facts, the Joint Submission on Penalty, and the Decision when it becomes available;
 - c. Prior to the commencement of supervised practice, Ms. Lal will provide the Complaints Consultant with the name of the supervisor(s) and a written acknowledgement signed by her supervisor(s) confirming receipt of a copy of both the executed Agreed Statement of Facts and Joint Submission on Penalty, confirming the contents of the Agreed Statement of Facts and Joint Submission on Penalty will be kept confidential, and willingness to provide supervision in accordance with the terms of the Joint Submission on Penalty;
 - d. Ms. Lal will also provide the Complaints Consultant with a written acknowledgment signed by her supervisor(s) confirming receipt of a copy of the Decision;
 - e. The supervisor(s) must be available and onsite for the duration of all shifts worked by Ms. Lal during the period of supervised practice;
 - f. The supervisor(s) will agree to submit a performance evaluation to the Complaints Consultant immediately following the completion of the 200 hours of supervised practice confirming whether the supervisor(s) has identified any concerns with respect to the issues raised in the Agreed Statement of Facts and the Decision. The performance evaluation must make an overall assessment of whether Ms. Lal's performance is satisfactory or not.
 - g. If the supervisor(s) identify concerns with respect to Ms. Lal's practice, the period of supervised practice may be extended in the sole discretion of the Complaints Consultant for a further period of 100 hours, subject to the same terms set out above in paragraph 3(e).
 - h. If, at the conclusion of the period of supervised practice or any extended period of supervised practice, the supervisor(s) have any concerns regarding Ms. Lal's practice, the Complaints Consultant may treat the information as a complaint in accordance with s. 56 of the *Health Professions Act*.

4. Ms. Lal 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. Lal shall provide to the Complaints Consultant, a signed declaration within **sixty (60) days** of service of the Decision, attesting she has reviewed the following CLPNA documents:
 - a. Code of Ethics for Licensed Practical Nurses in Canada;
 - b. Standards of Practice for Licensed Practical Nurses in Canada;
 - c. CLPNA Policy: Client & Co-Worker Abuse;

- d. CLPNA Policy: Professional Responsibility & Accountability;
- 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 P2: Cognitive Care; and
- i. CLPNA Competency Profile P3: Dementia Care.

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

5. Ms. Lal shall complete the course: **LPN Ethics** available online at <http://www.learninglpn.ca/index.php/courses>. Ms. Lal shall provide the Complaints Consultant with a certificate confirming successful completion of the course within **sixty (60) days** of service of the Decision.

If the course becomes unavailable, Ms. Lal shall request in writing to be assigned an alternative course **prior to the deadline**. The Complaints Consultant shall, in her sole discretion, reassign a course. Ms. Lal will be notified by the Complaints Consultant, in writing, advising of the new course required.

6. Ms. Lal shall complete the following course: **Elder Abuse Self-Study** available on-line at studywithclpna.com/elderabuse. Ms. Lal shall provide the Complaints Consultant, with a certificate confirming successful completion of the course within **sixty (60) days** of service of the Decision.

If the course becomes unavailable, Ms. Lal shall request in writing to be assigned an alternative course **prior to the deadline**. The Complaints Consultant shall, in her sole discretion, reassign a course. Ms. Lal will be notified by the Complaints Consultant, in writing, advising of the new course required.

7. Ms. Lal shall complete the **Managing Patient Rage Quiz** available online at <http://www.learningnurse.org/quizzes/patientrage>. Ms. Lal shall provide the Complaints Consultant with a certificate confirming successful completion of the quiz within **sixty (60) days** of service of the Decision.

If the quiz becomes unavailable, Ms. Lal shall request in writing to be assigned an alternative quiz prior to the deadline. The Complaints Consultant shall, in her sole discretion, reassign a quiz. Ms. Lal will be notified by the Complaints Consultant, in writing, advising of the new quiz required.

8. Ms. Lal shall complete, at her own cost, the following course: **Anger and Conflict Resolution in the Workplace (LPNA/CONF008)** offered online by John Collins Consulting Inc. at https://www.jcollinsconsulting.com/images/Outlines/lpn/MODULE_OUTLINE_-_ANGER_AND_CONFLICT_RESOLUTION_IN_THE_WORKPLACE.pdf. Ms. Lal shall provide

the Complaints Consultant, with a certificate confirming successful completion of the course within **eight (8) months** of service of the Decision.

If such course becomes unavailable, Ms. Lal shall request in writing to be assigned an alternative course prior to the deadline. The Complaints Consultant shall, in her sole discretion, reassign a course. Ms. Lal will be notified by the Complaints Consultant, in writing, advising of the new course required.

9. The orders set out above at paragraphs 2-8 will appear as conditions on Ms. Lal's practice permit and the Public Registry subject to the following:
 - a. The requirement to complete the remedial education and readings outlined at paragraphs 4-8 will appear as "CLPNA Monitoring Orders (Conduct)", on Ms. Lal's practice permit and the Public Registry until the below sanctions have been satisfactorily completed;
 - i. Readings;
 - ii. LPN Ethic Course;
 - iii. Elder Abuse Self-Study Course;
 - iv. Managing Patient Rage Quiz;
 - v. Anger and Conflict Resolution in the Workplace Course.
 - b. The requirement to practice under supervision will continue to appear on Ms. Lal's practice permit and the Public Registry until she provides proof to the Complaints Consultant that she has successfully completed the requirements set out above at paragraph 3; and
 - c. The requirement to pay costs will appear as "Conduct Cost" on Ms. Lal's practice permit and the Public Registry until all costs have been paid as set out above at paragraph 2.
10. The conditions on Ms. Lal's practice permit and on the Public Registry will be removed upon completion of each of the requirements set out above at paragraph 9.
11. Should Ms. Lal 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.
12. Ms. Lal shall provide the CLPNA with her contact information, including her home mailing address, home and cellular telephone numbers, current e-mail address and her current employment information. Ms. Lal will keep her contact information current with the CLPNA on an ongoing basis.

13. Should Ms. Lal 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. Lal'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 Ms. Lal'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 Officer 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. Lal and the Complaints Officer.

(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 Ms. Lal 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 allegation: Ms. Lal's conduct in both allegations is on the more serious end of the spectrum. In the first allegation she admitted to being

physically, emotionally, and verbally hostile. In the second allegation she admitted to physically assaulting a patient.

- The age and experience of the investigated member: Ms. Lal became an LPN in 2017. She is a newer member of the College. However, the behavior admitted to is unacceptable for any member regardless of experience. All members know this behavior is inappropriate and should never occur.
- 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: Both clients were elderly, with one having dementia. Both were in a vulnerable position and relied on their Health Care Providers to provide care.
- The number of times the offending conduct was proven to have occurred: Both allegations occurred on the same day. There was no pattern or previous history of this behavior.
- The role of the investigated member in acknowledging what occurred: Ms. Lal was cooperative throughout the CLPNA investigation. She admitted that her conduct was unprofessional and helpful in presenting the Agreed Statement of Facts and Joint Submission on Penalty.
- Whether the investigated member has already suffered other serious financial or other penalties as a result of the allegations having been made: Ms. Lal was terminated with cause from her employer after they conducted an investigation into the allegations.
- The impact of the incident(s) on the victim: MET was upset as described in the Agreed Statement of Facts. The client in Room 9 was frightened based on the evidence provided. The Hearing Tribunal was not made aware of any long-term effects on the victims.
- The presence or absence of any mitigating circumstances: The Hearing Tribunal was not provided with any mitigating circumstances.
- The need to promote specific and general deterrence and, thereby to protect the public and ensure the safe and proper practice: It is imperative to promote both specific and general deterrence. Specific deterrence is needed to ensure Ms. Lal is aware of the seriousness of her actions and to ensure this behavior is not repeated. General deterrence is needed to let members of the CLPNA know that the proven allegations in this hearing are taken seriously and will not be tolerated by the CLPNA.

- The need to maintain the public's confidence in the integrity of the profession: It is of utmost importance to maintain the public's confidence in the integrity of the profession. The allegations in this hearing are serious and the Hearing Tribunal believes the penalties assessed in this case will ensure the integrity of the profession is upheld.
- The range of sentence in other similar cases: There are no cases that are similar to this case.

The Jaswal factors above are an integral part in determining penalties. Even though there was a Joint Submission on Penalty, the Hearing Tribunal still reviewed each of these factors to ensure the penalties being sought against Ms. Lal were fair and ensure the public is protected.

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. Lal shall pay 25% of the costs of the investigation and hearing in equal monthly installments over a period of **thirty-six (36) months** from the date of service of the Decision, or over such other period of time as agreed to by the Complaints Consultant.
 - a. A letter advising of the final costs will be forwarded when final costs have been confirmed.
3. Ms. Lal's practice permit will be subject to a condition of supervised practice at **all** facilities where Ms. Lal is employed in the capacity of an LPN for a period totaling 200 hours, subject to the following terms and conditions:

- a. The supervisor(s) must be an RN or LPN;
 - b. Ms. Lal must provide her supervisor(s) with a copy of the executed Agreed Statement of Facts, the Joint Submission on Penalty, and the Decision when it becomes available;
 - c. Prior to the commencement of supervised practice, Ms. Lal will provide the Complaints Consultant with the name of the supervisor(s) and a written acknowledgement signed by her supervisor(s) confirming receipt of a copy of both the executed Agreed Statement of Facts and Joint Submission on Penalty, confirming the contents of the Agreed Statement of Facts and Joint Submission on Penalty will be kept confidential, and willingness to provide supervision in accordance with the terms of the Joint Submission on Penalty;
 - d. Ms. Lal will also provide the Complaints Consultant with a written acknowledgment signed by her supervisor(s) confirming receipt of a copy of the Decision;
 - e. The supervisor(s) must be available and onsite for the duration of all shifts worked by Ms. Lal during the period of supervised practice;
 - f. The supervisor(s) will agree to submit a performance evaluation to the Complaints Consultant immediately following the completion of the 200 hours of supervised practice confirming whether the supervisor(s) has identified any concerns with respect to the issues raised in the Agreed Statement of Facts and the Decision. The performance evaluation must make an overall assessment of whether Ms. Lal's performance is satisfactory or not.
 - g. If the supervisor(s) identify concerns with respect to Ms. Lal's practice, the period of supervised practice may be extended in the sole discretion of the Complaints Consultant for a further period of 100 hours, subject to the same terms set out above in paragraph 3(e).
 - h. If, at the conclusion of the period of supervised practice or any extended period of supervised practice, the supervisor(s) have any concerns regarding Ms. Lal's practice, the Complaints Consultant may treat the information as a complaint in accordance with s. 56 of the *Health Professions Act*.
4. Ms. Lal 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. Lal shall provide to the Complaints Consultant, a signed declaration within **sixty (60) days** of service of the Decision, attesting she has reviewed the following CLPNA documents:
- a. Code of Ethics for Licensed Practical Nurses in Canada;
 - b. Standards of Practice for Licensed Practical Nurses in Canada;
 - c. CLPNA Policy: Client & Co-Worker Abuse;
 - d. CLPNA Policy: Professional Responsibility & Accountability;
 - 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 P2: Cognitive Care; and
- i. CLPNA Competency Profile P3: Dementia Care.

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

5. Ms. Lal shall complete the course: **LPN Ethics** available online at <http://www.learninglpn.ca/index.php/courses>. Ms. Lal shall provide the Complaints Consultant with a certificate confirming successful completion of the course within **sixty (60) days** of service of the Decision.

If the course becomes unavailable, Ms. Lal shall request in writing to be assigned an alternative course **prior to the deadline**. The Complaints Consultant shall, in her sole discretion, reassign a course. Ms. Lal will be notified by the Complaints Consultant, in writing, advising of the new course required.

6. Ms. Lal shall complete the following course: **Elder Abuse Self-Study** available on-line at studywithclpna.com/elderabuse. Ms. Lal shall provide the Complaints Consultant, with a certificate confirming successful completion of the course within **sixty (60) days** of service of the Decision.

If the course becomes unavailable, Ms. Lal shall request in writing to be assigned an alternative course **prior to the deadline**. The Complaints Consultant shall, in her sole discretion, reassign a course. Ms. Lal will be notified by the Complaints Consultant, in writing, advising of the new course required.

7. Ms. Lal shall complete the **Managing Patient Rage Quiz** available online at <http://www.learningnurse.org/quizzes/patientrage>. Ms. Lal shall provide the Complaints Consultant with a certificate confirming successful completion of the quiz within **sixty (60) days** of service of the Decision.

If the quiz becomes unavailable, Ms. Lal shall request in writing to be assigned an alternative quiz prior to the deadline. The Complaints Consultant shall, in her sole discretion, reassign a quiz. Ms. Lal will be notified by the Complaints Consultant, in writing, advising of the new quiz required.

8. Ms. Lal shall complete, at her own cost, the following course: **Anger and Conflict Resolution in the Workplace (LPNA/CONF008)** offered online by John Collins Consulting Inc. at https://www.jcollinsconsulting.com/images/Outlines/lpn/MODULE_OUTLINE_-_ANGER_AND_CONFLICT_RESOLUTION_IN_THE_WORKPLACE.pdf. Ms. Lal shall provide the Complaints Consultant, with a certificate confirming successful completion of the course within **eight (8) months** of service of the Decision.

If such course becomes unavailable, Ms. Lal shall request in writing to be assigned an alternative course prior to the deadline. The Complaints Consultant shall, in her sole discretion, reassign a course. Ms. Lal will be notified by the Complaints Consultant, in writing, advising of the new course required.

9. The orders set out above at paragraphs 2-8 will appear as conditions on Ms. Lal's practice permit and the Public Registry subject to the following:
 - a. The requirement to complete the remedial education and readings outlined at paragraphs 4-8 will appear as "CLPNA Monitoring Orders (Conduct)", on Ms. Lal's practice permit and the Public Registry until the below sanctions have been satisfactorily completed;
 - i. Readings;
 - ii. LPN Ethic Course;
 - iii. Elder Abuse Self-Study Course;
 - iv. Managing Patient Rage Quiz;
 - v. Anger and Conflict Resolution in the Workplace Course.
 - b. The requirement to practice under supervision will continue to appear on Ms. Lal's practice permit and the Public Registry until she provides proof to the Complaints Consultant that she has successfully completed the requirements set out above at paragraph 3; and
 - c. The requirement to pay costs will appear as "Conduct Cost" on Ms. Lal's practice permit and the Public Registry until all costs have been paid as set out above at paragraph 2.
10. The conditions on Ms. Lal's practice permit and on the Public Registry will be removed upon completion of each of the requirements set out above at paragraph 9.
11. Should Ms. Lal 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.
12. Ms. Lal shall provide the CLPNA with her contact information, including her home mailing address, home and cellular telephone numbers, current e-mail address and her current employment information. Ms. Lal will keep her contact information current with the CLPNA on an ongoing basis.
13. Should Ms. Lal 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. Lal's non-compliance as information for a complaint under s. 56 of the *Health Professions Act*; or
- c. In the case of non-payment of the costs described in paragraph 2 above, suspend Ms. Lal'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 9th DAY OF JUNE, 2021 IN THE CITY OF CALGARY, ALBERTA.

THE COLLEGE OF LICENSED PRACTICAL NURSES OF ALBERTA



Michelle Stolz, LPN
Chair, Hearing Tribunal