

**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 CLAUDETTE ABUDI**

**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 CLAUDETTE ABUDI, LPN #38762, 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 on March 15, 2022 with the following individuals present:

**Hearing Tribunal:**

Kelly Annesty, Licensed Practical Nurse (“LPN”) Chairperson  
Kirsty Byers, LPN  
Doug Dawson, Public Member  
Juane Priest, Public Member

**Staff:**

Caitlyn Field, Legal Counsel for the Complaints Director, CLPNA  
Sandy Davis, Complaints Director, CLPNA

**Investigated Member:**

Claudette Abudi, LPN (“Ms. Abudi” 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. Abudi was an LPN within the meaning of the *Health Professions Act* (the “Act”) at all material times, and more particularly, was registered with CLPNA as an LPN at the time of the complaint. Ms. Abudi was initially licensed as an LPN in Alberta on June 27, 2014.

By letter dated November 23, 2021, the CLPNA received a complaint from Ms. Michelle Trishchuk, Registered Nurse (“RN”) (“Ms. Trishchuk”), Resident Care Manager for Covenant Health at the St. Michael’s Health Centre (the “Facility”), in Lethbridge, Alberta (the “Complaint”) pursuant to s. 57 of the Act. The Complaint stated that Ms. Abudi received a five-day unpaid suspension for grabbing and pushing a resident.

In accordance with s. 55(2)(d) of the Act, by way of letter dated November 24, 2021, the Director of Professional Conduct/Complaints Director Sandy Davis (the “Complaints Director”) provided Ms. Abudi with notice of the Complaint and notice that she had appointed Judith Palyga (the “Investigator”) to conduct an investigation into the Complaint. The Complaints Director also informed Ms. Abudi that due to the nature of the alleged conduct, she was recommending to Wanda Beaudoin (“Ms. Beaudoin”), the Designated Person Appointed by the Council, that Ms. Abudi’s practice permit be immediately suspended under s. 65(1)(b) of the Act.

The Complaints Director requested that Ms. Beaudoin impose an immediate suspension of Ms. Abudi’s practice permit under s. 65(1)(b) of the Act by letter on November 24, 2021. Ms. Abudi received a copy of this letter and its corresponding attachments.

By letter dated December 2, 2021, Ms. Beaudoin granted the request for an interim suspension of Ms. Abudi’s practice permit and notified Ms. Abudi accordingly.

In December 2021, the Investigator concluded the investigation into the Complaint and submitted an investigation report to the Complaints Director.

After review of the investigation report, the Complaints Director 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. Abudi received notice that the matter was referred to a hearing as well as a copy of the Statement of Allegations and the Investigation Report with attachments under cover of letter dated January 6, 2022.

A Notice of Hearing, Notice to Attend and Notice to Produce was served upon Ms. Abudi under cover of letter dated February 10, 2022.

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

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

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

1. On or about October 20, 2021, did one or more of the following in relation to resident PN:
  - a) Grabbed resident PN’s wrists and pulled PN from the dining area to her room;

- b) Restrained resident PN by blocking her from leaving her room;
  - c) Pushed resident PN to the floor;
  - d) Left resident PN on the floor.
2. On or about October 20, 2021, failed to do one or more of the following:
- a) Complete an assessment on resident PN following her fall;
  - b) Document her interaction with resident PN on the LPN's Interdisciplinary Notes, Behaviour Tracking Record, or the Reporting and Learning System;
  - c) Follow the Fall Risk Management policy;
  - d) Follow the Post-Fall Clinical Pathways;
  - e) Report her interaction with resident PN to PN's guardian;
  - f) Accurately document the administration of Seroquel 12.5 mg to resident PN at 1830 hours;
  - g) Demonstrate clinical judgment and/or clinical inquiry when providing care to resident PN;
  - h) Follow PN's care plan care plan to address PN's behavioural issues.

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

1. *Standards of Practice for Licensed Practical Nurses in Canada*, Standard 1: Professional Accountability and Responsibility, Indicators 1.4, 1.6, 1.9, 1.10;
2. *Standards of Practice for Licensed Practical Nurses in Canada*, Standard 2: Knowledge-Based Practice, Indicators 2.1, 2.2, and 2.11;
3. *Standards of Practice for Licensed Practical Nurses in Canada*, Standard 3: Service to the Public and Self-Regulation, Indicator 3.6;
4. *Standards of Practice for Licensed Practical Nurses in Canada*, Standard 4: Ethical Practice, Indicators 4.1, 4.4, 4.7, 4.9 and 4.10;
5. *Code of Ethics for Licensed Practical Nurses in Canada*, Principal 1: Responsibility to the Public, Ethical Responsibility 1.1;
6. *Code of Ethics for Licensed Practical Nurses in Canada*, Principal 2: Responsibility to Clients, Ethical Responsibility 2.7;

7. *Code of Ethics for Licensed Practical Nurses in Canada, Principal 3: Responsibility to the Profession, Ethical Responsibilities 3.1, 3.3 and 3.4.*”

**(5) Admission of Unprofessional Conduct**

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

Ms. Abudi 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 Director submitted, where there is an admission of unprofessional conduct, the Hearing Tribunal should accept the admission absent exceptional circumstances.

**(6) Exhibits**

The following exhibits were entered at the hearing:

- Exhibit #1: Statement of Allegations
- Exhibit #2: Agreed Statement of Facts and Acknowledgement of Unprofessional Conduct
- Exhibit #3: Joint Submission on Penalty

**(7) Evidence**

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

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

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

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

The Hearing Tribunal also accepts Ms. Abudi'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. Abudi.

### Allegation 1

Ms. Abudi admitted on or about October 20, 2021, she did one or more of the following in relation to resident PN:

- a) Grabbed resident PN's wrists and pulled PN from the dining area to her room;
- b) Restrained resident PN by blocking her from leaving her room;
- c) Pushed resident PN to the floor;
- d) Left resident PN on the floor.

On October 20, 2021, Ms. Abudi worked a shift as an LPN on the Dementia Care Unit at the Facility from 1500 hours to 2315 hours. Ms. Abudi provided care to resident PN.

Ms. Melojean Manibog, HCA, ("Ms. Manibog") was also working an evening shift on October 20, 2021. Ms. Manibog heard resident PN yelling in the dining room. When Ms. Manibog arrived in the dining room, she found resident PN in a dispute with another resident regarding a cup. Ms. Manibog attempted to calm PN, but ultimately Ms. Manibog called Ms. Abudi for assistance in calming resident PN.

Ms. Abudi arrived shortly in the dining room and tried to speak to PN, but she remained agitated and became verbally aggressive. Ms. Abudi grabbed and held both of resident PN's wrists and dragged PN out of the dining room towards her own room.

Ms. Manibog followed behind Ms. Abudi and resident PN, and when they reached PN's door Ms. Abudi continued to restrain PN by holding her wrists while she opened the door and moved PN into the room.

To prevent PN from leaving her room, Ms. Abudi stood in the doorway of PN's room and blocked her from leaving. PN was very agitated and was yelling and raising her hands while she attempted to leave her room. One of PN's hands hit Ms. Abudi's face and pushed her face mask out of place.

Ms. Abudi then grabbed and held PN's wrists and pushed PN to the floor. While PN attempted to prevent herself from falling, she was unable to do so and fell onto her buttocks. Following PN's fall, PN remained on the floor. Ms. Abudi left PN on the floor and closed the door to her room. Following the fall, PN was observed to have bruising on her buttocks.

Ms. Manibog was shocked by Ms. Abudi's conduct and her failure to assess PN. On October 27, 2021, Ms. Manibog reported the incident to Ms. Trishchuk.

Covenant Health's Policy regarding the use of Least Restraint requires that any restraint, physical, mechanical, pharmacological, or environmental, shall not be used as a means of coercion, for convenience, for punishment, or as a substitute for inadequate staffing levels. Resident's dignity must be respected at all times and all reasonable efforts must be made to use a non-restraint strategy first.

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

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; and
- xii. Conduct that harms the integrity of the regulated profession.

Ms. Abudi displayed a lack of knowledge of or lack of skill or judgment in the provision of professional services in that Ms. Abudi did not act in a manner which would have been expected of another LPN in a similar circumstance.

Ms. Abudi placed her hands on PN's wrists, restrained PN, pushed PN to the floor and then left PN on the floor. This type of behavior is not what is expected of an LPN in this circumstance. Ms. Abudi should have walked away from the situation if she felt that she was not able to act as expected in this circumstance. It would be expected that an LPN or any health care professional would work with an agitated resident in a patient, open, and kind manner. Ms. Abudi's behavior worsened the incident and caused PN harm. It would also be expected that an LPN would be aware of, and would follow closely, the policies relating to the use of Least Restraint. Her failure here demonstrates both a lack of knowledge and a lack of skill.

Ms. Abudi also failed to do an assessment on PN when she fell on the floor, which is also inappropriate behavior of an LPN in that situation, and demonstrates a lack of skill and judgment. Ms. Abudi should not have walked away and left PN on the floor as this left PN in a very dangerous situation after having just fallen, particularly when she had not been assessed. PN could have been hurt from the fall and it would be expected that an LPN would do a proper assessment and document the assessment in the resident's chart.

Ms. Abudi did not adhere to the Code of Ethics for Licensed Practical Nurses in Canada adopted by the CLPNA on June 3, 2013 ("CLPNA's Code of Ethics") nor did she adhere to the the Standards of Practice for Licensed Practical Nurses in Canada which were adopted by the CLPNA on June 3,

2013 (“CLPNA Standards of Practice”). The specific breaches of the CLPNA Code of Ethics and the CLPNA Standards of Practice found by the Hearing Tribunal are as follows:

CLPNA Code of Ethics:

Ms. Abudi acknowledges that her conduct breached one or more of the following requirements in the CLPNA Code of Ethics.

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

- 1.1 Maintain standards of practice, professional competence, and conduct.

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

- 2.7 Develop trusting, therapeutic relationships, while maintaining professional boundaries.

**Principle 3:** Responsibility to the Profession – LPNs have a commitment to their profession and foster the respect and trust of their clients, health care colleagues and the public. Principle 3 specifically 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.
- 3.4 Promote workplace practices and policies that facilitate professional practice in accordance with the principles, standards, laws and regulations under which they are accountable.

CLPNA Standards of Practice:

**Standard 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 states that LPNs:

- 1.4 Recognize their own practice limitations and consult as necessary
- 1.6 Take action to avoid and/or minimize harm in situations in which client safety and well-being are compromised.



- 1.9 Practice in a manner consistent with ethical values and obligations of the Code of Ethics for Licensed Practical Nurses.
- 1.10 Maintain documentation and reporting according to established legislation, regulations, laws, and employer policies.

**Standard 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:

- 2.1 Possess current knowledge to support critical thinking and professional judgement.
- 2.2 Apply knowledge from nursing theory and science, other disciplines, evidence to inform decision-making and LPN practice.
- 2.11 Use critical inquiry to assess, plan and evaluate the implications of interventions that impact client outcomes.

**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:

- 3.6 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 LPNs:

- 4.1 Practice in a manner consistent with ethical values and obligations of the Code of Ethics for LPNs.
- 4.4 Develop ethical decision-making capacity and take responsible action toward resolution.
- 4.7 Communicate in a respectful, timely, open and honest manner.
- 4.9 Support and contribute to healthy and positive practice environments.
- 4.10 Practice with honesty and integrity to maintain the values and reputation of the profession.

Ms. Abudi did not abide by the CLPNA Code of Ethics or the CLPNA Standards of Practice, as acknowledged by Ms. Abudi. The Hearing Tribunal finds the conduct breached the provisions of the CLPNA Code of Ethics and the CLPNA Standards of Practice set out above and that such breaches are sufficiently serious to constitute unprofessional conduct.

Finally, Ms. Abudi's conduct harms the integrity of the regulated profession as Ms. Abudi did not act in a way would be expected of another LPN in a similar situation. Ms. Abudi physically pushed a resident to the floor, injuring her, and Ms. Abudi failed to perform or document an assessment on PN after the incident occurred.

### Allegation 2

Ms. Abudi admitted on or about October 20, 2021, she failed to do one or more of the following:

- a) Complete an assessment on resident PN following her fall;
- b) Document her interaction with resident PN on the LPN's Interdisciplinary Notes, Behaviour Tracking Record, or the Reporting and Learning System;
- c) Follow the Fall Risk Management policy;
- d) Follow the Post-Fall Clinical Pathways;
- e) Report her interaction with resident PN to PN's guardian;
- f) Accurately document the administration of Seroquel 12.5 mg to resident PN at 1830 hours;
- g) Demonstrate clinical judgment and/or clinical inquiry when providing care to resident PN;
- h) Follow PN's care plan to address PN's behavioural issues.

The Facility's Fall Risk Management Policy requires that when a resident falls, health care providers, including LPNs, must immediately attend to the needs of the resident and then initiate the Continuing Care Post-Fall Clinical Pathway Documentation and assess post-fall neurovital signs as soon as possible. The Post-Fall Clinical Pathway requires completing narrative charting notes and completing the Post-Fall Clinical Pathway Documentation Sheet, which includes documenting an assessment of the resident, notifying a physician/Nurse Practitioner, notifying the resident's family, completing a neurovital assessment, and providing details regarding the circumstances of the fall.

The Facility also has a Clinical Adverse Events, Close Calls and Hazards Policy which requires health care providers, including LPNs, to ensure that where a resident has clinical adverse events, a close call, or hazard, documentation regarding the same must be completed and must be communicated to the resident's family/guardian.

Resident PN has an individualized Care Plan which outlines her medical conditions, guardians, and overall care plan. Resident PN has been diagnosed with a cognitive decline, including Alzheimer's, Dementia, and Anxiety/Depression. While PN is independent with transfers and mobility, she does use a walker as a mobility aid. PN's Care Plan indicates that if a fall occurs, an LPN must be contacted to assess the client.

Resident PN is noted to require special care in the use of chemical and pharmacological restraints. PN's Care Plan indicates that Seroquel may be used as a restraint, but if used, PN must be monitored every 15 minutes for the first hour, hourly for the subsequent four hours, and then every four hours for 72 hours for risk of increased falls, and other neurological impacts.

Further, PN's Care Plan indicates that PN may be resistive to accepting care, but that care providers should not talk down to PN or treat her like a child. Care providers are told to be firm when stating what needs to be accomplished, state that it is their job to care for PN and encourage PN to voice concerns that she may have with the care provided. Due to PN's diagnoses, distraction techniques are recommended to de-escalate agitation.

Resident PN has an assigned Public Guardian, and her Care Plan requires that the Public Guardian be made aware of any safety risks. If Resident PN falls, her Care Plan requires care providers to complete a Post-Fall Assessment and notify the Guardian of the circumstances of the fall, vital signs, and injuries if any.

Following PN's fall and closing the door to PN's room, Ms. Abudi returned approximately five minutes later with Ms. Manibog. At this time, Resident PN was standing inside her washroom. Ms. Abudi did not complete an assessment of resident PN immediately following the fall, as required, or at any time after the fall. Ms. Abudi further did not complete the Post-Fall Clinical Pathway or Fall Risk Management policies following PN's fall. Ms. Abudi did not inform PN's guardian of her fall, the circumstances of the same, PN's vital signs, or any injuries.

Ms. Manibog charted a recounting of her interactions with PN in PN's Behavior Tracking Record, including that PN had fallen, and that Ms. Abudi was present. However, Ms. Abudi did not complete her own entry regarding her interaction with PN. Ms. Abudi also failed to document this interaction with PN within the Reporting and Learning System.

Ms. Abudi did create a record in resident PN's Interdisciplinary Notes; however, she failed to document the nature of the interaction between herself and PN or PN's fall and only documented the administration of Seroquel 12.5mg for increased agitation and aggressiveness.

At 1830 hours on October 20, 2021, Ms. Abudi administered Seroquel 12.5mg to PN.

Ms. Abudi did not chart the corresponding entry regarding the administration of Seroquel 12.5 mg in PN's Interdisciplinary Notes until 2000 hours. Ms. Abudi's entry in the Interdisciplinary Notes indicates that Seroquel 12.5mg was administered for increased agitation and aggressiveness, and that PN was noted to be settled at 1920 hours.

In providing care to PN, Ms. Abudi failed to follow PN's Care Plan before engaging in physical, environmental, and ultimately pharmacological restraints to address PN's behavioral issues.

Overall, Ms. Abudi's conduct in relation to resident PN demonstrates a lack of clinical judgment and/or clinical inquiry.

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

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; and
- xii. Conduct that harms the integrity of the regulated profession.

Ms. Abudi displayed a lack of knowledge of or lack of skill or judgment in the provision of professional services in that Ms. Abudi did not complete an assessment nor did Ms. Abudi document her interaction with PN on the Interdisciplinary Notes, Behavior Tracking Record, or Reporting Learning System. This shows a lack of skill and judgment, as there could have been harm done to either Ms. Abudi or resident PN by failing to assess and document this incident properly. There was also a lack of documentation with respect to medication administration as well, which demonstrates a lack of skill and judgment, as documentation of medication is critical to ensuring proper patient care. Ms. Abudi also failed to follow policy and protocols when Ms. Abudi did not report the incident to PN's guardian, which demonstrates a lack of judgment and puts the resident's care into jeopardy, as her guardian was initially unaware of the fall.

Ms. Abudi did not adhere to the CLPNA Code of Ethics nor to the CLPNA Standards of Practice. The Hearing Tribunal finds the conduct breached the same provisions of the CLPNA Code of Ethics and the CLPNA Standards of Practice as set out above and that such breaches are sufficiently serious to constitute unprofessional conduct for the same reasons given in Allegation 1.

Ms. Abudi's conduct harms the integrity of the regulated profession as Ms. Abudi did not act in a way that would be expected of another LPN in a similar situation. Ms. Abudi did not follow proper documentation, policy, protocol, and procedures which are core competencies for an LPN and it would be expected that an LPN in this situation would have completed proper documentation for both the safety of PN as well as Ms. Abudi.

#### **(9) Joint Submission on Penalty**

The Complaints Director and Ms. Abudi 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. Abudi shall pay 25% of the costs of the investigation and hearing to be paid over a period of **30 months** subject to the following:
  - a. Ms. Abudi will be provided with a letter advising of the final costs once the same have been confirmed (the "Costs Letter").
3. Ms. Abudi will not be eligible to apply for registration or reinstatement until she has complied with the following:
  - (a) Ms. Abudi shall read the following CLPNA's documents and reflect on how these documents can impact her practice. These documents are available on CLPNA's website <http://www.clpna.com/> under "Governance". Ms. Abudi shall provide the Complaints Director with a signed declaration attesting she has read the documents. If such documents become unavailable, they may be substituted by equivalent documents approved in advance, in writing, by the Complaints Director.
    1. Code of Ethics for Licensed Practical Nurses in Canada;
    2. Standards of Practice for Licensed Practical Nurses in Canada;
    3. CLPNA Practice Policy: Professional Responsibility & Accountability;
    4. CLPNA Practice Policy: Client & Co-Worker Abuse;
    5. CLPNA Competency Profile A1: Critical Thinking;
    6. CLPNA Competency Profile A2: Clinical Judgment and Decision Making;
    7. CLPNA Competency Profile A12: Social Sciences and Humanities;
    8. CLPNA Competency Profile C4: Professional Ethics;
    9. CLPNA Competency Profile C5: Accountability and Responsibility;
    10. CLPNA Competency Profile D1: Communication and Collaborative Practice;
    11. CLPNA Competency Profile D2: Therapeutic Nurse-Patient Relationship;
    12. CLPNA Competency Profile D3: Legal Protocols, Documenting, and Reporting;

13. CLPNA Competency Profile F3: Patient Safety;
14. CLPNA Competency Profile P2: Cognitive Care; and
15. CLPNA Competency Profile P3: Dementia Care.

(b) Ms. Abudi shall complete the following remedial education, at her own cost. If any of the required education becomes unavailable, then Ms. Abudi shall request, in writing, to be assigned alternative education. The Complaints Director, in her sole discretion, may reassign the required education. Ms. Abudi will be notified by the Complaints Director, in writing, advising of the new education. Ms. Abudi shall provide the Complaints Director with a declaration or copy of certification confirming successful completion.

- a. LPN Code of Ethics Learning Module offered by Learning Nurse online at <https://www.learningnurse.org/index.php/e-learning/lpn-code-of-ethics>;
  - b. Staying Cool Under Fire available online at <https://www.nurse.com/ce/staying-cool-under-fire-how-well-do-you-communicate>;
  - c. Managing Patient Rage Quiz (15.1) offered online by Learning Nurse available at <https://www.learningnurse.org/quizzes/patientrage/>;
  - d. Medical Charting (14.1) offered online by Learning Nurse available online at <https://www.learningnurse.org/quizzes/medcharting/>;
  - e. Professionalism in Nursing (NProf005) offered online by John Collins Consulting.
4. Once Ms. Abudi has completed the requirements set out in paragraph 3, she will be eligible to apply for reinstatement.
  5. If, upon receiving her application for registration, the Registrar determines that Ms. Abudi meets the CLPNA's requirements for reinstatement, Ms. Abudi's practice permit shall be reinstated.
  6. The sanctions set out above at paragraphs 2-3 will appear as conditions on Ms. Abudi's practice permit and the Public Registry subject to the following:
    - a) The requirement to complete the remedial education and readings outlined at paragraphs 3 will appear as "CLPNA Monitoring Orders (Conduct)", on Ms. Abudi's

practice permit and the Public Registry until the below sanctions have been satisfactorily completed:

- i. Readings
- ii. LPN Code of Ethics Learning Module
- iii. Staying Cool Under Fire
- iv. Medical Charting
- v. Professionalism in Nursing

- b) The requirement to pay costs, will appear as “Conduct Cost” on Ms. Abudi’s practice permit and the Public Registry until all costs have been paid in full as set out above at paragraph 2.
7. The conditions on Ms. Abudi’s practice permit and on the Public Registry will be removed upon completion of each of the requirements set out above at paragraphs 2- 3.
8. Ms. Abudi 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. Abudi will keep her contact information current with the CLPNA on an ongoing basis.
9. Should Ms. Abudi be unable to comply with any of the deadlines for completion of the penalty orders identified above, the deadlines may, upon written request, be extended for a reasonable period of time with the written consent of the Complaints Director.
10. Should Ms. Abudi fail or be unable to comply with any of the above orders for penalty, or if any dispute arises regarding the implementation of these orders, the Complaints Director may do any or all of the following:
  - (a) Refer the matter back to a Hearing Tribunal, which shall retain jurisdiction with respect to penalty;
  - (b) Treat Ms. Abudi’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. Abudi’s practice permit until such costs are paid in full or the Complaints Director is satisfied that such costs are being paid in accordance with a schedule of payment agreed to by the Complaints Director.

11. The parties agree that this Joint Submission on Penalty may be signed in any number of counterparts, which taken together shall constitute one and the same Agreement. This Agreement may be delivered by original, facsimile, or by email in portable document format (PDF) and shall be deemed to be an original.

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

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

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

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

The orders imposed by the Hearing Tribunal must protect the public from the type of conduct that Ms. Abudi 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:** These allegations are serious in that Ms. Abudi became agitated and was yelling at PN and then placed her hands on PN and forcefully took PN to her room, and pushed her to the floor. Ms. Abudi added to PN's agitated state and PN ended up injured as a result of this incident. Ms. Abudi also failed to meet certain policies in the workplace and failed to report the interaction to PNs Guardian, along with failing to properly document PN's medication. It is an expectation that LPNs will follow procedures, policies and care plans that are set forth for the residents and patients in their care. These allegations are particularly grave, as the safety, wellness and trust of a vulnerable resident was at stake and was not protected by Ms. Abudi's actions.

**The age and experience of the investigated member:** Ms. Abudi was initially registered with the CLPNA on June 27, 2014. Ms. Abudi had previously worked as a Health Care Aide from 2013 to 2014 at the same Facility. At the time of the allegations Ms. Abudi was an LPN for approximately seven (7) years.

**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 presented with any information with regard to this factor.

**The age and mental condition of the victim:** Resident PN has been diagnosed with a cognitive decline, including Alzheimer's, Dementia, and Anxiety/Depression. This was well documented in PN's Care Plan at the Facility. This makes her potentially very vulnerable to the care of her LPN.

**The number of times the offending conduct was proven to have occurred:** There were two (2) allegations that were brought forward, and they both took place on the same date.

**The role of the investigated member in acknowledging what occurred:** Ms. Abudi acknowledged the conduct that was brought forward with respect to the Allegations and cooperated with both her union representative as well as the CLPNA and provided the Hearing Tribunal with an Agreed Statement of Facts and Acknowledgment of Unprofessional Conduct.

**Whether the investigated member has already suffered other serious financial or other penalties as a result of the allegations having been made:** Ms. Abudi originally received a five-day unpaid suspension for grabbing and pushing a resident. This five-day suspension was served on November 19, 22, 23, 24, 25, 2021. Ms. Abudi then had her practice permit suspended by the CLPNA by letter dated December 2, 2021.

**The impact of the incident(s) on the victim:** The Hearing Tribunal was not made aware of what the impact was with regards to PN. It was, however, an agreed fact that PN was observed to have bruising on her buttocks after the fall.

**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. Abudi 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 health care team and are respectful of the privilege of self-regulation and the public needs to be reassured that the CLPNA will uphold this standard.

**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.

**The range of sentence in other similar cases:** The Hearing Tribunal was not made aware of any similar cases.

It is important to the profession of LPNs to maintain the CLPNA Code of Ethics and the CLPNA 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. Abudi shall pay 25% of the costs of the investigation and hearing to be paid over a period of **30 months** subject to the following:
  - a. Ms. Abudi will be provided with a letter advising of the final costs once the same have been confirmed (the “Costs Letter”).
3. Ms. Abudi will not be eligible to apply for registration or reinstatement until she has complied with the following:
  - (a) Ms. Abudi shall read the following CLPNA’s documents and reflect on how these documents can impact her practice. These documents are available on CLPNA’s website <http://www.clpna.com/> under “Governance”. Ms. Abudi shall provide the Complaints Director with a signed declaration attesting she has read the documents. If such documents become unavailable, they may be substituted by equivalent documents approved in advance, in writing, by the Complaints Director.
    1. Code of Ethics for Licensed Practical Nurses in Canada;
    2. Standards of Practice for Licensed Practical Nurses in Canada;
    3. CLPNA Practice Policy: Professional Responsibility & Accountability;
    4. CLPNA Practice Policy: Client & Co-Worker Abuse;
    5. CLPNA Competency Profile A1: Critical Thinking;
    6. CLPNA Competency Profile A2: Clinical Judgment and Decision Making;
    7. CLPNA Competency Profile A12: Social Sciences and Humanities;
    8. CLPNA Competency Profile C4: Professional Ethics;
    9. CLPNA Competency Profile C5: Accountability and Responsibility;
    10. CLPNA Competency Profile D1: Communication and Collaborative Practice;
    11. CLPNA Competency Profile D2: Therapeutic Nurse-Patient Relationship;
    12. CLPNA Competency Profile D3: Legal Protocols, Documenting, and Reporting;
    13. CLPNA Competency Profile F3: Patient Safety;
    14. CLPNA Competency Profile P2: Cognitive Care; and

15. CLPNA Competency Profile P3: Dementia Care.

- (b) Ms. Abudi shall complete the following remedial education, at her own cost. If any of the required education becomes unavailable, then Ms. Abudi shall request, in writing, to be assigned alternative education. The Complaints Director, in her sole discretion, may reassign the required education. Ms. Abudi will be notified by the Complaints Director, in writing, advising of the new education. Ms. Abudi shall provide the Complaints Director with a declaration or copy of certification confirming successful completion.
- a. LPN Code of Ethics Learning Module offered by Learning Nurse online at <https://www.learningnurse.org/index.php/e-learning/lpn-code-of-ethics>;
  - b. Staying Cool Under Fire available online at <https://www.nurse.com/ce/staying-cool-under-fire-how-well-do-you-communicate>;
  - c. Managing Patient Rage Quiz (15.1) offered online by Learning Nurse available at <https://www.learningnurse.org/quizzes/patientrage/>;
  - d. Medical Charting (14.1) offered online by Learning Nurse available online at <https://www.learningnurse.org/quizzes/medcharting/>;
  - e. Professionalism in Nursing (NProf005) offered online by John Collins Consulting.
4. Once Ms. Abudi has completed the requirements set out in paragraph 3, she will be eligible to apply for reinstatement.
5. If, upon receiving her application for registration, the Registrar determines that Ms. Abudi meets the CLPNA's requirements for reinstatement, Ms. Abudi's practice permit shall be reinstated.
6. The sanctions set out above at paragraphs 2-3 will appear as conditions on Ms. Abudi's practice permit and the Public Registry subject to the following:
- a) The requirement to complete the remedial education and readings outlined at paragraphs 3 will appear as "CLPNA Monitoring Orders (Conduct)", on Ms. Abudi's practice permit and the Public Registry until the below sanctions have been satisfactorily completed:
    - i. Readings

- ii. LPN Code of Ethics Learning Module
- iii. Staying Cool Under Fire
- iv. Medical Charting
- v. Professionalism in Nursing

b) The requirement to pay costs, will appear as “Conduct Cost” on Ms. Abudi’s practice permit and the Public Registry until all costs have been paid in full as set out above at paragraph 2.

7. The conditions on Ms. Abudi’s practice permit and on the Public Registry will be removed upon completion of each of the requirements set out above at paragraphs 2- 3.
8. Ms. Abudi 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. Abudi will keep her contact information current with the CLPNA on an ongoing basis.
9. Should Ms. Abudi be unable to comply with any of the deadlines for completion of the penalty orders identified above, the deadlines may, upon written request, be extended for a reasonable period of time with the written consent of the Complaints Director.
10. Should Ms. Abudi fail or be unable to comply with any of the above orders for penalty, or if any dispute arises regarding the implementation of these orders, the Complaints Director may do any or all of the following:
  - (a) Refer the matter back to a Hearing Tribunal, which shall retain jurisdiction with respect to penalty;
  - (b) Treat Ms. Abudi’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. Abudi’s practice permit until such costs are paid in full or the Complaints Director is satisfied that such costs are being paid in accordance with a schedule of payment agreed to by the Complaints Director.
11. The parties agree that this Joint Submission on Penalty may be signed in any number of counterparts, which taken together shall constitute one and the same Agreement. This Agreement may be delivered by original, facsimile, or by email in portable document format (PDF) and shall be deemed to be an original.

The Hearing Tribunal believes these orders adequately balance 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 1<sup>st</sup> DAY OF APRIL 2022 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