

IN THE MATTER OF THE *HEALTH PROFESSIONS ACT*

**AND IN THE MATTER OF AN INVESTIGATION REGARDING
THE CONDUCT OF EDWARD ONYEMATA, LPN #34507
WHILE A REGISTERED MEMBER OF THE COLLEGE OF LICENSED PRACTICAL
NURSES OF ALBERTA AND PRACTISING IN THE PROVINCE OF ALBERTA**

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

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DECISION OF THE HEARING TRIBUNAL

(1) Hearing

The Hearing was conducted at the Days In & Suites by Wyndham in Strathmore, Alberta on January 15, 16 and 17, 2019 with the following individuals present:

Hearing Tribunal:

Patricia Standage, LPN, Chairperson
Michelle Stolz, LPN
Sheila Pratcher, LPN
Sheri Epp, Public Member

Independent Legal Counsel for the Hearing Tribunal:

Julie Gagnon

Staff:

Sandy Davis, Complaints Director, College of Licensed Practical Nurses of Alberta
("CLPNA" or "College")
Ayla Akgungor, Legal Counsel for the Complaints Director, CLPNA

Investigated Member:

Edward Onyemata, LPN
John Gruber, Legal Counsel for the Investigated Member
Tristen Pomerance, Legal Counsel for the Investigated Member

(2) Preliminary Matters

The hearing was open to the public pursuant to section 78 of the *Health Professions Act* ("HPA"). There were no objections to the composition of the Hearing Tribunal or its jurisdiction over the matter. No member of the Hearing Tribunal identified any reason that would prevent them from hearing the case.

The allegations were read and Mr. Onyemata stated that he denied the allegations.

(3) Allegations

The allegations that appear in the revised Statement of Allegations (Exhibit #1a) are that Mr. Onyemata:

1. On or about November 28, 2016 engaged in inappropriate physical contact with co-worker SL by doing one or more of the following while on duty without SL's consent and without proper purpose:
 - a. Rubbed SL's back and/or sides;
 - b. Wrapped his arm around SL's neck in a choke-hold type position;
 - c. Stuck his tongue in SL's ear; and
 - d. Pressed his fist into SL's neck.
2. On or about November 2015 to February 2016 engaged in inappropriate behavior related to co-worker TC while on duty by showing her a picture of his penis.
3. On or about June 22, 2016 engaged in inappropriate behavior towards co-worker SL when he watched SL while sitting in her car on the driveway of her home.

(4) List of Exhibits

The following were entered as exhibits during the hearing:

- Exhibit #1(a) – Revised Statement of Allegations dated December 18, 2018
- Exhibit #1 – Letter dated July 28, 2017 to Sandy Davis from Glenda Boc
- Exhibit #2 – Letter dated December 9, 2016 to Edward Onyemata from Glenda Boc
- Exhibit #3 – Handwritten notes made by Glenda Boc of the interview of Shanna Logelin dated December 2, 2016
- Exhibit #4 – Handwritten notes made by Glenda Boc of the interview of Edward Onyemata dated December 2, 2016
- Exhibit #5 – Handwritten notes made by Glenda Boc of the interview of Aimee Lemottee dated December 7, 2016
- Exhibit #6 – Handwritten notes made by Glenda Boc of the interview of Traci Campbell dated December 7, 2016
- Exhibit #7 – Handwritten notes made by Glenda Boc of the interview of Shanna Logelin dated December 7, 2016

Exhibit #8 – Handwritten notes made by Glenda Boc of the interview of Edward Onyemata dated December 7, 2016

Exhibit #9 – Email from Shanna Logelin to Maria Frig sent December 2, 2016 at 4:49:51 PM with attached undated photograph forwarded by Shanna Logelin on December 2, 2016 and then forwarded again by Maria Frig to Glenda Boc on December 3, 2016

Exhibit #10 – Large photocopied photograph of Shanna Logelin showing the side of her neck

Exhibit #11 – Large clearer photograph printed on photo paper of Shanna Logelin showing her neck – identical to the photocopy at Exhibit #10

Exhibit #12 – Three pages of text messages beginning with a date of June 23, 2016 at 11:49 AM

Exhibit #13 – Three pages of text messages showing a date of November 30, 7:03 PM

(5) List of Witnesses

The following individuals were called as witnesses for the CLPNA during the Hearing:

Glenda Boc
Maria Frig
Aimee Lemottee
Shanna Logelin
Traci Campbell

The following individuals were called as witnesses for the Investigated Member during the Hearing:

Edward Onyemata

(6) Summary of Witness Testimony

The following is a summary of the testimony given by each witness:

Glenda Boc

Glenda Boc (“Ms. Boc”) is a registered psychiatric nurse and was first registered in 1992. She is the Administrator for AgeCare Sagewood (“Sagewood”) and has been employed there since the fall of 2013. In 2016, Ms. Boc was the Director of Care. She was responsible for everything that was clinical, all the residents and all the staff. She was considered the senior leader and had a supervisory role for staff. She moved to the role of Administrator in February 2018.

In 2016, she had between 150-160 staff under her supervision. Sagewood has 6 neighbourhoods for care. Three are SL4, one is SL4 dementia, and two are long term care. There are 3 floors with two neighbourhoods on each floor, and 55 residents on the floor. There is also a seniors' apartment with subsidized housing. Phase 1 is called Golden Hills, Langdon and Rockyford. Phase 2 is Eagle Lake, Namaka Lake and Dawson Lake.

Ms. Boc filed a complaint with CLPNA on July 28, 2017 (Exhibit #1) regarding Edward Onyemata ("Mr. Onyemata"). Mr. Onyemata was employed at Sagewood as an LPN. Ms. Boc provided the letter of termination to Mr. Onyemata as part of her complaint (Exhibit #2). The termination letter refers to an assault on a staff member and Ms. Boc confirmed that this was a reference to Shanna Logelin ("Ms. Logelin"). Ms. Boc noted there was some delay in reporting the matter to CLPNA as Mr. Onyemata had filed a grievance with his union and Sagewood wanted to wait until the grievance process was completed before starting the CLPNA process.

Ms. Boc noted that Mr. Onyemata was an LPN in the Dawson Lake neighbourhood and reported to Maria Frig ("Ms. Frig") who reported to Ms. Boc. Ms. Frig was the Resident Care Manager. Ms. Boc believes that Ms. Logelin also reported to Ms. Frig.

The first step taken in the Sagewood investigation of the matter was to speak with Ms. Logelin on December 2, 2016. Ms. Boc believes that it was herself, Maria Frig, Shanna Logelin and Christy Rouble ("Ms. Rouble") from Human Resources in the meeting. Ms. Logelin told them that her and Mr. Onyemata had a relationship outside of work and when she discovered that he was married, she broke it off. Ms. Logelin described what happened in the stairwell and said he came up behind her and had his hands around her neck and was sticking his tongue in her ear. Ms. Boc described Ms. Logelin as quiet, shaken and very upset during the meeting. She is generally very bubbly and she was definitely not herself. Ms. Boc confirmed the notes that she took during the meeting (Exhibit 3).

Mr. Gruber objected to Exhibit 3, on the basis of Ms. Akgungor's opening statement that the investigation was not relevant. He noted that on that basis, the notes were not probative. Ms. Akgungor responded that her position was that the validity of the employer's investigation was not relevant, but the conduct at issue was still relevant. The Hearing Tribunal adjourned to review the submissions and determined that while it was not tasked with assessing the thoroughness or the process used in the investigation, the conduct investigated was the same conduct at issue in the hearing. The Hearing Tribunal determined that since Exhibit 3 addressed Mr. Onyemata's conduct, which was at issue in the allegations, Exhibit 3 was relevant. Mr. Gruber stated that he viewed that

ruling would apply to the other similar exhibits and so would not raise it again, although he had the same objection to all of the interview notes.

Following the interview with Ms. Logelin on December 2, 2016, Mr. Onyemata was interviewed. In addition to Ms. Boc and Mr. Onyemata, Ms. Frig, Glen Ryan ("Mr. Ryan") with labour relations and Ms. Rouble, were in attendance. Mr. Onyemata's union representative attended by telephone conference. Ms. Boc took notes, where she was tracking who was speaking (Exhibit 4). Mr. Onyemata was given a chance to present his version of events.

Ms. Boc indicated that there was a meeting with Aimee Lemottee ("Ms. Lemottee"), the scheduler, as Ms. Logelin had told Ms. Lemottee that she was having trouble with a male coworker. The meeting took place on December 7, 2016. Mr. Ryan, Ms. Rouble, Ms. Frig, Ms. Boc and Ms. Lemottee attended the meeting. Ms. Lemottee indicated in that meeting that it was Mr. Onyemata that Ms. Logelin was concerned about. Notes from the meeting were entered as Exhibit 5.

The same group then met with Traci Campbell ("Ms. Campbell") on December 7, 2016. Ms. Campbell relayed information that some time ago, her and Mr. Onyemata had been joking around and he said to her "that's not a penis, this is a penis" and showed her a picture of his penis and that his pregnant wife was standing behind him in the picture. Ms. Boc's notes from the meeting were entered as Exhibit 6.

Ms. Boc indicated that following these meetings, she sat down with Mr. Ryan, Ms. Rouble and Ms. Frig and they would have compared their interview notes, to see where there were inconsistencies or anything that needed to be followed up. They met again with Ms. Logelin on December 7, 2016. Ms. Logelin was asked to take them through the incident again. The notes of that meeting were marked as Exhibit 7.

Another meeting was held with Mr. Onyemata on December 7, 2016. The union representative was present. The notes of the meeting were entered as Exhibit 8. Ms. Boc indicated that Mr. Onyemata's accounts were inconsistent. Following the interviews, there was a meeting with herself, Ms. Frig, Ms. Rouble, Mr. Ryan and Blair Phillips ("Mr. Phillips") the VP of Human Resources. They went through all the notes and timelines. Everyone agreed that termination was warranted. Following this meeting, Mr. Onyemata's employment was terminated.

In cross-examination, Ms. Boc confirmed that she did not try to get a more exact date from Ms. Campbell as to her allegation that Mr. Onyemata showed her an inappropriate photograph. Ms. Campbell had indicated in the meeting that it was over a year ago. Ms. Boc stated that no further notes were taken in the meeting with herself, Ms. Frig, Ms.

Rouble, Mr. Ryan and Mr. Phillips to discuss the interviews. Ms. Boc was aware, in December 2016 that Ms. Logelin and Ms. Campbell were good friends.

Ms. Boc confirmed that questions were not asked of Ms. Logelin to try to establish the timeline or the details of the incidents in her complaint. Ms. Boc indicated that she does not recall if Mr. Onyemata knew the purpose of the meeting in advance of the meeting. He was not provided any documentation in advance of the meeting. Mr. Gruber suggested to Ms. Boc that the meetings of December 2, 2016 lasted approximately 10 to 12 minutes. Ms. Boc acknowledged this may be accurate but because it was over two years ago, she did not remember. Mr. Onyemata was not provided a copy of Ms. Boc's notes to confirm if he agreed with the record of the meeting.

Ms. Boc confirmed that she did not write down the time that each of the meetings started and ended. Ms. Boc confirmed that she took notes based on what was being said in the meeting. Ms. Boc wrote down the details of the incident in the stairwell the way that Ms. Logelin described them. Ms. Boc confirmed that with respect to the termination letter, Mr. Onyemata was terminated based on the allegation that initially came forward (being the incident in the stairwell).

In response to questions from the Hearing Tribunal, Ms. Boc indicated that she did not believe Ms. Logelin had any marks on her neck on December 2, 2016 during the meeting.

Aimee Lemottee

Mr. Gruber raised an objection to Ms. Lemottee giving evidence on the basis that she would not be giving firsthand information as to any incidents that are part of the Statement of Allegations. She had not participated in any of the meetings. She would be offering only evidence about what she was told and what she did in response to it. Mr. Gruber noted that this is not a circumstance where there was a delay between the alleged incident and the reporting where it may be important to find out if the person told other individuals. On this basis, he suggested that there was nothing probative with the evidence of Ms. Lemottee.

Ms. Akgungor confirmed that Ms. Lemottee had no firsthand knowledge of the incidents in question. However, her evidence is important because she is part of the narrative. She is the first person that Ms. Logelin raised the issue with and she encouraged Ms. Logelin to report it. It is important for the Hearing Tribunal to have the information and weigh it in the overall context of the sequence of events that occurred. In addition, Ms. Lemottee could testify to Ms. Logelin's demeanor when Ms. Logelin was speaking about the incident. Ms. Akgungor noted that the Hearing Tribunal is not bound by the rules of

evidence and that it will need to determine the relevance of the evidence and how much weight to put on it.

The Hearing Tribunal adjourned to consider the objection. The Hearing Tribunal determined it would hear from Ms. Lemottee. The Hearing Tribunal considered section 79(5) of the HPA, which states that evidence may be given before the Hearing Tribunal in any manner it considers appropriate and it is not bound by the rules of law respecting evidence. The witness appeared to have relevant information and the Hearing Tribunal determined that it would hear the evidence and determine what weight to place on the evidence after having heard from the witness.

Ms. Lemottee has been employed with Sagewood since September 2015. She is a scheduler and is in charge of making the staff schedules. She described her relationship as a “coworker” with both Ms. Logelin and Mr. Onyemata. Ms. Lemottee recalled Ms. Logelin asking her if she could modify Ms. Logelin’s schedule so that she did not work with a particular individual. Ms. Logelin did not initially tell her who the individual was, but later said it was Mr. Onyemata.

Ms. Logelin told Ms. Lemottee that she had been working the same shift as Mr. Onyemata and went to the neighbourhood where he was working. They were in the stairwell together and they were talking and he ended up putting his tongue in her ear. Ms. Lemottee described that Ms. Logelin was in tears and took a few moments to compose herself. Ms. Lemottee told Ms. Logelin that she felt that Ms. Logelin should report this but would leave the decision up to her and that Ms. Lemottee would speak to Human Resources about modifying shifts.

On cross-examination, Ms. Lemottee noted that she did not make notes of the conversation or record the date but she believed it was the day before it was reported to her manager. Ms. Lemottee indicated that she did not think she should make notes because she thought that Ms. Logelin would report this to her manager. She stated that she went home that night and it did not sit well with her. She went back to work the next morning, phoned Ms. Logelin and told her that she was not comfortable with this situation and that if Ms. Logelin did not report the incident, that Ms. Lemottee would. She has not had any further discussions with Ms. Logelin about this incident.

Maria Frig

Mr. Gruber raised the same objection with respect to Ms. Frig giving evidence as he did for Ms. Lemottee. He noted that having the witness repeat prior statements with respect to the allegations has no probative value and is unduly prejudicial. The Chair noted the objection.

Maria Frig has been employed with Sagewood for five years. She is the Resident Care Manager. She became an LPN in 1989 and an RN in 2006, with a specialty certification in seniors care. In 2016, she supervised both Ms. Logelin and Mr. Onyemata.

In early December, Ms. Logelin approached her about an incident with Mr. Onyemata. Ms. Logelin indicated that she had been assaulted in the stairwell and that Mr. Onyemata had put his forearm across her neck and began licking her ear. Ms. Logelin was visibly distraught, upset, crying, shaking, at which point Ms. Frig stopped the interview. Ms. Frig indicated that it is standard practice that, for any form of inappropriate behavior, a second person is brought in to continue the interview. Ms. Frig called Ms. Boc, Director of Care, to come in. They interviewed Ms. Logelin and Ms. Boc took notes. Ms. Frig noted that Ms. Logelin forwarded an email with a picture of her neck. The email was entered as Exhibit 9. Ms. Frig noted that Ms. Logelin was visibly upset and crying at the end of the meeting. She stated that her role in the meeting is to act as a second person, when required.

Ms. Frig indicated that Mr. Onyemata and Ms. Campbell were also interviewed. She recalled that Mr. Onyemata denied the incident occurred. During her interview, Ms. Campbell stated that Mr. Onyemata had shown her a picture of his penis. She indicated that Mr. Onyemata stated that he did not intentionally show her a photograph of his penis, that it was actually of his rectum and there was a hemorrhoid there. She recalled that Mr. Onyemata discussed a dream. She recalled that there were differences in his accounts during the two meetings.

Ms. Frig indicated in cross-examination that she could not give exact timelines, but could provide the content of information received at the interviews. She could not recall whether Ms. Rouble had been present during the meetings. She could not recall who asked most of the questions during the meetings.

Shanna Logelin

Shanna Logelin is an LPN and received her designation about 18 years ago. In 2016, she was employed with Sagewood. She started working there in February 2012 and worked there until December 2017. She worked a 0.8, which was considered part-time. She was casual for a period of time, but never worked full-time. She was on maternity leave for part of 2016 and returned to work from maternity leave at the end of September or beginning of October.

Mr. Onyemata started work at Sagewood a couple of months after her. Initially, their relationship was just professional. A few years after he started working at Sagewood, it

became a casual sexual relationship, which lasted a couple of years and ended when Ms. Logelin found out that Mr. Onyemata was married. She believes that when she came back from maternity leave in 2016, she told him that it was done. She stated that she was fine with the relationship ending, because it was a casual relationship.

Ms. Logelin stated that she reported concerns to Sagewood management at the end of November 2016. On the evening of November 28, 2016, she was working and not feeling well, she was nauseated and had a headache. She needed Tylenol and went up to the Dawson Lake floor where Mr. Onyemata was working because that floor had Tylenol with coating on it. She went into the medication room and Mr. Onyemata followed her into the room. She proceeded to get Tylenol out of the medication cart. Mr. Onyemata came up behind her and put his hand on her back. She turned around and looked at him and said, "don't" to which he backed up and went outside the medication room. She proceeded to head towards the dining room and Mr. Onyemata headed down the west hallway. She heard him call her name and so she turned around and did not see anyone. She then heard him calling her name again. She turned around and walked down the west hallway. She thought he might need help with a resident. At the end of the hallway, he was standing in the stairwell with the door open and he said to her, "You can get to your unit from the stairwell." She proceeded to go down the stairwell and Mr. Onyemata stopped at the second floor. She went down to the bottom floor, and then realized she could not get to her unit from there. She turned around and looked up at him and said that she could not get to Eagle Lake from there.

She walked back up and passed him on the second flight and he put his arm around her throat (his bicep and his forearm) and put his tongue in her ear. Ms. Logelin does not believe the incident lasted very long, maybe a minute. She grabbed ahold of his arm. She does not think she said anything to him. He let go and she went straight up to the third floor to get back to the Dawson unit, to go back to where she came from through the dining room and then down to her floor. She took the elevators down to her floor and went to the bathroom. She looked at her throat and it was red. She took a picture (Exhibits 10 and 11) because she could not believe what had just happened. She got ready for shift change.

Ms. Logelin stated that it was his left arm around her throat and that she thought that his left hand was probably around on the other side of her neck. He was holding a cup and a medication cup in his other hand. There is a resident from Dawson Lake who visits her son on the middle floor. Ms. Logelin assumed Mr. Onyemata was going down to that floor to give the resident her medication. Mr. Onyemata did not say anything to her and put his tongue in her ear. She described that she froze. She indicated that when she went to the bathroom, she took the picture with her cellular telephone in the mirror.

She reported the incident a few days later and forwarded the picture to Maria Frig on December 2, 2016.

Ms. Logelin did not tell anyone about the incident on the night of the incident. She texted a friend and co-worker, Traci Campbell, about it a couple of days later.

Mr. Akgungor proposed to submit text messages as exhibits. Mr. Gruber objected to the text messages because they were screenshots and not in electronic format. He submitted that they are snapshots of particular dates and particular texts with no context to them. They are unreliable because they are screenshots extracted to put together a story. Mr. Gruber took the position that the texts were highly prejudicial. Ms. Akgungor noted that the witness could provide testimony about texts she sent, to whom and the content of the text. The Hearing Tribunal considered the objection and the submissions of the parties. The Hearing Tribunal found that the text messages were likely relevant to the allegations and that the Hearing Tribunal would determine the weight to place on the text messages in its deliberations. However, it was later determined that the texts were from Ms. Campbell's phone and the Hearing Tribunal determined that questions about the texts should be put to Ms. Campbell rather than Ms. Logelin and the texts should be entered through Ms. Campbell's testimony.

Ms. Logelin indicated that she had spoken to Aimee Lemottee about the matter. She was talking to Ms. Lemottee about keeping her address confidential and then broke down and told her what had happened with Mr. Onyemata. Ms. Lemottee told her she had to speak to management regarding the incident. Ms. Logelin indicated that Ms. Campbell had also told her that she needed to report it to management. Ms. Campbell told her she would give her 24 hours to report it.

Ms. Logelin spoke to Maria Frig. Ms. Frig involved Ms. Boc and then Ms. Logelin spoke to both of them. They suggested she could go to the police, but Ms. Logelin did not report it to the police. She thought it was something that could be settled through work. There was a subsequent meeting and Mr. Ryan also attended and she again told her story of what had happened.

During the second meeting, Ms. Logelin was asked if there were any other incidents. She recalled an incident in June 2016 when she was eight months pregnant, she was sitting in her driveway listening to the radio and eating a bag of chips. She got a call from Mr. Onyemata and he said something along the lines of "those chips must be really good." She was taken aback. She asked where he was and he said he was parked at the end of her block. She got out of her vehicle and he pulled up behind her on the driveway. They talked outside for a bit. She asked him if he wanted to come in and he did. He said he couldn't stay long because his wife knew that he was out and after they talked for a bit,

he left. She texted Ms. Campbell about this interaction with Mr. Onyemata. She did not bring this to management's attention at the time as it had nothing to do with work.

Ms. Logelin was asked in cross-examination about the photograph (Exhibit 10) and agreed that the photograph shows a change in pigmentation of the skin above the necklace up to almost the arm of her glasses and that her ear and nose is red or pink.

Ms. Logelin was asked about a written statement she had prepared and which was provided to the College investigator. Ms. Logelin noted that this statement was written as notes to herself and she had not intended to provide it to the investigator, but did so when the investigator requested a copy of it. In that statement, she describes the incident in Allegation 3 as being in the fall of 2016, while on maternity leave with a surrogate baby. She indicated that as a surrogate mother, she has had many children and got mixed up with the timelines.

Ms. Logelin acknowledged in her testimony that she did not say anything during the incident in the stairwell. The notes of the December 7, 2016 meeting indicate she "told him at least a couple of times to stop". She acknowledged this was an inconsistency. With respect to what Mr. Onyemata was holding in his hand, Ms. Logelin indicated that she did not hear or see anything spill to the ground. He had a medication cup and a cup for water, but she does not know if there was water in the cup. With respect to the photograph, Ms. Logelin acknowledged that the photograph was undated and that she no longer had the phone with which it was taken. Ms. Logelin denied that she was flushed because she was feeling unwell but acknowledged that she did not take her temperature that day.

Ms. Logelin stated that she did not recall going around asking people if Mr. Onyemata had behaved inappropriately toward them. It was suggested to Ms. Logelin that she had asked Mr. Onyemata if she could shadow shift him two or three weeks before the incident. She did not recall this. It was put to her that the night of the incident, she had gone to Mr. Onyemata's floor 4 or 5 times to talk to him. She denied this.

In response to a question from the Hearing Tribunal, Ms. Logelin stated that she took the photograph probably within 10 minutes of the incident.

Traci Campbell

Traci Campbell is an LPN and has been an LPN for 18 years. She currently works with Sagewood and has worked there for 5 years. She stated that her and Ms. Logelin were co-workers and are friends. She described her relationship with Mr. Onyemata as coworker, professional.

Ms. Campbell recalled an occasion where Ms. Logelin had sent her a text message saying that someone was outside of her home in a vehicle and it turned out it was Mr. Onyemata. Ms. Campbell identified a text message between herself and Ms. Logelin, although she was not the one who prepared the paper copy of the screen shots. She had provided a copy of the text string from her telephone to Ms. Boc. Ms. Campbell was shown a copy of text messages (Exhibit 12). She indicated the black portion of the texts were texts from her and the lighter-coloured ones were from Ms. Logelin. The screenshots indicate the texts are from June 23, 2016. Ms. Campbell stated that Ms. Logelin was referring to Mr. Onyemata in the text and that this was the entire text string exchanged on that date.

Ms. Campbell also stated that she became aware of a physical assault that took place because Ms. Logelin sent her a text message on November 30, 2016 (Exhibit 13). She indicated that following the meeting she had with Ms. Boc, she went through her phone and took screenshots and emailed them to Ms. Boc. Ms. Logelin's text is the lighter text and Ms. Campbell's is the text in the dark bubble. Mr. Gruber noted his objection again to the texts being entered. Mr. Gruber noted for the record his concern that the texts were compiled by someone other than Ms. Campbell. Ms. Boc prepared these and had not been asked about these in her evidence and was no longer available to be questioned.

Ms. Campbell stated that after she learned of the incident, she told Ms. Logelin that she needed to go to management and report the incident. Ms. Campbell was asked about the meeting she had in December 2016 where the incident and text messages were discussed. In addition, the incident with Mr. Onyemata showing her a picture of his penis was also discussed in the meeting.

Ms. Campbell described the incident and indicated that she was in the chart room with Mr. Onyemata. He had come to give report because she was starting her shift. It was just the two of them in the chart room. They were talking about the anatomy of a male resident and Mr. Onyemata spoke up and said: "That's not a penis; this is a penis." He took out a picture on his phone. It was a picture of his penis, and in the back of the picture was his wife, naked and pregnant with their first child. Although she did not recall the exact date, she believes it was spring of 2016 because she was pregnant with twins at that time. She indicated "Yes, that's penis" and carried on with report. She did not advise management of the incident at the time. She indicated she did not really think anything else about it. She went on maternity leave shortly after.

In cross-examination Ms. Campbell indicated she was not certain if Mr. Ryan was at the meeting on December 7, 2016. She did not recall who asked the majority of the

questions. Mr. Gruber suggested to Ms. Campbell that during the meeting of December 7, 2016, she indicated that she could not recall what conversation they were having. She did not recall having said that. She denied having said that the conversation was not workplace appropriate. She indicated that she had sent a text about the incident at the time to Ms. Logelin but did not mention it during the December 7, 2016 meeting as she no longer had that phone.

Edward Onyemata

Edward Onyemata gave evidence that he came to Canada from Nigeria in 2008. He received his LPN designation in February 2012. He started working at Sagewood in March 2012. He stated that he and Ms. Logelin started having a casual sexual relationship in about the summer of 2012 and it ended in February 2014 when he got married. He was married on February 17, 2014. Mr. Onyemata has two children.

He first heard about this matter on December 2, 2016. It was his day off and he was in Calgary with his family. He got a call from Ms. Frig who said he should report to the office immediately.

He denied accosting Ms. Logelin physically in the stairway at Sagewood on November 28, 2016. He stated that on November 28, 2016, between 8:30 to 8:45 p.m., he went downstairs to give his resident her bedtime pills. The resident usually visits downstairs in her son's room, on the second floor. He was holding his pills in one hand and water in the other hand. While he was opening the door to the second floor, he heard a very loud sound in the stairwell and he saw someone descending from his floor. He wanted to see who was descending so he waited and saw that it was Ms. Logelin. He exchanged pleasantries with her and he asked her where she was going and she said she wanted to go to her unit. He then heard her coming back up the stairwell. He asked her what happened and she said there was no exit to Eagle Lake, her floor. He said that she could exit on the second floor (Namaka), but she indicated that no, she would go back up to Dawson Lake and exit from there. Mr. Onyemata said to Ms. Logelin that he wanted to call her on her unit phone to inform her that he was going on his break shortly and to see if she could take his floor. She said that she could take care of his floor while he was on break. He went to find the resident, gave her the medication and then took his break. After his break, he called Ms. Logelin to see if there was any update on his unit and she said no, everything was fine. He didn't talk to her for the rest of the shift.

Mr. Onyemata said that there was no physical interaction in the stairwell, that there was no altercation. He also denied touching Ms. Logelin in the medication room on November 28, 2016.

With respect to the photograph issue, he indicated that he has no such pictures on his telephone.

With respect to the allegation of watching Ms. Logelin in her car, Mr. Onyemata recalled one occasion in the summer of 2016 when he went to a garage sale. He saw her vehicle drive by and go into the driveway and stop. After he finished shopping, he gave her a call and they exchanged pleasantries. She asked where he was and he told her that he was at a garage sale near her house. He told her he had other garage sales to visit before he got ready for his shift that afternoon. The call lasted one or two minutes. He recalled that the garage sale was on a Saturday.

Mr. Onyemata gave further evidence about the December 2, 2016 meeting. He was in Calgary and he rushed back to Sagewood. After he arrived, Ms. Frig took him to the conference room and left him there. She went and called Ms. Boc and Ms. Rouble. They called Mr. Ryan on the phone. After that, they asked if he came with a labour representative. He indicated he had not been informed about the meeting and was never told to bring a representative. Ms. Frig called the labour office and someone attended by telephone conference. He said they started asking him questions and whether he knew Ms. Logelin and Ms. Campbell and he said yes. After a couple of hours, they told him to leave and he left. Mr. Onyemata recalls Ms. Rouble, Ms. Boc and Ms. Frig all taking notes. Most times Mr. Ryan was asking questions and Ms. Boc asked a few questions.

On December 7, 2016, everyone was there in-person, including Mr. Ryan and the labour representative. All of the individuals were taking notes, although Mr. Ryan may have just been jotting things down. Mr. Onyemata was not shown the notes. Mr. Onyemata was embarrassed and shocked by the allegations. He was not given any time to prepare for the meeting. Between December 2 and 7, he describes that he was disorganized and distraught. He was having a lot of sleepless nights and he lost his appetite and all motivation. Mr. Onyemata gave evidence that Ms. Logelin asked to job shadow him one evening to see how he conducted his medication passes.

In cross-examination, Mr. Onyemata confirmed that his romantic relationship with Ms. Logelin ended in February 2014. He agreed that Ms. Logelin was not particularly upset when that relationship ended. With respect to the December 2, 2016 meeting, Mr. Onyemata indicated that while he did not ask to speak to the union representative in private, he was never given a chance to do so. Mr. Onyemata confirmed that on December 2, 2016, he was made aware about the alleged incident occurring on November 28, 2016 in the stairwell between the Eagle Lake and Dawson Lake neighbourhoods and that the concern was with respect to an allegation he had grabbed Ms. Logelin by the neck and put his tongue in her ear. He indicated that at first he said

the allegations were not true, but they kept asking questions and he indicated that he didn't recall anything.

In cross-examination it was put to him that during the December 2, 2016 meeting, he acknowledged whispering in Ms. Logelin's ear at the time of the alleged incident. In his response to the question in cross-examination, Mr. Onyemata indicated that his voice is very loud. He noted that the distance where he was standing from the door of Namaka is only the landing of the stairwell and it is about a 5 foot distance. He did not whisper in her ear but rather lowered his voice because he was standing by the door and she was either going up or going down the stairs. He indicated he did not think he used the word "whispered" during the December 2, 2016 meeting. He believes that in the course of exchanging pleasantries he told Ms. Logelin that she had been missed and that the residents had missed her at work. She responded that she had missed work too. He told her he was going on his break and to please watch his floor and she accepted. When he came back from his break he called her phone and said he was back and asked if there was any update. She said everything was fine and all the residents were good.

Mr. Onyemata acknowledged that between the December 2 and December 7, 2016 meetings, he had time to speak to his union representative if he wanted to. On December 7, 2016 during the meeting he advised management that he did not know what happened with the incident with Ms. Logelin. During that meeting he talked about a dream where he felt like he was being pushed into a trap.

Mr. Onyemata denied saying at the December 2, 2016 meeting that he had put his hand on Ms. Logelin's back. He denied saying on December 7, 2016 that he was ashamed and very sorry for what he had done. He stated that he was there for hours, that he was dehydrated and he just wanted to leave the meeting. There was nothing he said that they believed. He said: "I am just a human being like all of you. I'm not perfect. That if I have wronged any of you or anybody, that I am sorry for it". He agreed that he was in a better position to answer questions on December 7, 2016 than on December 2, 2016 and that he answered the questions the best that he could.

With respect to the allegation that he showed Ms. Campbell a picture of his penis, he does not know how that allegation arose because there is nothing like that on his phone. He said that he offered his phone to management during the December 2, 2016 meeting. They refused to look at his phone. He offered that again at the December 7, 2016 meeting but they refused to look at the phone.

Mr. Onyemata noted that he had a baby on February 4, 2016. Ms. Campbell was asking to see pictures of the baby and so they were flipping through and suddenly a picture of his hemorrhoids came up and he just passed by it. He agreed that this occurred in the

chart room. He indicated that there were other people in the room as well because he was doing reports. He stated that the picture of his hemorrhoids did not pop up but when he was being asked questions, he recalled that the only picture that was between his baby's pictures was a picture of his hemorrhoids. He had taken that picture because he was in very serious trouble with his health at the time and underwent surgery for it.

Mr. Onyemata suggested that perhaps Ms. Campbell had taken his phone. He stated he had a password on his phone but he believed it did not always work. He also stated that he does not use a password but uses facial recognition on his phone but that at times it opens even without facial recognition. Mr. Onyemata stated that on December 7, 2016 he indicated during the meeting that he had showed pictures of his baby. He told them that there was a day that he forgot his phone at work and he ran back later to pick it up. The picture did not pop up, he was simply showing pictures of his baby. However, the day he forgot his phone at work, he believes Ms. Campbell must have opened his phone.

Mr. Onyemata indicated that when he was asked to show pictures of his baby, this likely occurred in February, March or April of 2016. He then noted that the hemorrhoid happened in August of 2016. He went on to say that he had shown the picture of his baby on more than one occasion. He noted that Ms. Campbell was on maternity leave in July and August when he had the picture of his hemorrhoids and that maybe around September or so when she came back she wanted to see a picture of the baby and probably while showing it to her, the picture of the hemorrhoids maybe popped up.

The following question and response from Mr. Onyemata to the College investigator was read into the record as follows:

“You reportedly showed a co-worker a picture of your penis on your cellphone. Explain”.

“I did not have the picture of my penis in my cell phone. However, I did have a picture that my wife took of my hemorrhoids in July/August 2016. While scrolling through my pictures on my phone, the picture of my hemorrhoids came on to the screen. There was no picture of my penis. I did not intentionally show anybody that particular picture.”

Mr. Onyemata denied that his evidence contradicted this statement.

In response to questions from the Hearing Tribunal, Mr. Onyemata noted that the stairwell doors are very heavy as they are fire exit doors and you need a level of strength to open and pull the doors open. However, he did not recall if the doors

opened in or out. He noted that the stairwell door has a handle and sometimes he uses his elbow to depress the handle and probably uses his shoulder to push it open. Mr. Onyemata was asked about the length of the meetings in December. He believes that he was in the December 2, 2016 meeting from approximately 2:00 p.m. until 5:00 p.m. He believes he was in the December 7, 2016 meeting for approximately that same amount of time.

(7) Summary of Closing Submissions by the Parties

Closing Submissions on behalf of the Complaints Director

Ms. Akgungor noted that with respect to Allegation 1, the Hearing Tribunal will need to make an assessment of credibility and determine which version of events it prefers between the evidence of Ms. Logelin and Mr. Onyemata. There are no independent witnesses to the events of that evening. Ms. Akgungor reviewed relevant factors in assessing credibility including demeanor of the witness, the memory of the witness, internal consistency, motivation, and plausibility. She noted that it would strain credulity to suggest that if the relationship ended in February 2014 and Ms. Logelin was not upset, that she would wait 2 ½ years to manufacture an incident in order to have Mr. Onyemata terminated. Ms. Akgungor also noted that Ms. Logelin reported the incident to Ms. Lemotte very shortly after it occurred. She suggested that Mr. Onyemata's version of the events was less clear and precise than Ms. Logelin's version of events and that Ms. Logelin's version of events should be preferred. She noted that with respect to Allegation 1(d), it was not clear from the evidence that Mr. Onyemata was pressing his fist into Ms. Logelin's neck. However, in the Complaint's Director's submission Allegation 1(a) through (c) was established and constituted unprofessional conduct. Ms. Akgungor pointed to the Code of Ethics s. 3.1 which states:

Maintain the standards of the profession and conduct themselves in a manner that upholds the integrity of the profession.

Standard of Practice 4.9 states:

Support and contribute to healthy and positive practise environments.

With respect to Allegation 2, Ms. Akgungor reviewed the testimony of Ms. Campbell and Mr. Onyemata. She noted that it would strain credulity that a nurse who was well versed in human anatomy would mistake a picture of hemorrhoids for a picture of a penis. She noted that what is less clear on the evidence is the time frame in which the showing of the picture took place. Ms. Campbell believed it was in the spring of 2016 but did not narrow it down to a particular month. In Ms. Campbell's meeting with

management, Ms. Boc's notes reflect that she indicated it was at least a year ago, which would put it prior to December 7, 2015. As such, Ms. Akgungor acknowledged that the time frame was not clear. She noted that December 7, 2015 would fall within the time frame in the allegation and that the spring of 2016 was very close to the time frame alleged, although it was not entirely clear. She indicated that the Complaints Director urged the Hearing Tribunal to conclude that she had established the allegation but it is acknowledged that the time frame is not precise and it is open for the Hearing Tribunal to consider whether the time frame has been established. If the allegation is accepted on its facts, the Complaints Director noted that the conduct was clearly unprofessional conduct and pointed again to Code of Ethics s. 3.1 and the Standards of Practice s. 4.9.

With respect to Allegation 3, Ms. Akgungor noted that Ms. Logelin indicated that the alleged incident happened in June 2016 in her evidence. In a statement to the College investigator, Ms. Logelin had stated that it had occurred in the fall of 2016. She was frank that there was an error and that the date in question was more likely June 2016. Ms. Akgungor pointed to the string of texts dated June 23, 2016 and submitted that it was open for the Hearing Tribunal to find that Mr. Onyemata did contact Ms. Logelin while she was sitting in her car on the driveway. She noted that the College certainly did not suggest that every time a co-worker gets a call in their car from another co-worker, that this will be unprofessional conduct. The concern in this case is that Ms. Logelin described the conduct as spying and given the prior relationship, it seemed to cause some concern.

Closing Submissions on behalf of Mr. Onyemata

Mr. Gruber noted that in order to find in favour of Mr. Onyemata it was not necessary for the Hearing Tribunal to reject or disregard the evidence of Ms. Logelin. Tribunals can consider the evidence and decide that one version is preferable to the other. With respect to assessing credibility, Mr. Gruber pointed to the fact that the Complaints Director offered no theory of the prosecution why Mr. Onyemata, a capable and competent LPN in one second converted to a sexual attacker. There was no suggestion put to Mr. Onyemata that he was angry with Ms. Logelin or that he tried to have a sexual encounter with her and was rejected.

Mr. Gruber urged the Hearing Tribunal to look very closely at Ms. Logelin's evidence regarding Allegation 1(a). Ms. Logelin's own evidence was that Mr. Onyemata touched her back, not that he rubbed her back. He stated that in the context of an allegation of sexual impropriety, it was a critical distinction. Mr. Gruber also cautioned the Hearing Tribunal with respect to the notes and indicated that Ms. Boc admitted that she could

not keep up in taking notes. Mr. Gruber indicated that he requested that Ms. Boc be asked to transcribe the notes for the Hearing Tribunal.

Mr. Gruber focused his submissions on Allegations 1(b) to (d) and noted that the evidence presented by the Complaints Director was inconsistent on material points. Mr. Gruber urged the Hearing Tribunal to put virtually no weight on the evidence of Ms. Lemottee and Ms. Frig. Mr. Gruber noted that there was no reference in Ms. Logelin's evidence to a fist. Mr. Gruber noted that there is no note suggesting that Ms. Logelin told Ms. Boc at the time that Mr. Onyemata was holding a cup with medication and a cup with water. He noted that this was a significant issue when an individual is accused of strangling someone or choking them. He noted there were inconsistencies in Ms. Logelin's evidence between the December 2, 2016 and the December 7, 2016 notes as to whether she had gone all the way downstairs before coming back up. In addition, in her testimony, Ms. Logelin said that she did not say anything during the attack but on December 2, 2016, she told Ms. Boc that she had told Mr. Onyemata to stop. At the December 7, 2016 meeting, she told Ms. Boc that she had told him to stop a couple of times. Ms. Logelin did not say anything on December 2, 2016 that she had looked out the window for someone who might be there to assist her but related that to Ms. Boc on December 7, 2016. She did not say this in her testimony in direct evidence.

With respect to Allegation 2, Mr. Gruber noted that the sworn evidence of Ms. Campbell was that the allegation took place in the spring of 2016. The Statement of Allegations gives a wide period. However, the Complaints Director missed that wide period.

With respect to Allegation 3, Mr. Gruber noted that the date appeared on the Statement of Allegations less than 30 days from the commencement of the hearing. Mr. Gruber took the position that on the face of it, Allegation 3 could simply not constitute unprofessional conduct.

Mr. Gruber made submissions on adverse inferences with respect to the failure of a party to bring evidence forward and noted the principle that the adverse inference is drawn not merely from the failure to produce but from non-production when it would be natural for the party to produce.

Mr. Gruber submitted that an adverse inference should be drawn for Exhibit 13. Mr. Gruber took the position that it stretched credibility that these were the only texts between these two friends with respect to the incident. Ms. Logelin and Ms. Campbell made a decision to conceal the chain or the conversation of texts from the Hearing Tribunal.

Mr. Gruber also noted that with respect to the photograph, Ms. Logelin admitted a number of photographs were taken and she decided which would be sent to the College. He submitted that all of the photographs should have been brought to the attention of the employer and the College.

Finally, Mr. Gruber asked the Hearing Tribunal to make an adverse inference with respect to the absence of Mr. Ryan as witness. Mr. Ryan was the individual essentially conducting the investigation. He has not been called to give any evidence with respect to the investigation.

Mr. Gruber also took issue with the investigation by the employer. The evidence with respect to the meetings with Sagewood was that Mr. Onyemata was bullied, cross-examined, harassed and maybe deprived of food and water.

Mr. Gruber took the position that the evidence of Mr. Onyemata was credible and forthright and he should be believe.

Reply Submissions of Ms. Akgungor

Ms. Akgungor clarified that the allegations were not relating to sexual misconduct, but rather to inappropriate physical conduct. Ms. Akgungor took the position that it was not necessary that a transcript of Ms. Boc's notes be prepared as the notes are clear and legible.

With respect to the conduct of the employer, Ms. Akgungor noted that the conduct of the employer is not a question before the Hearing Tribunal. When the College investigates a complaint by an employer, the College obtains documents and information from the employer. However, the role of the Hearing Tribunal is not to assess the adequacy or fairness of the employer's investigation. Ms. Akgungor also noted the principle of law that so long as the investigated member has a full and fair opportunity to be heard at the hearing, this can correct any unfairness at the pre-hearing stage.

Ms. Akgungor addressed the change to Allegation 3 to add in a date and noted this arose as a result of discussions between counsel. She clarified that Ms. Logelin had never seen the Statement of Allegations and had no role in drafting the Statement of Allegations. With respect to the chain of texts and the photographs, Ms. Akgungor noted that the College had gathered information as part of the investigation and produced the evidence that had been provided to it.

Questions from the Hearing Tribunal

In response to a question from the Hearing Tribunal, Mr. Gruber noted that he put Ms. Boc's evidence as a note taker in a different category than Ms. Lemottee or Ms. Frig. Ms. Lemottee and Ms. Frig were simply called to give second or third hand evidence about what someone told them and how they reacted to it. Mr. Gruber noted that the Hearing Tribunal should be looking at the notes in conjunction with all of the other evidence. Mr. Gruber confirmed that he was asking the Hearing Tribunal to draw an adverse inference in the absence of knowing whether other texts existed or not.

In response to a question from the Hearing Tribunal, Ms. Akgungor noted that it is absolutely clear that Ms. Campbell said that the incident in Allegation 2 occurred in spring 2016. Ms. Akgungor noted that Ms. Boc's notes referenced a different time frame but the Complaints Director took the position that the better evidence is what was heard in the testimony of Ms. Campbell.

(8) Decision of the Hearing Tribunal

The onus is on the CLPNA to establish, on a balance of probabilities, that the facts as alleged in the Revised Statement of Allegations occurred, and that the alleged conduct rises to the level of unprofessional conduct as defined in the HPA.

Unprofessional conduct is defined in the HPA in s. 1(1) (pp). It is inclusive of the following:

- i. Contravention of this *Act*, a code of ethics or standards of practice.

The Hearing Tribunal has carefully considered the testimony of the witnesses and has reviewed the exhibits. The Hearing Tribunal finds that the particulars in Allegation 1(b) and (c) are proven and that the conduct in Allegation 1(b) and (c) constitutes unprofessional conduct. The particulars in Allegation 1(a) and (d) are not proven. The Hearing Tribunal dismisses Allegations 2 and 3. The Hearing Tribunal's findings and reasons are set out below.

(9) Hearing Tribunal Findings and Reasons

Allegation 1

1. On or about November 28, 2016 engaged in inappropriate physical contact with co-worker SL by doing one or more of the following while on duty without SL's consent and without proper purpose:

- a. Rubbed SL's back and/or sides;
- b. Wrapped his arm around SL's neck in a choke-hold type position;
- c. Stuck his tongue in SL's ear; and
- d. Pressed his fist into SL's neck.

The Hearing Tribunal considered the evidence of the various witnesses with respect to Allegation 1. In particular, the Hearing Tribunal had to weigh the differing accounts presented by Ms. Logelin and Mr. Onyemata, who are the only two individuals with firsthand knowledge of what occurred on November 28, 2016.

The evidence of Ms. Logelin was that, on the evening of November 28, 2106, she was working and not feeling well, she was nauseated and had a headache. She needed Tylenol and went up to the Dawson Lake floor where Mr. Onyemata was working because that floor had Tylenol with the coating on it. She went into the medication room and Mr. Onyemata followed her into the room. She proceeded to get Tylenol out of the medication cart. Mr. Onyemata came up behind her and put his hand on her back. She turned around and looked at him and said, "don't". He backed up and left the medication room.

Ms. Logelin's evidence was also that she proceeded to go into a stairwell in an attempt to get back to her floor. She was in the stairwell with Mr. Onyemata and he put his arm around her throat and put his tongue in her ear. He let go and she went straight up to the third floor, exited the stairwell and went through the dining room. She took the elevators down to her floor and went to the bathroom. She looked at her throat and it was red. She took a picture (Exhibits 10 and 11) because she could not believe what had just happened. She got ready for shift change and did not report the incident to anyone at that time.

Mr. Onyemata's evidence was that on November 28, 2016, between 8:30 to 8:45 p.m., he went downstairs to give his resident her bedtime pills. He was holding a medication cup in one hand and water in the other hand. He saw Ms. Logelin in the stairwell and exchanged pleasantries with her. He asked her where she was going and she said she wanted to go to her unit. He then heard her coming back up the stairwell and he asked her what happened and she said there was no exit to her floor from that stairwell. He said that she could exit on the second floor, but she indicated that no, she would go back to Dawson Lake and exit from there. Mr. Onyemata told Ms. Logelin that he was going on his break shortly and to see if she could cover his floor. She agreed to take care of his floor while he was on break. He went to find the resident, gave her the medication and then took his break. After his break, he called Ms. Logelin to see if there was any update on his unit and she said no, everything was fine. He did not talk to her for the

rest of the shift. Mr. Onyemata also denied touching Ms. Logelin in the medication room on November 28, 2016.

The Hearing Tribunal must determine what occurred on November 28, 2016. With respect to witness credibility, the Hearing Tribunal can accept all, some or none of a witness's evidence.

In determining the credibility of Ms. Logelin, the Hearing Tribunal finds that she gave her evidence in a straightforward and calm manner. Ms. Logelin's version of events is also supported by external evidence. She took a photograph of her neck shortly after the incident (Exhibit 10 and 11). While the Hearing Tribunal finds that the photograph provides limited evidence of what redness or marks were on her neck, it does substantiate Ms. Logelin's version of events that she went to the bathroom and took a photograph of her neck. In addition, Ms. Logelin texted her friend, Ms. Campbell about the incident on November 30, 2016 (Exhibit 13). Ms. Logelin was not going to report the incident, but was told that if she did not Ms. Campbell would report it. Ms. Logelin also asked Ms. Lemottee whether she could change shifts because of trouble with a male coworker. Ms. Lemottee described Ms. Logelin's demeanour as being very upset. Ms. Frig relayed similar information about Ms. Logelin's demeanour. The Hearing Tribunal found that the evidence from these witnesses supported Ms. Logelin's version of events.

The Hearing Tribunal also considered the notes prepared by Ms. Boc from the meeting with Ms. Logelin on December 2, 2016 (Exhibit 3) and the meeting on December 7, 2016 (Exhibit 7). The Hearing Tribunal places limited weight on the notes in terms of relying on the notes for what occurred. Ms. Boc was straightforward in her evidence that she tried to record what was said, but the notes are not a verbatim transcript of the meeting. However, generally speaking, the notes support Ms. Logelin's version of events and corroborate her version of events. Although, Mr. Gruber pointed to differences between the notes of December 2 and December 7, 2016, Ms. Logelin was asked to provide more detail of the incidents during the meeting on December 7, 2016. As such, additional statements in the notes are not evidence that Ms. Logelin is not being truthful. In addition, the Hearing Tribunal found that although there may have been some inconsistencies between the notes and Ms. Logelin's testimony, these did not undermine Ms. Logelin's credibility. The incident occurred over two years ago and the Hearing Tribunal acknowledges that memories can fade over time. Overall, Ms. Logelin's evidence was consistent internally and externally.

The Hearing Tribunal also considered Mr. Onyemata's credibility. The Hearing Tribunal found Mr. Onyemata to be inconsistent in his evidence which affected his credibility. For example, Mr. Onyemata's evidence about the photograph was not consistent. During the hearing, he indicated that the photograph popped up and then denied that it

popped up. He then suggested that Ms. Campbell may have accessed his phone, even though it had facial recognition. There was no evidence he provided this as an explanation during the December 2016 meetings.

The Hearing Tribunal also found that Mr. Onyemata exaggerated his evidence. For example, his description of the length of the meetings on December 2 and 7, 2016, was that they lasted about 2 to 3 hours. This is in complete contradiction to the timeframe of the meetings put to Ms. Boc on cross-examination that the meetings lasted about 15 minutes. The Hearing Tribunal finds that these factors affected Mr. Onyemata's credibility.

The Hearing Tribunal does not accept that the employer or Ms. Logelin were out to get Mr. Onyemata as there is no evidence to support this assertion.

Allegation 1(a):

For the reasons outlined above, the Hearing Tribunal accepts Ms. Logelin's evidence with respect to the events of November 28, 2016. Ms. Logelin did not give evidence that Mr. Onyemata rubbed her back and sides. As such, the Hearing Tribunal finds that this allegation is not proven, and it is dismissed.

Allegation 1(b) and (c):

The Hearing Tribunal finds that it has been proven on a balance of probabilities that there was an incident in the stairwell on November 28, 2016 where Mr. Onyemata wrapped his arm around Ms. Logelin's neck in a choke-hold type position and put his tongue in Ms. Logelin's ear.

While the Hearing Tribunal does not know why the incident occurred, the Hearing Tribunal finds it occurred. Given all of the evidence as reviewed above, it is more probable than not that Mr. Onyemata wrapped his arm around Ms. Logelin's neck in a choke-hold type position and put his tongue in Ms. Logelin's ear.

Allegation 1(d):

Ms. Logelin did not give evidence that Mr. Onyemata pressed his fist into her neck. As such, the Hearing Tribunal finds that this allegation is not proven and is dismissed.

The Hearing Tribunal considered whether the conduct in Allegation 1(b) and (c) constitutes unprofessional conduct. The Hearing Tribunal finds that the conduct is a breach of the Code of Ethics and Standards of Practice as follows:

Code of Ethics, section 3.1:

Maintain the standards of the profession and conduct themselves in a manner that upholds the integrity of the profession.

Standard of Practice, section 4.9:

Support and contribute to healthy and positive practise environments.

The conduct of Mr. Onyemata towards his colleague during work hours is completely inappropriate and a clear breach of how an LPN is expected to conduct himself in the workplace. The conduct is a sufficiently serious breach of the Code of Ethics and Standards of Practice to constitute unprofessional conduct.

Allegation 2

2. On or about November 2015 to February 2016 engaged in inappropriate behavior related to co-worker TC while on duty by showing her a picture of his penis.

The Hearing Tribunal considered the evidence with respect to Allegation 2. Ms. Campbell's testimony was that, in the spring of 2016, she was in the chart room with Mr. Onyemata. He had come to give report because she was starting her shift. It was just the two of them in the chart room. They were talking about the anatomy of a male resident and Mr. Onyemata spoke up and said: "That's not a penis; this is a penis." He took out a picture on his phone and showed her a picture of his penis. In the back of the picture was his wife, and she was naked and pregnant with their first child.

The Hearing Tribunal notes that Ms. Campbell's testimony has similarities to what is reflected in the notes of the interview on December 7, 2016 (Exhibit 6). However, there are also important discrepancies. The notes (Exhibit 6) indicate the following statement: "was at least a year ago" which would be well before the spring of 2016. In her testimony, Ms. Campbell also denied that she and Mr. Onyemata were having a conversation that was not work appropriate. However, Exhibit 6 states: "sometimes they have conversations that may not be "work appropriate" which suggests the conversation may not have been work appropriate. Exhibit 6 also states "can't remember what conversation they were having", however, in her evidence, she indicated the conversation was about the anatomy of a male resident.

As noted above, limited weight was placed on the accuracy of the notes, in that it is not a verbatim transcript of the interviews, but the Hearing Tribunal did note the inconsistencies.

The evidence of Mr. Onyemata was that his baby was born on February 4, 2016. Co-workers would ask to see pictures of his baby. His evidence was unclear on what photograph, if any, he showed to Ms. Campbell. He denied having any such photograph on his telephone. He did say that a picture of his hemorrhoid popped up on his phone. It was also not clear from his testimony whether other individuals were with him and Ms. Campbell when he was showing her pictures of his baby. Mr. Onyemata noted that other individuals were in the chart room, but then some individuals left. He then said that the picture of his hemorrhoids did not pop up at the time that he was showing the pictures to his co-workers.

In a statement to the College investigator, Mr. Onyemata stated:

“I did not have the picture of my penis in my cell phone. However, I did have a picture that my wife took of my hemorrhoids in July/August 2016. While scrolling through my pictures on my phone, the picture of my hemorrhoids came on to the screen. There was no picture of my penis. I did not intentionally show anybody that particular picture.”

There are significant differences between the evidence of Ms. Campbell and Mr. Onyemata, the only two individuals with firsthand knowledge of the allegations. There is also uncertainty and discrepancies internally with the evidence of Ms. Campbell and discrepancies in the evidence of Mr. Onyemata. One significant discrepancy relates to the date that the alleged incident occurred. The allegation is that the incident occurred between November 2015 and February 2016. The evidence of Ms. Campbell in her testimony is that the incident occurred in the spring of 2016. Mr. Gruber takes the position that the allegation is not proven based on the date of the allegation. Ms. Akgungor noted that Ms. Boc's notes reference a different time frame, but that the better evidence is the testimony of Ms. Campbell. Based on this, the Hearing Tribunal finds that the timeframe in the allegation is not proven. In addition, while the Hearing Tribunal does find that a picture was shown to Ms. Campbell, it has not been established on a balance of probabilities what picture was shown.

The burden of proof is on the Complaints Director. The Complaints Director has not established through the evidence called that the incident occurred within the time frame in the charge or what photograph was shown. On this basis, the Hearing Tribunal finds that the allegation has not been proven. No evidence was presented to the Hearing tribunal to establish the picture that was shown, except for the testimony of

Ms. Campbell. Given some of the inconsistencies in the evidence of Ms. Campbell as noted above, the Hearing Tribunal finds that it cannot conclude what picture was shown to Ms. Campbell.

Allegation 3

3. On or about June 22, 2016 engaged in inappropriate behavior towards co-worker SL when he watched SL while sitting in her car on the driveway of her home.

The Hearing Tribunal considered the evidence on this issue. Ms. Logelin stated in her testimony that an incident had occurred in June 2016 when she was eight months pregnant and she was sitting in her car eating a bag of chips and listening to music. Mr. Onyemata called her on her cell phone and said something along the lines of “those chips must be really good.” Mr. Onyemata said he was parked at the end of her block. He came up and they talked. She invited him in and they went inside her home. She did not bring the incident to management’s attention at the time.

Mr. Onyemata recalled one occasion in the summer of 2016 when he went to a garage sale. He saw Ms. Logelin’s vehicle drive by and go into the driveway and stop. After he finished shopping, he gave her a call and they exchanged pleasantries. She asked where he was and he told her that he was at a garage sale near her house. He told her he had other garage sales to visit before he got ready for his shift that afternoon. The call lasted one or two minutes. He recalled that the garage sale was on a Saturday.

Ms. Logelin texted Ms. Campbell about the incident on June 23, 2016 (Exhibit 13). Although Mr. Gruber objected to this Exhibit, the Hearing Tribunal finds that the text message is evidence of text messages sent and received between Ms. Logelin and Ms. Campbell. While the digital version of the text was not available, the texts were recorded as screen shots and provided to the College as part of the investigation. The Hearing Tribunal does not accept the argument that no weight can be placed on the texts because there is no evidence of the entire string of text messages. The Hearing Tribunal finds that it is not bound by the rules of evidence, pursuant to section 79(5) of the HPA.

However, in the notes she prepared for the meeting with the College investigator, Ms. Logelin noted the timeframe of the incident was the fall of 2016, while she was on maternity leave. This is a significant difference. Although there is a significant discrepancy in Ms. Logelin’s evidence and the notes she provided to the College, the Hearing Tribunal accepts, based on the evidence of Ms. Logelin and Mr. Onyemata that Mr. Onyemata did see Ms. Logelin in her driveway and did telephone her on one occasion in the summer 2016.

However, the Hearing Tribunal does not find that this conduct is unprofessional. Observing someone sitting in her car in her driveway on one occasion is not inappropriate behavior in itself. It has not been established that Mr. Onyemata was sitting in the street waiting for Ms. Logelin to arrive home. Ms. Logelin did not give evidence that she felt threatened by the call or that she was frightened and, in fact, Ms. Logelin invited Mr. Onyemata into her home. Although she sent Ms. Campbell a text about the incident, she did not report the incident to management and viewed it as being outside of the workplace.

The evidence does not establish that Mr. Onyemata was engaging in inappropriate behavior. As such, the Hearing Tribunal finds that this allegation is not proven. Allegation 3 is dismissed.

(10) Conclusions of the Hearing Tribunal

Allegations 1(b) and (c) have been proven by the Complaints Director on a balance of probabilities.

Allegations 1(a) and (d), 2 and 3 have not been proven by the Complaints Director and are dismissed.

As a result of the Hearing Tribunal's finding of unprofessional conduct against Mr. Onyemata with respect to Allegation 1, (b) and (c) the Hearing Tribunal will need to determine what, if any, orders it will make pursuant to section 82 of the HPA.

The Hearing Tribunal will receive submissions on penalty from the parties. The Hearing Tribunal requests that the parties discuss the timing and method of providing submissions on penalty to the Hearing Tribunal. If the parties are unable to agree on a proposed procedure and timing, the Hearing Tribunal will make further directions on this point.

DATED THE 8th DAY OF APRIL, 2019.

COLLEGE OF LICENSED PRACTICAL NURSES OF ALBERTA



Patricia Standage, LPN
Chair, Hearing Tribunal

IN THE MATTER OF THE *HEALTH PROFESSIONS ACT*

**AND IN THE MATTER OF AN INVESTIGATION REGARDING
THE CONDUCT OF EDWARD ONYEMATA, LPN #34507
WHILE A REGISTERED MEMBER OF THE COLLEGE OF LICENSED PRACTICAL
NURSES OF ALBERTA AND PRACTISING IN THE PROVINCE OF ALBERTA**

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

**IN THE MATTER OF THE *HEALTH PROFESSIONS ACT* AND IN THE MATTER OF AN
INVESTIGATION REGARDING THE CONDUCT OF EDWARD ONYEMATA, LPN #34507, WHILE A
REGISTERED MEMBER OF THE COLLEGE OF LICENSED PRACTICAL NURSES OF ALBERTA
AND PRACTISING IN THE PROVINCE OF ALBERTA**

DECISION OF THE HEARING TRIBUNAL

(1) Hearing

The Hearing Tribunal convened by telephone conference call on October 22, 2019 to consider a joint submission on penalty.

Hearing Tribunal:

Patricia Standage, LPN, Chairperson
Michelle Stolz, LPN
Sheila Pratchler, LPN
Sheri Epp, Public Member

Independent Legal Counsel for the Hearing Tribunal:

Julie Gagnon

(2) Preliminary Matters

In a decision dated April 8, 2019, the Hearing Tribunal found Edward Onyemata guilty of unprofessional conduct on the following allegation:

On or about November 28, 2016 engaged in inappropriate physical contact with co-worker SL by doing one or more of the following while on duty without SL's consent and without proper purpose:

- a. Wrapped his arm around SL's neck in a choke-hold type position;
- b. Stuck his tongue in SL's ear; and

Ayla Akgungor, counsel for the Complaints Director and John Gruber, counsel for Mr. Onyemata provided a joint recommended penalty and joint submissions on penalty by way of a letter from Ms. Akgungor dated October 3, 2019.

(3) Written Submissions of the Parties

The parties jointly recommend the following sanction:

1. The Hearing Tribunal's written reasons for decision dated April 8, 2019, in which it was found that two of the six allegations made against Mr. Onyemata were established, shall serve as a reprimand in respect of the two allegations established.
2. Mr. Onyemata shall read and reflect on the following CLPNA documents located on the CLPNA website at www.clpna.com within **ninety (90) days** of service of the Hearing Tribunal's written reasons for decision on penalty (the "Penalty Decision") and provide a signed, written declaration to the Complaints Director confirming that he has reviewed the documents:
 - a. Code of Ethics for Licensed Practical Nurses in Canada;
 - b. Standards of Practice for Licensed Practical Nurses in Canada;
 - c. CLPNA Practice Policy: Professional Responsibility & Accountability;
 - d. CLPNA Practice Guideline: Addressing Co-Worker Abuse in the Workplace; and
 - e. CLPNA Fact Sheet: Co-worker Abuse is a Threat to Patient Safety.

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

3. Mr. Onyemata shall complete, at his own cost, the Professional Boundaries in Nursing course offered by John Collins Consulting. Mr. Onyemata shall provide the Complaints Director with a certificate confirming successful completion of the course within **six (6) months** of service of the Penalty Decision.

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

4. Mr. Onyemata shall complete the LPN Ethics Course available online at <http://www.learninglpn.ca/index.php/courses>. Mr. Onyemata shall provide the Complaints Director with a certificate confirming successful completion of the course within **ninety (90) days** of service of the Penalty Decision.

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

5. Mr. Onyemata shall pay a fine of \$250.00 within **six (6) months** of service of the Penalty Decision.

6. Mr. Onyemata shall, within **thirty (30) months** of service of the Penalty Decision, pay, in full, partial hearing costs of five-thousand, five-hundred dollars (\$5,500.00) to the CLPNA.
7. Mr. Onyemata shall provide the CLPNA with his contact information, including home mailing address, home and cellular telephone numbers, current e-mail address and current employment information. Mr. Onyemata will keep his contact information current with the CLPNA on an ongoing basis.
8. Should Mr. Onyemata be unable to comply with any of the deadlines for completion of the penalty orders identified above, Mr. Onyemata may request an extension by submitting to the Complaints Directors prior to the deadline a request in writing stating a reason for requesting the extension and a reasonable time frame for completion. The Complaints Director shall, in her sole discretion, acting reasonably, determine whether a time extension will be granted and will notify Mr. Onyemata in writing if the extension has been granted.
9. Should Mr. Onyemata 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 the Hearing Tribunal, which shall retain Jurisdiction with respect to penalty;
 - b. Treat Mr. Onyemata's non-compliance as information under s. 56 of the Act and seek an immediate interim suspension in accordance with s. 65 of the Act; or
 - c. In the case of non-payment of the costs or fine described in paragraphs 5 and 6 above, suspend Mr. Onyemata'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 payments agreed to by the Complaints Director.

The parties made the following submissions with respect to the factors from *Jaswal v. Newfoundland Medical Board*:

(a) The nature and gravity of the proven allegations

Mr. Onyemata was found by the Hearing Tribunal to have engaged in inappropriate physical contact with co-worker SL by wrapping his arm around SL's neck in a choke-hold type position and by sticking his tongue in SL's ear. This conduct is in the nature of unwanted physical contact with a co-worker and is therefore on the serious end of the spectrum of unprofessional conduct. The seriousness of the unprofessional conduct indicates the need for appropriate penalties.

(b) Age and experience of the LPN

Mr. Onyemata obtained his LPN designation in February 2012. At the time of the incidents in question in November 2016, Mr. Onyemata had just over 4.5 years of experience as an LPN.

However, the type of unprofessional conduct at issue here is not the type of conduct that might be mitigated by age or experience. An LPN of any age or at any point in their career would recognize that inappropriate physical contact with a co-worker is unacceptable behavior for an LPN.

(c) Prior issues of character and prior complaints

Mr. Onyemata has no prior history of findings of professional conduct with the CLPNA. This factor may be viewed as a mitigating factor with respect to the seriousness of the penalties.

(d) The number of times the conduct was proven to have occurred

There was only one incident of inappropriate physical contact established in this case. This can be considered by the Hearing Tribunal in contrast to a situation where multiple instances of unprofessional conduct are found. Where a regulated member is proven to have engaged in unprofessional conduct on a number of occasions, this will usually suggest the need for greater penalties to denounce an established pattern of unprofessional conduct. Here, however, the unprofessional conduct appears to be an isolated incident and this factor may be considered by the Hearing Tribunal when assessing the orders for penalty.

(e) The role of the LPN in acknowledging what occurred

Where an LPN acknowledges and takes responsibility for unprofessional conduct, this may be considered a mitigating factor when assessing penalty. While Mr. Onyemata did not admit or acknowledge unprofessional conduct in this case, it is important that the Hearing Tribunal recognize that the failure to admit unprofessional conduct does not amount to an aggravating factor when assessing penalties. Every regulated member is entitled to his or her “day in court” and a member should not be treated more harshly in the imposition of penalties simply for exercising his or her right to defend themselves against allegations of unprofessional conduct. Accordingly, Mr. Onyemata’s decision to participate in a contested hearing should not serve to increase the penalties ordered.

(f) Other serious financial or other penalties

In assessing the overall proportionality of the penalties it orders, the Hearing Tribunal is entitled to consider any other penalties suffered by the regulated member as a result of the unprofessional conduct in question. In the present case, Mr. Onyemata was terminated with cause from his employment with AgeCare as a result of the inappropriate physical contact with SL. The termination from his employment would have undoubtedly caused financial hardship and emotional stress to Mr. Onyemata and the Hearing Tribunal is entitled to consider this hardship already suffered by Mr. Onyemata when assessing its orders for penalty. Having

decided to retain legal counsel for these proceedings, Mr. Onyemata must also bear the legal costs associated with defending himself against all of the allegations made against him.

(g) The impact of the incident on the affected individual

The Hearing Tribunal may also consider the impact of the unprofessional conduct on the affected individual. In the present case, the affected individual was a co-worker rather than a patient.

During the hearing on January 15, 2019, Ms. Glenda Boc testified that when SL was interviewed about the incident in question, she was quiet, shaken and very upset during the meeting. Ms. Boc noted that, normally, SL is very bubbly and, in the meeting, she was definitely not herself. Ms. Lemotte described SL as being in tears and taking a few moments to compose herself when speaking about the incident. Similarly, Ms. Frig described SL as visibly distraught, upset, crying, and shaking during her discussion of the incident with SL. SL, for her part, indicated that she could not believe what had happened and, as a result, she took a picture of her throat, which was red.

It can be reasonably concluded that SL was quite shaken and profoundly upset by the unprofessional conduct in question.

(h) The need to promote specific and general deterrence

The conduct at issue in this case, unwanted physical contact, is very serious and a message must be sent to both Mr. Onyemata and to all members of the profession, that inappropriate physical contact with a co-worker is completely unacceptable and will be appropriately censured. The penalties in this case must be severe enough to drive home to Mr. Onyemata that his conduct fell well below acceptable standards of conduct and to ensure that Mr. Onyemata will not repeat this conduct.

Similarly, the penalties must be severe enough to send a message to the profession in general that if you engage in this type of conduct, you can expect serious and significant penalties and the profession will not take the conduct lightly. The penalties must be significant enough to deter other members of the profession from engaging in the same type of conduct as Mr. Onyemata.

(i) The need to maintain the public's confidence in the nursing profession

The public needs to be assured that all LPNs continue to meet or exceed the CLPNA's standards of conduct and practice. Members of the public, including co-workers, have the right to expect that LPN workplaces are safe and comfortable environments within which to carry out their duties. Members of the profession who, by their conduct, create unsafe workplaces by engaging in inappropriate physical contact with co-workers must be appropriately penalized. It is only in this way that public confidence in the profession can be maintained.

LPNs hold a position of trust, both with respect to members of the public and co-workers. Where this trust is betrayed, the profession must respond by imposing penalties which are sufficient to safeguard the public's confidence.

[4] Decision of the Hearing Tribunal

The Hearing Tribunal has carefully reviewed and considered the joint recommended penalty and the written submissions provided by the parties. The Hearing Tribunal finds that the joint recommended penalty is appropriate having considered all of the circumstances of the case. The joint recommended penalty is reasonable and serves to protect the public interest.

The Hearing Tribunal also agrees with the parties regarding the appropriate factors to be considered and accepts and adopts the parties' submissions and analysis on the application of the factors in *Jaswal v. Newfoundland Medical Board*. The Hearing Tribunal finds that the proposed sanction adequately considers the factors as set out in *Jaswal v. Newfoundland Medical Board*.

The conduct at issue is serious. The reprimand and fine are appropriate in terms of expressing the seriousness of the conduct. In addition, it is appropriate for Mr. Onyemata to take courses and engage in further education and learning with respect to his professional obligations and responsibilities. The proposed sanction serves as both a specific and general deterrent and will maintain the public's confidence in the integrity of the profession.

The Hearing Tribunal also considered the amount of costs to be ordered in the amount of \$5,500. The Hearing Tribunal considers that this is a significant amount for a member to pay. However, given the findings made, it is appropriate for the member to pay some portion of the costs of the hearing. The Hearing Tribunal does not find that \$5,500 imposes a financial hardship for the member, given that he is given a period of time of 30 months to pay. The Hearing Tribunal found that the amount of costs was appropriate in the circumstances.

[5] Orders of the Hearing Tribunal

1. The Hearing Tribunal's written reasons for decision dated April 8, 2019, in which it was found that two of the six allegations made against Mr. Onyemata were established, shall serve as a reprimand in respect of the two allegations established.
2. Mr. Onyemata shall read and reflect on the following CLPNA documents located on the CLPNA website at www.clpna.com within **ninety (90) days** of service of the Hearing Tribunal's written reasons for decision on penalty (the "Penalty Decision") and provide a signed, written declaration to the Complaints Director confirming that he has reviewed the documents:
 - a. Code of Ethics for Licensed Practical Nurses in Canada;
 - b. Standards of Practice for Licensed Practical Nurses in Canada;

- c. CLPNA Practice Policy: Professional Responsibility & Accountability;
- d. CLPNA Practice Guideline: Addressing Co-Worker Abuse in the Workplace; and
- e. CLPNA Fact Sheet: Co-worker Abuse is a Threat to Patient Safety.

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

3. Mr. Onyemata shall complete, at his own cost, the Professional Boundaries in Nursing course offered by John Collins Consulting. Mr. Onyemata shall provide the Complaints Director with a certificate confirming successful completion of the course within **six (6) months** of service of the Penalty Decision.

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

4. Mr. Onyemata shall complete the LPN Ethics Course available online at <http://www.learninglpn.ca/index.php/courses>. Mr. Onyemata shall provide the Complaints Director with a certificate confirming successful completion of the course within **ninety (90) days** of service of the Penalty Decision.

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

5. Mr. Onyemata shall pay a fine of \$250.00 within **six (6) months** of service of the Penalty Decision.
6. Mr. Onyemata shall, within **thirty (30) months** of service of the Penalty Decision, pay, in full, partial hearing costs of five-thousand, five-hundred dollars (\$5,500.00) to the CLPNA.
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8. Should Mr. Onyemata be unable to comply with any of the deadlines for completion of the penalty orders identified above, Mr. Onyemata may request an extension by submitting to the Complaints Directors prior to the deadline a request in writing stating a reason for requesting the extension and a reasonable time frame for completion. The Complaints Director shall, in her sole discretion, acting reasonably, determine whether a time extension will be granted and will notify Mr. Onyemata in writing if the extension has been granted.

9. Should Mr. Onyemata 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 the Hearing Tribunal, which shall retain Jurisdiction with respect to penalty;
 - b. Treat Mr. Onyemata's non-compliance as information under s. 56 of the Act and seek an immediate interim suspension in accordance with s. 65 of the Act; or
 - c. In the case of non-payment of the costs or fine described in paragraphs 5 and 6 above, suspend Mr. Onyemata'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 payments agreed to by the Complaints Director.

DATED THE 31st DAY OF OCTOBER 2019 IN THE CITY OF EDMONTON, ALBERTA.

THE COLLEGE OF LICENSED PRACTICAL NURSES OF ALBERTA



Patricia Standage, LPN
Chair, Hearing Tribunal

