

**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 ELIZABETH LAGADAN**

**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 ELIZABETH LAGADAN, LPN #49156, 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 December 15, 2021 with the following individuals present:

**Hearing Tribunal:**

Kelly Annelly, Licensed Practical Nurse (“LPN”) Chairperson  
Nicole Searle, LPN  
Archana Chaudhary, Public Member  
Juane Priest, Public Member

**Staff:**

Jason Kully, Legal Counsel for the Complaints Officer, CLPNA  
Susan Blatz, Complaints Officer, CLPNA

**Investigated Member:**

Elizabeth Lagadan, LPN (“Ms. Lagadan” or “Investigated Member”)  
Carol Drennan, 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. Lagadan 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. Lagadan was initially licensed as an LPN in Alberta in 2020.

The CLPNA received a letter of complaint dated August 3, 2021 (the “Complaint”) from Jessica Fryk, Interim Program Manager at the Misericordia Community Hospital (the “Misericordia”) in Edmonton, AB, pursuant to s. 57 of the Act. The Complaint advised Ms. Lagadan, LPN, had been terminated from her employment at the Misericordia after it was determined she submitted over 250 inaccurate and falsified benefit claims through Alberta Blue Cross.

By letter dated August 10, 2021, the Director of Professional Conduct/Complaints Director of the CLPNA, Sandy Davis (“Complaints Director”), provided Ms. Lagadan with notice of the Complaint and notified Ms. Lagadan that she was delegating her powers under Part 4 of the Act to Susan Blatz, Complaints Officer (the “Complaints Officer”) pursuant to s. 20 of the Act. In accordance with s. 55(2)(d) of the Act, the Complaints Director also notified Ms. Lagadan that she had appointed the Complaints Officer to conduct an investigation into the Complaint.

On August 18, 2021, the Complaints Officer concluded the investigation into the Complaint.

The Complaints Officer 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. Lagadan received notice the matters were referred to a hearing, as well as a copy of the Statement of Allegations and the Investigation Report, on September 1, 2021.

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

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

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

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

- 1) Between May 4, 2019, and April 26, 2021, submitted 283 benefit claims to Alberta Blue Cross for services not received, resulting in an overpayment of \$10,525.00.”

#### **(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. Lagadan acknowledged unprofessional conduct to all the allegations as evidenced by her signature on the Agreed Statement of Facts and Acknowledgement of Unprofessional Conduct and verbally admitted unprofessional conduct to all the allegations set out in the Statement of Allegations during the hearing.

Legal Counsel for the Complaints Officer submitted, where there is an admission of unprofessional conduct, the Hearing Tribunal should accept the admission absent exceptional circumstances.

**(6) Exhibits**

The following exhibits were entered at the hearing:

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

**(7) Evidence**

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

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

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

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

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

**Allegation 1**

Ms. Lagadan admitted between May 4, 2019, and April 26, 2021, she submitted 283 benefit claims to Alberta Blue Cross for services not received, resulting in an overpayment of \$10,525.00.

Ms. Lagadan submitted 370 benefit claims to Alberta Blue Cross between April 21, 2021, and April 26, 2021.

As a result of this surge of claims and its irregularity, Alberta Blue Cross began an investigation. As part of this investigation, Alberta Blue Cross contacted service providers to determine if Ms.

Lagadan received the claimed services between April 21 and April 26, 2021, and if her benefit claims were legitimate.

After receiving responses from the service providers which stated that Ms. Lagadan did not receive the claimed services, Alberta Blue Cross expanded its investigation and review to include all claims submitted by Ms. Lagadan starting April 1, 2019.

As a result of the investigation, it was determined that between May 4, 2019, and April 26, 2021, Ms. Lagadan submitted 283 benefit claims for herself and her family where no services had been provided to her. As a result of these false claims, \$10,525.00 was paid to Ms. Lagadan when it should not have been paid.

A summary chart of the services claimed by Ms. Lagadan which were not received was provided to the Hearing Tribunal.

Ms. Lagadan believed she was entitled to receive the full amount of monies for eligible treatments regardless of whether or not the treatment was provided.

Ms. Lagadan has paid the \$10,525.00 overpayment back to her employer.

The Hearing Tribunal considered the facts included in the Agreed Statement of Facts and Ms. Lagadan'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. Contravention of the Act, a code of ethics or standards of practice;
- xii. Conduct that harms the integrity of the regulated profession.

Ms. Lagadan did not abide by the CLPNA Code of Ethics or the CLPNA Standards of Practice as acknowledged by Ms. Lagadan in the Agreed Statement of Facts and Acknowledgement of Unprofessional Conduct. The Hearing Tribunal finds the conduct breached the CLPNA Code of Ethics and the CLPNA Standards of Practice and that such breaches are sufficiently serious to constitute unprofessional conduct. Ms. Lagadan submitted benefit claims to Alberta Blue Cross for services not received and that is not appropriate or expected behavior of an LPN. It does not demonstrate honesty, integrity or trustworthiness in her interactions, to have conducted herself in that manner.

The conduct breached the following principles and standards set out in the Code of Ethics for Licensed Practical Nurses in Canada adopted by the CLPNA on June 3, 2013 ("CLPNA's Code of Ethics") and the Standards of Practice for Licensed Practical Nurses in Canada adopted by the CLPNA on June 3, 2013 ("CLPNA Standards of Practice"):

CLPNA Code of Ethics:

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

**Principle 3:** Responsibility to the Profession – LPNs have a commitment to their profession and foster the respect and trust of their clients, health care colleagues and the public. Principle 3 specifically states that LPNs:

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

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

- 5.1 Demonstrate honesty, integrity, and trustworthiness in all interactions.

CLPNA Standards of Practice:

Ms. Lagadan acknowledges that her conduct breached the following CLPNA Standards of Practice.

**Standard 3:** Service to the Public and Self-Regulation – LPNs practice nursing in a 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.

Ms. Lagadan’s conduct harms the integrity of the regulated profession in that Ms. Lagadan did not act in a way that is expected of another LPN in a similar situation. LPNs are expected to adhere to the guidelines of submitting benefits to both their employer as well as to their benefit provider and are to act with honesty and integrity in all their interactions.

**(9) Joint Submission on Penalty**

The Complaints Officer and Ms. Lagadan 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 decision (the “Decision”) shall serve as a reprimand.
2. Ms. Lagadan shall pay a fine of \$1,000.00 within **24 months** of service of the Decision.

3. Ms. Lagadan shall pay 25% of the costs of the investigation and hearing to be paid over a period of **24 months** from service of the Decision.
  - a) A letter advising of the final costs will be forwarded when final costs have been confirmed.
  
4. Ms. Lagadan shall read and reflect on how the following CLPNA documents will impact her nursing practice. These documents are available on CLPNA's website <http://www.clpna.com/> under "Governance" and will be provided. Ms. Lagadan shall provide a signed written declaration to the Complaints Officer within 30 days of service of the Decision, attesting that she 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 Competency Profile A1: Critical Thinking;
  - e) CLPNA Competency Profile A2: Clinical Judgment and Decision Making; and
  - f) CLPNA Competency Profile C4: Professional Ethics.

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

5. Ms. Lagadan shall complete the **LPN Ethics Course** available online at <http://www.learninglpn.ca/index.php/courses> and provide a certificate confirming its successful completion to the Complaints Officer within **30 days** of service of the Decision.

If such course becomes unavailable an alternative course may be substituted where approved in advance in writing by the Complaints Officer.

6. The sanctions set out above at paragraphs 2 - 5 will appear as conditions on Ms. Lagadan's practice permit and the Public Registry subject to the following:
  - a) The requirement to complete the educational readings and LPN Ethics Course outlined at paragraphs 4 - 5 will appear as "CLPNA Monitoring Orders (Conduct)", on Ms. Lagadan's practice permit and the Public Registry until the below sanctions have been satisfactorily completed:
    - i. Educational Readings; and
    - ii. LPN Ethics Course.

- b. The requirement to pay the fine and costs, will appear as “Conduct Cost/Fines” on Lagadan’s practice permit and the Public Registry until all fines and costs have been paid as set out above at paragraphs 2-3.
7. The conditions on Ms. Lagadan’s practice permit and on the Public Registry will be removed upon completion of each of the requirements set out above at paragraph 2 – 5.
8. Ms. Lagadan 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. Lagadan will keep her contact information current with the CLPNA on an ongoing basis.
9. Should Ms. Lagadan 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 Officer.
10. Should Ms. Lagadan 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 Officer 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. Lagadan’s non-compliance as information under s. 56 of the *Health Professions Act*; or
  - (c) In the case of non-payment of the costs described in paragraph 3 above, suspend Ms. Lagada’s practice permit until such costs are paid in full or the Complaints Officer is satisfied that such costs are being paid in accordance with a schedule of payment agreed to by the Complaints Officer.

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

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



The Hearing Tribunal therefore carefully considered the Joint Submission on Penalty proposed by Ms. Lagadan and the Complaints Officer.

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

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

The orders imposed by the Hearing Tribunal must protect the public from the type of conduct that Elizabeth Lagadan has engaged in. In making its decision on penalty, the Hearing Tribunal considered a number of factors identified in *Jaswal v Newfoundland Medical Board* [1986] NJ No 50 (NLSC-TD), specifically the following:

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

**The nature and gravity of the proven allegations:** The allegation was not related to patient care, but it was still serious conduct in that it was related to Ms. Lagadan's position as an LPN and her dishonest conduct. This conduct, which demonstrates a lack of judgment and poor decision making, is still unprofessional in that an LPN is not expected to submit claims to their benefits provider that they have not received.

**The age and experience of the investigated member:** Ms. Lagadan was initially registered with the CLPNA in 2020. Prior to registering with the CLPNA she worked as a Health Care Aid and a psychiatric assistant for Covenant Health from December 10, 2013, to August 6, 2020.

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

**The age and mental condition of the victim:** With respect to this allegation there was no patients that were impacted as it has no correlation to patient care.

**The number of times the offending conduct was proven to have occurred:** This is one of the aggravating factors in that there were 283 benefit claims made to Alberta Blue Cross from April 1, 2019, until June 22, 2021, for services not received. This demonstrates a dishonest pattern of behavior over the course of multiple years.

**The role of the investigated member in acknowledging what occurred:** Ms. Lagadan did acknowledge the allegation that was brought forward to the CLPNA by her employer and Alberta Blue Cross. Ms. Lagadan's role in acknowledging what has occurred was a significant mitigating factor considered and Ms. Lagadan did provide the Hearing Tribunal with an Agreed Statement of Facts, which demonstrates that she has taken accountability and responsibility for her errors.

**Whether the investigated member has already suffered other serious financial or other penalties as a result of the allegations having been made:** Ms. Lagadan was terminated from her position as an LPN at the Misericordia Community Hospital on July 30, 2021. Ms. Lagadan also did repay the overpayment costs of \$10,525.00 in full.

**The impact of the incident(s) on the victim, and/or:** With respect to this allegation there was no patients that were impacted as it has no correlation to patient care.

**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:** 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 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 other 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 decision (the "Decision") shall serve as a reprimand.
2. Ms. Lagadan shall pay a fine of \$1,000.00 within **24 months** of service of the Decision.
3. Ms. Lagadan shall pay 25% of the costs of the investigation and hearing to be paid over a period of **24 months** from service of the Decision.
  - a) A letter advising of the final costs will be forwarded when final costs have been confirmed.
4. Ms. Lagadan shall read and reflect on how the following CLPNA documents will impact her nursing practice. These documents are available on CLPNA's website <http://www.clpna.com/> under "Governance" and will be provided. Ms. Lagadan shall provide a signed written declaration to the Complaints Officer within 30 days of service of the Decision, attesting that she 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 Competency Profile A1: Critical Thinking;
  - e) CLPNA Competency Profile A2: Clinical Judgment and Decision Making; and
  - f) CLPNA Competency Profile C4: Professional Ethics.

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

5. Ms. Lagadan shall complete the **LPN Ethics Course** available online at <http://www.learninglpn.ca/index.php/courses> and provide a certificate confirming its successful completion to the Complaints Officer within **30 days** of service of the Decision.

If such course becomes unavailable an alternative course may be substituted where approved in advance in writing by the Complaints Officer.

6. The sanctions set out above at paragraphs 2 - 5 will appear as conditions on Ms. Lagadan's practice permit and the Public Registry subject to the following:

- a) The requirement to complete the educational readings and LPN Ethics Course outlined at paragraphs 4 - 5 will appear as "CLPNA Monitoring Orders (Conduct)", on Ms. Lagadan's practice permit and the Public Registry until the below sanctions have been satisfactorily completed:

- i. Educational Readings; and
- ii. LPN Ethics Course.

- b) The requirement to pay the fine and costs, will appear as "Conduct Cost/Fines" on Lagadan's practice permit and the Public Registry until all fines and costs have been paid as set out above at paragraphs 2-3.

7. The conditions on Ms. Lagadan's practice permit and on the Public Registry will be removed upon completion of each of the requirements set out above at paragraph 2 – 5.

8. Ms. Lagadan 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. Lagadan will keep her contact information current with the CLPNA on an ongoing basis.

9. Should Ms. Lagadan 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 Officer.

10. Should Ms. Lagadan 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 Officer 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. Lagadan's non-compliance as information under s. 56 of the *Health Professions Act*; or

- (c) In the case of non-payment of the costs described in paragraph 3 above, suspend Ms. Lagada's practice permit until such costs are paid in full or the Complaints Officer is satisfied that such costs are being paid in accordance with a schedule of payment agreed to by the Complaints Officer.

The Hearing Tribunal believes these orders adequately balances the factors referred to in Section 10 above and are consistent with the overarching mandate of the Hearing Tribunal, which is to ensure that the public is protected.

Under Part 4, s. 87(1)(a),(b) and 87(2) of the Act, the Investigated Member has the right to appeal:

**"87(1)** An investigated person or the complaints director, on behalf of the college, may commence an appeal to the council of the decision of the hearing tribunal by a written notice of appeal that

- (a) identifies the appealed decision, and
- (b) states the reasons for the appeal.

**(2)** A notice of appeal must be given to the hearings director within 30 days after the date on which the decision of the hearing tribunal is given to the investigated person."

**DATED THE 23<sup>rd</sup> DAY OF DECEMBER 2021 IN THE CITY OF EDMONTON, ALBERTA.**

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



Kelly Anesty, LPN  
Chair, Hearing Tribunal