

**THE 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 LINDSAY AZURE**

**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 LINDSAY AZURE, LPN #28803, WHILE A MEMBER OF THE COLLEGE OF LICENSED  
PRACTICAL NURSES OF ALBERTA (THE “CLPNA”)**

**DECISION OF THE HEARING TRIBUNAL**

**(1) Hearing**

The hearing was conducted via Teleconference on May 20, 2022 with the following individuals present:

**Hearing Tribunal:**

David Rolfe, Public Member, Chairperson  
Jan Schaller, LPN  
Allan Castillo, LPN  
Pat Matusko, Public Member

**Legal Counsel for the Hearing Tribunal:** Heidi Besuijen

**Staff:**

Jason Kully, Legal Counsel for the Complaints Director, CLPNA  
Sandy Davis, Complaints Director, CLPNA

**Investigated Member:**

Lindsay Azure, LPN (“Ms. Azure” or “Investigated Member”)

**(2) Preliminary Matters**

The hearing was open to the public.

When the hearing began, the Chairperson of the Hearing Tribunal advised the Investigated Member she had the right to legal counsel under section 72(1) of the *Health Professions Act* (“the Act”). The Investigated Member confirmed she wished to proceed with the hearing without legal counsel.

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.

Legal Counsel for the Complaints Director confirmed for the Hearing Tribunal that DW, who was the subject of Ms. Azure's conduct, was emailed in advance of the Hearing, to an email address used for previous correspondence, in order to advise DW of the opportunity to present a written or oral statement in accordance with s 81.1(2) of the Act as well as with the details for the Hearing. The Hearing Tribunal was advised that no response had been received and noted that DW did not attend the Hearing and accordingly concluded DW had decided not to provide any such statement.

### **(3) Background**

Ms. Azure was an LPN within the meaning of the Act at all material times, and more particularly, was registered with the CLPNA as an LPN at the time of the complaint. Ms. Azure was initially licensed as an LPN in Alberta in 2006.

On March 17, 2021, the College of Licensed Practical Nurses of Alberta (the "CLPNA") received a letter of notice from Jessica Dalziel, Director of Clinical Services for Canada House Clinics ("CHC") in Edmonton, AB (the "Complaint"). The Complaint was sent pursuant to s. 57 of the Act notifying that Ms. Azure, LPN was suspended from her employment as a result of engaging in a sexual relationship with a CHC client.

On March 17, 2021, Ms. Susan Blatz, Complaints Officer for the CLPNA (the "Complaints Officer"), requested that Lynn Borris, Designated Person appointed by the CLPNA Council, impose an interim suspension of Ms. Azure's practice permit pending the outcome of disciplinary proceedings pursuant to s. 65(1)(b) of the Act due to the serious nature of the allegations against Ms. Azure.

In accordance with s. 55(2)(d) of the Act, the Complaints Director appointed Katie Emter, Investigator for the CLPNA (the "Investigator"), to conduct an investigation into the Complaint.

Ms. Azure received notice of the Complaint, investigation, appointment of the Investigator and the Complaints Officer's request for an interim suspension by letter dated March 17, 2021.

By letter dated March 19, 2021, Ms. Borris granted the request for an interim suspension effective the date of the letter.

On April 5, 2021 Ms. Azure wrote to Ms. Borris to request a reconsideration of her decision to impose an interim suspension effective March 18, 2021.

On April 13, 2021, Ms. Borris replied to Ms. Azure's request for reconsideration of the interim suspension. Ms. Borris "assessed the balance of the least restrictive means to protect the public while allowing [Ms. Azure], as a professional to earn a livelihood", and considered "the fairness obligations owed to an investigated member" and that "an investigated member has the right to have a matter fully adjudicated before a final decision is made". Ms. Borris recognized that "the allegation of sexual abuse toward a patient is a serious allegation" that warranted a condition on Ms. Azure's practice permit in order to ensure public safety pending a final determination. Ms.

Borris determined that a suspension was not warranted at that time but placed a condition on Ms. Azure's practice permit requiring her to practice in the direct presence of one or more regulated health care providers while the investigation and disciplinary process proceeded.

On April 29, 2021, the Investigator concluded the investigation into the Complaint and submitted the Investigation Report to the CLPNA.

Following receipt of the Investigation Report, the Complaints Officer determined that the matter should be referred to the Hearings Director in accordance with s. 66(3)(a) of the Act. Ms. Azure received notice that the Complaint was referred to a hearing as well as a copy of the Statement of Allegations under cover of letter dated June 16, 2021.

A Notice of Hearing, Notice to Attend and Notice to Produce was served upon Ms. Azure under cover of letter dated January 13, 2022.

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

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

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

1. Between February 2020 and March 2020, engaged in a sexual relationship with patient DW, with such conduct constituting "sexual abuse" as defined in s. 1(1)(nn.1) of the *Health Professions Act*, R.S.A. 2000, c. H-7 (the "HPA") and contravening CLPNA's Standards of Practice on Boundary Violations: Protecting Patients from Sexual Abuse and Sexual Misconduct.
2. Withdrawn.
3. Withdrawn."

#### **(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. Azure acknowledged unprofessional conduct to the allegation as evidenced by her signature on the Agreed Statement of Facts and Acknowledgement of Unprofessional Conduct and verbal admission of unprofessional conduct to the allegation set out in the Statement of Allegations during the hearing.

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

**(6) Exhibits**

The following exhibits were entered at the hearing:

- Exhibit #1: Revised Statement of Allegations
- Exhibit #2: Agreed Statement of Facts and Acknowledgement of Unprofessional Conduct

**(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. Azure'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. Azure.

**Allegation 1**

Ms. Azure admitted that between February 2020 and March 2020, she engaged in a sexual relationship with patient DW, with such conduct constituting "sexual abuse" as defined in s. 1(1)(nn.1) of the Act and contravening CLPNA's Standards of Practice on Boundary Violations: Protecting Patients from Sexual Abuse and Sexual Misconduct.

In December 2019, Ms. Azure was hired as a Cannabinoid Therapy Educator ("CTE") at CHC in Edmonton, Alberta. CHC is a chain of health centers that provide cannabinoid therapy. At all relevant times, Ms. Azure was a regulated member of the CLPNA and working as a CTE at CHC.

The job responsibilities of CTEs included having experience in working with clients suffering from mental health conditions, conducting a thorough medical intake for a client, educating the client on cannabis education, recommending cannabis treatment plans and cannabis prescriptions to clients under the direction of a licensed Physician or Nurse Practitioner, and being available for client inquiries over phone and email. A copy of the job description for CTEs was provided to the Hearing Tribunal at TAB 9 of Exhibit #2.

In her role as a CTE, Ms. Azure's main duties were doing medical intakes, going through the medical diagnosis and mental health history and then providing education on cannabis products (including what was best for the patient), creating treatment plans, and educating clients on cannabinoid therapy. Ms. Azure's role involved lots of intake work and education.

As part of her employment as a CTE, Ms. Azure was formally assigned clients to assist in her full capacity. From time to time, Ms. Azure would assist clients that were not formally assigned to her. It was encouraged as part of the CHC culture.

Patient DW is a veteran that had been attending CHC since 2016 with a high PTSD severity rating. DW suffered burns, broken bones in his legs and hands, and shrapnel wounds to his jaw and body from an improvised explosive device in Afghanistan during his military tour.

DW was a client of CHC throughout Ms. Azure's employment with CHC. DW had a 12 month prescription for CBD oil. DW attended CHC and support group meetings as required. A copy of practitioner notes on DW's CHC medical file was provided to the Hearing Tribunal at TAB 9 of Exhibit #2.

On or about December 5, 2019, a Christmas potluck dinner was hosted at the CHC at which CHC patients and staff attended. Ms. Azure attended this dinner even though she had not yet formally commenced employment with CHC. DW and Ms. Azure met at this Christmas potluck for the first time. At the time, DW was not formally introduced to Ms. Azure as a client with CHC, but she gathered he was a client based on her observations at the party.

Ms. Azure commenced employment with CHC on December 9, 2019.

On or between December 2019 and January 2020, DW attended CHC with another individual. At this time, DW was not attending CHC for formal programs. During this time, DW and Ms. Azure had casual conversations.

On or about January or February 2020, Ms. Azure attended the birthday party of a co-worker's child, where DW was also in attendance. DW and Ms. Azure spoke at this party.

DW and Ms. Azure exchanged personal cell phone numbers. They texted, chatted and casually met outside of work hours.

DW told Ms. Azure that he had a yearly cannabis prescription and that he had PTSD, which was resolving through care at CHC.

As time progressed, the relationship between DW and Ms. Azure began to change and they shared personal life issues. DW told Ms. Azure he had an open relationship with his wife and she accepted that as true.

In or around February 2020, Ms. Azure invited DW to her home and Ms. Azure and DW were sexually intimate for the first time. Ms. Azure and DW were sexually intimate on at least three more occasions prior to the end of March 2020.

Ms. Azure ended the relationship with DW in or around the end of March 2020 and she and DW parted as friends.

DW and Ms. Azure engaged in a consensual sexual relationship. There was no coercion or force used by Ms. Azure.

During the time of her relationship with DW, Ms. Azure was going through many personal issues. She was previously diagnosed with ADHD, experienced anxiety, depression and legal complications over a divorce from her husband.

Ms. Azure has been attending counseling as a result of the issues with her mental health and these proceedings.

DW came into CHC to renew his cannabis prescription on January 9, 2020.

Between January 2020 and March 2020, Ms. Azure was the only individual employed with nursing qualifications at CHC in Edmonton.

Ms. Azure was responsible for the post-assessment follow-up of clients who had their prescriptions renewed. The post-assessment follow-up included a phone call to ensure they had no issues accessing their medications from the provider and to see if they had any questions. Clients at this time had treatment plans that were already created.

Ms. Azure accessed DW's CHC medical file 236 times from January 2020 to January 2021, including accessing the file on January 20, February 20, February 21, March 4 and March 12. A copy of the access log showing the instances where Ms. Azure accessed DW's medical file and a description of activities was provided to the Hearing Tribunal at TAB 9 of Exhibit #2.

On January 20, 2020, Ms. Azure downloaded DW's Second Level Assessment and reviewed it, meaning that she reviewed the medical information relating to DW's cannabis prescription. On that day, she also accessed DW's payment information and a list of all documents in his file, which included his prescriptions.

On February 21, 2020, Ms. Azure again accessed a list of all the documents in DW's medical file, which included his prescriptions.

On March 4, 2020, Ms. Azure assisted DW with preparing Veteran Affairs documentation for financial subsidies and assisted him with his cannabis prescription. Ms. Azure reviewed DW's file,

determined what prescriptions DW had, discussed this with DW, and then worked to get his prescription filled. Ms. Azure also had a post-assessment follow-up with DW.

On March 4, 2020, Ms. Azure sent an email to Canna Farms, a cannabis producer. Ms. Azure stated that DW was in her office and that he was having issues with having his order processed with Veterans Affairs. She requested that Canna Farms look into this and to let Ms. Azure know what needed to be done. A copy of the March 4, 2020 email from Ms. Azure regarding the financial subsidy was provided to the Hearing Tribunal at TAB 9 of Exhibit #2.

Ms. Azure also accessed DW's patient file on March 4, 2020.

Ms. Azure continued to access DW's file between September 1 and November 25, 2020.

In or around November of 2020, Ms. Azure assisted DW to prepare Veterans Affairs documentation for financial subsidy and a renewal of his cannabis prescription. In or around January of 2021, Ms. Azure assisted DW with setting up his online account. Ms. Azure documented these actions in CHC's computer system. A copy of practitioner notes on DW's CHC medical file was provided to the Hearing Tribunal at TAB 9 of Exhibit #2.

Ms. Azure was terminated by CHC for just cause on March 19, 2021. CHC concluded she entered into a sexual relationship with a CHC patient and that her actions constituted a fundamental breach of the element of trust and confidence that was essential to the employee-employer relationship.

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.

Consideration of this matter includes, to some extent, the need to follow the Act through the definitions of "sexual abuse" and "patient" as well as the CLPNA's Standards of Practice on Boundary Violations: Protecting Patients from Sexual Abuse and Sexual Misconduct.

Section 1(1)(nn.1) of the Act sets out the following definition of sexual abuse:

"sexual abuse" means the threatened, attempted or actual conduct of a regulated member towards a patient that is of a sexual nature and includes any of the following conduct:

- (i) sexual intercourse between a regulated member and a patient of that regulated member; ...

Section 1(1)(x.1) of the Act sets out that the definition of a "patient" as it relates to sexual abuse is determined by each college in its Standards of Practice.



The CLPNA Standards of Practice on Boundary Violations: Protecting Patients from Sexual Abuse and Sexual Misconduct (“Standards of Practice on Boundary Violations”) sets out the definition of “patient” as it relates to sexual abuse. This document states that the term “patient” is defined as “an individual to whom the nurse provides a professional nursing service.” “Professional nursing service” is further defined as “a service that comes within the practice of a regulated profession” and for LPNs includes “the application of nursing knowledge, skills and judgment to assess patients’ needs and the provision of nursing care for patients and families.”

There is no doubt that DW was under Ms. Azure’s care and that she was providing professional nursing services to him at the time the two had a sexual relationship. She reviewed his medical information including prescription information, assisted him with his prescription for cannabis and carried out post-assessment follow-ups. During this same period of time, the two engaged in consensual sexual intercourse. Accordingly, Ms. Azure’s conduct contravened the Act and a CLPNA Standard of Practice.

Further, the Hearing Tribunal is cognizant of the imbalance between those seeking and receiving medical treatment and those administering it. While the relationship between Ms. Azure and DW was consensual, its existence undermines the integrity of the profession by reason of the nurse-patient relationship.

The conduct breached the following principles and standards set out in CLPNA’s Code of Ethics (“CLPNA Code of Ethics” and CLPNA’s Standards of Practice for Licensed Practical Nurses in Canada (“CLPNA Standards of Practice”):

CLPNA Code of Ethics:

Ms. Azure breached the following requirements in the Code of Ethics for Licensed Practical Nurses in Canada adopted by the CLPNA on June 3, 2013:

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

1.1 Maintain standards of practice, professional competence and conduct.

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

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

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

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

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

Principle 5: Responsibility to Self, Ethical Responsibilities – LPNs recognize and function within their personal and professional competence and value systems. Principle 5 specifically provides that LPNs:

5.3 Accept responsibility for knowing and acting consistently with the principles, practice standards, laws and regulations under which they are held accountable.

It is obvious this conduct did not reflect an appropriate professional boundary. Regulated professionals are called to hold themselves to a high standard and in a manner which reflects the undertaking of the responsibility of self-regulation. By engaging in a sexual relationship with someone under her care, Ms. Azure failed to meet the high standard required and conducted herself in a manner inconsistent with the privilege of self-regulation.

CLPNA Standards of Practice:

Ms. Azure breached the Standards of Practice for Licensed Practical Nurses on Boundary Violations: Protecting Patients from Sexual Abuse and Sexual Misconduct, which was approved by the Council and came into force on March 19, 2019:

Standard 1.1: An LPN must not engage in behaviour towards a patient that can be considered sexual abuse. A sexual relationship between an LPN and a patient is considered sexual abuse. Sexual intercourse or sexual touching as described in the definition of sexual abuse is considered sexual abuse.

Standard: 2.1: An LPN must not threaten, attempt or engage, in any of the following conduct with a patient:

- Sexual intercourse

Again, there is no doubt Ms. Azure engaged in sexual intercourse with a patient and thereby breached the clear prohibition against this in the Standards of Practice for Licensed Practical Nurses on Boundary Violations: Protecting Patients from Sexual Abuse and Sexual Misconduct.

Ms. Azure breached the following Standards of Practice for Licensed Practical Nurses in Canada adopted by the CLPNA on June 3, 2013:

- a. Standard 1: Professional Accountability and Responsibility – LPNs are accountable for their practice and responsible for ensuring that their practice and conduct meet both the standards of the profession and legislative requirements. Standard 1 specifically provides that LPNs:

- o 1.1 Practice to their full range of competence within applicable legislation, regulations, by-laws and employer policies.
  - o 1.9 Practice in a manner consistent with ethical values and obligations of the Code of Ethics for Licensed Practical Nurses.
- b. Standard 3: Service to the Public and Self-Regulation – LPNs practice nursing in collaboration with clients and other members of the health care team to provide and improve health care services in the best interests of the public. Standard 3 specifically provides that LPNs:
- o 3.6 Demonstrate an understanding of self-regulation by following the standards of practice, the code of ethics and other regulatory requirements.
- c. Standard 4: Ethical Practice – LPNs uphold, promote and adhere to the values and beliefs as described in the Canadian Council for Practical Nurse Regulators (CCPNR) Code of Ethics. Standard 4 specifically provides that LPNs:
- o 4.1 Practice in a manner consistent with ethical values and obligations of the Code of Ethics for LPNs.
  - o 4.6 Maintain professional boundaries in the nurse/client therapeutic relationship at all times
  - o 4.10 Practice with honesty and integrity to maintain the values and reputation of the profession.

Ms. Azure’s conduct also breached these further Standards for many of the same reasons articulated above. In addition to those reasons previously provided, the Hearing Tribunal would note that engaging in a sexual relationship with one’s patient presents the possibility of significant harm to the patient and undermines the therapeutic relationship which is not in the best interests of the patient.

**(9) Joint Submission on Penalty**

The Complaints Consultant and Ms. Azure jointly proposed to the Hearing Tribunal a Joint Submission on Penalty. The Joint Submission on Penalty proposed the following sanctions to the Hearing Tribunal for consideration:

1. The Hearing Tribunal’s written reasons for decision (the “Decision”) shall serve as a reprimand.
2. Ms. Azure’s registration and practice permit with the CLPNA shall be cancelled immediately as required by s. 82(1.1) of the *Health Professions Act*.

3. Ms. Azure shall pay \$5,000.00 dollars of the costs of the investigation and hearing, to be paid in full within 36 months of the date that Ms. Azure is served with the Decision. Should Ms. Azure be unable to comply with the deadline for completion of this costs order, the deadline may, upon written request, be extended for a reasonable period of time with the written consent of the Complaints Officer.
4. Should Ms. Azure 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; or
  - (b) Treat Ms. Azure's non-compliance as information under s. 56 of the *Health Professions Act*.

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

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

The Hearing Tribunal therefore carefully considered the Joint Submission on Penalty proposed by Ms. Azure 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 Lindsay Azure has engaged in. Even though the Hearing Tribunal has made a finding that Ms. Azure engaged in sexual abuse toward a patient which carries a mandatory penalty, 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 Hearing Tribunal was provided with and considered the following information:

1. **The nature and gravity of the proven allegations:** This conduct constitutes a serious breach.
2. **The age and experience of the investigated member:** Ms. Azure was first registered in 2006 and had a long career as an LPN.
3. **The previous character of the investigated member and in particular the presence or absence of any prior complaints or convictions:** Ms. Azure has no previous record of discipline.
4. **The age and mental condition of the victim, if any:** No further particulars were provided with regard to DW than have been previously set out.
5. **The number of times the offending conduct was proven to have occurred:** In this case the conduct occurred on at least three occasions.
6. **The role of the investigated member in acknowledging what occurred:** Ms. Azure acknowledged her conduct.
7. **Whether the investigated member has already suffered other serious financial or other penalties as a result of the allegations having been made:** Ms. Azure lost her employment as a result of the conduct.

8. **The impact of the incident(s) on the victim, and/or:** No information was provided to the Hearing Tribunal in this regard.
9. **The presence or absence of any mitigating circumstances:** No specific mitigating circumstances were provided to the Hearing Tribunal.
10. **The need to promote specific and general deterrence and, thereby to protect the public and ensure the safe and proper practice:** There is a strong need to deter such conduct both with regard to Ms. Azure specifically and in the profession more generally.
11. **The need to maintain the public's confidence in the integrity of the profession:** This is an important factor with allegations of this nature where a member of the profession has acted contrary to their position of trust.
12. **The range of sentence in other similar cases:** No specific cases were presented to the Hearing Tribunal.

The Hearing Tribunal notes Ms. Azure addressed the Hearing Tribunal directly and expressed that she is deeply sorry for any pain she has caused including to professionals who she worked alongside. She took full responsibility for her conduct and admitted it was an error in judgment not fitting to the high standard she has otherwise held herself to in her nursing career.

It is important to the profession of LPNs to maintain the Code of Ethics and Standards of Practice, and in doing so to promote specific and general deterrence and, thereby, to protect the public. The Hearing Tribunal has considered this in the deliberation of this matter, and again considered the seriousness of the Investigated Member's actions. The penalties ordered in this case are intended, in part, to demonstrate to the profession and the public that actions and unprofessional conduct such as this is not tolerated and it is intended that these orders will, in part, act as a deterrent to others. Furthermore, given the finding of sexual abuse, the cancellation of Ms. Azure's registration is unavoidable.

After considering the proposed orders for penalty, the Hearing Tribunal finds the Joint Submission on Penalty is appropriate, reasonable and serves the public interest and therefore accepts the parties' proposed penalties.

#### **(11) Orders of the Hearing Tribunal**

The Hearing Tribunal is authorized under s. 82(1) of the Act to make orders in response to findings of unprofessional conduct. The Hearing Tribunal makes the following orders pursuant to s. 82 of the Act:

1. The Hearing Tribunal's written reasons for decision (the "Decision") shall serve as a reprimand.

2. Ms. Azure's registration and practice permit with the CLPNA shall be cancelled immediately as required by s. 82(1.1) of the *Health Professions Act*.
3. Ms. Azure shall pay \$5,000.00 dollars of the costs of the investigation and hearing, to be paid in full within 36 months of the date that Ms. Azure is served with the Decision. Should Ms. Azure be unable to comply with the deadline for completion of this costs order, the deadline may, upon written request, be extended for a reasonable period of time with the written consent of the Complaints Officer.
4. Should Ms. Azure 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:
  - (c) Refer the matter back to a Hearing Tribunal, which shall retain jurisdiction with respect to penalty; or
  - (d) Treat Ms. Azure's non-compliance as information under s. 56 of the *Health Professions Act*.

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 5<sup>th</sup> DAY OF AUGUST 2022 IN THE CITY OF EDMONTON, ALBERTA.**

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



David Rolfe, Public Member  
Chair, Hearing Tribunal