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 MITALBEN NAKUM

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 MITALBEN NAKUM, LPN #39594, WHILE A MEMBER OF THE COLLEGE OF LICENSED PRACTICAL NURSES OF ALBERTA

DECISION OF THE HEARING TRIBUNAL

(1) Hearing

The hearing was conducted at the Office of the College of Licensed Practical Nurses of Alberta ("CLPNA") in Edmonton, Alberta on May 2, 2019 with the following individuals present:

Hearing Tribunal:
Nancy Brook, Public Member, Chairperson
Christine Buck, LPN
Angelica deVera, LPN
Patricia Riopel, LPN

Staff:
Jason Kully, Legal Counsel for the Complaints Director, CLPNA
Evie Thorne, Legal Counsel for the Complaints Director, CLPNA
Sandy Davis, Complaints Director, CLPNA ("Complaints Director")
Kevin Oudith, Complaints Consultant, CLPNA

Investigated Member:
Mitalben Nakum, LPN ("Ms. Nakum" or "Investigated Member")
Carol Drennan, AUPE Representative for the Investigated Member

(2) Preliminary Matters

The hearing was open to the public pursuant to the *Health Professions Act*, RSA 2000, c H-7 ("*HPA*").

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 partial Joint Submission on Penalty.

(3) Background

Ms. Nakum was a Licensed Practical Nurse ("LPN") within the meaning of the *HPA* at all material times, and more particularly, was registered with CLPNA as an LPN at the time of the complaint. Ms. Nakum was initially licensed as an LPN in Alberta on January 1, 2015.

On December 11, 2017, the CLPNA received a complaint (the "First Complaint") from Javier Martinez, Clinical Leader – Supportive Living ("Mr. Martinez") at St. Marguerite Manor ("SMM"), Covenant Care in Calgary, Alberta, pursuant to s. 57 of the *HPA* regarding Ms. Nakum.

By way of letter dated December 15, 2017, the Complaints Director, notified Ms. Nakum that the First Complaint was received and that Kerry Palyga, Investigator for the CLPNA (the "Investigator"), was appointed to conduct an investigation into the Complaint in accordance with s. 55(2)(d) of the *HPA*.

On December 21, 2017, the CLPNA received another letter from Mr. Martinez informing the CLPNA of further concerns with Ms. Nakum (the "Second Complaint").

On February 8, 2018, the Investigator concluded the investigation of the First Complaint and the Second Complaint and submitted the Investigation Report to the CLPNA.

Following receipt of the Investigation Report, the Complaints Director determined there was sufficient evidence to refer the matter to the Hearings Director for a hearing in accordance with s. 66(3)(a) of the *HPA*. Ms. Nakum received notice the matter was referred to a hearing as well as a copy of the Investigation Report and Statement of Allegations under cover of letter dated January 8, 2019.

A Notice of Hearing, Notice to Attend and Notice to Produce was served upon Ms. Nakum under cover of letter dated March 7, 2019.

(4) Allegations

The Allegations in the Statement of Allegations are:

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

1. On or about January 6, 2017, incorrectly changed the order for Mirtazapine 15 mg to Mirtazapine 7.5 mg for resident MB without a Physician order.

2. On or about July 3, 2017 failed to attend mandatory annual education with the Nurse Educator as per Covenant Health policy.

3. On or about September 16, 2017, did one or more of the following:
    a. Failed to physically count all the residents on the unit, as required; and
    b. Failed to record resident SH on the nightly census report despite his presence on the Unit.

4. On or about September 29, 2017, failed to do one or more of the following with regards to resident RB:
    a. Administer Mirtazapine 15 mg and Simvastin 20 mg at 2000 as per Physician's order;
    b. Document on the progress notes or MAR the reason Mirtazapine 15 mg and Simvastin 20 mg were not administered as ordered; and
    c. Complete an incident report form as required.

5. Failed to properly complete Monthly Surveillance and/or document on Monthly Surveillance as required on one or more of the following residents:
    a. On or about November 30, 2017 failed to complete the date and time of assessment for resident MC;
    b. On or about January 2, 2018 failed to record resident FG's weight; and
    c. On or about January 6, 2018 inaccurately documented resident DS's weight as 91%.

6. On or about December 14, 2017, incorrectly transcribed Trazadone "for 1 weeks" on the MAR instead of 3 months, for resident RW as per Physician's Order.

7. On or about December 14, 2017 incorrectly documented the administration of Hydromorphone 2 ml instead of Morphine 2 ml at 2100 hours in the Multidisciplinary Progress Record for resident ET.

8. On or about January 10, 2018 did one or more of the following with respect to resident PO:
    a. Failed to provide resident PO 7 doses of Buscopan 10 mg while on pass;
    b. Incorrectly documented on the Medication Administration Record and/or Shift Report the administration of 7 doses of Buscopan 10 mg; and
    c. Placed resident PO at risk of abdominal cramps, pain, colic and bladder spasms by not providing regularly scheduled Buscopan 10 mg as ordered."

(5) Admission of Unprofessional Conduct

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

Ms. Nakum acknowledged unprofessional conduct to all the Allegations as evidenced by her signature on the Agreed Statement of Facts and Acknowledgement of Unprofessional Conduct.

(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: Partial Joint Submission on Penalty
Exhibit #4: Additional Orders Sought by the Complaints Director
Exhibit #5: Estimated Hearing Cost

(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. Nakum's admission of unprofessional conduct based on the evidence 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. Nakum.

Allegation 1

Mitalben Nakum admitted that on or about January 6, 2017, she incorrectly changed the order for Mirtazapine 15 mg to Mirtazapine 7.5 mg for resident MB without a Physician order.

On January 6, 2017, Ms. Nakum worked a night shift at SMM. During this time, she provided care to resident MB. Resident MB was ordered Mirtazapine 15 mg OD to be taken at bedtime.

On January 6, 2017, Ms. Nakum manually changed the order for resident MB, crossing out "Mirtazapine15 mg OD at bedtime" and handwriting a new order of "Mirtazapine 7.5mg PO @ HS x 30 days". In TAB 6 of Exhibit #2 is a copy of resident MB's Medication Administration Record ("MAR") for January 2017 indicating the same.

Resident MB's MAR indicates she received the incorrect dose of Mirtazapine for at least four weeks before the error was discovered. The medication error is again at TAB 6 of Exhibit #2.

On February 21, 2017, Emmy Lou Fontanilla, LPN ("Ms. Fontanilla"), was reviewing patient records and noticed that Ms. Nakum had discontinued resident MB's Mirtazapine 15 mg. Ms. Fontanilla called the physician and confirmed there was no order to discontinue or adjust the dose.

Ms. Fontanilla told Ms. Nakum of the error and reported the incident on a Medication Incident Report, as found at TAB 7 of Exhibit #2.

The charting of a patient's medication is critical to the proper care and treatment of a patient. Administering incorrect dosages of medications can lead to any number of untoward outcomes ranging from mild discomfort to a life threatening situation. This particular charting error was serious because Mirtazapine is used to help patients with depression and, although the Hearing Tribunal was not given any evidence that the patient suffered any ill effects from this error, it is conceivable that there was a risk to the patient's well being. In addition, this medication error went uncorrected for at least four weeks. This is highly concerning because Ms. Nakum's error was repeated over and over again for a long period of time, making the risk of patient suffering that much worse.

Proper administration and charting of patient medications is vitally important to the proper care of a patient's well being. This skill and knowledge of performing proper administration and charting of patient medications is basic and fundamental to an LPN's practice.

Therefore, the Hearing Tribunal finds that the conduct admitted to amounts to unprofessional conduct as defined in s. 1(1)(pp) of the *HPA,* in particular, the Hearing Tribunal found the following definition of unprofessional conduct was met:

i. Displaying a lack of knowledge of or lack of skill or judgment in the provision of professional services.

Allegation 2

Mitalben Nakum admitted that on or about July 3, 2017, she failed to attend mandatory annual education with the Nurse Educator as per Covenant Health policy.

On July 3, 2017, Ms. Nakum was scheduled to complete Annual Education at SMM with Jessica Tsang, Director of Direct Health Canada. Annual Education is mandatory training that LPNs must complete in order to continue working at SMM.

The Annual Education training takes place during the day. As Ms. Nakum worked night shifts only, coverage for Ms. Nakum's night shift was arranged in order for Ms. Nakum to attend the mandatory training. It was organized that Ms. Nakum would attend one-on-one training with Ms. Tsang on July 3, 2017.

On July 3, 2017, Ms. Tsang arrived at SMM to conduct the scheduled mandatory training with Ms. Nakum. Ms. Nakum was not at SMM. Ms. Tsang called Ms. Nakum's cell phone several times. Ms. Nakum did not answer. Ms. Tsang waited an hour for Ms. Nakum to arrive for the training. As Ms. Nakum did not arrive, the Annual Education was not completed.

As a result of Ms. Nakum's failure to attend the mandatory training session, Tara MacEachern, Clinical Leader at SMM, issued a warning letter to Ms. Nakum on July 13, 2017. The letter is at TAB 8 in Exhibit #2.

Due to Ms. Nakum's failure to attend the mandatory training session on July 3, 2017, Ms. Nakum did not complete education for best practice. This failure to attend occurred despite the training being scheduled for her convenience and benefit. The Annual Education had to be rescheduled to an alternative date.

It is expected that an LPN keep her knowledge up-to-date and current. As a self-regulated professional, keeping one's education current is a basic expectation. In Ms. Nakum's case, the employer expects that she will attend mandatory training sessions as part of her employment duties. Ms. Nakum's employer went to great lengths to ensure that her work schedule did not interfere with her attendance at the mandatory training session. Finally, Ms. Nakum did not show up for the training and she did not notify anyone that she was not going to attend. She left the trainer waiting and did not respond to phone calls from the trainer. This behaviour clearly shows a lack of professionalism and demonstrated a lack of judgement. She also broke her employer's rules regarding mandatory training, and in so doing, participated in conduct that harms the integrity of the LPN's profession.

Therefore, the Hearing Tribunal finds that the conduct admitted to amounts to unprofessional conduct as defined in s. 1(1)(pp) of the *HPA*, in particular, the Hearing Tribunal found the conduct met the following definitions of unprofessional conduct:

i. displaying a lack of knowledge of or lack of skill or judgment in the provision of professional services;

ii. contravention of the Act, a code of ethics or standards of practice;

xii. conduct that harms the integrity of the regulated profession.

Allegation 3

Mitalben Nakum admitted that on or about September 16, 2017, she did one or more of the following:

a. Failed to physically count all the residents on the unit, as required; and

b. Failed to record resident SH on the nightly census report despite his presence on the Unit.

Ms. Nakum worked a night shift at SMM on September 16-17, 2017. LPNs on the night shift are required to complete the Daily Resident Census ("Census"). The Census must be completed for statistical purposes as well as for client safety. In the event of an evacuation, all residents need to be accounted for.

The requirement to complete the Resident Census Form is listed on the "Nights LPN Shift Duties: 1900-0700" document, at TAB 9 of Exhibit #2.

On September 16, 2017, Ms. Nakum recorded on the Daily Resident Census that there were 41 residents (TAB 10 of Exhibit #2); There were actually 42 residents (TAB 11 of Exhibit #2). Ms. Nakum failed to perform a physical count of the residents and failed to check their rooms individually.

On the Daily Resident Census at TAB 10 of Exhibit #2, under "SMM Resident Movement", resident SH was recorded as being on pass during the day shift. Resident SH had returned to the Unit at 1700 hours. Resident SH failed to sign back into SMM upon his return or alert a day shift LPN (TAB 11 of Exhibit #2).

As a result of failing to individually check each resident's room, Ms. Nakum failed to notice that resident SH was back on the unit and incorrectly recorded the number of residents on the Daily Resident Census, recording resident SH as absent.

On September 17, 2017, Ms. Fontanilla identified the error via email to Ms. Nakum and informed her that resident SH was back from pass. Ms. Fontanilla's email to Ms. Nakum is at TAB 11 of Exhibit #2.

Public safety is of primary importance within the practice of an LPN. By failing to correctly count residents and to miss the fact that one of the residents had returned but was not accounted for, leaves that person vulnerable if there were an emergency. As indicated above, if for any reason the residents had to be evacuated, resident SH would not be sought because he was

recorded as away from the facility on a pass, but in reality, SH could possibly be left behind and left in danger.

Considering how this conduct had the potential to endanger one of the facility's residents, the Hearing Tribunal finds that the conduct admitted to amounts to unprofessional conduct as defined in s. 1(1)(pp) of the *HPA*, in particular, the Hearing Tribunal found the conduct met the following definition of unprofessional conduct:

i. displaying a lack of knowledge of or lack of skill or judgment in the provision of professional services.

Allegation 4

Mitalben Nakum admitted that on or about September 29, 2017, she failed to do one or more of the following with regards to resident RB:

a. Administer Mirtazapine 15 mg and Simvastin 20 mg at 2000 as per Physician's order;
b. Document on the progress notes or MAR the reason Mirtazapine 15 mg and Simvastin 20 mg were not administered as ordered; and
c. Complete an incident report form as required.

Ms. Nakum worked a night shift at SMM on September 29, 2017. During that time, she provided care for resident RB. Resident RB was ordered to receive Mirtazapine 15 mg at 2000 hours and Simvastin 20 mg at 2000 hours on September 29, 2017. Evidence of this is at TAB 12 of Exhibit #2 in a copy of resident RB's MAR indicating same.

Ms. Nakum could not locate the Mirtazapine or the Simvastin in resident RB's medication drawer. As a result, Ms. Nakum failed to administer Mirtazapine or Simvastin, to resident RB, as ordered.

If medication is ordered but not administered to a resident, the omission must be recorded with a code "9" on the resident's MAR and the reasons for the omission reported on the Multidisciplinary Progress Note. This ensures other health care providers are alerted of the omission and there will be a follow up to ensure the medication is available to the resident.

Ms. Nakum failed to record the code "9" on the MAR to indicate the failure to administer the medication (TAB 12 of Exhibit #2). Ms. Nakum failed to properly chart the omitted medication and supporting reasons on the Multidisciplinary Progress Record (TAB 13 of Exhibit #2). Ms. Nakum further failed to complete an incident report documenting the failure to administer the ordered medication to resident RB.

On September 30, 2017, an LPN located the missing medication in another resident's medication drawer and disposed of the medication at 0800 hours.

This conduct displays a lack of basic skill and judgment. Medications and the correct administration of medications, along with accurately charting these activities, is basic and critical nursing practice.

Ms. Drennan, Ms. Nakum's representative, took the position that Ms. Nakum's errors with medications and charting were not due to a lack of skill, knowledge, or judgment but rather errors arising out of the hectic working environment. A nursing environment is frequently hectic and the Hearing Tribunal understands how the stress of this could be difficult, however, if this type of hectic environment causes an LPN to make medication and charting errors, it should cause the LPN to review her practice. When an LPN makes medication and charting errors repeatedly, she should have the good judgment to review her skills and environment, to determine whether they are a good fit with one another.

Therefore, the Hearing Tribunal finds that the conduct admitted to amounts to unprofessional conduct as defined in s. 1(1)(pp) of the *HPA*, in particular, the Hearing Tribunal found the conduct met the following definition of unprofessional conduct:

i. displaying a lack of knowledge of or lack of skill or judgment in the provision of professional services.

Allegation 5

Mitalben Nakum admitted she failed to properly complete Monthly Surveillance and/or document on Monthly Surveillance as required on one or more of the following residents:

a. On or about November 30, 2017 failed to complete the date and time of assessment for resident MC;
b. On or about January 2, 2018 failed to record resident FG's weight; and
c. On or about January 6, 2018 inaccurately documented resident DS's weight as 91%.

LPNs on the nightshift at SMM are required to complete and document a Monthly Surveillance on an Interdisciplinary Flowsheet for each of the residents. This includes, but is not limited to, the assessment and recording of vital signs, pain, falls and weight.

On November 30, 2017, for resident MC, Ms. Nakum failed to document the date and time of the assessment on the Monthly Surveillance despite signing the Interdisciplinary Flowsheet (Interdisciplinary Flowsheet is at TAB 14 of Exhibit #2). After finding the errors, Ms. Fontanilla completed the missing information.

On January 2, 2018, for resident FG, Ms. Nakum failed to document the resident's weight on the Monthly Surveillance sheet despite signing the Interdisciplinary Flowsheet (Interdisciplinary Flowsheet at TAB 15 of Exhibit #2).

On January 6, 2018, for resident DS, Ms. Nakum documented resident DS's oxygen saturation instead of resident DS's weight on the Interdisciplinary Flowsheet (Interdisciplinary Flowsheet at TAB 16 of Exhibit #2).

The errors were caught by Ms. Fontanilla and she outlined her concerns regarding the same via email to Ms. Nakum on September 30, 2017 (TAB 17 of Exhibit #2) and November 30, 2017 (TAB 18 of Exhibit #2).

Ms. Nakum failed to document SMM information on the Monthly Surveillance Report, which includes an assessment of vital signs, falls, pain, and weight. She then failed to properly document time and date on MC's Monthly Surveillance Report on the Interdisciplinary Flowsheet. Then just one month later, Ms. Nakum failed to document the resident's weight on the Monthly Surveillance Report despite signing the Interdisciplinary Flowsheet. Less than one week later, Ms. Nakum documented resident DS's oxygen saturation instead of resident DS's weight on the Interdisciplinary Flowsheet. This series of errors represents similar charting mistakes. Again, these mistakes or lack of correct charting are basic and simple nursing tasks and represent a lack of skill, knowledge, and judgment.

Therefore, the Hearing Tribunal finds the conduct admitted to amounts to unprofessional conduct as defined in s. 1(1)(pp) of the *HPA*, in particular, the Hearing Tribunal found the conduct meets the following definition of unprofessional conduct:

i. displaying a lack of knowledge of or lack of skill or judgment in the provision of professional services.

<u>Allegation 6</u>

Mitalben Nakum admitted that on or about December 14, 2017, she incorrectly transcribed Trazadone "for 1 weeks" on the MAR instead of 3 months, for resident RW as per Physician's Order.

On December 14, 2017, Ms. Nakum worked the night shift at SMM. During this shift, she provided care to resident RW. On that date, Dr. W. Wertzler ordered resident RW Trazodone 50 mg nightly for a duration of 3 months. A copy of the Prescribers Order is at TAB 19 of Exhibit #2.

Ms. Nakum transcribed the order incorrectly on resident RW's MAR as Trazodone 50 mg for one week instead of 3 months, as ordered. A copy of resident RW's MAR is at TAB 20 of Exhibit #2.

On December 15, 2017, Ms. Fontanilla located the error and brought it to the attention of Ms. Nakum via email. Ms. Fontanilla corrected the MAR. The email from Ms. Fontanilla to Ms. Nakum outlining the error is at TAB 21 of Exhibit #2.

This is a charting error. Ms. Nakum's transfer of information to the MAR misrepresented the physician's order. Although this error is somewhat different from the medication charting errors in earlier allegations, it is still a charting error and charting is a simple basic nursing skill.

Once again, the Hearing Tribunal finds that the conduct admitted to amounts to unprofessional conduct as defined in s. 1(1)(pp) of the *HPA*, in particular, the Hearing Tribunal found the conduct met the following definition of unprofessional conduct:

i. displaying a lack of knowledge of or lack of skill or judgment in the provision of professional services.

Allegation 7

Mitalben Nakum admitted on or about December 14, 2017, she incorrectly documented the administration of Hydromorphone 2 ml instead of Morphine 2 ml at 2100 hours in the Multidisciplinary Progress Record for resident ET.

On December 14, 2017, Ms. Nakum worked the night shift and provided care for resident ET. On December 11, 2017, Cooper NP ordered Morphine 2 ml oral solution 1mg/1ml every 4 hours by mouth for pain for resident ET (Prescription Form at TAB 22 of Exhibit #2).

On December 14, 2017, Ms. Nakum documented on the MAR that she administered the ordered Morphine 2 ml to resident ET at 2115 hours (TAB 23 of Exhibit #2). Despite this, Ms. Nakum incorrectly documented at 0600 hours on resident ET's Multidisciplinary Progress Record that she administered PRN Hydromorphone 2 ml to resident ET at 2100 hours (Multidisciplinary Progress Record at TAB 24 of Exhibit #2).

This is a charting and medication error. This is a confusing error. In the end she may or may not have given the resident the proper medication. This type of error makes it difficult to know what drug is in the resident's system. It cannot be determined whether the resident got the right drug but the LPN charted it wrong or whether the wrong drug was administered as the charting indicated. This makes it difficult to treat the patient. A medication/charting error such as this can be very dangerous on many levels. However, in this situation, there was no evidence that the resident suffered as a result of this mistake.

The same as the other charting and medication errors, the Hearing Tribunal finds that the conduct admitted to amounts to unprofessional conduct as defined in s. 1(1)(pp) of the *HPA*, in particular, the Hearing Tribunal found the conduct met the following definition of unprofessional conduct:

i. displaying a lack of knowledge of or lack of skill or judgment in the provision of professional services.

Allegation 8

Mitalben Nakum admitted on or about January 10, 2018, she did one or more of the following with respect to resident PO:

a. Failed to provide resident PO 7 doses of Buscopan 10 mg while on pass;

b. Incorrectly documented on the Medication Administration Record and/or Shift Report the administration of 7 doses of Buscopan 10 mg; and

c. Placed resident PO at risk of abdominal cramps, pain, colic and bladder spasms by not providing regularly scheduled Buscopan 10 mg as ordered.

On January 10, 2018, Ms. Nakum worked a night shift and provided care for resident PO. Resident PO was "on pass" from January 10-12, 2018. "On pass" refers to the resident being away from the facility for a set period of time. Resident PO required 7 doses of Buscopan 10 mg to take with her while on pass, as indicated on the MAR at TAB 25 of Exhibit #2.

Ms. Nakum was responsible for preparing resident PO's medication and providing the same to the resident to take with her. Ms. Nakum charted in the 24 Hour Report that she provided the medication to resident PO recording, "going out for Appt: Meds given until 1400 hr including narcotics" (24 Hour Report at TAB 26 of Exhibit #2).

On January 13, 2018, an LPN noted in the Multidisciplinary Progress Record that staff had found a strip of 7 doses of Buscopan 10 mg with resident PO's name on it. A photo of the located Buscopan is at TAB 27 of Exhibit #2. The medication had not been provided to resident PO while she was on pass. A Medication Incident Report was completed (TAB 27 of Exhibit #2).

Ms. Nakum failed to provide resident PO with 7 doses of Buscopan 10 mg while she was on pass and incorrectly documented on the MAR and Shift Report that she had done so. Buscopan is used to treat abdominal cramps, pain and colic as well as bladder spasms. Failing to provide the regularly scheduled doses increased the risk of such symptoms.

This is clearly a medication error that could end in great discomfort for the resident who didn't receive her medications, due to Ms. Nakum's error. The Hearing Tribunal believes this is a lack of skill and judgment. Again, the Hearing Tribunal finds that the conduct admitted to amounts to unprofessional conduct as defined in s. 1(1)(pp) of the *HPA*, in particular, the Hearing Tribunal found that the conduct met the following definition of unprofessional conduct:

i. displaying a lack of knowledge of or lack of skill or judgment in the provision of professional services.

<u>CLPNA Code of Ethics Requirements Breached</u>

Ms. Nakum acknowledges her conduct breached one or more of the following requirements in the Code of Ethics for Licensed Practical Nurses in Canada adopted by the CLPNA on June 3, 2013. The Hearing Tribunal finds that Ms. Nakum's conduct breached several provisions of the CLPNA Code of Ethics as follows:

a) 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; and

- 1.5 Provide care directed to the health and well-being of the person, family and community.

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

   - 2.8 Use evidence and judgment to guide nursing decisions; and

   - 2.9 Identify and minimize risks to clients

c) 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;

   - 3.2 Participate in activities allowing the profession to evolve to meet emerging healthcare needs;

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

   - 3.4 Promote workplace practices and policies that facilitate professional practice in accordance with the principles, standards, laws and regulations under which they are accountable.

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

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

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

   - 5.6 Engage in opportunities for career-long learning to continuously develop the competencies required to meet the ethical and regulatory requirements of the profession.

CLPNA Standards of Practice Breached

Ms. Nakum acknowledges her conduct also breached one or more of the following Standards of Practice for Licensed Practical Nurses in Canada adopted by the CLPNA on June 3, 2013, and the Hearing Tribunal agrees she has breached one or more of the following Standards, which state as follows:

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:

    - 1.1. Practice to their full range of competence within applicable legislation, regulations, by-laws and employer policies;
    - 1.2. Engage in ongoing self-assessment of their professional practice and competence, and seek opportunities for continuous learning;
    - 1.6. Take action to avoid and/or minimize harm in situations in which client safety and well-being are compromised;
    - 1.7. Incorporate established client safety principles and quality assurance/improvement activities into LPN practice;
    - 1.9 Practice in a manner consistent with ethical values and obligations of the Code of Ethics for Licensed Practical Nurses; and
    - 1.10 Maintain documentation and reporting according to established legislation, regulations, laws, and employer policies.

b. Standard 2: Knowledge-Based Practice – LPNs possess knowledge obtained through practical nurse preparation and continuous learning relevant to their professional LPN practice. Standard 2 specifically provides that LPNs:

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

c. Standard 3: Service to the Public and Self-Regulation – LPNs practice nursing in collaboration with clients and other members of the health care team to provide

and improve health care services in the best interests of the public. Standard 3 specifically provides that LPNs:

- 3.3 Support and contribute to an environment that promotes and supports safe, effective and ethical practice;
- 3.5. Provide relevant and timely information to clients and co-workers and
- 3.6 Demonstrate an understanding of self-regulation by following the standards of practice, the code of ethics and other regulatory requirements.

d. Standard 4: Ethical Practice – LPNs uphold, promote and adhere to the values and beliefs as described in the Canadian Council for Practical Nurse Regulators ("CCPNR") Code of Ethics. Standard 4 specifically provides that LPNs:

- 4.1 Practice in a manner consistent with ethical values and obligations of the Code of Ethics for LPNs.
- 4.8. Collaborate with colleagues to promote safe, competent and ethical practice.
- 4.10. Practice with honesty and integrity to maintain the values and reputation of the profession.

(9) Partial Joint Submission on Penalty

The Complaints Director and Mitalben Nakum made a partial joint submission with respect to penalty, which was entered as Exhibit #3. The parties jointly submitted the following proposal to the Hearing Tribunal for consideration:

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

2. Ms. Nakum shall, read and reflect on the following CLPNA documents located on the CLPNA website at www.clpna.com under the "Legislation, Practices & Policy" tab:

   (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 Policy: Documentation;

   (e) CLPNA Competency Profile E1: Critical Thinking and Critical Inquiry;

(f) CLPNA Competency Profile E2: Clinical Judgment and Decision Making;

(g) CLPNA Competency Profile U: Medication Administration; and

(h) CLPNA Competency Profile W: Professionalism.

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

3. Ms. Nakum shall provide the Complaints Director with a written reflection of 500 – 750 words, satisfactory to the Complaints Director, on how the CLPNA documents referred to in paragraph #2 will impact her professional practice and what changes she will make to her practice to provide safe and competent care within thirty (30) days of service of the Decision.

4. Ms. Nakum shall complete at her own cost, **NURS 0161 Medication Management,** offered on-line by MacEwan University. Ms. Nakum shall provide the Complaints Director with a certificate confirming successful completion of the course within six (6) months of service of the Decision.

5. Ms. Nakum shall provide the CLPNA with her current contact information, including her home mailing address, home and cellular telephone numbers, current e-mail address and her current employment information. Ms. Nakum will keep her contact information current with the CLPNA on an ongoing basis.

6. Should Ms. Nakum be unable to comply with any of the deadlines for completion of the penalty orders identified above, the deadlines may, upon written request, be extended for a reasonable period of time with the written consent of the Complaints Director.

7. Should Ms. Nakum fail or be unable to comply with any of the above orders for penalty, or if any dispute arises regarding the implementation of these orders, the Complaints Director may do any or all of the following:

(a) Refer the matter back to a Hearing Tribunal, which shall retain jurisdiction with respect to penalty;

(b) Treat Ms. Nakum's non-compliance as information under s. 56 of the Act;

The Complaints Director submitted the primary purpose of orders from the Hearing Tribunal is to protect the public. Section 82 of the *HPA* sets out the available orders that the Hearing Tribunal can make if unprofessional conduct is found.

While the parties 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 and partial joint submissions 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. The Hearing Tribunal therefore carefully considered the Joint Submission on Penalty proposed by Ms. Nakum and the Complaints Director.

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

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

The proposed penalties would protect the public from the type of conduct that Mitalben Nakum 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)("*Jaswal*"), 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

1: The nature and gravity of the proven Allegations. The Hearing Tribunal does not believe that these medication errors and charting errors were the result of bad intentions. However, the number of errors and the general similarities of the errors is somewhat alarming. These errors speak to incompetence, lack of skills, knowledge, and judgment as well as breaches of the Standards of Practice and Code of Ethics in Ms. Nakum's nursing practices.

2: The age and experience of the investigated member. Ms. Nakum had only been practicing for three years when she started making the errors identified in the Allegations. This indicates that she was a relatively new practicing LPN. However, all of the errors that Ms. Nakum made were routine, basic, and foundational skills required in nursing. Even a newly graduated LPN is expected to correctly chart and administer medication

3: The previous character of the investigated member and in particular the presence or absence of any prior complaints or convictions. Ms. Nakum has been involved in a prior hearing with five allegations arising from conduct in November 2015, in December 2015, and in February 2, 2016. The hearing took place as an Agreed Statement of Facts and the Hearing Tribunal accepted her admission of unprofessional conduct in all five allegations. Ms. Nakum appealed the Hearing Tribunal's decision on sanctions with regard to payment of costs and a number of sanctions. Ms. Nakum won a reduction in costs and the removal of four sanction items.

4: The age and mental condition of the victim, if any. There is evidence that residents in the facility that Ms. Nakum works are seniors and have a variety of illnesses. The Hearing Tribunal did not receive any evidence on the mental conditions of the victims. However, these people are seniors and possibly compromised physically and mentally. They are dependent on their care givers and are a highly vulnerable population.

5: The number of times the offending conduct was proven to have occurred. Out of the eight allegations in this Decision, only one was not a medication or charting error, and Ms. Nakum admitted to unprofessional conduct in relation to all eight allegations. Each of the medication/charting errors were similar to one another and represent a theme of repetitive errors over a period of time that demonstrate a lack of skill, knowledge, and judgment as well as breaches of the Standards of Practice and Code of Ethics.

6: The role of the investigated member in acknowledging what occurred. The Hearing Tribunal appreciates Ms. Nakum's insight in acknowledging her role in these allegations, and her demonstration of that acknowledgement in cooperating with the CLPNA to create an Agreed Statement of Facts and a Partial Submission on Penalty.

7: Whether the investigated member has already suffered other serious financial or other penalties as a result of the Allegations having been made. The Hearing Tribunal received no evidence that Ms. Nakum suffered serious financial or other penalties as a result of these complaints.

8: The impact of the incident(s) on the victim. The Hearing Tribunal was not given any evidence of impact on the victims. However, it is clear that these people were elderly and vulnerable and that Ms. Nakum's actions compromised the care of vulnerable patients. The potential impact to these residents was very serious.

9: The presence of absence of any mitigating circumstances. Ms. Drennan did tell the Hearing Tribunal that the work environment for Ms. Nakum was exceptionally busy. Ms. Drennan also advised the Hearing Tribunal that Ms. Nakum was not really prepared for such a change in her work environment. Evidently Ms. Nakum's practice in Manitoba before moving here was a slower pace, and more in tune with Ms. Nakum's work expectation. The job she entered into in Alberta was far more demanding than she had anticipated.

10: The need to promote specific and general deterrence and, thereby to protect the public and ensure the safe and proper practice. It is important to the profession of LPNs to ensure specific and general deterrence from unprofessional conduct and, thereby, to protect the public. The Hearing Tribunal considered this in its deliberations of this matter and again considered the seriousness of Ms. Nakum's actions. The sanctions ordered in this case are intended, in part, to act as a deterrent to others.

11: The need to maintain the public's confidence in the integrity of the profession. The profession and its integrity as trusted caregivers must be maintained in the eyes of the public. Situations such as this must be dealt with in a way that demonstrates that the actions of Ms. Nakum are unacceptable to the profession of LPNs. The public's trust must be maintained by demonstration that this kind of unprofessional behavior will not be tolerated and the penalties ordered will reflect the seriousness of this conduct.

12: The range of sentence in other similar cases. The Hearing Tribunal was presented with other similar cases and the proposed sanction is in keeping with those other decisions.

After considering the proposed orders for penalty, The Hearing Tribunal finds the partial joint submission on penalty is appropriate, reasonable and in the public interest and therefore accepts the parties' proposed penalties.

(11) Additional Orders sought by the Complaints Director

The Complaints Director requested the Hearing Tribunal make the following additional orders:

1. Ms. Nakum's practice permit will be subject to a condition of supervised practice at all facilities where Ms. Nakum is employed for a period totaling 75 hours subject to the following terms and conditions:

    (a) The supervisor(s) must be an RN or LPN

    (b) Ms. Nakum must provide the proposed supervisor(s) with a copy of the Hearing Tribunal's written decision (the "Decision")

    (c) Prior to the commencement of supervised practice, Ms. Nakum will provide the Complaints Director with the name of the proposed supervisor(s) and a written acknowledgement signed by her proposed supervisor(s) confirming receipt of a

copy of the Decision and willingness to provide supervision in accordance with the terms of the Decision.

(d) The supervisor(s) must be available and onsite for the duration of all shifts worked by Ms. Nakum during the period of supervised practice.

(e) The supervisor(s) must provide direct supervision of Ms. Nakum with respect to medication administration.

(f) The supervisors(s) will agree to submit a performance evaluation to the Complaints Director immediately following the completion of the 75 hours of supervised practice confirming whether the supervisor has identified any concerns with respect to the issues identified in the Decision. The performance evaluation must specifically comment on the following:

i. Administration of medications and charting;

ii. Medication reconciliation;

iii. Charting of patient care;

iv. Completion of other documentation required on the unit;

v. Assessment skills; and

vi. Any other information considered to be relevant by the supervisor(s)

(g) If the supervisor(s) identify concerns with respect to Ms. Nakum's practice, the period of supervised practice may be extended in the sole discretion of the Complaints Director for a further period of 75 hours, subject to the same terms set out above in paragraph 1.

(h) If, at the conclusion of the period of supervised practice, the supervisor(s) have any concerns regarding Ms. Nakum's practice, the Complaints Director may treat the information as a complaint in accordance with s. 56 of the *HPA*.

2. Once Ms. Nakum has completed the period of supervised practice outlined in paragraph 1 above, a condition will be placed on her practice permit requiring her to submit performance evaluations from her immediate supervisor(s) at all facilities where she is employed subject to the following terms and conditions:

(a) The supervisor(s), if different than the supervisor(s) referred to in paragraph 1 will provide written confirmation that they have reviewed a copy of the Decision.

(b) The supervisor(s) will provide three performance evaluations, one every six (6) months, for a period of eighteen (18) months, indicating whether they have any concerns regarding Ms. Nakum's performance.

(c) The first performance evaluation will be due approximately six (6) months following the completion of the period of supervised practice referred to above in paragraph 1.

(d) If the supervisor(s) identify any concerns regarding Ms. Nakum's performance, the Complaints Director may treat the information as a complaint in accordance with s. 56 of the *HPA*.

3. Ms. Nakum will be required to pay 25% of the costs of the investigation and hearing to a maximum of $5,000. Costs will be payable in equal monthly installments over a period of 24 months, or over such other period of time as agreed to by the Complaints Director.

These orders were opposed by the member.

The first two orders listed above and requested by the Complaints Director through legal counsel, Mr. Kully, are acceptable to the Hearing Tribunal for the following reasons:

1. It is the duty of the Hearing Tribunal to ensure that measures are taken to protect the public's safety. In this situation, the Hearing Tribunal is particularly concerned with the lack of skill, knowledge, and judgment of Ms. Nakum. The Hearing Tribunal wants to ensure as best it can, that Ms. Nakum improves her practice and also has the opportunity to benefit from the input of her supervisor(s). With supervision and reporting, it is possible to track Ms. Nakum's progress, as well as giving her an opportunity improve while offering a safe environment for the public.

2. It is also common practice to have professionals who have made repetitive mistakes that could significantly harm patients to have a supervised term of practice to ensure that they have learned from their mistakes and are not likely to repeat them.

The third sanction listed above in Additional Sanctions by the Complaints Director, is a request for a partial payment of costs. *Jaswal* offers guidance on sanctioning for costs at paragraph 51:

> It is necessary, therefore to determine the factors and appropriate to the proper exercise of the judicial discretion to make an order for payment or partial payment of expenses. In my view, based on the submission of counsel, the following is a non-exhaustive list of factors which ought to be considered in a given case before deciding to impose an order for payment of expense.

The two factors that pertain to the situation in this decision are as follows:

...

5. Whether the [member] cooperated with respect to the investigation and offered to facilitate proof by admission.
6. The financial circumstances of the [member] and the degree to which his financial position has already been affected by other aspect of any penalty that has been imposed.

Payment of costs is not to be considered a penalty. It is intended to be a fair recovery of costs which the College has expended. It should not be expected that the College's membership bear the full burden of costs for hearings. It must also be fair to the member who is being sanctioned.

In this situation, this is the second time that this member has appeared before a Hearing Tribunal. Both hearings have represented a significant cost to the College.

Ms. Nakum offered an admission, which reduced some costs, but her admission was given after the investigation was completed which was a large portion of the costs for the hearing ($4,000.00 of an estimated $8,796.49) (Exhibit #5 "Estimated Hearing Costs").

Hearing Tribunals are also urged to consider the financial situation of the member. Ms. Nakum's representative made submissions with regard to Ms. Nakum's expenses but the Hearing Tribunal did not receive any evidence of Ms. Nakum's financial circumstances.

The Hearing Tribunal was told that Ms. Nakum could not afford her household expenses, car payments, food, utilities, and other sundry items, along with the money she sends out of the country to support family overseas. Ms. Drennan told the Hearing Tribunal that if Ms. Nakum had to pay the costs as outlined in Number 3 of the additional sanctions she would quit nursing.

The Hearing Tribunal determined that the Complaints Director's proposed costs are reasonable. Twenty-five (25%) percent of the costs to a maximum of $5,000.00 dollars with payments spread over 24 months is a reasonable amount for an LPN. The estimated expense for this hearing is $8706.49, twenty-five (25%) of that is $2,176.62. A payment spread over 24 months for twenty-five (25%) percent of this expense would be approximately $90.69 per month. The Hearing Tribunal does not believe this amount represents a crushing financial burden to the member. The membership is still paying seventy five (75%) percent of the cost.

Therefore, the Hearing Tribunal orders the additional sanction of costs as stated in number three above.

(12) Orders of the Hearing Tribunal

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

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

2. Ms. Nakum shall, read and reflect on the following CLPNA documents located on the CLPNA website at www.clpna.com under the "Legislation, Practices & Policy" tab:

    (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 Policy: Documentation;

    (e) CLPNA Competency Profile E1: Critical Thinking and Critical Inquiry;

    (f) CLPNA Competency Profile E2: Clinical Judgment and Decision Making;

    (g) CLPNA Competency Profile U: Medication Administration; and

    (h) CLPNA Competency Profile W: Professionalism.

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

3. Ms. Nakum shall provide the Complaints Director with a written reflection of 500 – 750 words, satisfactory to the Complaints Director, on how the CLPNA documents referred to in paragraph #2 will impact her professional practice and what changes she will make to her practice to provide safe and competent care within thirty (30) days of service of the Decision.

4. Ms. Nakum shall complete at her own cost, NURS 0161 Medication Management, offered on-line by MacEwan University. Ms. Nakum shall provide the Complaints Director with a certificate confirming successful completion of the course within six (6) months of service of the Decision.

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

5. Ms. Nakum's practice permit will be subject to a condition of supervised practice at all facilities where Ms. Nakum is employed for a period totaling 75 hours subject to the following terms and conditions:

(a) The supervisor(s) must be an RN or LPN.

(b) Ms. Nakum must provide the proposed supervisor(s) with a copy of the Hearing Tribunal's written decision (the "Decision").

(c) Prior to the commencement of supervised practice, Ms. Nakum will provide the Complaints Director with the name of the proposed supervisor(s) and a written acknowledgement signed by her proposed supervisor(s) confirming receipt of a copy of the Decision and willingness to provide supervision in accordance with the terms of the Decision.

(d) The supervisor(s) must be available and onsite for the duration of all shifts worked by Ms. Nakum during the period of supervised practice.

(e) The supervisor(s) must provide direct supervision of Ms. Nakum with respect to medication administration.

(f) The supervisors(s) will agree to submit a performance evaluation to the Complaints Director immediately following the completion of the 75 hours of supervised practice confirming whether the supervisor has identified any concerns with respect to the issues identified in the Decision. The performance evaluation must specifically comment on the following:

i. Administration of medications and charting;
ii. Medication reconciliation;
iii. Charting of patient care;
iv. Completion of other documentation required on the unit;
v. Assessment skills; and
vi. Any other information considered to be relevant by the supervisor(s).

(g) If the supervisor(s) identify concerns with respect to Ms. Nakum's practice, the period of supervised practice may be extended in the sole discretion of the Complaints Director for a further period of 75 hours, subject to the same terms set out above in paragraph 8.

(h) If, at the conclusion of the period of supervised practice the supervisor(s) have any concerns regarding Ms. Nakum's practice, the Complaints Director may treat the information as a complaint in accordance with s. 56 of the *HPA*.

6. Once Ms. Nakum has completed the period of supervised practice outlined in paragraph 8 above, a condition will be placed on her practice permit requiring her to submit

performance evaluations from her immediate supervisor(s) at all facilities where she is employed subject to the following terms and conditions:

(a) The supervisor(s), if different than the supervisor(s) referred to in paragraph 8 will provide written confirmation that they have reviewed a copy of the Decision.
(b) The supervisor(s) will provide three performance evaluations, one every six months, for a period of 18 months, indicating whether they have any concerns regarding Ms. Nakum's performance.
(c) The first performance evaluation will be due approximately six months following the completion of the period of supervised practice referred to above in paragraph 8.

7. Should Ms. Nakum be unable to comply with any of the deadlines for completion of the penalty orders identified above, the deadlines may, upon written request, be extended for a reasonable period of time with the written consent of the Complaints Director.

8. Should Ms. Nakum fail or be unable to comply with any of the above orders for penalty, or if any dispute arises regarding the implementation of these orders, the Complaints Director may do any or all of the following:

(a) Refer the matter back to a Hearing Tribunal, which shall retain jurisdiction with respect to penalty;

(d) Treat Ms. Nakum's non-compliance as information under s. 56 of the *HPA*If the supervisor(s) identify any concerns regarding Ms. Nakum's performance, the Complaints Director may treat the information as a complaint in accordance with s. 56 of the *HPA*.

9. Ms. Nakum will be required to pay twenty-five (25%) percent of the costs of the investigation and hearing to a maximum of $5,000. Costs will be payable in equal monthly installments over a period of 24 months, or over such other period of time as agreed to by the Complaints Director, to begin the first month following service of the Decision.

10. Ms. Nakum shall provide the CLPNA with her current contact information, including her home mailing address, home and cellular telephone numbers, current e-mail address and her current employment information. Ms. Nakum will keep her contact information current with the CLPNA on an ongoing basis.

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

Under Part 4, sections 87(1)(a),(b) and 87(2) of the *HPA*, 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 31st Day of May 2019, IN THE VILLAGE OF RYLEY, ALBERTA.

THE COLLEGE OF LICENSED PRACTICAL NURSES OF ALBERTA

Nancy Brook, Public Member
Chair, Hearing Tribunal