

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 SARAH GUYDASH**

**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 SARAH GUYDASH, LPN #45994, WHILE A MEMBER OF THE COLLEGE OF
LICENSED PRACTICAL NURSES OF ALBERTA (“CLPNA”)**

DECISION OF THE HEARING TRIBUNAL

(1) Hearing

The hearing was conducted via teleconference using zoom on May 11, 2023 with the following individuals present:

Hearing Tribunal:

Kelly Annelly, Licensed Practical Nurse (“LPN”) Chairperson
Karen Olson, LPN
Darwin Durnie, Public Member
Vince Paniak, Public Member

Staff:

Evie Maldonado, Legal Counsel for the Complaints Officer, CLPNA
Susan Blatz, Complaints Officer, CLPNA
Sanah Sidhu, Complaints Director, CLPNA

Investigated Member:

Sarah Guydash, LPN (“Ms. Guydash” or “Investigated Member”)
Kathie Milne, AUPE Representative for the Investigated Member

(2) Preliminary Matters

The hearing was open to the public.

There were no objections to the members of the Hearing Tribunal hearing the matter, and no Hearing Tribunal member identified a conflict. There were no objections to the jurisdiction of the Hearing Tribunal.

The Hearing was conducted by way of an Agreed Statement of Facts and Acknowledgement of Unprofessional Conduct and a Joint Submission on Penalty.

(3) Background

Ms. Guydash was an LPN within the meaning of the *Health Professions Act* (the “Act”) at all material times, and more particularly, was registered with the CLPNA as an LPN at the time of the complaint. Ms. Guydash was initially licensed as an LPN in Alberta on May 14, 2018.

By letter dated November 2, 2022, the CLPNA received a complaint (the “Complaint”) from Rhonda Penno, Director, HR Business Partnerships, Alberta Health Services (“AHS”) in Stony Plain, Alberta pursuant to s. 57 of the Act. The Complaint stated that Ms. Guydash’s employment at Alberta Health Services was terminated, effective October 27, 2022, as a result of multiple privacy breaches.

In accordance with s. 55(2)(d) and s. 20(1) of the Act, Ms. Sandy Davis, then-Complaints Director for the CLPNA (the “Complaints Director”) appointed Mr. Kevin Oudith, then-Complaints Officer for the CLPNA to handle the Complaint and to conduct an investigation into the Complaint.

Ms. Guydash received notice of the Complaint and the investigation by letter dated November 7, 2022.

Mr. Oudith, Complaints Officer, left the CLPNA and Complaints Officer, Ms. Susan Blatz (the “Complaints Officer”) took carriage of the matter. On January 30, 2023, the Complaints Officer concluded the investigation.

Following the conclusion of the investigation, the Complaints Officer determined there was sufficient evidence that the matter should be referred to the Hearings Director in accordance with s. 66(3)(a) of the Act. Ms. Guydash received notice that the matter was referred to a hearing as well as a copy of the Statement of Allegations and the Investigation Report under cover of letter dated March 6, 2023.

A Statement of Allegations, Notice of Hearing, Notice to Attend and Notice to Produce were served upon Ms. Guydash under cover of letter dated March 27, 2023.

(4) Allegations

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

It is alleged that Sarah Guydash, LPN, while practising as a Licensed Practical Nurse engaged in unprofessional conduct by:

1. On or between March 19, 2022 and June 28, 2022 accessed 71 patients’ personal health information on Connect Care without proper authorization or justification.
2. Accessed family members’ personal health information on Connect Care without proper authorization or justification on or about the following dates:
 - a. NG on March 20, 2022;
 - b. SG on March 20, 2022;
 - c. AG on May 31, 2022;
 - d. NG on May 31, 2022.
3. On or about April 25, 2022 accessed family friend HM’s personal health information on Connect Care without proper authorization or justification.

4. On or about March 19 and March 20, 2022 accessed her own personal health information on Connect Care without proper authorization or justification.

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

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

(6) Exhibits

The following exhibits were entered at the hearing:

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

(7) Evidence

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

(8) Decision of the Hearing Tribunal and Reasons

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

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

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

Allegation 1

Ms. Guydash admitted on or between March 19, 2022, and June 28, 2022, she accessed 71 patients' personal health information on Connect Care without proper authorization or justification.

Between March 19, 2022, and June 17, 2022, Ms. Guydash worked at Westview Health Center. On June 15, 17, and 28, 2022, Ms. Guydash worked at the Royal Alexandra Hospital.

On March 19, 2022, while working at Westview Health Centre, Ms. Guydash accessed 13 patients' personal health care information on Connect Care.

On March 20, 2022, while working at Westview Health Centre, Ms. Guydash accessed 8 patients' personal health care information on Connect Care.

On April 15, 2022, while working at Westview Health Centre, Ms. Guydash accessed 11 patients' personal health care information on Connect Care.

On April 23, 2022, while working at Westview Health Centre, Ms. Guydash accessed 11 patients' personal health care information on Connect Care.

On May 16, 2022, while working at Westview Health Centre, Ms. Guydash accessed 7 patients' personal health care information on Connect Care.

On May 24, 2022, while working at Westview Health Centre, Ms. Guydash accessed 8 patients' personal health care information on Connect Care.

On May 31, 2022, while working at Westview Health Centre, Ms. Guydash accessed 6 patients' personal health care information on Connect Care.

On June 1, 2022, while working at Westview Health Centre, Ms. Guydash accessed 3 patients' personal health care information on Connect Care.

On these dates at Westview Health Centre, Ms. Guydash looked at patients' information through the "recently discharged/deceased" tab on the clinical information system, Connect Care, on a total of 67 occasions.

On June 15, 2022, while working at the Royal Alexandra Hospital, Ms. Guydash accessed 2 patients' personal health care information on Connect Care.

On June 17, 2022, while working at the Royal Alexandra Hospital, Ms. Guydash accessed 1 patient's personal health care information on Connect Care.

On June 28, 2002, while working at the Royal Alexandra Hospital, Ms. Guydash accessed 1 patient's personal health care information on Connect Care.

On these dates at the Royal Alexandra Hospital, Ms. Guydash looked at 4 patients' information on the clinical information system, Connect Care, out of curiosity.

The 71 patients referenced in this allegation were located on other units and/or were not under Ms. Guydash's care. Ms. Guydash had no authorization or justification to access their personal health information on Connect Care.

Ms. Guydash took privacy and confidentiality training through Alberta Health Services when she first was hired at Westview Health Centre in 2018. Ms. Guydash took Connect Care training in January 2021. Ms. Guydash completed additional training called "Required Organizational Learning (ROL) – InfoCare – Ethics & Compliance" on January 8, 2021, and "Required Organizational Learning (ROL) – InfoCare – On Our Best Behavior" on January 12, 2021. Ms. Guydash completed the "Required Organizational Learning (ROL) – InfoCare – Ethics & Compliance" course again on April 15, 2022.

The Required Organizational Learning (ROL) – InfoCare – On Our Best Behavior course fulfills the Annual Continuing Education requirements for Privacy and Information Security for all Alberta Health Services Employees and access to Connect Care requires completion of this module. This is mandatory training for all staff who must access Connect Care. The "Pass Criteria" states the course users agree to the terms in the Alberta Health Services Confidentiality and User Agreement. Ms. Guydash passed the course.

On or around September 2022, a pro-active privacy audit was completed by Alberta Health Services Information and Privacy. The initial audit flagged that Ms. Guydash accessed personal health information of individuals with the same last name as her. As a result, an expanded audit was completed from March 19, 2022, to May 31, 2022. It was during that audit that Ms. Guydash accessed four individuals' health care records with the last name "Guydash" as well as her own health care records and multiple other patients.

Ms. Heather Hector, Ms. Guydash's manager, cross-referenced additional patient information accessed with Ms. Guydash's patient assignment on those dates, and confirmed that the patients whose information Ms. Guydash accessed were not under her care.

As a result, the Connect Care audit was once again expanded and disclosed more breaches where Ms. Guydash accessed multiple patients' personal health information not under her care and without justification.

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

The Hearing Tribunal finds that the conduct admitted to amounts to unprofessional conduct as defined in s. 1(1)(pp) of the Act, in particular, the Hearing Tribunal found the following definitions of unprofessional conduct have been met:

- i. Displaying a lack of knowledge of or lack of skill or judgment in the provision of professional services;
- ii. Contravention of the Act, a code of ethics or standards of practice;
- iii. Contravention of another enactment that applies to the profession, and
- xii. Conduct that harms the integrity of the regulated profession.

Ms. Guydash displayed a lack of knowledge of or lack of skill or judgment by accessing patients' personal health information even though these patients were not in Ms. Guydash's care. Ms. Guydash did this with respect to 71 patients between March 19, 2022, and June 28, 2022.

Ms. Guydash did not abide by the Code of Ethics for Licensed Practical Nurses in Canada, adopted by the CLPNA on June 3, 2013 ("CLPNA Code of Ethics") and the Standards of Practice for Licensed Practical Nurses in Canada, adopted by the CLPNA on June 3, 2013 ("CLPNA Standards of Practice"), as acknowledged by Ms. Guydash in the Agreed Statement of Facts and Acknowledgement of Unprofessional Conduct. The Hearing Tribunal finds the conduct breached the CLPNA Code of Ethics and the CLPNA Standards of Practice as set out below and that such breaches are sufficiently serious to constitute unprofessional conduct. The specific provisions are set out below.

CLPNA Code of Ethics:

Ms. Guydash acknowledges that her conduct breached one or more of the following requirements in the CLPNA Code of Ethics, which states as follows:

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

- 1.1 Maintain standards of practice, professional competence and conduct.
- 1.5 Provide care directed toward the health and well-being of the person, family, and community.

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

- 2.3 Respect and protect client privacy and hold in confidence information disclosed except in certain narrowly defined exceptions.

- 2.3.1 Safeguard health and personal information by collecting, storing, using and disclosing it in compliance with relevant legislation and employer policies.
- 2.3.2 Report any situation where private or confidential information is accessed or disclosed without appropriate consent or legal authority, whether deliberately or through error.

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

- 3.1 Maintain the standards of the profession and conduct themselves in a manner that upholds the integrity of the profession.
- 3.3 Practice in a manner that is consistent with the privilege and responsibility of self-regulation.
- 3.4 Promote workplace practices and policies that facilitate professional practice in accordance with the principles, standards, laws, and regulations under which they are accountable.

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

- 5.1 Demonstrate honesty, integrity, and trustworthiness in all interactions.
- 5.3 Accept responsibility for knowing and acting consistently with the principles, practice standards, laws and regulations under which they are accountable.

CLPNA Standards of Practice:

Ms. Guydash acknowledges that her conduct breached one or more of the following CLPNA Standards of Practice, which provides as follows:

Standard 1: Professional Accountability and Responsibility – LPNs are accountable and responsible for their practice and conduct to meet 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.

- 1.9 Practice in a manner consistent with ethical values and obligations of the Code of Ethics for Licensed Practical Nurses.

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 interest 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.
- 3.6 Demonstrate an understanding of self-regulation by following the standards of practice, the Code of Ethics, and other regulatory requirements.
- 3.8 Practice within the relevant laws governing privacy and confidentiality of personal health information.

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.
- 4.5 Advocate for the protection and promotion of clients’ right to autonomy, respect, privacy, confidentiality, dignity, and access to information.
- 4.10 Practice with honesty and integrity to maintain the values and reputation of the profession.

Ms. Guydash was in contravention of another enactment that applies to the profession in that she violated the *Health Information Act* by looking at patients’ electronic charts that she did not require access to. Ms. Guydash did not safeguard health or personal information with respect to the patients whose electronic health records that she accessed and by doing this violated a policy of her employer.

Ms. Guydash’s conduct harmed the integrity of the regulated profession as she behaved in a manner that is not expected of an LPN in a similar situation. Patients in the hospital should be able to expect that LPNs are not looking up their personal information or gaining access to personal records when they are not providing care to that patient.

Allegation 2

Ms. Guydash admitted she accessed family members' personal health information on Connect Care without proper authorization or justification on or about the following dates:

- a. NG on March 20, 2022;
- b. SG on March 20, 2022;
- c. AG on May 31, 2022;
- d. NG on May 31, 2022.

On March 20, 2022, and May 31, 2022, Ms. Guydash was working at Westview Health Centre.

During Ms. Guydash's shift on March 20, 2022, Ms. Guydash used Connect Care to access her daughter, NG's, personal health information as well as her son, SG's, personal health information without proper authorization or justification as Ms. Guydash was curious what was on their files.

During Ms. Guydash's shift on May 31, 2022, Ms. Guydash used Connect Care to access her brother-in-law, AG's, personal health information, as well as NG, her husband's personal health information, without proper authorization or justification.

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

The Hearing Tribunal finds that the conduct admitted to amounts to unprofessional conduct as defined in s. 1(1)(pp) of the Act, in particular, the Hearing Tribunal found the following definitions of unprofessional conduct have been met:

- i. Displaying a lack of knowledge of or lack of skill or judgment in the provision of professional services;
- ii. Contravention of the Act, a code of ethics or standards of practice;
- iii. Contravention of another enactment that applies to the profession, and
- xii. Conduct that harms the integrity of the regulated profession.

Ms. Guydash displayed a lack of knowledge of or lack of skill or judgment by accessing patients' personal health information even though these patients were not in Ms. Guydash's care. Ms. Guydash did this on four occasions, two of which were on March 20, 2022, and the other two were on May 31, 2022. This information was related to her own family members: her children, her brother-in-law, and her husband. None of these individuals were within Ms. Guydash's care and this was a significant lack of judgment on her part to review her family members' private health care information for her own curiosity.

Ms. Guydash did not abide by the CLPNA Code of Ethics or the CLPNA Standards of Practice, as acknowledged by Ms. Guydash in the Agreed Statement of Facts and Acknowledgement of Unprofessional Conduct, as set out in detail in Allegation 1. The Hearing Tribunal finds the

conduct breached the CLPNA Code of Ethics and the CLPNA Standards of Practice as set out in Allegation 1 and that such breaches are sufficiently serious to constitute unprofessional conduct.

Ms. Guydash was in contravention of another enactment that applies to the profession in that she violated the *Health Information Act* by looking at family members' electronic charts that she did not require access to. Ms. Guydash did not safeguard health or personal information with respect to the family members whose electronic health records that she accessed, and by doing this violated a policy of her employer.

Ms. Guydash's conduct harmed the integrity of the regulated profession as she behaved in a manner that is not expected of an LPN in a similar situation. Family members should be able to expect that LPNs are not looking up their personal information or gaining access to personal records when they are not providing care to that family member.

Allegation 3

Ms. Guydash admitted on or about April 25, 2022, she accessed family friend HM's personal health information on Connect Care without proper authorization of justification.

On April 25, 2022, Ms. Guydash was working at Westview Health Center.

Ms. Guydash was aware her family friend's son had attended the emergency room. During Ms. Guydash's shift at the Westview Health Centre, on April 25, 2022, Ms. Guydash used Connect Care to access a family friend's son's personal health information without proper authorization or justification.

The Hearing Tribunal considered the facts included in the Agreed Statement of Facts and Ms. Guydash's admission of unprofessional conduct. The Hearing Tribunal found that the facts and documents included in Exhibit #2 prove that the conduct for Allegation 3 did in fact occur.

The Hearing Tribunal finds that the conduct admitted to amounts to unprofessional conduct as defined in s. 1(1)(pp) of the Act, in particular, the Hearing Tribunal found the following definitions of unprofessional conduct have been met:

- i. Displaying a lack of knowledge of or lack of skill or judgment in the provision of professional services;
- ii. Contravention of the Act, a code of ethics or standards of practice;
- iii. Contravention of another enactment that applies to the profession, and
- xii. Conduct that harms the integrity of the regulated profession.

Ms. Guydash displayed a lack of knowledge of or lack of skill or judgment by accessing a family friend's personal health information even though this patient was not in Ms. Guydash's care. This was a clear breach of privacy of the patient, who Ms. Guydash knew as a friend of her child's. She should never have been accessing that information as this was not a patient in her care.

Ms. Guydash did not abide by the CLPNA Code of Ethics or the CLPNA Standards of Practice, as acknowledged by Ms. Guydash in the Agreed Statement of Facts and Acknowledgement of Unprofessional Conduct, as set out in detail in Allegation 1. The Hearing Tribunal finds the conduct breached the CLPNA Code of Ethics and the CLPNA Standards of Practice as set out in Allegation 1 and that such breaches are sufficiently serious to constitute unprofessional conduct.

Ms. Guydash was in contravention of another enactment that applies to the profession in that she violated the *Health Information Act* by looking at family friend's electronic charts that she did not require access to. Ms. Guydash did not safeguard health or personal information with respect to the family friend whose electronic health records she accessed, and by doing this violated a policy of her employer.

Ms. Guydash's conduct harmed the integrity of the regulated profession as she behaved in a manner that is not expected of an LPN in a similar situation. Members of the public should be able to expect that LPNs are not looking up their personal information or gaining access to personal records when they are not providing care to that family friend.

Allegation 4

Ms. Guydash admitted on or about March 19 and March 20, 2022, she accessed her own personal health information on Connect Care without proper authorization or justification.

On March 19, 2022, and March 20, 2022, Ms. Guydash was working at Westview Health Centre.

During Ms. Guydash's shift on those dates, Ms. Guydash used Connect Care to access her own personal health information without proper authorization or justification.

The Hearing Tribunal considered the facts included in the Agreed Statement of Facts and Ms. Guydash's admission of unprofessional conduct. The Hearing Tribunal found that the facts and documents included in Exhibit #2 prove that the conduct for Allegation 4 did in fact occur.

The Hearing Tribunal finds that the conduct admitted to amounts to unprofessional conduct as defined in s. 1(1)(pp) of the Act, in particular, the Hearing Tribunal found the following definitions of unprofessional conduct have been met:

- i. Displaying a lack of knowledge of or lack of skill or judgment in the provision of professional services;
- ii. Contravention of the Act, a code of ethics or standards of practice;
- iii. Contravention of another enactment that applies to the profession, and
- xii. Conduct that harms the integrity of the regulated profession.

Ms. Guydash displayed a lack of knowledge of or lack of skill or judgment by accessing her own personal health information. Ms. Guydash did this on two occasions, on March 19, 2022, and March 20, 2022. It is a lack of judgment to access one's own personal health care information via her ability to review Connect Care, rather than through the correct channels.

Ms. Guydash did not abide by the CLPNA Code of Ethics or the CLPNA Standards of Practice, as acknowledged by Ms. Guydash in the Agreed Statement of Facts and Acknowledgement of Unprofessional Conduct, as set out in detail in Allegation 1. The Hearing Tribunal finds the conduct breached the CLPNA Code of Ethics and the CLPNA Standards of Practice as set out in Allegation 1 and that such breaches are sufficiently serious to constitute unprofessional conduct.

Ms. Guydash was in contravention of another enactment that applies to the profession in that she violated the *Health Information Act* by looking at her own electronic chart that she did not require access to. Ms. Guydash did not safeguard health or personal information with respect to the electronic health records that she accessed and by doing this violated a policy of her employer.

Ms. Guydash's conduct harmed the integrity of the regulated profession as she behaved in a manner that is not expected of an LPN in a similar situation. LPNs should not be looking up their personal information or gaining access to personal records unless it is through the proper channels, which did not occur here.

(9) Joint Submission on Penalty

The Complaints Officer and Ms. Guydash jointly proposed to the Hearing Tribunal a Joint Submission on Penalty, which was entered as Exhibit #3. The Joint Submission on Penalty proposed the following sanctions to the Hearing Tribunal for consideration:

1. The Hearing Tribunal's written reasons for decision ("the Decision") shall serve as a reprimand.
2. Sarah Guydash shall pay a fine of \$1,500.00 within **36 months** of service of the Decision.
3. Sarah Guydash shall pay 25% of the costs of the investigation and hearing to be paid over a period of **36 months** from service of letter advising of final costs.
 - a) A letter advising of the final costs will be forwarded when final costs have been confirmed.
4. Sarah Guydash shall read and reflect on how the following CLPNA documents, located on the CLPNA website at www.clpna.com under the "Governance" tab, will impact her nursing practice. Sarah Guydash shall provide a signed written declaration to Susan Blatz, Complaints Officer, within **30 days** of service of the Agreement and Undertaking, attesting she has reviewed CLPNA's documents:
 - a. Code of Ethics for Licensed Practical Nurses in Canada;
 - b. Standards of Practice for Licensed Practical Nurses in Canada;
 - c. CLPNA Practice Policy: Professional Responsibility & Accountability;

- d. CLPNA Interpretive Document: Privacy Legislation in Alberta;
- e. CLPNA Practice Guideline: Confidentiality;
- f. CLPNA Competency Profile A1: Critical Thinking;
- g. CLPNA Competency Profile A2: Clinical Judgment and Decision Making;
- h. CLPNA Competency Profile C: Professionalism and Leadership.

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

5. Sarah Guydash shall complete the **LPN Ethics Course** available online at www.learningnurse.org and provide Susan Blatz, Complaints Officer, with a certificate confirming successful completion of the course within **60 days** of service of the Decision.

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

6. Sarah Guydash shall complete the **Privacy Awareness in Health Care Training – Alberta course** available online at www.corridorinteractive.com and provide Susan Blatz, Complaints Officer, with a certificate confirming successful completion within **60 days** of service of the Decision.

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

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

- a) The requirement to complete the remedial education and readings/reflection outlined at paragraphs 4-6 will appear as "CLPNA Monitoring Orders (Conduct)", on Sarah Guydash's practice permit and the Public Registry until the below sanctions have been satisfactorily completed;

- i. Readings/Reflection;
- ii. LPN Ethics Course;
- iii. HIA Awareness Course.

- b) The requirement to pay fines and costs, will appear as “Conduct Cost/Fines” on Sarah Guydash’s practice permit and the Public Registry until all costs have been paid as set out above at paragraph 2 and 3.
8. The conditions on Sarah Guydash’s practice permit and on the Public Registry will be removed upon completion of each of the requirements set out above at paragraph 7.
9. Sarah Guydash shall provide the CLPNA with her contact information, including home mailing address, home and cellular telephone numbers, current e-mail address and current employment information. Sarah Guydash will keep her contact information current with the CLPNA on an ongoing basis.
10. Should Sarah Guydash be unable to comply with any of the deadlines for completion of the penalty orders identified above, the deadlines may, upon written request, be extended for a reasonable period of time with the written consent of the Complaints Officer.
11. Should Sarah Guydash fail or be unable to comply with any of the above orders for penalty, or if any dispute arises regarding the implementation of these orders, the Complaints Officer may do any or all of the following:
- a) Refer the matter back to a Hearing Tribunal, which shall retain jurisdiction with respect to penalty;
 - b) Treat Sarah Guydash’s non-compliance as information for a complaint under s. 56 of the Act; or
 - c) In the case of non-payment of the fine or costs described in paragraphs 3 above, suspend Sarah Guydash’s practice permit until such costs are paid in full or the Complaints Officer is satisfied that such costs are being paid in accordance with a schedule of payment agreed to by the Complaints Officer.

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

The Hearing Tribunal is aware that 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. Guydash 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 Ms. Guydash has engaged in. In making its decision on penalty, the Hearing Tribunal considered a number of factors identified in *Jaswal v Newfoundland Medical Board* [1986] NJ No 50 (NLSC-TD), specifically the following:

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

The nature and gravity of the proven allegations: This was a significant factor, as Ms. Guydash demonstrated a lack of skill, knowledge, and judgment in relation to these allegations. These allegations deal with multiple breaches of confidentiality, and patients have an expectation of privacy when they are in the care of a healthcare provider, as health care information is intensely personal and private information. Ms. Guydash accessed not only her Connect Care chart, but also those of her family, a friend's son, and many other patients who were not under her care. Given her education and training, Ms. Guydash should have been well aware of the importance of patient privacy.

The age and experience of the investigated member: Ms. Guydash was initially registered with the CLPNA on May 14, 2018. Ms. Guydash began working at Westview Health Centre in June 2018. Then Ms. Guydash started a causal position on the Day Surgery Unit at the Royal Alexandra Hospital in October 2021. Therefore, she was not new to the profession and had sufficient education, training and experience to know that this was improper conduct which did not respect the privacy rights of the patients whose information she was accessing.

The previous character of the investigated member and in particular the presence or absence of any prior complaints or convictions: There was no evidence of any prior complaints or convictions with respect to Ms. Guydash.

The number of times the offending conduct was proven to have occurred: In total, Ms. Guydash accessed 76 patients' personal health records within the Connect Care system.

The role of the investigated member in acknowledging what occurred: Ms. Guydash did acknowledge the allegations that were brought forward to the CLPNA by Alberta Health Services. Ms. Guydash did provide the Hearing Tribunal with an Agreed Statement of Facts and Acknowledgment of Unprofessional Conduct, which demonstrates that Ms. Guydash took responsibility for her actions.

Whether the investigated member has already suffered other serious financial or other penalties as a result of the allegations having been made: As a result of these allegations, Ms. Guydash was terminated from Alberta Health Services on October 27, 2022.

The impact of the incident(s) on the victim: Although no evidence of harm to the victims was provided to the Hearing Tribunal, patient privacy is extremely important and there could be a sense of violation when privacy is not maintained.

The presence or absence of any mitigating circumstances: The Hearing Tribunal was not made aware of any mitigating circumstances other than what was outlined in the Agreed Statement of Facts.

The need to promote specific and general deterrence and, thereby, to protect the public and ensure the safe and proper practice: Specific deterrence is required to keep Ms. Guydash from repeating the same conduct in the future. General deterrence is required to ensure that other members in the LPN profession do not engage in this type of conduct, and to make it known that this type of conduct will not be tolerated by the CLPNA. LPNs are recognized as independent and capable members of the healthcare team and are self-regulating and the public needs to be reassured that this standard is upheld. This decision shall serve to promote specific deterrence against Ms. Guydash, and the sanctions imposed will demonstrate to other members of the profession that the CLPNA takes this conduct, and patient privacy, very seriously.

The need to maintain the public’s confidence in the integrity of the profession: The CLPNA deals with the actions of its members when they engage in unprofessional conduct. The CLPNA will deal with any breaches of the CLPNA Code of Ethics and the CLPNA Standards of Practice in a way that reflects the seriousness of the conduct and for the purpose of protecting the public. This decision, and the sanctions ordered, will maintain the public’s confidence and the integrity of the profession, as it demonstrates that seriousness by which the CLPNA takes breaches of this nature.

The range of sentence in other similar cases: The Hearing Tribunal was given reference to the “Fenske” decision, which was also a breach of confidentiality, and this was referred to in relation to the Joint Submission on Sanctions with respect to costs as a similar fact scenario to Ms. Guydash.

It is important to the profession of LPNs to abide by the provisions of the CLPNA Code of Ethics and CLPNA Standards of Practice, and in doing so to promote specific and general deterrence and, thereby, to protect the public. The Hearing Tribunal has considered this in the deliberation of this matter, and again considered the seriousness of the Investigated Member’s actions. The penalties ordered in this case are intended, in part, to demonstrate to the profession and the public that actions and unprofessional conduct such as this is not tolerated and it is intended that these orders will, in part, act as a deterrent to others.

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

(11) Orders of the Hearing Tribunal

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

1. The Hearing Tribunal's written reasons for decision (“the Decision”) shall serve as a reprimand.
2. Sarah Guydash shall pay a fine of \$1,500.00 within **36 months** of service of the Decision.
3. Sarah Guydash shall pay 25% of the costs of the investigation and hearing to be paid over a period of **36 months** from service of letter advising of final costs.
 - a) A letter advising of the final costs will be forwarded when final costs have been confirmed.
4. Sarah Guydash shall read and reflect on how the following CLPNA documents, located on the CLPNA website at www.clpna.com under the “Governance” tab, will impact her nursing

practice. Sarah Guydash shall provide a signed written declaration to Susan Blatz, Complaints Officer, within **30 days** of service of the Agreement and Undertaking, attesting she has reviewed CLPNA's documents:

- a. Code of Ethics for Licensed Practical Nurses in Canada;
- b. Standards of Practice for Licensed Practical Nurses in Canada;
- c. CLPNA Practice Policy: Professional Responsibility & Accountability;
- d. CLPNA Interpretive Document: Privacy Legislation in Alberta;
- e. CLPNA Practice Guideline: Confidentiality;
- f. CLPNA Competency Profile A1: Critical Thinking;
- g. CLPNA Competency Profile A2: Clinical Judgment and Decision Making;
- h. CLPNA Competency Profile C: Professionalism and Leadership.

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

5. Sarah Guydash shall complete the **LPN Ethics Course** available online at www.learningnurse.org and provide Susan Blatz, Complaints Officer, with a certificate confirming successful completion of the course within **60 days** of service of the Decision.

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

6. Sarah Guydash shall complete the **Privacy Awareness in Health Care Training – Alberta course** available online at www.corridorinteractive.com and provide Susan Blatz, Complaints Officer, with a certificate confirming successful completion within **60 days** of service of the Decision.

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

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

- a) The requirement to complete the remedial education and readings/reflection outlined at paragraphs 4-6 will appear as "CLPNA Monitoring Orders (Conduct)",

on Sarah Guydash's practice permit and the Public Registry until the below sanctions have been satisfactorily completed;

- i. Readings/Reflection;
- ii. LPN Ethics Course;
- iii. HIA Awareness Course.

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

8. The conditions on Sarah Guydash's practice permit and on the Public Registry will be removed upon completion of each of the requirements set out above at paragraph 7.

9. Sarah Guydash shall provide the CLPNA with her contact information, including home mailing address, home and cellular telephone numbers, current e-mail address and

current employment information. Sarah Guydash will keep her contact information current with the CLPNA on an ongoing basis.

10. Should Sarah Guydash be unable to comply with any of the deadlines for completion of the penalty orders identified above, the deadlines may, upon written request, be extended for a reasonable period of time with the written consent of the Complaints Officer.

11. Should Sarah Guydash fail or be unable to comply with any of the above orders for penalty, or if any dispute arises regarding the implementation of these orders, the Complaints Officer may do any or all of the following:

- a) Refer the matter back to a Hearing Tribunal, which shall retain jurisdiction with respect to penalty;
- b) Treat Sarah Guydash's non-compliance as information for a complaint under s. 56 of the Act; or
- c) In the case of non-payment of the fine or costs described in paragraphs 3 above, suspend Sarah Guydash's practice permit until such costs are paid in full or the Complaints Officer is satisfied that such costs are being paid in accordance with a schedule of payment agreed to by the Complaints Officer.

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

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

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

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

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

DATED THE 24th DAY OF MAY 2023 IN THE CITY OF EDMONTON, ALBERTA.

THE COLLEGE OF LICENSED PRACTICAL NURSES OF ALBERTA



Kelly Anesty, LPN
Chair, Hearing Tribunal