

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 TATYANA COLLINS**

**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 TATYANA COLLINS, LPN #34148, 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 Videoconference on February 16, 2021 with the following individuals present:

Hearing Tribunal:

Kelly Annelly, Licensed Practical Nurse (“LPN”) Chairperson
Marie Concepcion, LPN
Nancy Brook, Public Member

Staff:

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

Investigated Member:

Tatyana Collins, LPN (“Ms. Collins or “Investigated Member”)
Angela Gill, 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. Collins was an LPN within the meaning of the Act at all material times, and more particularly, was registered with CLPNA as an LPN at the time of the complaint. Ms. Collins was initially licensed as an LPN in Alberta on October 6, 2011.

The College of Licensed Practical Nurses of Alberta (“CLPNA”) received a complaint dated September 25, 2020 (the “First Complaint”) from Craig Maddess, HR at Carewest Glenmore Park in Calgary, Alberta, pursuant to s. 57 of the *Health Professions Act* (the “Act”). The First Complaint advised Ms. Collins, LPN, had resigned during an investigation into whether she was working at more than one health care facility.

The Complaints Director, Sandy Davis (“Complaints Director”), delegated her authority and powers under Part 4 of the Act regarding the First Complaint to Susan Blatz, Complaints Consultant for the CLPNA (“Complaints Consultant”), pursuant to s. 20 of the Act.

The Complaints Consultant determined that she would conduct an investigation into the First Complaint.

The CLPNA received a second complaint dated September 30, 2020 (the “Second Complaint”) from Colleen Synyshyn, Resident Care Manager, at AgeCare Walden Heights in Calgary, AB pursuant to s. 57 of the Act. The Second Complaint stated AgeCare Walden Heights had terminated the employment of Ms. Collins as a result of Ms. Collins working for more than one continuing care employer when this was prohibited.

The Complaints Director delegated her authority and powers under Part 4 of the Act regarding the Second Complaint to the Complaints Consultant pursuant to s. 20 of the Act.

The Complaints Consultant determined that she would conduct an investigation into the Second Complaint.

By way of letter dated September 30, 2020, the Complaints Consultant provided Ms. Collins with notice of the First Complaint and Second Complaint and notice of the investigations into the complaints. The Complaints Consultant also informed Ms. Collins that due to the nature of the alleged conduct, she was recommending to Jeanne Weis, Chief Executive Officer for the CLPNA, that Ms. Collins’ practice permit be immediately suspended under s. 65(1)(b) of the Act.

The Complaints Consultant requested that Ms. Weis impose an immediate suspension of Ms. Collins’ practice permit under s. 65(1)(b) of the Act by letter on September 30, 2020. Ms. Collins received a copy of this letter and its corresponding attachments.

By letter dated October 2, 2020, Ms. Weis granted the request for an interim suspension of Ms. Collins’ practice permit and notified Ms. Collins accordingly.

On November 27, 2020, the Complaints Consultant concluded the investigation into the First Complaint and the investigation into the Second Complaint.

The Complaints Consultant determined there was sufficient evidence that the issues raised in the First Complaint and the Second Complaint should be referred to the Hearings Director in accordance with s. 66(3)(a) of the Act. Ms. Collins received notice the matters were referred to a hearing, as well as a copy of the Statement of Allegations and the Investigation Reports, on December 8, 2020.

A Notice of Hearing, Notice to Attend and Notice to Produce was served upon Ms. Collins under cover of letter dated January 12, 2021.

(4) Allegations

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

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

1. On or about April 15 or 16, 2020, failed to disclose to her employer, AgeCare Walden Heights, that she worked at a second health care facility in contravention of CMOH 10-2020.
2. On or about April 15, 2020, failed to disclose to her employer, Carewest Glenmore Park, that she worked at a second health care facility in contravention of CMOH 10-2020.
3. Between June 26, 2020 and August 19, 2020, worked at two health care facilities, AgeCare Walden Heights and Carewest Glenmore Park, in contravention of CMOH 10-2020.
4. On or about August 19, 2020 failed to disclose on AgeCare Walden Heights’ daily screening questionnaire she worked at Carewest Glenmore Park, which was in a COVID-19 outbreak.”

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

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

(6) Exhibits

The following exhibits were entered at the hearing:

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

(7) Evidence

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

(8) Decision of the Hearing Tribunal and Reasons

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

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

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

Allegation 1

Ms. Collins admitted that on or about April 15 or 16, 2020, she failed to disclose to her employer, AgeCare Walden Heights, that she worked at a second health care facility in contravention of CMOH 10-2020.

After CMOH Order 10-2020 was introduced on April 10, 2020, HR and management at AgeCare Walden Heights called every employee to inform them about the CMOH Order 10-2020 and to inquire about other employment. Memos, posters, and emails were also published to staff at AgeCare Walden Heights about COVID-19 and CMOH Order 10-2020.

On April 25, 2020, an email was sent out to every staff member asking where they were working and asking them to complete a declaration form which was included as part of the email. The declaration form advised that staff members could only work at one health care facility and that staff working at more than one health care facility needed to choose which facility they wished to work at.

Ms. Collins never raised any questions or concerns with AgeCare Walden Heights about the declaration form or working at another health care facility.

Ms. Collins was aware of the requirement to disclose the other health care facilities that she worked at and was aware of the requirement to complete a declaration form and declare which single health care facility she would work at.

On April 16, 2020, AgeCare Walden Heights received a completed declaration form from Ms. Collins. Ms. Collins stated that she was not working at another health care facility and she did not disclose any other employers.

In contravention of CMOH Order 10-2020, Ms. Collins did not disclose to AgeCare Walden Heights that she also worked at Carewest Glenmore Park.

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. Collins displayed a lack of knowledge of or lack of skill or judgment in the provision of professional services as a health care professional in an environment where there is a risk of exposure to the COVID-19 virus and the serious harm resulting from it. Ms. Collins had an obligation to follow the mandate, but she chose not to follow the CMOH Order 10-2020. This demonstrated to the Complaints Consultant a lack of skill or judgment in the provision of Licensed Practical Nursing services in these circumstances. Ms. Collins did not disclose to her employer AgeCare Walden Heights, that she was working at two separate health care facilities despite the CMOH Order 10-2020 which stated that employees had to complete a declaration form stating that they would only work at one health care facility. Ms. Collins did in fact complete the declaration form which stated that she was only working at AgeCare Walden Heights and that she was not working at any other health care facilities. This willful omission amounts to a serious lack of judgment especially in light of the harm which could result from it.

Ms. Collins did not abide by the CLPNA Code of Ethics or the CLPNA Standards of Practice, as acknowledged by Ms. Collins. The Hearing Tribunal finds the conduct breached by the same

provisions of 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 Hearing Tribunal finds the conduct breached by the CLPNA Code of Ethics and the CLPNA Standards of Practice by failing to adhere to the CMOH Order 10-2020. Ms. Collins also failed to be truthful when filling out the declaration form for her employer.

Ms. Collins was in contravention of another enactment that applied to the profession in that Ms. Collins did not adhere to the CMOH Order 10-2020 which was implemented to prevent the spread of COVID-19 among vulnerable groups with pre-existing health conditions which includes seniors. This was an enactment that applied to the Licensed Practical Nurse profession. Ms. Collins breached this by failing to inform her employers that she was working at more than one facility. Ms. Collins contravened an enactment that applied to the profession by failing to advise her employers and by failing to limit her work to only one facility. Ms. Collins put others at risk and these were some of the more vulnerable members of the population who could have suffered serious consequences if they were exposed to a virus. By not complying with the order Ms. Collins increased their exposure to the virus. One of the facilities that Ms. Collins was working at was on a COVID-19 outbreak for a period which created an elevated risk of transmission and exposure.

Ms. Collins failed to recognize the seriousness of COVID-19 and the importance of the CMOH Order 10-2020. The CMOH Order 10-2020 was implemented to prevent the spread of COVID-19 among seniors and vulnerable groups with pre-existing health conditions. The restrictions were intended to help ensure that seniors and other vulnerable individuals in these settings were kept as physically safe as possible by reducing the number of different people that interacted with the residents.

Ms. Collins was also dishonest in respect to the completion of the declaration form which she completed stating that she was only working at AgeCare Walden Heights in which she violated CMOH Order 10-2020. Ms. Collins was obligated within the declaration to be working at the one facility and the decision not to disclose this information to her employer potentially put the people in her care at risk of acquiring COVID-19.

Ms. Collins put the residents who were under care at great risk as there was a COVID-19 outbreak at the Carewest Glenmore Park facility while she was working there. By doing this Ms. Collins exposed both the staff as well as the patients to an increased risk of being exposed to COVID-19.

Ms. Collins's conduct harms the integrity of the regulated profession in that Ms. Collins did not act in a manner which would be expected of another LPN in a similar situation. LPNs are expected to follow the mandate of the Chief Medical Officer of Health for Alberta especially when dealing with a worldwide pandemic such as with COVID-19. It is expected that LPNs will follow the mandate of both the CLPNA as well as the Chief Medical Officer of Health for Alberta.

The conduct breached the following principles and standards set out in CLPNA's Code of Ethics ("CLPNA Code of Ethics") and CLPNA's Standards of Practice for Licensed Practical Nurses in

Canada (“CLPNA Standards of Practice”) as set out below for substantially the same reasons as already discussed.

CLPNA Code of Ethics:

Ms. Collins acknowledged that 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, 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 to 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:

- 2.8 Use evidence and judgement to guide nursing decisions.
- 2.9 Identify and minimize risk to clients.

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

- 3.1 Maintain the standards of the profession and conduct themselves in a manner that upholds the integrity of the profession.
- 3.3 Practice in a manner that is consistent with the privilege and responsibility of self-regulation.

Principle 4: Responsibility to the Profession – LPNs develop and maintain positive, collaborative relationships with nursing colleagues and other health professionals. Principle 4 specifically states that LPNs:

- 4.2 Collaborate with colleagues in a cooperative, constructive, and respectful manner with the primary goal of providing safe, competent, ethical, and appropriate care to individuals, families, and communities.

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. Collins acknowledged that her conduct breached one or more of the following Standards of Practice for Licensed Practical Nurses in Canada adopted by the CLPNA on June 3, 2013, which states as follows:

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 states that LPNs:

- 1.1 Practice to their full range of competence within applicable legislation, regulations, by-laws, and employer policies.
- 1.4 Recognize their own practice limitations and consult as necessary.
- 1.6 Take action to avoid and/or minimize harm in situations in which client safety and well-being are compromised.
- 1.9 Practice in a manner consistent with ethical values and obligations of the Code of Ethics for Licensed Practical Nurses.
- 1.10 Maintain documentation and reporting according to established legislation, regulations, laws, and employer policies.

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 states that LPNs:

- 3.3 Support and contribute to an environment that promotes and supports safe, effective, and ethical practice.
- 3.4 Promote a culture of safety by using established occupation health and safety practices, infection control, and other safety measures to protect clients, self and colleagues from illness and injury.
- 3.5 Provide relevant and timely information to clients and co-workers.

- 3.6 Demonstrate an understanding of self-regulation by following the standards of practice, the code of ethics and other regulatory requirements.

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 states that LPNs:

- 4.1 Practice in a manner consistent with ethical values and obligations of the Code of Ethics for LPNs.
- 4.7 Communicate in a respectful, timely, open, and honest manner.
- 4.8 Collaborate with colleagues to promote safe, competent, and ethical practice.
- 4.9 Support and contribute to healthy and positive practice environments.

Allegation 2

Ms. Collins admitted that on or about April 15, 2020, she failed to disclose to her employer, Carewest Glenmore Park, that she worked at a second health care facility in contravention of CMOH 10-2020.

After CMOH Order 10-2020 was introduced on April 10, 2020, there were multiple communications to Carewest Glenmore Park staff about CMOH Order 10-2020 and the requirement to only work at one health care facility.

On April 13, 2020, an email was sent to all Carewest Glenmore Park employees advising that staff working in health care were restricted to working at one site. The email advised that employees had to declare and choose if they were going to work solely for Carewest Glenmore Park or work solely for another employer.

Ms. Collins was aware of the requirement to disclose the other health care facilities that she worked at and was aware of the requirement to complete a declaration form and declare which single health care facility she would work at.

On April 15, 2020, Ms. Collins completed the declaration form stating she was working at Carewest Glenmore Park and Rockyview General Hospital.

In contravention of CMOH Order 10-2020, Ms. Collins did not disclose to Carewest Glenmore Park that she also worked at AgeCare Walden Heights.

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. Collins displayed a lack of knowledge of or lack of skill or judgment in the provision of professional services as a health care professional in an environment where there is a risk of exposure to the COVID-19 virus and the serious harm resulting from that. Ms. Collins had an obligation to follow the mandate, but she chose not to follow the CMOH Order 10-2020. This demonstrated to the Complaints Consultant a lack of skill or judgment in the provision of Licensed Practical Nursing services in these circumstances.

Ms. Collins did not disclose to her employer, Carewest Glenmore Park, that she was working at two separate health care facilities despite the CMOH Order 10-2020 which stated that employees had to complete a declaration form stating that they would only work at one health care facility. Ms. Collins did in fact complete the declaration form which stated that she was working at Carewest Glenmore Park and Rockyview General Hospital and that she was not working at any other health care facilities which was not true. Ms. Collins was in contravention of another enactment that applied to the profession in that Ms. Collins did not adhere to the CMOH Order 10-2020 which was implemented to prevent the spread of COVID-19 among vulnerable groups with pre-existing health conditions which includes seniors. This was an enactment that applied to the Licensed Practical Nurse profession. Ms. Collins breached this by failing to inform her employers that she was working at more than one facility. Ms. Collins contravened an enactment that applied to the profession by failing to advise her employers and by failing to limit her work to only one facility. Ms. Collins put others at risk, and these were some of the more vulnerable members of the population who could have suffered serious consequences if they were exposed to a virus. By not complying with the order Ms. Collins increased their exposure to the virus. One of the facilities that Ms. Collins was working at was on a COVID-19 outbreak for a period which created an elevated risk of transmission and exposure.

Ms. Collins's conduct harms the integrity of the regulated profession in that Ms. Collins did not act in a manner which would be expected of another LPN in a similar situation. LPNs are expected to follow the mandate of the Chief Medical Officer of Health for Alberta especially when dealing with a worldwide pandemic such as with COVID-19. It is expected that LPNs will follow the mandate of both the CLPNA as well as the Chief Medical Officer of Health for Alberta.

Ms. Collins did not abide by the CLPNA Code of Ethics or the CLPNA Standards of Practice, as acknowledged by Ms. Collins. The Hearing Tribunal finds the conduct breached the same provisions of the CLPNA Code of Ethics and the CLPNA Standards of Practice as set out above and that such breaches are sufficiently serious to constitute unprofessional conduct for the same reasons given above.

Allegation 3

Ms. Collins admitted that between June 26, 2020 and August 19, 2020, she worked at two health care facilities, AgeCare Walden Heights, and Carewest Glenmore Park, in contravention of CMOH 10-2020.

Ms. Collins was aware of CMOH Order 10-2020 and Ms. Collins had read the information about the requirement to only work at one health care facility as of April 23, 2020.

On August 25, 2020, Marjorie Miller, HR, at AgeCare Walden Heights was contacted by Alberta Health Services and informed that Ms. Collins had possibly been working at more than one health care facility in contravention of CMOH 10-2020.

Ms. Miller contacted Ms. Collins on August 25, 2020 and Ms. Collins advised that she worked at Carewest Glenmore Park on August 17 and 18, 2020.

Ms. Miller contacted Carewest Glenmore Park to confirm the dates that Ms. Collins had worked at Carewest Glenmore Park.

Ms. Collins worked at Carewest Glenmore Park on June 26-28, and August 5, 6, 17-18, 2020.

Ms. Collins worked at both AgeCare Walden Heights and Carewest Glenmore Park after the single site requirement in CMOH Order 10-2020 came into effect on April 23, 2020 and continued to do so until August 25, 2020 when she resigned from Carewest Glenmore Park.

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. Collins displayed a lack of knowledge of or lack of skill or judgment in the provision of professional services as a health care professional in an environment where there is a risk of exposure to the COVID-19 virus and the serious harm resulting from that. Ms. Collins had an obligation to follow the mandate, but she chose not to follow the CMOH Order 10-2020. This demonstrated to the Complaints Consultant a lack of skill or judgment in the provision of Licensed Practical Nursing services in these circumstances.

Ms. Collins did not disclose to her employers ,AgeCare Walden Heights and Carewest Glenmore Park, that she was working at these two separate health care facilities despite the CMOH Order 10-2020 which stated that employees had to complete a declaration form stating that they would only work at one health care facility. For the same reasons discussed in regard of the previous

allegations, this demonstrated a lack of judgment to the level of unprofessional conduct. Ms. Collins was in contravention of another enactment that applied to the profession in that Ms. Collins did not adhere to the CMOH Order 10-2020 which was implemented to prevent the spread of COVID-19 among vulnerable groups with pre-existing health conditions which includes seniors. This was an enactment that applied to the Licensed Practical Nurse profession. Ms. Collins breached this by failing to inform her employers that she was working at more than one facility. Ms. Collins contravened an enactment that applied to the profession by failing to advise her employers and by failing to limit her work to only one facility. Ms. Collins put others at risk and these were some of the more vulnerable members of the population who could have suffered serious consequences if they were exposed to a virus. By not complying with the order Ms. Collins increased their exposure to the virus. One of the facilities that Ms. Collins was working at was on a COVID-19 outbreak for a period which created an elevated risk of transmission and exposure.

Ms. Collins' conduct harms the integrity of the regulated profession in that Ms. Collins did not act in a manner which would be expected of another LPN in a similar situation. LPNs are expected to follow the mandate of the Chief Medical Officer of Health for Alberta especially when dealing with a worldwide pandemic such as with COVID-19. It is expected that LPNs will follow the mandate of both the CLPNA as well as the Chief Medical Officer of Health for Alberta.

Ms. Collins did not abide by the CLPNA Code of Ethics or the CLPNA Standards of Practice, as acknowledged by Ms. Collins. The Hearing Tribunal finds the conduct breached the same provisions of the CLPNA Code of Ethics and the CLPNA Standards of Practice as set out above and that such breaches are sufficiently serious to constitute unprofessional conduct for the same reasons given above.

Allegation 4

Ms. Collins admitted that on or about August 19, 2020, she failed to disclose on AgeCare Walden Heights' daily screening questionnaire she worked at Carewest Glenmore Park, which was in a COVID-19 outbreak.

Carewest Glenmore Park was declared to be in a COVID-19 outbreak from August 2 to August 18, 2020.

On August 18, 2020, Ms. Collins phoned in sick for a shift at AgeCare Walden Heights.

Ms. Collins worked a shift at Carewest Glenmore Park on August 18, 2020.

On August 19, 2020, Ms. Collins completed a daily screening questionnaire at AgeCare Walden Heights. Ms. Collins failed to identify on the screening questionnaire that she worked at Carewest Glenmore Park, which was identified on the questionnaire as being in a COVID-19 outbreak. Ms. Collins specifically answered "no" to the question asking whether she was working at any site listed on the questionnaire.

When a health care facility had a COVID-19 case, the whole facility was considered to be in a COVID-19 outbreak.

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. Collins displayed a lack of knowledge of or lack of skill or judgment in the provision of professional services as a health care professional in an environment where there is a risk of exposure to the COVID-19 virus and the serious harm resulting from that. Ms. Collins had an obligation to follow the mandate, but she chose not to follow the CMOH Order 10-2020. This demonstrated to the Complaints Consultant a lack of skill or judgment in the provision of Licensed Practical Nursing services in these circumstances.

Ms. Collins was also dishonest in respect to the completion of the daily screening questionnaire at AgeCare Walden Heights in which Ms. Collins failed to identify on the screening questionnaire that she worked at Carewest Glenmore Park which was identified as having a COVID-19 outbreak. This, along with Ms. Collins not being honest on the declaration form at both facilities, poses a trust concern as she was dishonest in both instances. LPNs are expected to put the best interests of those in which they serve and take care of ahead of their own interest and this was not achieved by Ms. Collins.

Ms. Collins was in contravention of another enactment that applied to the profession in that Ms. Collins did not adhere to the CMOH Order 10-2020 which was implemented to prevent the spread of COVID-19 among vulnerable groups with pre-existing health conditions which includes seniors. This was an enactment that applied to the Licensed Practical Nurse profession. Ms. Collins breached this by failing to inform her employers that she was working at more than one facility. Ms. Collins contravened an enactment that applied to the profession by failing to advise her employers and by failing to limit her work to only one facility, Ms. Collins put others at risk and these were some of the more vulnerable members of the population who could have suffered serious consequences if they were exposed to a virus. By not complying with the order Ms. Collins increased their exposure to the virus. One of the facilities that Ms. Collins was working at was on a COVID-19 outbreak for a period which created an elevated risk of transmission and exposure.

Ms. Collins's conduct harms the integrity of the regulated profession in that Ms. Collins did not act in a manner which would be expected of another LPN in a similar situation. LPNs are expected to follow the mandate of the Chief Medical Officer of Health for Alberta especially when dealing

with a worldwide pandemic such as with COVID-19. It is expected that LPNs will follow the mandate of both the CLPNA as well as the Chief Medical Officer of Health for Alberta.

Ms. Collins did not abide by the CLPNA Code of Ethics or the CLPNA Standards of Practice, as acknowledged by Ms. Collins. The Hearing Tribunal finds the conduct breached the same provisions of the CLPNA Code of Ethics and the CLPNA Standards of Practice as set out above and that such breaches are sufficiently serious to constitute unprofessional conduct for the same reasons given above.

(9) Joint Submission on Penalty

The Complaints Consultant and Ms. Collins 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. Ms. Collins' practice permit shall be suspended for a period of **five and a half (5.5)** months. This suspension period shall be deemed to have been satisfied by virtue of the period of time during which Ms. Collins' practice permit was subject to an interim suspension and her practice permit shall be reinstated on the date of the hearing.
3. Ms. Collins shall pay a fine of \$1,500.00 within **24 months** of service of the Decision.
4. Ms. Collins shall pay 25% of the costs of the investigation and hearing to be paid over a period of **24 months** from service of the Decision.
 - a) A letter advising of the final costs will be forwarded when final costs have been confirmed.
5. Ms. Collins shall read and reflect on how the following CLPNA documents will impact her nursing practice. These documents are available on CLPNA's website <http://www.clpna.com/> under "Governance". Ms. Collins shall provide a signed written declaration to the Complaints Consultant attesting that she has reviewed the CLPNA documents within **30 days** of service of the Decision:
 - 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 Policy: Expectations and Obligations During Emergencies;

- e. CLPNA Competency Profile A1: Critical Thinking;
- f. CLPNA Competency Profile A2: Clinical Judgment and Decision Making; and
- g. CLPNA Competency Profile C4: Professional Ethics.

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

6. Ms. Collins shall complete the **LPN Ethics Course** available online at <https://www.learninglpn.ca/index.php/e-learning/lpn-code-of-ethics>. Ms. Collins shall provide the Complaints Consultant with a certificate confirming successful completion of the course within **30 days** of service of the Decision.
7. The sanctions set out above at paragraphs 3-6 will appear as conditions on Ms. Collins' practice permit and the Public Registry subject to the following:
 - a) The requirement to complete the remedial education and readings outlined at paragraphs 5-6 will appear as "CLPNA Monitoring Orders (Conduct)" on Ms. Collins' practice permit and the Public Registry until the below sanctions have been satisfactorily completed;
 - i. Readings; and
 - ii. LPN Ethics course;
 - b) The requirement to pay the fine and costs outlined at paragraphs 3-4 will appear as "Conduct Cost/Fines" on Ms. Collins' practice permit and the Public Registry until all fines and costs have been paid as set out above at paragraphs 3-4.
8. The conditions on Ms. Collins' practice permit and on the Public Registry will be removed upon completion of each of the requirements set out above at paragraph 7.
9. Ms. Collins shall provide the CLPNA with her contact information, including home mailing address, home and cellular telephone numbers, current e-mail address and current employment information. Ms. Collins will keep her contact information current with the CLPNA on an ongoing basis.
10. Should Ms. Collins 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 Consultant.

11. Should Ms. Collins 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 Consultant 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. Collins' non-compliance as information for a complaint under s. 56 of the Act; or
- (c) In the case of non-payment of the costs described in paragraph 4 above, suspend Ms. Collins' practice permit until such costs are paid in full or the Complaints Consultant is satisfied that such costs are being paid in accordance with a schedule of payment agreed to by the Complaints Consultant.

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

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

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

(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. Collins 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 is serious conduct in that other vulnerable individuals were put at serious risk due to Ms. Collins' failure to abide by the clear direction of the Chief Medical Officer of Health for Alberta in a time of pandemic. All individuals are to abide by the directions of the Chief Medical Office of Health for Alberta and that is even more important when the individual is a health care professional who is engaged in care of the vulnerable members of the public. This was not conduct that was based on a mistake or carelessness as Ms. Collins was aware of the order and chose to continue to work at both facilities. This conduct was intentional as opposed to an accidental breach or carelessness.

The age and experience of the investigated member: Ms. Collins was initially registered with the CLPNA on October 6, 2011. This type of conduct would not be excused by way of Ms. Collins being new to the LPN profession as this was a violation of an order from the Chief Medical Office of Health for Alberta.

The previous character of the investigated member and in particular the presence or absence of any prior complaints or convictions: The Hearing Tribunal was not made aware of any prior findings of unprofessional conduct.

The number of times the offending conduct was proven to have occurred: There were single incidences in failing to disclose to Ms. Collins' employers that she had worked in two separate facilities in which one of those facilities was on a COVID-19 outbreak. Then there was repeated conduct in that Ms. Collins continued to work at both facilities for seven (7) incidences over a period of two (2) months which was in contravention of the CMOH Orders.

The role of the investigated member in acknowledging what occurred: Ms. Collins did acknowledge the allegations that were brought forward to the CLPNA by both of her

employers. Ms. Collins did provide the Hearing Tribunal with an Agreed Statement of Facts, which demonstrates that she did in fact take 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: Ms. Collins had an interim suspension since October 2, 2020. Ms. Collins was terminated from her position at AgeCare Walden Heights on September 17, 2020 and Ms. Collins resigned from her employment with Carewest Glenmore Park on August 25, 2020 during the investigation.

The impact of the incident(s) on the victim, and/or: The Hearing Tribunal was not made aware of any incidents or impact with respect to patients or any evidence that Ms. Collins was responsible for a COVID-19 transmission. It would be virtually impossible to prove that Ms. Collins was a source of a transmission. Ms. Collins' conduct did create a risk of serious potential impact to the patients. This was a neutral factor.

The presence or absence of any mitigating circumstances: The Hearing Tribunal was not made aware of any mitigating circumstances with respect to Ms. Collins.

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. Collins from repeating the same conduct in the future. General deterrence is required to ensure that other members of the LPN profession do not engage in similar conduct as well as to make sure that it is 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 follow self-regulation and the public needs to be reassured that this standard is upheld.

The need to maintain the public's confidence in the integrity of the profession: The CLPNA deals with the actions of its members when they engage in unprofessional conduct. The CLPNA will deal with any breaches in the CLPNA Code of Ethics and the CLPNA Standards of Practice in a way that reflects the seriousness of the conduct and for the purpose of protecting the public.

The range of sentence in other similar cases: This was the second case of this nature that was brought forward by the CLPNA and the sanction in that similar case was substantially the same.

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

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

(11) Orders of the Hearing Tribunal

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

1. The Hearing Tribunal's written reasons for decision (the "Decision") shall serve as a reprimand.
2. Ms. Collins' practice permit shall be suspended for a period of **five and a half (5.5)** months. This suspension period shall be deemed to have been satisfied by virtue of the period of time during which Ms. Collins' practice permit was subject to an interim suspension and her practice permit shall be reinstated on the date of the hearing.
3. Ms. Collins shall pay a fine of \$1,500.00 within **24 months** of service of the Decision.
4. Ms. Collins shall pay 25% of the costs of the investigation and hearing to be paid over a period of **24 months** from service of the Decision.
 - a) A letter advising of the final costs will be forwarded when final costs have been confirmed.
5. Ms. Collins shall read and reflect on how the following CLPNA documents will impact her nursing practice. These documents are available on CLPNA's website <http://www.clpna.com/> under "Governance". Ms. Collins shall provide a signed written declaration to the Complaints Consultant attesting that she has reviewed the CLPNA documents within **30 days** of service of the Decision:
 - 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 Policy: Expectations and Obligations During Emergencies;
 - e. CLPNA Competency Profile A1: Critical Thinking;
 - f. CLPNA Competency Profile A2: Clinical Judgment and Decision Making; and

g. CLPNA Competency Profile C4: Professional Ethics.

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

6. Ms. Collins shall complete the **LPN Ethics Course** available online at <https://www.learninglpn.ca/index.php/e-learning/lpn-code-of-ethics>. Ms. Collins shall provide the Complaints Consultant with a certificate confirming successful completion of the course within **30 days** of service of the Decision.
7. The sanctions set out above at paragraphs 3-6 will appear as conditions on Ms. Collins' practice permit and the Public Registry subject to the following:
 - a) The requirement to complete the remedial education and readings outlined at paragraphs 5-6 will appear as "CLPNA Monitoring Orders (Conduct)" on Ms. Collins' practice permit and the Public Registry until the below sanctions have been satisfactorily completed;
 - i. Readings; and
 - ii. LPN Ethics course;
 - b) The requirement to pay the fine and costs outlined at paragraphs 3-4 will appear as "Conduct Cost/Fines" on Ms. Collins' practice permit and the Public Registry until all fines and costs have been paid as set out above at paragraphs 3-4.
8. The conditions on Ms. Collins' practice permit and on the Public Registry will be removed upon completion of each of the requirements set out above at paragraph 7.
9. Ms. Collins shall provide the CLPNA with her contact information, including home mailing address, home and cellular telephone numbers, current e-mail address and current employment information. Ms. Collins will keep her contact information current with the CLPNA on an ongoing basis.
10. Should Ms. Collins 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 Consultant.
11. Should Ms. Collins 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 Consultant may do any or all of the following:

- (d) Refer the matter back to a Hearing Tribunal, which shall retain jurisdiction with respect to penalty;
- (e) Treat Ms. Collins' non-compliance as information for a complaint under s. 56 of the Act; or
- (f) In the case of non-payment of the costs described in paragraph 4 above, suspend Ms. Collins' practice permit until such costs are paid in full or the Complaints Consultant is satisfied that such costs are being paid in accordance with a schedule of payment agreed to by the Complaints Consultant.

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 23rd DAY OF MARCH 2021 IN THE CITY OF EDMONTON, ALBERTA.

THE COLLEGE OF LICENSED PRACTICAL NURSES OF ALBERTA



Kelly Anesty, LPN
Chair, Hearing Tribunal