

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 MARILOU TIMBANG**

**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 MARILOU TIMBANG, LPN #36517, WHILE A MEMBER OF THE COLLEGE OF
LICENSED PRACTICAL NURSES OF ALBERTA (THE “CLPNA”)**

DECISION OF THE HEARING TRIBUNAL

(1) Hearing

The hearing was conducted via videoconference on November 7, 2023, with the following individuals present:

Hearing Tribunal:

Kelly Annelly, Licensed Practical Nurse (“LPN”) Chairperson
Karen Olson, LPN
Patricia Hull, Public Member
Dianna Jossa, Public Member

Staff:

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

Investigated Member:

Marilou Timbang, LPN (“Ms. Timbang” or “Investigated Member”)

(2) Preliminary Matters

The hearing was open to the public.

At the commencement of the hearing, Legal Counsel for the Complaints Director advised the Hearing Tribunal that the Investigated Member was not in attendance. Legal Counsel for the Complaints Director then made an application pursuant to section 79(6) of the *Health Professions Act*, RSA 2000, c H-7 (the “Act”) for the hearing to proceed in the absence of the Investigated Member.

In support of that application, the Hearing Tribunal was provided with the documents included in Exhibit #2, the Agreed Statement of Facts and Acknowledgment of Unprofessional Conduct. As attachments to that document, the Hearing Tribunal reviewed the March 2, 2023 letter to Ms. Timbang advising of the complaint, the June 16, 2023 letter informing Ms. Timbang that this matter had been referred to a hearing, and the August 21, 2023 letter advising Ms. Timbang of the time and the date of the hearing, and enclosing the Notice of Hearing, Notice to Attend and Notice to Produce, among other documents.

Given her signature on the Agreed Statement of Facts and Acknowledgment of Unprofessional Conduct, the Hearing Tribunal understood that Ms. Timbang was aware of this complaint and the upcoming hearing and had discussions with the Complaints Officer at the CLPNA, and ultimately chose to enter into the Agreed Statement of Facts and Acknowledgment of Unprofessional Conduct, evidenced by her signature. Ms. Timbang also signed a Joint Submission on Penalty.

On the morning of the hearing, the Hearing Tribunal heard from Ms. Bonnie Lafond, the CLPNA Hearings Director (“Ms. Lafond”), advising the Hearing Tribunal that the CLPNA Hearings Office had attempted to reach Ms. Timbang this morning for the hearing, on a few occasions, but had been unsuccessful.

Having accepted evidence of good service pursuant to the Act, the signed Agreed Statement of Facts and Acknowledgment of Unprofessional Conduct and the Joint Submission on Penalty, the additional confirmation from Ms. Lafond that Ms. Timbang had been contacted the morning of the hearing and had not answered, and noting the public-policy rationale in not allowing a non-responsive member to frustrate a regulatory body’s ability to undertake disciplinary proceedings, the Hearing Tribunal directed that the hearing proceed in the absence of the member pursuant to section 79(6) of the Act.

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. Timbang was an LPN within the meaning of the Act at all material times, and more particularly, was registered with the CLPNA as an LPN at the time of the complaint. Ms. Timbang was initially licensed as an LPN in Alberta in 2013.

The CLPNA received a letter of complaint dated February 7, 2023 (the “Complaint”) from Stacy Krenkel, Manager, Alberta Health Services at the East Edmonton Health Centre (the “Centre”) in Edmonton, AB, pursuant to s. 57 of the Act. The Complaint advised that Ms. Timbang, LPN, had been terminated from her employment at the Centre for cause on February 2, 2023, after it was determined she committed benefits fraud between June 22, 2020, and July 7, 2021.

By letter dated March 2, 2023, the Acting Complaints Director, Susan Blatz, provided Ms. Timbang with notice of the Complaint. In accordance with s. 55(2)(d) of the Act, Ms. Blatz also notified Ms. Timbang that she would be conducting an investigation into the Complaint.

On June 12, 2023, Ms. Blatz concluded the investigation into the Complaint.

Ms. Blatz determined there was sufficient evidence that the issues raised in the Complaint should be referred to the Hearings Director in accordance with s. 66(3)(a) of the Act. Ms. Timbang received notice the matters were referred to a hearing, as well as a copy of the Statement of Allegations and the Investigation Report, on June 16, 2023.

A Notice of Hearing, Notice to Attend and Notice to Produce was served upon Ms. Timbang under cover of letter dated August 21, 2023.

(4) Allegations

The Allegation in the Statement of Allegations (the “Allegation”) is:

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

- 1) Between June 22, 2020, and July 7, 2021, submitted 177 benefit claims to Alberta Blue Cross for products and/or services not received, resulting in an overpayment for a total of \$10,432.00.

(5) Admission of Unprofessional Conduct

Section 70 of the Act permits an Investigated Member to make an admission of unprofessional conduct. An admission under s. 70 of the Act must be acceptable in whole or in part to the Hearing Tribunal.

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

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

(6) Exhibits

The following exhibits were entered at the hearing:

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

(7) Evidence

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

(8) Decision of the Hearing Tribunal and Reasons

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

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

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

Allegation 1

Ms. Timbang admitted that between June 22, 2020, and July 7, 2021, she submitted 177 benefit claims to Alberta Blue Cross for products and/or services not received, resulting in an overpayment for a total of \$10,432.00.

As part of Ms. Timbang's employment, Ms. Timbang was receiving benefits from Alberta Blue Cross. Ms. Timbang's husband, ET, was also receiving benefits from Alberta Blue Cross.

Alberta Blue Cross' analytics identified irregular claiming behavior under ET's benefit plan. As a result, Alberta Blue Cross began an investigation into claims paid to ET between March 31, 2021, and May 21, 2021.

As part of this investigation, Alberta Blue Cross contacted service providers to determine if ET received the claimed services and products and if the benefit claims were legitimate.

After receiving responses from the service providers which stated that ET did not receive all the claimed services or products, Alberta Blue Cross expanded its investigation and review to include all claims submitted by ET from June 1, 2019, until April 15, 2022.

As ET also has benefits under Ms. Timbang's Alberta Blue Cross benefit plan (coordination of benefits) Alberta Blue Cross investigated all claims paid to Ms. Timbang for the period between June 1, 2019, and April 15, 2022.

Upon completion of the investigation, Alberta Blue Cross identified the period of June 22, 2020, to July 7, 2021, as the specific period when Ms. Timbang and ET were paid for products and services that did not occur or were not received.

Ms. Timbang was the only person who submitted all the claims to Alberta Blue Cross, including those under ET's benefits plan. ET had no knowledge of it until Ms. Timbang informed him after they were notified by Alberta Blue Cross of the investigation in March 2022.

As a result of the investigation, it was determined that between June 22, 2020, and July 7, 2021, Ms. Timbang submitted 177 benefit claims for herself and her family, under her own benefits plan as well as ET's benefits plan, where no services or products had been provided to her or her family. As a result of these false claims, \$10,432.00 was paid to Ms. Timbang and ET when it should not have been paid.

ET was overpaid \$4,005.00 under his plan and \$1,169.00 through coordination of benefits under Ms. Timbang's plan for a total of \$5,174.00. Ms. Timbang was overpaid \$1,501.00 under her plan and \$3,757.00 through coordination of benefits under ET's plan for a total of \$5,258.00.

Ms. Timbang was under a lot of stress during the relevant time due to various illnesses within her family both in Canada and back in her native country of the Philippines. These illnesses placed significant financial stress on her family and Ms. Timbang felt she had to help her family in the Philippines as no one else could.

Ms. Timbang did enter a repayment plan with Alberta Blue Cross and began making payments as of June 2022. Ms. Timbang is sorry for her actions.

The Hearing Tribunal considered the facts included in the Agreed Statement of Facts and Ms. Timbang'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:

- ii. Contravention of the Act, a code of ethics or standards of practice;
- xii. Conduct that harms the integrity of the regulated profession.

Ms. Timbang 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. Timbang in the Agreed Statement of Facts and

Acknowledgement of Unprofessional Conduct. The Hearing Tribunal finds that Ms. Timbang's conduct breached the CLPNA Code of Ethics and the CLPNA Standards of Practice, as set out in more detail below, and that such breaches are sufficiently serious to constitute unprofessional conduct. Ms. Timbang submitted 177 benefit claims to Alberta Blue Cross for services not received. That is not appropriate or expected behavior of an LPN. It does not demonstrate honesty, integrity, or trustworthiness in her interactions to have conducted herself in that manner.

The conduct breached the following principles and standards set out in CLPNA Code of Ethics and the CLPNA Standards of Practice):

CLPNA Code of Ethics:

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

- **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.
- **Principle 5:** Responsibility to Self – LPNs recognize and function within their personal and professional competence and value systems. Principle 5 specifically provides that LPNs:
 - 5.1 Demonstrate honesty, integrity, and trustworthiness in all interactions.

CLPNA Standards of Practice:

Ms. Timbang acknowledged her conduct breached one or more of the following CLPNA Standards of Practice, which states as follows:

- **Standard 3:** Service to the Public and Self-Regulation – LPNs practice nursing in collaboration with clients and other members of the health care team to provide and improve health care services in the best interests of the public. Standard 3 specifically provides that LPNs:
 - 3.6 Demonstrate an understanding of self-regulation by following the standards of practice, the code of ethics and other regulatory requirements.

Ms. Timbang's conduct harms the integrity of the regulated profession in that Ms. Timbang did not act in a way that is expected of another LPN in a similar situation. LPNs are expected to

adhere to the guidelines of submitting benefit claims to both their employer as well as to their benefit provider, which in this case was Alberta Blue Cross, and to act with honesty and integrity with respect to their actions.

(9) Joint Submission on Penalty

The Complaints Officer and Ms. Timbang jointly proposed to the Hearing Tribunal a Joint Submission on Penalty, which was entered as Exhibit #3. Although Ms. Timbang was not present at the hearing, she had signed the Joint Submission on Penalty on October 12, 2023. It was presented by Mr. Kully as Legal Counsel for the Complaints Director. The Joint Submission on Penalty proposed the following sanctions to the Hearing Tribunal for consideration:

1. The Hearing Tribunal's written decision (the "Decision") shall serve as a reprimand.
2. Ms. Timbang shall pay a fine of \$500.00 within **12 months** of service of the Decision.
3. Ms. Timbang shall pay 25% of the costs of the investigation and hearing to be paid over a period of **24 months** from service of the Decision.
 - a) A letter advising of the final costs will be forwarded when final costs have been confirmed.
4. Ms. Timbang shall read and reflect on how the following CLPNA documents will impact her nursing practice. These documents are available on CLPNA's website <http://www.clpna.com/> under "Governance" and will be provided. Ms. Timbang shall provide a signed written declaration to the Complaints Officer within 30 days of service of the Decision, attesting that she has reviewed the documents:
 - a) Code of Ethics for Licensed Practical Nurses in Canada;
 - b) Standards of Practice for Licensed Practical Nurses in Canada;
 - c) CLPNA Practice Policy: Professional Responsibility & Accountability.

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

5. Ms. Timbang shall complete the **Righting a Wrong – Ethics & Professionalism in Nursing** available online at www.icrsncsbn.org and provide a certificate confirming its successful completion to the Complaints Officer within **30 days** of service of the Decision.

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

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

- a) The requirement to complete the educational readings and LPN Ethics Course outlined at paragraphs 4 - 5 will appear as “CLPNA Monitoring Orders (Conduct)”, on Ms. Timbang’s practice permit and the Public Registry until the below sanctions have been satisfactorily completed:
 - i. Educational Readings; and
 - ii. Rights a Wrong – Ethics & Professionalism in Nursing.
 - b) The requirement to pay the fine and costs, will appear as “Conduct Cost/Fines” on Timbang’s practice permit and the Public Registry until all fines and costs have been paid as set out above at paragraphs 2-3.
7. The conditions on Ms. Timbang’s practice permit and on the Public Registry will be removed upon completion of each of the requirements set out above at paragraph 2 – 5.
 8. Ms. Timbang 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. Timbang will keep her contact information current with the CLPNA on an ongoing basis.
 9. Should Ms. Timbang be unable to comply with any of the deadlines for completion of the penalty orders identified above, the deadlines may, upon written request, be extended for a reasonable period of time with the written consent of the Complaints Officer.
 10. Should Ms. Timbang fail or be unable to comply with any of the above orders for penalty, or if any dispute arises regarding the implementation of these orders, the Complaints Officer may do any or all of the following:
 - (a) Refer the matter back to a Hearing Tribunal, which shall retain jurisdiction with respect to penalty;
 - (b) Treat Ms. Timbang’s non-compliance as information under s. 56 of the *Health Professions Act*; or
 - (c) In the case of non-payment of the costs described in paragraph 3 above, suspend Ms. Timbang’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. Timbang 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. Timbang 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 as Ms. Timbang used her position for her own benefit and her husband's benefit, and Ms. Timbang received payments from Alberta Blue Cross which were improper insurance claims. Ms. Timbang's conduct demonstrates a lack of integrity, honesty, and trustworthiness.

The age and experience of the investigated member: Ms. Timbang was not a new LPN at the time of the allegations. Ms. Timbang had been practicing in Alberta for approximately eight years at the time of the allegations being made. Ms. Timbang's conduct does not relate to conduct that an LPN would learn in practice or experience. This type of conduct is related to honesty, integrity, and decision-making. The CLPNA would expect an LPN of any seniority to know not to engage in this type of conduct.

The previous character of the investigated member and in particular the presence or absence of any prior complaints or convictions: Ms. Timbang does not have any prior complaints or convictions with respect to unprofessional conduct.

The number of times the offending conduct was proven to have occurred: There were 177 instances where Ms. Timbang submitted benefits claims to Alberta Blue Cross over the period from June 22, 2020, until July 7, 2021.

The role of the investigated member in acknowledging what occurred: Ms. Timbang acknowledged her unprofessional conduct. Ms. Timbang did show accountability and displayed a willingness to 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. Timbang was terminated from her employment at the Centre on February 2, 2023. Ms. Timbang also has started a repayment plan with Alberta Blue Cross as of June 2022.

The impact of the incident(s) on the victim: There were no patients impacted by Ms. Timbang's actions. The impact was on Alberta Blue Cross, and Ms. Timbang is now in a repayment plan with Alberta Blue Cross to ensure that Alberta Blue Cross will be paid in full.

The presence or absence of any mitigating circumstances: The Hearing Tribunal was not made aware of any mitigating circumstances other than the fact that Ms. Timbang's husband had suffered a stroke and she was concerned about her family members in Canada and the Philippines at the time.

The need to promote specific and general deterrence and, thereby to protect the public and ensure the safe and proper practice: There is a need to impose a sanction that deters Ms. Timbang from repeating this conduct as well as a sanction that would deter other LPNs from engaging in similar conduct. The sanctions that are ordered should send a message to both Ms. Timbang as well as other LPNs that this type of conduct will not be tolerated by the CLPNA. 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 CLPNA Standards of Practice in a way that reflects the seriousness of the conduct and for the purpose of protecting the public.

The need to maintain the public's confidence in the integrity of the profession: The CLPNA deals with the actions of its members when they engage in unprofessional conduct. The CLPNA will

deal with any breaches in the CLPNA Code of Ethics and the CLPNA Standards of Practice in a way that reflects the seriousness of the conduct and for the purpose of protecting the public.

The range of sentence in other similar cases: The Hearing Tribunal was made aware of two previous cases which were from the CLPNA. One of the cases was Elizabeth Lagadan and the other was Briana Toller. The sanction imposed was similar in both those cases to the proposal in this case.

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

The Hearing Tribunal gave additional consideration to the question of whether costs should be awarded in this case, given the decision of *Jinnah v. Alberta Dental Association and College*, 2022 ABCA 336 ("*Jinnah*") and the requirements found therein relating to the issuance of a costs order.

The Hearing Tribunal wishes to make it clear that it considered the direction in *Jinnah* carefully, and made efforts to ensure that the costs awarded in this case aligns with the principles set out in that decision.

In this case, the Hearing Tribunal acknowledged the following:

1. That the purpose of costs under the HPA is full or partial indemnification of the College in appropriate cases (*Jinnah*, para. 127). As such, the Hearing Tribunal gave thought as to whether this is an "appropriate case" to award costs.
2. Costs are not to be awarded in every case (*Jinnah*, para. 128). The Hearing Tribunal started from the proposition that costs are not to be awarded in every case.
3. A Hearing Tribunal must justify a decision to impose costs (*Jinnah*, para. 128). The Hearing Tribunal, in its deliberations and questions of the parties, gave consideration as to whether costs are appropriate in these circumstances.

Although *Jinnah* does provide guidance, The Hearing Tribunal does not read the *Jinnah* decision as having preconditions to any cost award. In paragraph 138, the Court makes it clear that compelling reasons need to be provided when what is being contemplated is "a significant portion of the costs of the investigation and hearing of a complaint" (para. 138). In this case, as confirmed by counsel, the costs being sought are a small percentage of the actual costs of the

investigation and hearing. As such, the Hearing Tribunal retains its discretion to consider and award costs when what is being sought is not significant, as in this case.

In this case, the Hearing Tribunal considered the fact that these charges are on the low spectrum of seriousness, Ms. Timbang's acknowledgment of the conduct and cooperation with the investigation and hearing, and the reasonableness of the amount being sought, with a reasonable time to pay. Additionally, the Joint Submission on Sanction, including the awarding of costs, does not contravene the public interest test set out in *R. v. Anthony-Cook*, as it does not bring the administration of justice into disrepute or is otherwise contrary to the public interest, and therefore must be afforded a high level of deference.

All of these factors, alongside the agreement between the parties, persuade the Hearing Tribunal that this is an appropriate case to award costs in the amount and with the time to pay which was agreed upon by the parties.

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

(11) Orders of the Hearing Tribunal

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

1. The Hearing Tribunal's written decision (the "Decision") shall serve as a reprimand.
2. Ms. Timbang shall pay a fine of \$500.00 within **12 months** of service of the Decision.
3. Ms. Timbang shall pay 25% of the costs of the investigation and hearing to be paid over a period of **24 months** from service of the Decision.
 - a) A letter advising of the final costs will be forwarded when final costs have been confirmed.
4. Ms. Timbang shall read and reflect on how the following CLPNA documents will impact her nursing practice. These documents are available on CLPNA's website <http://www.clpna.com/> under "Governance" and will be provided. Ms. Timbang shall provide a signed written declaration to the Complaints Officer within 30 days of service of the Decision, attesting that she has reviewed the documents:
 - a) Code of Ethics for Licensed Practical Nurses in Canada;
 - b) Standards of Practice for Licensed Practical Nurses in Canada;
 - c) CLPNA Practice Policy: Professional Responsibility & Accountability.

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

5. Ms. Timbang shall complete the **Righting a Wrong – Ethics & Professionalism in Nursing** available online at www.icrsncsbn.org and provide a certificate confirming its successful completion to the Complaints Officer within **30 days** of service of the Decision.

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

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

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

- iii. Educational Readings; and
- iv. Rights a Wrong – Ethics & Professionalism in Nursing.

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

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

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

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

10. Should Ms. Timbang 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:

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

- (e) Treat Ms. Timbang's non-compliance as information under s. 56 of the *Health Professions Act*; or
- (f) In the case of non-payment of the costs described in paragraph 3 above, suspend Ms. Timbang'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 15th DAY OF NOVEMBER 2023 IN THE CITY OF EDMONTON, ALBERTA.

THE COLLEGE OF LICENSED PRACTICAL NURSES OF ALBERTA



Kelly Anesty, LPN
Chair, Hearing Tribunal