

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 ROBYN ROBINSON**

**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 ROBYN ROBINSON, LPN #57630, 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 on October 5, 2023 with the following individuals present:

Hearing Tribunal:

Michelle Stolz, Licensed Practical Nurse (“LPN”) Chairperson
Treena Currie, LPN
Darwin Durnie, Public Member
Emeka Ezike-Dennis, Public Member

Staff:

Katrina Haymond, Legal Counsel for the Complaints Officer, CLPNA
Francesca Ghossein, Legal Counsel for the Complaints Officer, CLPNA
Stephanie Karkutly, Complaints Officer, CLPNA

Investigated Member:

Robyn Robinson, LPN (“Ms. Robinson” 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. Robinson 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. Robinson was initially licensed as an LPN in Alberta on January 5, 2022.

By letter dated March 6, 2023, the CLPNA received a complaint (the “Complaint”) from Michelle Wallace, Manager at Westview Health Centre in Stony Plain, Alberta (the “Facility”) pursuant to s. 57 of the *Health Professions Act* (the “Act”). The Complaint alleged privacy and confidentiality breaches by Ms. Robinson, for which she had received a ten-day unpaid suspension.

In accordance with s. 55(2)(d) and s. 20(1) of the Act, Ms. Susan Blatz, Acting Complaints Director for the CLPNA (the “Acting Complaints Director”) appointed Stephanie Karkutly, Complaints Officer for the CLPNA, (the “Complaints Officer”) to handle the Complaint and to conduct an investigation (the “Investigation”) into the Complaint.

Ms. Robinson received notice of the Complaint and the Investigation by letter dated March 7, 2023.

Ms. Wallace received notification of the Complaint and Investigation by letter dated March 7, 2023.

On May 31, 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. Robinson 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 August 10, 2023. On August 28, 2023, Ms. Robinson received the Notice of Hearing, Notice to Attend and Notice to Produce.

(4) Allegations

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

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

1. On or about July 19, 2022 – January 14, 2023, breached patient confidentiality and privacy by accessing personal and/or health information of one or more of thirty-three (33) Westview Health Centre Emergency In-Patients’ (EIPs) on Connect Care without justification or authorization to do so.
2. On or about September 6, 2022 – January 15, 2023, breached patient confidentiality and privacy by accessing personal and/or health information of one or more of fifty-one (51) Westview Health Centre Emergency Department patients on Connect Care without justification or authorization to do.

3. On or about January 15, 2023, inappropriately abused her authority as an LPN to access her father's personal and/or health information on Connect Care without justification or authorization to do so."

(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. Robinson 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 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: Agreed Statement of Facts and Acknowledgement of Unprofessional Conduct
- Exhibit #2: 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 #1.

(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 #1 and finds as facts the events as set out in the Agreed Statement of Facts.

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

Allegation 1

Ms. Robinson admitted that on or about July 19, 2022 – January 14, 2023, she breached patient confidentiality and privacy by accessing personal and/or health information of one or more of thirty-three (33) Westview Health Centre Emergency In-patients' (EIPs) on Connect Care without justification or authorization to do so.

During this period, Ms. Robinson looked at thirty-three (33) patients' charts on the clinical information system, Connect Care, of individuals who were admitted to the Facility as Emergency In-Patients (EIPs). EIPs are patients who are admitted to the Emergency Room, where they await a bed. They are assigned to and cared for by Emergency Department nursing staff. There are instances where EIPs may be transferred to the Family Medicine unit where Ms. Robinson worked. However, some EIP patients get discharged from the ER directly, and there is no guarantee that EIPs would become patients in the Family Medicine department at any point, let alone be assigned to Ms. Robinson specifically.

The EIPs whose records Ms. Robinson accessed were not under Ms. Robinson's care. She was neither providing them with health services, nor tasked with determining their eligibility to receive a health service. Consequently, she had no authorization or justification to access their personal health information.

Ms. Robinson had received privacy training when she started working at the Facility in February, 2022. She was therefore familiar with applicable policies such as AHS's Policy on Collection, Use and Disclosure of Information, AHS's Information Security and Privacy Safeguards Policy, and the AHS Code of Conduct.

Although Ms. Robinson stated that she believed it was standard practice to view records of EIPs on Connect Care in preparation for potentially receiving those patients into care, this was not standard practice and was inconsistent with the AHS Policy and applicable privacy legislation.

Ms. Robinson acknowledged that her conduct amounts to unprofessional conduct within the meaning of s. 1(1)(pp) of the Act.

The Hearing Tribunal finds 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. Robinson accessed the records of one or more of thirty-three (33) patients despite the fact that the EIPs were not in her care. These patients would have the expectation that their medical records were not being accessed by people not directly involved in their care. Ms. Robinson had gone through the training set forth by AHS regarding privacy and confidentiality. Despite knowing that it was not only against AHS policies to access records of patients not in her care, but it was also a breach of the HIA.

Ms. Robinson's conduct significantly harmed the integrity of the profession. She displayed a substantial lack of knowledge as well as judgement by choosing to access the records of EIPs who were not in her care.

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

CLPNA Code of Ethics:

- a. Principle 1: Responsibility to the Public - LPNs, as self-regulating professionals, commit to provide safe, effective, compassionate and ethical care to members of the public. Principle 1 specifically provides that LPNs:
 - 1.1 Maintain standards of practice, professional competence and conduct.
- b. Principle 2: Responsibility to Clients – LPNs have a commitment to provide safe and competent care for their clients. Principle 2 specifically provides that LPNs:
 - 2.3 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.

- c. Principle 3: Responsibility to the Profession – LPNs have a commitment to their profession and foster the respect and trust of their clients, health care colleagues and the public. Principle 3 specifically provides that LPNs:
 - 3.1 Maintain the standards of the profession and conduct themselves in a manner that upholds the integrity of the profession.
 - 3.3 Practise 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.
- d. Principle 5: Responsibility to Self – LPNs recognize and function within their personal and professional competence and value systems. Principle 5 specifically provides that LPNs:
 - 5.1 Demonstrate honesty, integrity and trustworthiness in all interactions.
 - 5.3 Accept responsibility for knowing and acting consistently with the principles, practice standards, laws and regulations under which they are accountable.

Ms. Robinson’s actions did not follow the ethical practices of Licenced Practical Nurses. She failed in her responsibilities to the public as she did maintain the standard of the profession when she accessed medical information on patients that were not directly in her care. She had a responsibility to the public to respect and maintain their privacy and confidentiality. Ms. Robinson failed to maintain that standard by accessing the information she did not have authorization to access.

By breaching the privacy and confidentiality of the patients whose records Ms. Robinson chose to access, she did not respect the standard of responsibility to the profession. The Hearing Tribunal found Ms. Robinson’s actions significantly impacted the integrity of the profession. She did not act in a way that was consistent with the responsibility and privilege of self-regulation. Despite stating she felt her actions were “standard practice”, Ms. Robinson had taken training on AHS’s privacy and confidentiality policies. This training is very clear in what is appropriate and acceptable, and Ms. Robinson should have known that accessing the medical information of patients not in her care was inappropriate.

Ms. Robinson also failed to display a responsibility to herself through her actions. Accessing information of patients not in her care did not demonstrate honesty, integrity and trustworthiness.

CLPNA Standards of Practice:

- a. Standard 1: Professional Accountability and Responsibility - LPNs are accountable for their practice and responsible for ensuring their practice and conduct meet both the standards of the profession and legislative requirements. Standard 1 specifically provides that LPNs:
 - 1.1. Practice to their full range of competence within applicable legislation, regulations, by-laws and employer policies.
 - 1.9. Practice in a manner consistent with ethical values and obligations of the Code of Ethics for Licensed Practical Nurses.
- b. Standard 3: Service to the Public and Self-Regulation – LPNs practice nursing in collaboration with clients and other members of the health care team to provide and improve health care services in the best interests of the public. Standard 3 specifically provides that LPNs:
 - 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.
- c. Standard 4: Ethical Practice – LPNs uphold, promote and adhere to the values and beliefs as described in the Canadian Council for Practical Nurse Regulators (CCPNR) Code of Ethics. Standard 4 specifically provides that LPNs:
 - 4.1 Practice in a manner consistent with ethical values and obligations of the Code of Ethics for LPNs.

Ms. Robinson's actions breached the above Standards of Practice as she was not accountable to her practice by breaching patient confidentiality by accessing their records when she was not involved in their care. She also violated her employers' policies as well as the HIA when she opened charts of patients she was not assigned to. She did not act in the best interests of the public as her actions were not ethical and went against the laws and policies regarding privacy and confidentiality of personal health information. By reviewing the medical records of people

who were not in her care she did not practice in a manner consistent with ethical values and obligations of the Code of Ethics for LPNs.

Allegation 2

Ms. Robinson admitted that on or about September 6, 2022 – January 15, 2023, she breached patient confidentiality and privacy by accessing personal and/or health information of one or more of fifty-one (51) Westview Health Centre Emergency Department patients on Connect Care without justification or authorization to do.

During this period, Ms. Robinson looked at fifty-one (51) patient charts on the clinical information system, Connect Care, of individuals who were in the Emergency Department of the Facility at the time. ER patients are cared for and assigned to Emergency Department staff. Ms. Robinson did not work in the ER and was not assigned to care for any ER patients. Therefore, she had no authorization or justification to access their personal health information.

Ms. Robinson acknowledged that her conduct amounts to unprofessional conduct within the meaning of s. 1(1)(pp) of the Act.

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. Robinson accessed the health information of one or more of 51 patients in the Westview Health Center despite the fact she did not work in that department and was not directly involved in their care. Ms. Robinson had taken the education set forth by AHS regarding privacy and confidentiality and was aware that accessing patients' information when she was not involved in their care was not only against the policies of AHS but also went against the HIA.

Ms. Robinson's conduct significantly harmed the integrity of the profession. She displayed a substantial lack of knowledge as well as judgement by choosing to access the patients' records in the Emergency Department. She was provided with training regarding privacy and confidentiality and despite that training she accessed the records of patients that she was not directly involved with.

Finally, her conduct also breached the CLPNA Code of Ethics and CLPNA Standards of Practice for the reasons explained in regard of Allegation #1.

Allegation 3

Ms. Robinson admitted that on or about January 15, 2023, she inappropriately abused her authority as an LPN to access her father's personal and/or health information on Connect Care without justification or authorization to do so.

Ms. Robinson was working at the Facility on January 15, 2023 when her father was admitted to the ER. Ms. Robinson accessed her father, DM's, health records on Connect Care. Ms. Robinson explained that she accessed her father's records because she was his caregiver, she already had access to his "my Alberta Health account", and he lived with her. She became concerned about her father's care when she received a call from him indicating that a physician had told him he might need to have surgery.

Even if Ms. Robinson did have her father's consent to access his health information, Ms. Robinson was not permitted to use Connect Care for personal reasons. As Ms. Robinson was neither providing care to her father, nor in the process of assessing his eligibility to receive a health service, Ms. Robinson accessed her father's records with no justification or authorization.

Ms. Robinson acknowledged that her conduct amounts to unprofessional conduct within the meaning of s. 1(1)(pp) of the Act.

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. Robinson again displayed a significant lack of judgement by accessing her fathers' records on January 15, 2023. She was not providing care to her father and therefore had no authority to access his records. It is the expectation that staff do not use Connect Care for personal reasons and by doing so it significantly harmed the integrity of the profession. The public has an expectation that staff not abuse the privilege of having the ability of using a program such as Connect Care in which their medical information is readily available. By making the conscience choice to access her father's information, Ms. Robinson abused that privilege.

She also breached the CLPNA Code of Ethics and CLPNA Standards of Practice for the same reasons provided in regard of Allegation #1 above except that in this case she had accessed the records not only of someone not assigned to her care but also for personal reasons as the records were those of her father.

(9) Joint Submission on Penalty

The Complaints Officer and Ms. Robinson jointly proposed to the Hearing Tribunal a Joint Submission on Penalty, which was entered as Exhibit #2. 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. Robinson shall pay a fine of \$1,500.00 within **36 months** of service of the Decision.
3. Ms. Robinson shall pay 25% of the costs of the investigation and hearing to be paid over a period of **36 months** from service of a letter advising of final costs, subject to the following:
 - a) Ms. Robinson will be provided with a letter advising of the final costs once final costs have been confirmed (the "Costs Letter").
4. Ms. Robinson shall read and reflect on how the following CLPNA documents will impact her nursing practice. These documents are available on the CLPNA's website <http://www.clpna.com/> under "Governance". Ms. Robinson shall provide to the CLPNA, a signed written declaration within **thirty (30) days** of service of the Decision, attesting she has reviewed the following CLPNA 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 and 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. Ms. Robinson shall complete the following remedial education, at her own cost. If any of the required education becomes unavailable, Ms. Robinson shall make a written request to the Complaints Officer to be assigned alternative education. Upon receiving Ms. Robinson's written request, the Complaints Officer, in their sole discretion, may assign alternative

education in which case Ms. Robinson will be notified in writing of the new education requirements. Ms. Robinson shall provide the Complaints Officer with certificates confirming successful completion within **six (6) months** from service of the Decision.

- a) **LPN Code of Ethics Learning Module** available online at www.learningnurse.org
 - b) **Privacy Awareness in Health Care Training** – Alberta course available online at www.corridorinteractive.com
6. The sanctions set out above at paragraphs 2-5 will appear as conditions on Ms. Robinson’s practice permit and the Public Registry subject to the following:
- a) The requirement to complete the remedial education and readings outlined at paragraphs 4-5 will appear as “CLPNA Monitoring Orders (Conduct)”, on Ms. Robinson’s practice permit and the Public Registry until the below sanctions have been satisfactorily completed;
 - i. Readings;
 - ii. LPN Ethics Course; and
 - iii. Privacy Awareness in Health Care Training; etc.
 - b) The requirement to pay costs/fines, will appear as “Conduct Cost/Fines” on Ms. Robinson’s practice permit and the Public Registry until all costs have been paid as set out above at paragraphs 2-3.
7. The conditions on Ms. Robinson’s practice permit and on the Public Registry will be removed upon completion of each of the requirements set out above in paragraph 6.
8. Ms. Robinson shall provide the CLPNA with her contact information, including her home mailing address, home and cellular telephone numbers, current e-mail address and current employment information. Ms. Robinson will keep her contact information current with the CLPNA on an ongoing basis.
9. Should Ms. Robinson be unable to comply with any of the sanctions’ deadlines identified above, Ms. Robinson may request an extension. The request for an extension must be submitted in writing to the Complaints Officer, prior to the deadline, state a valid reason for requesting the extension and state a reasonable timeframe for completion. The Complaints Officer shall, in their sole discretion, determine whether a time extension is accepted. Ms. Robinson will be notified by the Complaints Officer, in writing, if the extension has been granted.

10. Should Ms. Robinson 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. Robinson's 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 2 above, suspend Ms. Robinson'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, 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. Robinson 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. Robinson 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 Hearing Tribunal has found the proven allegations against Ms. Robinson to be very serious. When a regulated member breaches confidentiality and privacy, especially the number of times Ms. Robinson did, it amounts to significant damage to the integrity of the profession. The public has an expectation that LPNs understand and respect their responsibilities of self-regulation including the privilege of having access to the medical information of the public. Despite receiving training in the LPN curriculum as well as to the AHS policies on privacy and confidentiality, Ms. Robinson still chose to violate the public's trust when she accessed up to 84 patients' information as well as used Connect Care for her own personal use and looked up her father's information. The Hearing Tribunal placed a significant weight on this factor.
- The age and experience of the investigated member:** Although Ms. Robinson was a very new, inexperienced member of the CLPNA, the Hearing Tribunal found that this was not a mitigating factor. Ms. Robinson received training during her LPN curriculum as well as taking the mandatory courses through AHS regarding privacy and confidentiality. The privilege of self-regulation, especially when it comes to privacy and confidentiality, is fundamental despite the age and experience of the member.
- The previous character of the investigated member and in particular the presence or absence of any prior complaints or convictions:** Ms. Robinson has had no previous complaints or convictions.
- The age and mental condition of the victim if any:** There was no evidence regarding the age and mental condition of any of the patients whose information was accessed by Ms. Robinson.
- The number of times the offending conduct was proven to have occurred:** Ms. Robinson accessed at least 84 patients' information. The breaches that were caught were within a 6-month period which the audit captured. The number of times she violated a patient's privacy and confidentiality is very disconcerting. The Hearing Tribunal has placed a very significant weight on this factor due to the number of times the offence occurred.
- The role of the investigated member in acknowledging what occurred:** Ms. Robinson acknowledged each of the allegations. She has been cooperative throughout the investigation; her cooperation was noted by way of the Agreed Statement of Facts as well as the Joint Submission on Penalty.
- Whether the investigated member has already suffered other serious financial or other penalties as a result of the allegations having been made:** Ms. Robinson was suspended without pay for ten days following AHS's investigation

- **The impact of the incident(s) on the victim, and/or:** The Hearing Tribunal was not provided with evidence of any impact on the victims whose privacy was breached.
- **The presence or absence of any mitigating circumstances:** The Hearing Tribunal was not provided with 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 penalties in this case must promote both specific and general deterrence. The remedial measures in the Joint Submission on Penalty ensure Ms. Robinson understands that her actions will not be tolerated and that the CLPNA takes breaches in confidentiality and privacy very seriously and such actions will be dealt with swiftly and severely. The penalties assessed also act as a general deterrence to ensure the members of the profession understand how serious such actions are and that they will be penalized strongly. All members of the CLPNA need to be aware of the privilege they have in terms of having access to a vast amount of medical information and that they must respect that privilege.
- **The need to maintain the public's confidence in the integrity of the profession:** Breaches of confidentiality and privacy significantly diminished the public's confidence in the profession. Ms. Robinson violated the standards of confidentiality and privacy multiple times. The penalties in this case must demonstrate to the public that the CLPNA takes these cases seriously.
- **The range of sentences in other similar cases:** The Hearing Tribunal was provided with three similar cases to review. The first case involved a breach of 68 patients' privacy as well as the member accessing their own medical records. The sentence in that case included a penalty of \$1500, remedial courses, as well as the member was responsible for 25% of the costs. In the second case the member accessed 3 patients' records, the member did have a relationship with the victims which makes the case more serious than the first one. The member was given a \$2000 penalty, remedial courses, as well as costs. The final case the Hearing Tribunal was given to review involved a breach of 71 patients' privacy as well as the LPN's family members. The penalty assessed in that case included a \$1500 penalty, remedial action, as well as 25% of the hearing costs. The Hearing Tribunal reviewed these cases in considering the penalties being sought in Ms. Robinson's case.

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. Robinson shall pay a fine of \$1,500.00 within **36 months** of service of the Decision.
3. Ms. Robinson shall pay 25% of the costs of the investigation and hearing to be paid over a period of **36 months** from service of a letter advising of final costs, subject to the following:
 - a) Ms. Robinson will be provided with a letter advising of the final costs once final costs have been confirmed (the "Costs Letter").
4. Ms. Robinson shall read and reflect on how the following CLPNA documents will impact her nursing practice. These documents are available on the CLPNA's website <http://www.clpna.com/> under "Governance". Ms. Robinson shall provide to the CLPNA, a signed written declaration within **thirty (30) days** of service of the Decision, attesting she has reviewed the following CLPNA 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 and 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. Ms. Robinson shall complete the following remedial education, at her own cost. If any of the required education becomes unavailable, Ms. Robinson shall make a written request to the Complaints Officer to be assigned alternative education. Upon receiving Ms. Robinson's written request, the Complaints Officer, in their sole discretion, may assign alternative education in which case Ms. Robinson will be notified in writing of the new education requirements. Robinson shall provide the Complaints Officer with certificates confirming successful completion within **six (6) months** from service of the Decision.
 - a) **LPN Code of Ethics Learning Module** available online at www.learningnurse.org
 - b) **Privacy Awareness in Health Care Training** – Alberta course available online at www.corridorinteractive.com
6. The sanctions set out above at paragraphs 2-5 will appear as conditions on Ms. Robinson's practice permit and the Public Registry subject to the following:
 - a) The requirement to complete the remedial education and readings outlined at paragraphs 4-5 will appear as "CLPNA Monitoring Orders (Conduct)", on Robinson's practice permit and the Public Registry until the below sanctions have been satisfactorily completed;
 - i. Readings;
 - ii. LPN Ethics Course; and
 - iii. Privacy Awareness in Health Care Training; etc.
 - b) The requirement to pay costs/fines, will appear as "Conduct Cost/Fines" on Ms. Robinson's practice permit and the Public Registry until all costs have been paid as set out above at paragraphs 2-3.
7. The conditions on Ms. Robinson's practice permit and on the Public Registry will be removed upon completion of each of the requirements set out above in paragraph 6.
8. Ms. Robinson shall provide the CLPNA with her contact information, including her home mailing address, home and cellular telephone numbers, current e-mail address and current employment information. Ms. Robinson will keep her contact information current with the CLPNA on an ongoing basis.
9. Should Ms. Robinson be unable to comply with any of the sanctions' deadlines identified above, Ms. Robinson may request an extension. The request for an extension must be submitted in writing to the Complaints Officer, prior to the deadline, state a valid reason for requesting the extension and state a reasonable timeframe for completion. The Complaints Officer shall, in their sole discretion, determine whether a time extension is accepted. Ms.

Robinson will be notified by the Complaints Officer, in writing, if the extension has been granted.

10. Should Ms. Robinson 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. Robinson's 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 2 above, suspend Ms. Robinson'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

M. Stolz

Michelle Stolz, LPN

Chair, Hearing Tribunal