

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 DILJOT SINGH**

**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 DILJOT SINGH, LPN #53381, 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 December 7, 2023 with the following individuals present:

Hearing Tribunal:

Michelle Stolz, Licensed Practical Nurse (“LPN”) Chairperson
Heather Temple, LPN
Emeka Ezike-Dennis, Public Member
Vince Paniak, Public Member

Staff:

Kimberly Precht, Legal Counsel for the Complaints Officer, CLPNA
Amy Durand, Legal Counsel for the Complaints Officer, CLPNA
Susan Blatz, Complaints Officer, CLPNA
Sanah Sidhu, Complaints Director, CLPNA

Investigated Member:

Diljot Singh, LPN (“Mr. Singh” or “Investigated Member”)
Zachary Al-Khatib, Legal Counsel 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

Mr. Singh 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. Mr. Singh was initially licensed as an LPN in Alberta on January 1, 2021.

The College of Licensed Practical Nurses of Alberta (“CLPNA”) received a complaint dated December 20, 2022 (the “Complaint”), from Betty Verreau, General Manager of Points West Living (“the Facility”) in Drayton Valley, Alberta, pursuant to s. 57 of the *Health Professions Act* (the “Act”). The Complaint advised Mr. Diljot Singh (“Mr. Singh”), LPN, had been terminated from his employment at the Facility on December 14, 2022, for violating the Facility’s Wellness Policies by inappropriately touching two employees.

By letter dated December 22, 2022, the Complaints Director of the CLPNA, Sandy Davis (“Complaints Director”), provided Mr. Singh with Notice of the Complaint. In accordance with s. 20(1) of the *Health Professions Act* (the “Act”), the Complaints Director notified Mr. Singh she was delegating her authority to Susan Blatz, Complaints Officer (“Complaints Officer”). Further, in accordance with s. 55(2)(d) of the Act, the Complaints Director notified Mr. Singh she had appointed Neal York, Investigator for the CLPNA (the “Investigator”), to conduct an investigation into the Complaint. As well, due to the serious nature of the alleged conduct, the Complaints Director notified Mr. Singh that the Complaints Officer had recommended an interim suspension of Mr. Singh’s practice permit pursuant to s. 65(1)(b) of the Act.

By letter dated December 22, 2022, the Complaints Officer made a recommendation to the person designated by Council, Lynn Borris (“Council Designee”) that Mr. Singh’s practice permit be suspended pursuant to s. 65(1)(b) of the Act.

By letter dated January 11, 2023, the Council Designee informed Mr. Singh of her decision to impose a condition on Mr. Singh’s practice permit requiring him to practice in the direct presence of one or more regulated health care professionals, pending the outcome of these proceedings. This interim condition took effect on January 11, 2023, and has remained in place since then.

On January 24, 2023, the Investigator concluded the investigation of the Complaint.

The Complaints Officer determined there was sufficient evidence that the issues raised in the Complaint should be referred to the Hearings Director in accordance with s. 63(3)(a) of the Act. Mr. Singh received notice the matters were referred to a hearing, as well as a copy of the Statement of Allegations, Investigation Report, and Attachments on April 25, 2023.

A Notice of Hearing, Notice to Attend and Notice to Produce was served upon Mr. Singh under cover of letter dated June 13, 2023. The hearing was initially scheduled to proceed on August 3-4, 2023.

On July 20, 2023, the hearing was adjourned at Mr. Singh’s request, after Mr. Singh retained legal counsel. The hearing was rescheduled to proceed on December 7, 2023.

(4) Allegations

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

“It is alleged that **DILJOT SINGH, LPN**, while practicing as a Licensed Practical Nurse engaged in unprofessional conduct by:

1. On one or more occasions on or about November 15, 2022, while employed at the Facility engaged in inappropriate physical contact towards co-worker JB, who was under the age of 18, particulars of which include one or more of the following:
 - a) At or around 1620hrs, while telling JB not to use her phone at work, did one or more of the following:
 - i. From behind, placed his hand on JB’s waist;
 - ii. Slid his hand up the side of JB’s body;
 - b) While JB was cleaning a meal cart with hot water after the supper service, did one or more of the following:
 - i. From behind, wrapped his arm around the front of JB’s body, across her chest;
 - ii. Grabbed JB’s forearm as if to put it into the hot water;
 - c) At or around 1730hrs, while telling JB not to use her phone, did one or more of the following:
 - i. From behind, placed his hands on JB’s lower back or waist;
 - ii. Moved his hands up to JB’s shoulders;
 - iii. Attempted to give JB a shoulder massage.
2. On one or more occasions, in or around the period between January 2022 and December 2022, while employed at the Facility, engaged in inappropriate physical contact towards co-workers KS and MG, or either of them, particulars of which include one or more of the following:
 - a) Placed his hands on their shoulders without their consent;
 - b) Followed KS into a resident’s room and placed his hands on KS’s shoulders or lower back, or both, without KS’s consent;
 - c) While assisting KS with a mask, ran his fingers through KS’s hair without KS’s consent;

- d) Attempted to touch KS's back while following KS down the hallway, without KS's consent;
- e) Attempted to massage MG's back or shoulders without MG's consent;
- f) Attempted to massage MG's back or shoulders after MG told him to stop."

(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.

Mr. Singh acknowledged unprofessional conduct to all the allegations as evidenced by his 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 Mr. Singh'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 Mr. Singh.

Allegation 1

Mr. Singh admitted that on one or more occasions on or about November 15, 2022, while employed at the Facility he engaged in inappropriate physical contact towards co-worker JB, who was under the age of 18, particulars of which include one or more of the following:

- a) At or around 1620hrs, while telling JB not to use her phone at work, did one or more of the following:
 - i. From behind, placed his hand on JB's waist;
 - ii. Slid his hand up the side of JB's body;
- b) While JB was cleaning a meal cart with hot water after the supper service, did one or more of the following:
 - i. From behind, wrapped his arm around the front of JB's body, across her chest;
 - ii. Grabbed JB's forearm as if to put it into the hot water;
- c) At or around 1730hrs, while telling JB not to use her phone, did one or more of the following:
 - i. From behind, placed his hands on JB's lower back or waist;
 - ii. Moved his hands up to JB's shoulders;
 - iii. Attempted to give JB a shoulder massage.

On November 15, 2022, Mr. Singh was working an HCA shift at the Facility from 1500 hrs to 2300 hrs. JB has worked part-time at the Facility as a Hospitality Aide since November 2021. JB typically works weekday shifts from 1530 hrs to 1930 hrs or weekend shifts during the day. On November 15, 2022, JB was scheduled to work from 1530 hrs to 1930 hrs.

As of November 15, 2022, JB was a 16-year-old high school student. It was common knowledge among staff at the Facility that JB was a high school student. Mr. Singh and JB had not worked together before November 15, 2022. However, Mr. Singh knew JB was in high school and was under the age of 18.

On November 15, 2022, there were three separate incidents that made JB feel uncomfortable.

Around 1620 hrs, JB was waiting in the Facility's second-floor kitchen for food to be delivered so she could serve supper to the residents. While she waited, JB leaned against the counter and used her cellphone. Mr. Singh admits that while JB was using her cellphone, Mr. Singh approached JB from behind, and may have placed his hand on her shoulder as he told her she was not supposed to be on her phone. He denies touching JB's waist or sliding his hand up JB's body as alleged in Allegation 1(a)(i) and (ii).

Following the supper service, JB was cleaning the cart used for serving meals (the "Suzy Q" cart) near the second-floor kitchen area while Mr. Singh sat at the nearby HCA workstation. JB commented to Mr. Singh on how hot the water was in the Suzy Q tray, saying something to the effect of, "Man, imagine putting your hand in this. It would be so hot." In response, Mr. Singh got up from the HCA workstation and came up behind JB where she was cleaning the Suzy Q. Mr. Singh jokingly grabbed JB's right arm as if to put JB's right hand in the steaming hot water. In doing so, Mr. Singh wrapped his other arm around JB's body, across her chest. JB responded by urgently asking Mr. Singh to stop several times in rapid succession, after which Mr. Singh released JB.

Around 1730 hrs, JB was leaning against a counter in the Facility's second-floor kitchen, texting a co-worker who was not working that day for advice on what JB should do about the two incidents JB had just experienced involving Mr. Singh. While JB was texting her co-worker, Mr. Singh was sitting nearby at the HCA workstation. When Mr. Singh noticed JB was using her cellphone, Mr. Singh got up and walked up behind JB. Mr. Singh admits that he placed his hands on JB's shoulder as he told JB she should not be using her phone. He denies placing his hands on JB's lower back or waist as alleged in Allegation 1(c)(i). Mr. Singh then attempted to give JB a shoulder massage, at which point JB quickly walked away. After the third incident, JB went to the third floor to get away from Mr. Singh. JB contacted the Facility's Office Administrator and told her what had happened. Management instructed JB to end her shift early and go home and arranged for an HCA to escort JB to her vehicle to avoid any further encounters with Mr. Singh.

The Hearing Tribunal reviewed the evidence as well as the Agreed Statement of Facts which clearly described Mr. Singh's conduct in regard to JB, who was only 16 years old, at the Facility. On three separate occasions on November 15, 2022, Mr. Singh inappropriately engaged in inappropriate physical contact with JB. While it was noted that Mr. Singh did not admit to some of the allegations as written, he has as a whole, admitted to the inappropriate conduct which made JB feel very uncomfortable. The Hearing Tribunal accepts the information as presented, along with Mr. Singh's admission of unprofessional conduct which the parties presented in the Agreed Statement of Facts

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;
- xii. Conduct that harms the integrity of the regulated profession.

It was Mr. Singh's responsibility as an LPN to ensure he conducts himself in a professional manner. By making unwanted and unprofessional physical contact with JB he failed to act in a respectful manner towards a co-worker. This was compounded by the fact that JB was under the age of 18. His conduct failed to facilitate collaborative relationships in a cooperative, ethical and appropriate manner.

Mr. Singh's actions could cause disrepute to the profession. He failed to uphold the integrity the profession and he did not maintain professional boundaries. Mr. Singh displayed a lack of skill and judgement in regard to his unprofessional conduct.

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"):

CLPNA Standards of Practice:

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:

- o 4.9 Support and contribute to healthy and positive practice environments.

As detailed above, Mr. Singh failed to support and contribute to healthy and positive practice environments. His action made JB very uncomfortable, to the point where she was sent home by the Facility's Office Administrator. JB had to be escorted to her vehicle to ensure she did not have any further encounters with JB. The Facility then ensured that JB was not scheduled with Mr. Singh again.

CLPNA Code of Ethics:

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:

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

Principle 4: Responsibility to Colleagues – LPNs develop and maintain positive, collaborative relationships with nursing colleagues and other health professionals.

Principle 4 specifically provides that LPNS:

- o 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.

As detailed above, Mr. Singh failed to maintain the standards of the profession. He did not conduct himself in a manner that upholds the integrity of the profession. Mr. Singh did not promote workplace practices in a professional manner. The inappropriate unwelcomed physical conduct by Mr. Singh went against his responsibility to his colleagues.

His actions towards JB, a co-worker who was under the age of 18, were disrespectful and unethical and completely inappropriate.

Allegation 2

Mr. Singh admitted that on one or more occasions, in or around the period between January 2022 and December 2022, while employed at the Facility, he engaged in inappropriate physical contact towards co-workers KS and MG, or either of them, particulars of which include one or more of the following:

- a) Placed his hands on their shoulders without their consent;
- b) Followed KS into a resident's room and placed his hands on KS's shoulders or lower back, or both, without KS's consent;
- c) While assisting KS with a mask, ran his fingers through KS's hair without KS's consent;
- d) Attempted to touch KS's back while following KS down the hallway, without KS's consent;

- e) Attempted to massage MG's back or shoulders without MG's consent;
- f) Attempted to massage MG's back or shoulders after MG told him to stop.

KS was an HCA employed by the Facility, who often worked with Mr. Singh. On occasions when Mr. Singh was working the night shift as an LPN and his shift overlapped with KS's shift, Mr. Singh was KS's supervisor. KS and Mr. Singh initially had a friendly working relationship. However, at no point did Mr. Singh seek or receive KS's consent to make casual physical contact with KS.

Mr. Singh made casual physical contact with KS on several occasions, including the following:

- a. Placing his hands on KS's shoulders on multiple occasions;
- b. Following KS into a resident's room without a valid reason for doing so and, while KS was assisting the resident, placing his hand on KS's shoulder;
- c. Upon hearing KS complain to another colleague about discomfort from the ear-loops on KS's mask, taking KS's mask without asking for her consent, adjusting it, putting it back on KS, and running his fingers through KS's hair; and
- d. Placing his hand on KS's back while walking with KS down the hallway.

KS expressed discomfort to Mr. Singh after the incident. However, Mr. Singh acknowledged it was not KS's responsibility to express discomfort to Mr. Singh. Rather, it was Mr. Singh's responsibility to gauge the appropriateness of his intended actions and, if his intended physical contact was otherwise appropriate, to seek explicit consent before making physical contact with KS.

MG was employed by the Facility as a Hospitality Aide from November 2021 until June 2022, and as an HCA starting in June 2022. As an HCA, MG typically worked from 1500 hrs to 2300 hrs. When Mr. Singh was working the night shift as an LPN, MG's shift would overlap with Mr. Singh's shift between 1900 hrs and 2300 hrs. During the overlap, Mr. Singh was MG's supervisor.

At no point did Mr. Singh seek or receive MG's consent to make casual physical contact with MG. Nevertheless, Mr. Singh attempted to make casual physical contact with MG on several occasions, including the following:

- a. Attempting to place his hands on MG's shoulders on multiple occasions; and
- b. Attempting to massage MG's shoulders or back.

MG typically dealt with Mr. Singh's attempts to make physical contact with her by moving away, shrugging it off, or responding with words such as, "mm, how about no". Eventually, after MG was more abrupt in brushing Mr. Singh off, Mr. Singh left MG alone.

The Hearing Tribunal reviewed the evidence as well as the Agreed Statement of Facts which clearly described Mr. Singh's conduct in regard to both KS and MG over the course of one year. Mr. Singh's cavalier approach to physical contact created a work environment that was uncomfortable and unprofessional. At no point did Mr. Singh ever obtain consent to make

physical contact with either MG or KS. There were repeated instances of unwanted contact made by Mr. Singh including placing his hand on the shoulders of the two victims as well as attempting to massage their shoulders. While it was noted that Mr. Singh did not admit to some of the allegations as written, he has, as a whole, admitted to inappropriate conduct which made both MG and KS feel very uncomfortable. Mr. Singh has acknowledged it was neither victim's responsibility to express discomfort or to tell him to stop; rather it was his responsibility to gauge the inappropriateness of his actions.

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;

Mr. Singh displayed a lack of knowledge and judgment. It was his responsibility as an LPN to ensure he conducted himself in a professional manner. The inappropriate touching of co-workers failed to demonstrate professional boundaries. By making unwanted, unprofessional physical contact with both MG and KS, he did not act in a manner that was respectful. His conduct in regard to the victims in Allegation Two was over the span of a year.

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"):

CLPNA Standards of Practice:

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:

- o 4.9 Support and contribute to healthy and positive practice environments.

CLPNA Code of Ethics:

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:

- o 3.1 Maintain the standards of the profession and conduct themselves in a manner that upholds the integrity of the profession.

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

Principle 4: Responsibility to Colleagues – LPNs develop and maintain positive, collaborative relationships with nursing colleagues and other health professionals.

Principle 4 specifically provides that LPNS:

- o 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.

Mr. Singh did not support and contribute to a healthy and positive practice environment. He made his co-workers very uncomfortable and had no regard for the professional boundaries he is expected to uphold. Both KS and MG reported to Mr. Singh and there was an expectation that he would maintain professional boundaries at all times.

Mr. Singh did not maintain his responsibilities to the profession. He failed to foster the respect of his colleagues, MG and KS. He did not collaborate with them in a respectful manner and his actions were not appropriate nor were they ethical. Mr. Singh has acknowledged that it was not KS or MG's responsibility to express discomfort or to tell him to stop. It is solely Mr. Singh's responsibility to gauge the appropriateness of his actions and to seek explicit consent. In this way he breached both the CLPNA Standards and CLPNA Code of Ethics.

(9) Joint Submission on Penalty

The Complaints Officer and Mr. Singh 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. Mr. Singh shall pay 25% of the costs of the investigation and hearing to a maximum of \$5,000, to be paid in full **within 36 months of service** of the Decision. A letter advising Mr. Singh of the final costs will be provided once the final costs are confirmed.
3. Mr. Singh shall read and reflect on the following CLPNA documents. These documents are available on the CLPNA's website <http://www.clpna.com/> under "Governance". Mr. Singh shall provide the Complaints Director with a signed declaration attesting he has completed the required readings **within thirty (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) Standards of Practice for Licensed Practical Nurses on Boundary Violations;
- d) The CLPNA Policy: Professional Responsibility and Accountability;
- e) The CLPNA's Policy: Client & Co-Worker Abuse; and
- f) The CLPNA Practice Guideline: Addressing Co-Worker Abuse in the Workplace.

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

4. Mr. Singh shall complete the following remedial education, at his own cost, and shall provide the Complaints Director with documentation confirming successful completion **within nine (9) months of service** of the written Decision:

- a) Code of Ethics Learning Module offered online from Learning Nurse at <https://www.learningnurse.org/index.php/e-learning/lpn-code-of-ethics>; and
- b) Professional Boundaries in Nursing offered online by John Collins Consulting at [https://www.jcollinsconsulting.com/images/Outlines/lpn/MODULE_OUTLINE - PROFESSIONAL_BOUNDARIES_IN_NURSING.pdf](https://www.jcollinsconsulting.com/images/Outlines/lpn/MODULE_OUTLINE_-_PROFESSIONAL_BOUNDARIES_IN_NURSING.pdf).

If such course(s) become unavailable, an equivalent course(s) may be substituted where approved in advance in writing by the Complaints Director.

5. The sanctions set out above at paragraphs 2-4 will appear as conditions on Mr. Singh's practice permit and the Public Registry subject to the following:

- a) The requirement to complete the remedial education and readings outlined at paragraphs 3-4 will appear as "CLPNA Monitoring Orders (Conduct)" on Mr. Singh's practice permit and the Public Registry until the below sanctions have been satisfactorily completed;
 - i. Readings;
 - ii. Code of Ethics Learning Module;
 - iii. Professional Boundaries in Nursing.
- b) The requirement to pay costs will appear as "Conduct Cost/Fines" on Mr. Singh's practice permit and the Public Registry until all costs have been paid as set out above at paragraph 2.

6. The conditions on Mr. Singh's practice permit and on the Public Registry will be removed upon completion of each of the requirements set out above at paragraph 5.

7. Mr. Singh shall provide CLPNA with his contact information, including home mailing address, home and cellular telephone numbers, current e-mail address and current employment information. Mr. Singh will keep his contact information current with the CLPNA on an ongoing basis.
8. Should Mr. Singh be unable to comply with any of the sanctions' deadlines identified above, Mr. Singh may request an extension. The request for an extension must be submitted in writing to the Complaints Director prior to the deadline and must state a valid reason for requesting the extension and a reasonable timeframe for completion. The Complaints Director shall, in their sole discretion, determine whether a time extension is accepted. Mr. Singh will be notified by the Complaints Director, in writing, if an extension has been granted.
9. Should Mr. Singh fail or be unable to comply with any of the above orders, or if any dispute arises regarding the implementation of these orders, the Complaints Director may do any or all of the following:
 - a) Refer the matter back to a Hearing Tribunal, which shall retain jurisdiction with respect to penalty;
 - b) Treat Mr. Singh'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 Mr. Singh's practice permit until such costs are paid in full or the Complaints Director is satisfied that such costs are being paid in accordance with a schedule of payment agreed to by the Complaints Director.

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 the public's 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 Mr. Singh 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 Diljot Singh 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:** Mr. Singh's actions had a real impact on JB. JB was a 16-year-old high school student. She was made to feel so uncomfortable that the Office Administrator told her to end her shift early and go home. JB was escorted to her vehicle to avoid any further encounters with Mr. Singh. Even though Mr. Singh did not demonstrate intention, his actions had a profound impact on JB. Personal boundary violations are very serious. Mr. Singh demonstrated poor judgement. The Hearing Tribunal found Mr. Singh's actions disturbing and placed a significant amount of weight on this.
- **The age and experience of the investigated member:** Mr. Singh was only an LPN since 2021 and was a young man. However, he should have known that his cavalier approach to physical contact with others was inappropriate. Despite the age and experience of Mr. Singh, he should have known better.
- **The previous character of the investigated member and in particular the presence or absence of any prior complaints or convictions:** There is no evidence that Mr. Singh had any prior complaints or convictions.
- **The age and mental condition of the victim, if any:** JB was a 16-year old high school student. The Hearing Tribunal was not provided with information regarding the other two victims, KS and MG.
- **The number of times the offending conduct was proven to have occurred:** The allegations regarding JB occurred over one day. The allegations regarding KS and MG occurred over a year. While the Hearing Tribunal took the allegation regarding JB very seriously, we also placed significant weight on the allegations that occurred over a year with KS and MG. There were multiple occurrences when Mr. Singh engaged in inappropriate conduct between January 2022-December 2022.

- **The role of the investigated member in acknowledging what occurred:** Mr. Singh was cooperative in acknowledging what occurred and subsequent Agreed Statement of Facts and Joint Submission on Penalty. It was noted however that there was a Notice of Hearing served to Mr. Singh with a hearing scheduled for August 3-4, 2023. On July 20, 2023 Mr. Singh requested an adjournment to retain legal counsel. Mr. Singh came to an agreement on his conduct with the College. He has acknowledged his actions were inappropriate. His cooperation in presenting the Hearing Tribunal with an Agreed Statement of Facts prevented JB, who was 16 years old at the time of the incident, from testifying in a contested hearing.
- **Whether the investigated member has already suffered other serious financial or other penalties as a result of the allegations having been made:** Mr. Singh was terminated from his employment at the facility, thereby suffering financial consequences. On January 11, 2023 the Council Designee decided to impose a condition on Mr. Singh's practice permit requiring him to practice in the direct presence of one or more regulated health care professionals pending the outcome of this hearing.
- **The impact of the incident(s) on the victim(s):** While the victims were not patients, they were still significantly impacted. People should feel comfortable when they come to work or choose to volunteer in a facility. Mr. Singh's actions made all three victims extremely uncomfortable. His cavalier approach to touching people in uninviting, unprofessional and inappropriate ways did not adhere to promoting healthy and positive practice environments.
- **The presence or absence of any mitigating circumstances:** The Hearing Tribunal was not presented 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:** It is imperative that the sanction promotes both specific and general deterrence. The Hearing Tribunal believes the sanctions proposed in this case will ensure that Mr. Singh understands that his actions are serious and will not be tolerated. They also serve as notice to other members of the profession that such actions will be dealt with very seriously.
- **The need to maintain the public's confidence in the integrity of the profession:** The sanctions of Mr. Singh send a strong message to the public that the College takes these allegations very seriously and will not be tolerated. The public needs to maintain their confidence in the profession, the Hearing Tribunal is confident that the sanction will ensure that.
- **The range of sentences in other similar cases:** The Hearing Tribunal was presented with a similar case (Leduc, CLPNA 2019). The case presented to the Hearing Tribunal also demonstrated a lack of awareness with no intentional malice. In the Leduc case the

reprimand was 25% of the costs to be paid over 18 months as well as reading and reflection on the reading and needing to attend counselling regarding workplace conflict.

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 sanction.

(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. Mr. Singh shall pay 25% of the costs of the investigation and hearing to a maximum of \$5,000, to be paid in full **within 36 months of service** of the Decision. A letter advising Mr. Singh of the final costs will be provided once the final costs are confirmed.
3. Mr. Singh shall read and reflect on the following CLPNA documents. These documents are available on the CLPNA's website <http://www.clpna.com/> under "Governance". Mr. Singh shall provide the Complaints Director with a signed declaration attesting he has completed the required readings **within thirty (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) Standards of Practice for Licensed Practical Nurses on Boundary Violations;
 - d) The CLPNA Policy: Professional Responsibility and Accountability;
 - e) The CLPNA's Policy: Client & Co-Worker Abuse; and
 - f) The CLPNA Practice Guideline: Addressing Co-Worker Abuse in the Workplace.

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

4. Mr. Singh shall complete the following remedial education, at his own cost, and shall provide the Complaints Director with documentation confirming successful completion **within nine (9) months of service** of the written Decision:
 - a) Code of Ethics Learning Module offered online from Learning Nurse at <https://www.learningnurse.org/index.php/e-learning/lpn-code-of-ethics>; and
 - b) Professional Boundaries in Nursing offered online by John Collins Consulting at [https://www.icollinsconsulting.com/images/Outlines/lpn/MODULE_OUTLINE - PROFESSIONAL BOUNDARIES IN NURSING.pdf](https://www.icollinsconsulting.com/images/Outlines/lpn/MODULE_OUTLINE_-_PROFESSIONAL_BOUNDARIES_IN_NURSING.pdf).

If such course(s) become unavailable, an equivalent course(s) may be substituted where approved in advance in writing by the Complaints Director.

5. The sanctions set out above at paragraphs 2-4 will appear as conditions on Mr. Singh's practice permit and the Public Registry subject to the following:
 - a) The requirement to complete the remedial education and readings outlined at paragraphs 3-4 will appear as "CLPNA Monitoring Orders (Conduct)" on Mr. Singh's practice permit and the Public Registry until the below sanctions have been satisfactorily completed;
 - i. Readings;
 - ii. Code of Ethics Learning Module;
 - iii. Professional Boundaries in Nursing.
 - b) The requirement to pay costs will appear as "Conduct Cost/Fines" on Mr. Singh's practice permit and the Public Registry until all costs have been paid as set out above at paragraph 2.
6. The conditions on Mr. Singh's practice permit and on the Public Registry will be removed upon completion of each of the requirements set out above at paragraph 5.
7. Mr. Singh shall provide the CLPNA with his contact information, including home mailing address, home and cellular telephone numbers, current e-mail address and current employment information. Mr. Singh will keep his contact information current with the CLPNA on an ongoing basis.
8. Should Mr. Singh be unable to comply with any of the sanctions' deadlines identified above, Mr. Singh may request an extension. The request for an extension must be submitted in writing to the Complaints Director prior to the deadline, and must state a valid reason for

requesting the extension and a reasonable timeframe for completion. The Complaints Director shall, in their sole discretion, determine whether a time extension is accepted. Mr. Singh will be notified by the Complaints Director, in writing, if the extension has been granted.

9. Should Mr. Singh fail or be unable to comply with any of the above orders, or if any dispute arises regarding the implementation of these orders, the Complaints Director may do any or all of the following:
 - a) Refer the matter back to a Hearing Tribunal, which shall retain jurisdiction with respect to penalty;
 - b) Treat Mr. Singh'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 Mr. Singh's practice permit until such costs are paid in full or the Complaints Director is satisfied that such costs are being paid in accordance with a schedule of payment agreed to by the Complaints Director.

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 JANUARY, 2024 IN THE CITY OF CALGARY, ALBERTA.

THE COLLEGE OF LICENSED PRACTICAL NURSES OF ALBERTA

M. Stolz

Michelle Stolz, LPN
Chair, Hearing Tribunal