

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 DEVON ORMSBY**

**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 DEVON ORMSBY, LPN #38232, WHILE A MEMBER OF THE COLLEGE OF LICENSED
PRACTICAL NURSES OF ALBERTA (“CLPNA”)**

DECISION OF THE HEARING TRIBUNAL

(1) Hearing

The hearing was conducted via teleconference using zoom February 9, 2024, with the following individuals present:

Hearing Tribunal:

Kelly Annesty, Licensed Practical Nurse (“LPN”) Chairperson
Amanda Rodzinyak, LPN
Andrew Otway, Public Member
Kate Freeman, Public Member

Staff:

Jason Kully, Legal Counsel for the Complaints Officer, CLPNA
Daisy Feehan, Legal Counsel for the Complaints Officer, CLPNA
Stephanie Karkutly, Complaints Officer, CLPNA
Sanah Sidhu, Complaints Director, CLPNA

Investigated Member:

Devon Ormsby, LPN (“Mr. Ormsby” or “Investigated Member”)

(2) Preliminary Matters

The hearing was open to the public.

When the hearing began, the Chairperson of the Hearing Tribunal advised the Investigated Member he had the right to legal counsel under section 72(1) of the *Health Professions Act* (“the Act”). The Investigated Member confirmed he wished to proceed with the hearing without legal counsel.

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. Ormsby 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. Ormsby was initially licensed as an LPN in Alberta on May 14, 2014.

On June 2, 2023, the CLPNA received a complaint (the "Complaint") from Pansy Angevine, Interim Site Administrator of Villa Marie, Covenant Care (the "Facility"), pursuant to s. 57 of the *Health Professions Act* (the "Act"). The Complaint stated Mr. Ormsby, LPN, had been terminated from his employment at the Facility on May 2, 2023, as a result of workplace sexual harassment while working in a supervisory role at the Facility.

By way of letter dated June 7, 2023, Ms. Sanah Sidhu, Complaints Director of the CLPNA ("Complaints Director"), provided Mr. Ormsby with notice of the Complaint. The Complaints Director also delegated her authority and powers under Part 4 of the Act regarding the Complaint to Ms. Stephanie Karkutly, Complaints Officer for the CLPNA (the "Complaints Officer"), pursuant to s. 20 of the Act. The Complaints Director also notified Mr. Ormsby that she had appointed Neal York ("Investigator") to conduct an investigation into the Complaint, pursuant to s. 55(2)(d) of the Act.

By way of letter dated June 8, 2023, the Complaints Officer provided Mr. Ormsby with notice that she would be recommending to Lynn Borris, Designated Person appointed by Council, that an immediate interim condition of "no supervisory position, roles and/or responsibilities" be imposed on Mr. Ormsby's practice permit until the completion of the investigation and/or all disciplinary proceedings. A copy of the Complaints Officer's letter dated June 8, 2023, was attached to Exhibit 2 at TAB 3. By way of letter dated June 16, 2023, Ms. Borris notified Mr. Ormsby that she was placing a condition of "No Supervisory Position, Role, and/or Responsibilities" on his practice permit, effective immediately and remaining until the completion of the investigation and/or all disciplinary proceedings.

On July 12, 2023, the Investigator concluded the investigation into the Complaint and submitted the Investigation Report to the CLPNA.

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. Mr. Ormsby was advised of this referral, as well as the allegations against him, by letter of October 12, 2023. A Notice of Hearing, Notice to Attend and Notice to Produce was served upon Mr. Ormsby under cover of letter dated December 4, 2023.

(4) Allegations

The Allegations in the Statement of Allegations (the "Allegations") are:

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

1. On or between March 22, 2023 to April 5, 2023, while acting as a supervisor, he engaged in inappropriate interactions with co-workers, particulars of which include:
 - a. Invited WP, MW, and KS to join him at his hotel room for alcoholic drinks after work and suggested they bring their swimsuits because it had a pool; and
 - b. Looked at CG, MW, and KS in a sexual manner, including staring, winking and grinning.
2. On or between March 22, 2023 to April 5, 2023, while acting as a supervisor, he made inappropriate and/or sexually suggestive comments toward co-workers, particulars of which include:
 - a. Told KS she had “a beautiful face” that he missed or words to that effect;
 - b. Told MW “why did you pull your shirt down? I like that view” or words to that effect after MW pulled her shirt down;
 - c. Told KS that she “needed a strong man” or words to that effect;
 - d. Asked co-workers if they “liked black men” or “liked dark chocolate” or words to that effect;
 - e. Stated he “loved married women” or words to that effect after being informed co-workers were married; and
 - f. Asked about having a good time while in Red Deer or words to that effect.”

(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. Ormsby 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: 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 Mr. Ormsby'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. Ormsby.

Allegation 1

Mr. Ormsby admitted that on or between March 22, 2023, to April 5, 2023, while acting as a supervisor, he engaged in inappropriate interactions with co-workers, particulars of which include:

- a. Invited WP, MW, and KS to join him at his hotel room for alcoholic drinks after work and suggested they bring their swimsuits because it had a pool; and
- b. Looked at CG, MW, and KS in a sexual manner, including staring, winking, and grinning.

At all times material to the allegation, Mr. Ormsby was employed by Covenant Care.

In 2023, Mr. Ormsby, while working at Covenant Care, was asked to work on assignment at the Facility as it was short staffed of LPNs who were needed for supervisory positions.

Mr. Ormsby worked shifts as a supervisor at the Facility between March 22-24, 2023, March 27 – 29, 2023, and April 3 – 5, 2023.

During Mr. Ormsby's employment in a supervisory position at the Facility between March 22 to April 5, 2023, Mr. Ormsby engaged in inappropriate interactions with his co-workers making his co-workers uncomfortable.

On one occasion, MW and WP were sitting at the nursing desk at the Facility and Mr. Ormsby invited the two of them to his hotel room after work for alcoholic drinks and suggested that they bring their bathing suits as the hotel had a pool. Mr. Ormsby was their supervisor at the time, the two deflected the invitation by "laughing it off" and made excuses as to why they could not accept his invitation, including explanations that most of the staff were married or in relationships. Mr. Ormsby extended the invitation several more times during that shift.

On multiple occasions at the Facility, Mr. Ormsby asked KS to come to his hotel and have drinks with him, both individually and as part of a group. KS refused or ignored all of Mr. Ormsby's invitations.

During his employment in a supervisory position at the Facility between March 22 to April 5, 2023, Mr. Ormsby engaged in inappropriate interactions with his co-workers when he looked at CG, MW and KS in a sexual manner on several occasions.

On multiple occasions, MW observed Mr. Ormsby sitting in his office and staring at staff working at the nursing desk. When she made eye contact with Mr. Ormsby while he was doing this, he would wink at her which made her uncomfortable so she would actively avoid making eye contact with Mr. Ormsby.

On one occasion, Mr. Ormsby called CG into his office. When CG entered, Mr. Ormsby stared at her very intensely and continued to do so throughout her shift, including an incident where the two were passing in a hallway and Mr. Ormsby turned his head as he passed her so that he could continue to stare at her over his shoulder as they walked in opposite directions.

On multiple occasions, Mr. Ormsby looked at KS in a very aggressive manner that was sexual in nature.

On multiple occasions, Mr. Ormsby looked female staff members up and down while grinning, in a manner that was sexual in nature, which made staff uncomfortable.

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.

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 Code of Ethics:

Principle 1: Responsibility to the Public – Licensed Practical Nurses, as self-regulating professionals, commit to provide safe, effective, compassionate, and ethical care to members of the public.

- 1.1 Maintain standards of practice, professional competence, and conduct.

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

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

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

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

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

CLPNA Standards of Practice:

Standard 1: Professional Accountability and Responsibility – LPNs are accountable and responsible for their practice and conduct to meet the standards of the profession and legislative requirements.:

- 1.1 Practice within applicable legislation, regulations, by-laws, and employer policies.
- 1.8 Are accountable and responsible for their own practice, conduct, and ethical decision making.

Standard 3: Protection of the public through self-regulation – Licensed Practical Nurses collaborate with clients and other members of the healthcare team to provide safe care and improve health outcomes:

- 3.3 Lead and contribute to a practice culture that promotes safe, inclusive, and ethical care.
- 3.5 Understand and accept the responsibility of self-regulation by following the standards of practice, the code of ethics, and other regulatory requirements.

Standard 4: Professional and Ethical Practice – Licensed Practical Nurses adhere to the ethical values and responsibilities described in the Canadian Council for Practical Nurse Regulators (CCPNR) Code of Ethics:

- 4.1 Identify personal values, beliefs, and biases and take accountability for the impact they may have on professional relationships and nursing practice.
- 4.5 Demonstrate effective, respectful, and collaborative interpersonal communication to promote a positive practice culture.
- 4.6 Demonstrate practice that upholds the integrity of the profession.
- 4.7 Demonstrate characteristics and attributes of a leader, and the ability to apply formal and informal leadership competence.

Mr. Ormsby displayed a lack of judgment in that he was acting in a supervisory role at the Facility and asked the staff reporting to him to join him for alcoholic drinks and to go to the pool at the hotel that he was staying at. This is not something that an LPN in a supervisory role is expected to do. LPNs need to lead by example especially when in a supervisory role and Mr. Ormsby failed to do so.

As stated, Mr. Ormsby's conduct also breached the above noted provisions of the CLPNA Code of Ethics and the CLPNA Standards of Practice. He failed to show professional integrity with

respect to his behavior when he was interacting with coworkers. Mr. Ormsby was working in a supervisory role, and this is not how a supervisor should be acting towards coworkers.

Mr. Ormsby failed to treat his fellow co-workers with dignity and respect by inviting WP, MW, and KS to join him at this hotel room for alcoholic drinks and suggesting that they bring their swimsuits as the hotel had a pool. Mr. Ormsby also looked at CG, MW, and KS in a sexual manner which included staring, winking, and grinning. This made his co-workers feel uncomfortable in the presence of Mr. Ormsby, which should never have occurred. Mr. Ormsby failed to foster healthy relationships with his co-workers at the Facility. This is not how an LPN is expected to act within the workplace regardless of their experience.

Mr. Ormsby's conduct harms the integrity of the profession as this is not expected behavior of an LPN. LPNs are expected to act in a professional manner and Mr. Ormsby's actions were not professional. Mr. Ormsby invited other staff members to his hotel room for drinks as well as to go to the pool on multiple occasions. Mr. Ormsby also made his co-workers feel uncomfortable by winking at MW and staring intensely at other co-workers which the co-workers felt were sexual in nature. For all of these reasons, the Hearing Tribunal concluded that Mr. Ormsby engaged in unprofessional conduct deserving of sanction.

Allegation 2

Mr. Ormsby admitted that on or between March 22, 2023, to April 5, 2023, while acting as a supervisor, he made inappropriate and/or sexually suggestive comments toward co-workers, particulars of which include:

- a. Told KS she had "a beautiful face" that he missed or words to that effect;
- b. Told MW "why did you pull your shirt down? I like that view" or words to that effect after MW pulled her shirt down;
- c. Told KS that she "needed a strong man" or words to that effect;
- d. Asked co-workers if they "liked black men" or "liked dark chocolate" or words to that effect;
- e. Stated he "loved married women" or words to that effect after being informed co-workers were married; and
- f. Asked about having a good time while in Red Deer or words to that effect."

Mr. Ormsby worked in a supervisory position at the Facility between March 22 to April 5, 2023. During that time, Mr. Ormsby made inappropriate and/or sexually suggestive comments toward co-workers, including:

When KS returned to the Facility after being away for three days due to illness, Mr. Ormsby told KS she had "a beautiful face" that he missed, or words to that effect, which KS felt was inappropriate and very embarrassing for her.

When MW was in Mr. Ormsby's office, which also serves as a communal space, MW bent over to retrieve something from the fridge, causing her uniform shirt to ride up slightly. After she pulled it back down, Mr. Ormsby said "why did you pull your shirt down? I like that view", or words to that effect, which MW found very inappropriate and made her quite uncomfortable. MW told Mr. Ormsby that her husband would not appreciate his comment and left the office.

In a conversation with KS, Mr. Ormsby repeatedly suggested the two meet for drinks in Calgary and repeatedly asked if KS had a boyfriend. When KS confirmed that she had a boyfriend, Mr. Ormsby stated that she "needed a strong man" or words to that effect, which KS interpreted as implying that Mr. Ormsby was that "strong man".

Mr. Ormsby asked co-workers if they "liked black men" or "liked dark chocolate", or words to that effect, in reference to himself which staff considered to be inappropriate.

When his female co-workers attempted to deflect Mr. Ormsby's advances by informing him they were married or in relationships, Mr. Ormsby stated that he "loved married women" or words to that effect, which his co-workers felt was inappropriate and made them uncomfortable.

Mr. Ormsby asked his co-workers about having a good time while in Red Deer, or words to that effect, which his co-workers considered to be inappropriate.

KS was hesitant to report her concerns regarding Mr. Ormsby as he was her direct supervisor.

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

Mr. Ormsby displayed a lack of judgement by communicating and interacting in an inappropriate manner with KS and MW as well as other co-workers. Mr. Ormsby was acting as a supervisor at the Facility and was not acting in a professional manner. LPNs are expected to work within a team environment and foster respectful relationships with co-workers. Teamwork and proper communication are fundamental aspects of being an LPN. Mr. Ormsby failed to meet the essential aspects of being a professional and failed to treat others involved in the healthcare team with respect and civility which are core aspects of being an LPN.

Mr. Ormsby did not abide by the CLPNA Code of Ethics or the CLPNA Standards of Practice for the reasons set out in more detail under Allegation 1. Mr. Ormsby's actions also harm the integrity of the LPN profession in that he spoke in a sexual nature to his co-workers which his co-workers felt was inappropriate and made them feel uncomfortable.

The Hearing Tribunal finds the conduct breached displayed a lack of judgement, harmed the integrity of the profession, and breached the CLPNA Code of Ethics and the CLPNA Standards of Practice and that such breaches are sufficiently serious to constitute unprofessional conduct.

(9) Joint Submission on Penalty

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

1. The Hearing Tribunal's written decision (the "Decision") shall serve as a reprimand.
2. Mr. Ormsby will not be eligible to have his practice permit reinstated until he has complied with the following:
 - (a) Mr. Ormsby shall read and reflect on the following CLPNA documents located on the CLPNA website at <http://www.clpna.com>, and provide a written reflection, between 1,500 and 3,000 words, to the Complaints Officer demonstrating insight into the workplace issues that occurred and on how he will incorporate the following readings to avoid these issues in the future:
 - (i) Standards of Practice for Licensed Practical Nurses in Canada;
 - (ii) Standards of Practice for Licensed Practical Nurses on Boundary Violations;
 - (iii) Code of Ethics for Licensed Practical Nurses in Canada;
 - (iv) CLPNA Practice Policy: Client & Co-Worker Abuse;
 - (v) CLPNA Practice Policy: Prevention of Staff Abuse;
 - (vi) CLPNA Practice Policy: Professional Responsibility & Accountability;
 - (vii) CLPNA Practice Guideline: Addressing Co-Worker Abuse in the Workplace; and
 - (viii) CLPNA Practice Guideline: Professional Boundaries.

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

- (b) Mr. Ormsby shall complete, at his own cost, **Righting a Wrong – Ethics & Professionalism in Nursing** available online at www.icrsncsbn.org and provide the Complaints Officer with a certificate confirming successful completion of the course. If the course should become unavailable, an equivalent course may be substituted where approved in advance in writing by the Complaints Officer.
- (c) Mr. Ormsby shall complete, at his own cost, **IPHE201 – Professionalism and Ethics for Healthcare Professionals (NAIT – Continuing Education)**, and provide the Complaints Officer with proof of successful completion of the course. If the course

should become unavailable, an equivalent course may be substituted where approved in advance in writing by the Complaints Officer.

3. Once Mr. Ormsby has provided proof to the Complaints Officer that he has completed the written reflection and courses referred to above at paragraph 2, upon submitting his application for registration, and provided that he meets all requirements for registration, he will be eligible to have his practice permit reinstated.
4. Mr. Ormsby's practice permit will be suspended for a period of **fourteen (14) days** with the period of suspension to commence upon reinstatement of Mr. Ormsby's practice permit.
5. The sanctions set out above at paragraph 2 will appear as conditions on the Public Registry subject to the following:
 - a) The requirement to complete the written reflection and courses outlined at paragraph 2 will appear as "CLPNA Monitoring Orders (Conduct)" on the Public Registry until the below sanctions have been satisfactorily completed:
 - i. Written Reflection;
 - ii. Righting a Wrong – Ethics & Professionalism in Nursing; and
 - iii. IPHE201 – Professionalism and Ethics for Healthcare Professionals (NAIT – Continuing Education).
6. Mr. Ormsby 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. Ormsby will keep his contact information current with the CLPNA on an ongoing basis.
7. Should Mr. Ormsby 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.
8. Should Mr. Ormsby 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 Mr. Ormsby's non-compliance as information under s. 56 of the *Health Professions Act*; or

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 Mr. Ormsby 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 Mr. Ormsby 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: These allegations are very serious in nature as they deal with sexualized commentary within the workplace in respect to co-workers and Mr.

Ormsby was in a supervisory position at the time which makes these comments more inappropriate. Even though the allegations do not include physical contact or sexual abuse misconduct as defined in the Act, these allegations do deal with sexualized commentary. This is serious conduct from the Complaints Officer's perspective and the Hearing Tribunal agrees that this is serious conduct.

The age and experience of the investigated member: Mr. Ormsby initially became registered with the CLPNA on May 14, 2014. At the time of the events in question, Mr. Ormsby had been an LPN for approximately nine years.

The previous character of the investigated member and in particular the presence or absence of any prior complaints or convictions: The Hearing Tribunal was not made aware of any prior complaints or convictions with respect to Mr. Ormsby.

The age and mental condition of the victim: The Hearing Tribunal did not receive any information regarding the age of the co-workers who were affected by Mr. Ormsby's words.

The number of times the offending conduct was proven to have occurred: The allegations took place between March 22, 2023, to April 5, 2023, and involved at least four of Mr. Ormsby's co-workers. There were multiple individuals who were subjected to the comments made by Mr. Ormsby.

The role of the investigated member in acknowledging what occurred: Mr. Ormsby has acknowledged his conduct and that it was unprofessional conduct, and he has taken responsibility for his actions.

Whether the investigated member has already suffered other serious financial or other penalties as a result of the allegations having been made: Mr. Ormsby was removed from his supervisory role at the Facility on May 2, 2023, when he was terminated from his position. The Hearing Tribunal was also made aware that Mr. Ormsby did not renew his Practice Permit with the CLPNA for 2024 as he was not able to afford it.

The impact of the incident(s) on the victim: In the Agreed Statement of Facts and Acknowledgement of Unprofessional Conduct there was some indication that there was an adverse effect on Mr. Ormsby's co-workers as it was indicated that some of the co-workers felt intimidated, they were made to feel uncomfortable, and embarrassed by Mr. Ormsby's conduct.

The presence or absence of any mitigating circumstances: The Hearing Tribunal was not made aware 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: There is a need to impose a sanction that deters Mr. Ormsby from repeating this conduct in the future 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 Mr.

Ormsby as well as other LPNs to state that this type of conduct will not be tolerated by the CLPNA. The CLPNA deals with the actions of its members when the members 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 public protection.

The need to maintain the public’s confidence in the integrity of the profession: The CLPNA deals with the actions of its members when they engage in unprofessional conduct. The CLPNA will deal with any breaches of the CLPNA Code of Ethics or 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 not made aware of any similar cases.

It is important for 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 decision (the “Decision”) shall serve as a reprimand.
2. Mr. Ormsby will not be eligible to have his practice permit reinstated until he has complied with the following:
 - (a) Mr. Ormsby shall read and reflect on the following CLPNA documents located on the CLPNA website at <http://www.clpna.com>, and provide a written reflection, between 1,500 and 3,000 words, to the Complaints Officer demonstrating insight into the workplace issues that occurred and on how he will incorporate the following readings to avoid these issues in the future:

- (i) Standards of Practice for Licensed Practical Nurses in Canada;
- (ii) Standards of Practice for Licensed Practical Nurses on Boundary Violations;
- (iii) Code of Ethics for Licensed Practical Nurses in Canada;
- (iv) CLPNA Practice Policy: Client & Co-Worker Abuse;
- (v) CLPNA Practice Policy: Prevention of Staff Abuse;
- (vi) CLPNA Practice Policy: Professional Responsibility & Accountability;
- (vii) CLPNA Practice Guideline: Addressing Co-Worker Abuse in the Workplace;
and
- (viii) CLPNA Practice Guideline: Professional Boundaries.

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

- (b) Mr. Ormsby shall complete, at his own cost, **Righting a Wrong – Ethics & Professionalism in Nursing** available online at www.icrsncsbn.org and provide the Complaints Officer with a certificate confirming successful completion of the course. If the course should become unavailable, an equivalent course may be substituted where approved in advance in writing by the Complaints Officer.
 - (c) Mr. Ormsby shall complete, at his own cost, **IPHE201 – Professionalism and Ethics for Healthcare Professionals (NAIT – Continuing Education)**, and provide the Complaints Officer with proof of successful completion of the course. If the course should become unavailable, an equivalent course may be substituted where approved in advance in writing by the Complaints Officer.
3. Once Mr. Ormsby has provided proof to the Complaints Officer that he has completed the written reflection and courses referred to above at paragraph 2, upon submitting his application for registration, and provided that he meets all requirements for registration, he will be eligible to have his practice permit reinstated.
 4. Mr. Ormsby's practice permit will be suspended for a period of **fourteen (14) days** with the period of suspension to commence upon reinstatement of Mr. Ormsby's practice permit.
 5. The sanctions set out above at paragraph 2 will appear as conditions on the Public Registry subject to the following:
 - a) The requirement to complete the written reflection and courses outlined at paragraph 2 will appear as "CLPNA Monitoring Orders (Conduct)" on the Public Registry until the below sanctions have been satisfactorily completed:
 - i. Written Reflection;
 - ii. Righting a Wrong – Ethics & Professionalism in Nursing; and
 - iii. IPHE201 – Professionalism and Ethics for Healthcare Professionals (NAIT – Continuing Education).

6. Mr. Ormsby 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. Ormsby will keep his contact information current with the CLPNA on an ongoing basis.
7. Should Mr. Ormsby 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.
8. Should Mr. Ormsby 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:
 - (c) Refer the matter back to a Hearing Tribunal, which shall retain jurisdiction with respect to penalty;
 - (d) Treat Mr. Ormsby's non-compliance as information under s. 56 of the *Health Professions Act*; or

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 6th DAY OF MARCH 2024 IN THE CITY OF EDMONTON, ALBERTA.

THE COLLEGE OF LICENSED PRACTICAL NURSES OF ALBERTA



Kelly Anesty, LPN
Chair, Hearing Tribunal