

**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 ASHLIE MCMONAGLE**

**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 ASHLIE MCMONAGLE, LPN #54538, 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 July 4, 2024, with the following individuals present:

**Hearing Tribunal:**

Jeff Bell, Licensed Practical Nurse (“LPN”) Chairperson  
Sarah Kawaleski, LPN  
Kevin Kelly, Public Member  
Don Wilson, 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, Director of Professional Conduct, CLPNA

**Investigated Member:**

Lee Watson, 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. Ashlie McMonagle (“Ms. McMonagle” or the “Investigated Member”) was an LPN within the meaning of the *Health Professions Act* (“the Act”) at all material times, and more particularly, was registered with CLPNA as an LPN at the time of the complaint. Ms. McMonagle was initially licensed as an LPN in Alberta on January 31, 2022.

On June 21, 2023, the CLPNA received a complaint (the “Complaint”) from Tanis Gillingham, Relief Team Program Manager at Alberta Health Services’ (“AHS”) Peter Lougheed Centre in Calgary, AB (the “Facility”) pursuant to s. 57 of the Act. The Complaint stated Ms. McMonagle, LPN, had been terminated from her employment with AHS on June 20, 2023 as a result of significant privacy breaches by Ms. McMonagle.

By way of letter dated June 26, 2023, Ms. Sanah Sidhu, the former Complaints Director of the CLPNA (the “Complaints Director”), provided Ms. McMonagle with notice of the Complaint. In accordance with s. 55(2)(d) and s. 20(1) of the Act, the Complaints Director appointed Stephanie Karkutly, Complaints Officer for the CLPNA, (the “Complaints Officer”) to handle the Complaint and to conduct an investigation into the Complaint.

By way of letter dated July 14, 2023, the Complaints Officer notified Ms. McMonagle that she, the Complaints Officer, had completed her preliminary investigation and had appointed Jasjeet Rehill, Investigator, (the “Investigator”) to conduct a further investigation into the matter and provide a written report.

On December 7, 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. Ms. McMonagle was advised of this referral, as well as the allegations against her, by letter of March 13, 2023. A Notice of Hearing, Notice to Attend and Notice to Produce was served upon Ms. McMonagle under cover of letter dated April 24, 2024.

Following the issuance of the Statement of Allegations, Allegation 1 and Allegation 4 were amended and an Amended Statement of Allegations was prepared.

#### **(4) Allegations**

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

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

1. On or about March 21, 2023, and April 17, 2023, while working on Unit 43 of the Peter Lougheed Centre (the “Facility”), accessed on Connect Care the personal and/or health information of one or more of seventy-one (71) patients not admitted to Unit 43, without justification or authorization to do so.
2. On or between February 11 and April 17, 2023, while working on Unit 43 of the Facility, accessed on Connect Care the personal and/or health information of one or

more of nineteen (19) patients admitted to Unit 43 who were not under McMonagle's care, without justification or authorization to do so.

3. On or between January 27 and April 10, 2023, while working in the Emergency Department at the Facility, accessed on Connect Care the personal and/or health information of one or more of six-hundred and forty-one (641) patients not under McMonagle's care, without justification or authorization to do so.
4. On or about March 8, 2023, while working at the Rockyview General Hospital, accessed on Sunrise Clinical Manager the personal and/or health information of one or more of two (2) patients admitted to Rockyview General Hospital 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. McMonagle acknowledged unprofessional conduct to all the allegations as evidenced by her signature on the Agreed Statement of Facts and Acknowledgement of Unprofessional Conduct and her representative 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 that where there is an admission of unprofessional conduct, the Hearing Tribunal should accept the admission absent exceptional circumstances.

**(6) Exhibits**

The following exhibits were entered at the hearing:

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

**(7) Evidence**

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

## **(8) Decision of the Hearing Tribunal and Reasons**

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

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

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

### **Allegation 1**

Ms. McMonagle admitted that on or about March 21, 2023, and April 17, 2023, while working on Unit 43 of the Peter Lougheed Centre (the "Facility"), she accessed on Connect Care the personal and/or health information of one or more of seventy-one (71) patients not admitted to Unit 43, without justification or authorization to do so.

On March 21, 2023 and April 17, 2023, Ms. McMonagle worked on Unit 43 of the Facility.

On these dates, without authorization or justification to do so, she accessed the personal and/or health information of two patients in the Facility's Emergency Department for an Extended Access, the personal and/or health information of 34 patients not admitted to Unit 43 for a Multiple Review Access, and the personal and/or health information of 35 patients not on Unit 43 for a Short Access.

On March 21 and April 17, 2023, Ms. McMonagle looked at the personal and/or health information on Connect Care of two individuals who were admitted to the Facility in the Emergency Department for an Extended Access. She viewed the following patient information screens in Connect Care for these patients, which contained their personal and health information: "AHS ED First Nursing Note Report", "AHS ED Unresultd Labs Since Admission Hover Bubble Report", "IP Inpatient Nurse Storyboard", "PATIENT CHART ADVISORIES REPORT", and "Notes Activity Display".

Emergency Department patients are cared for and assigned to Emergency Department staff. Ms. McMonagle did not work in the Emergency Department on March 21 or April 17, 2023 and was not assigned to care for any ER patients on those dates. Therefore, she had no authorization or justification to access their personal health information.

On March 21 and April 17, 2023, Ms. McMonagle looked at the personal and/or health information on Connect Care of 34 individuals who were admitted to the Facility but were not admitted to Unit 43 for a Multiple Review Access. She viewed the following patient information screens in Connect Care for these patients, which contained their personal and health information: “AHS ED First Nursing Note Report” and “AHS IP RAPID ROUNDS OCP HOVER BUBBLE”.

On March 21 and April 17, 2023, Ms. McMonagle looked at the personal and/or health information on Connect Care of 35 individuals who were admitted to the Facility but were not admitted to Unit 43 for a Short Access. She viewed the following patient information screen in Connect Care for these patients, which contained their personal and health information: “AHS ED First Nursing Note Report”.

The patients whose records Ms. McMonagle accessed were not under Ms. McMonagle’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 and/or health information.

The Hearing Tribunal considered the facts included in the Agreed Statement of Facts and Ms. McMonagle’s admission of unprofessional conduct. The Hearing Tribunal found that the facts and documents included in Exhibit #2 prove that the conduct for Allegation 1 did in fact occur.

The Hearing Tribunal finds that the conduct admitted to by Ms. McMonagle 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. McMonagle displayed a lack of knowledge of or lack of skill or judgment by accessing patients’ personal health information even though these patients were not in Ms. McMonagle’s care. Ms. McMonagle did this with respect to 71 patients on March 21, 2023, and April 17, 2023. Accessing patients’ personal health information demonstrates a lack of judgment because patients have a right to privacy regarding their health information. Unauthorized access breaches this right and can lead to a loss of trust in healthcare providers.

Healthcare professionals have an ethical duty to maintain patient confidentiality. Unauthorized access goes against professional ethical standards and can harm the reputation of the individual and their professional standing.

Ms. McMonagle did not abide by the Code of Ethics for Licensed Practical Nurses in Canada, adopted by the CLPNA on June 3, 2013 (“CLPNA Code of Ethics”) and the 2020 Standards of

Practice for Licensed Practical Nurses in Canada, adopted by the CLPNA on June 2022 (“CLPNA Standards of Practice”), as acknowledged by Ms. McMonagle in the Agreed Statement of Facts and Acknowledgement of Unprofessional Conduct.

The Hearing Tribunal finds the conduct breached the CLPNA Code of Ethics and the CLPNA Standards of Practice as set out below and that such breaches are sufficiently serious to constitute unprofessional conduct. The specific provisions are set out below.

CLPNA Code of Ethics:

Ms. McMonagle acknowledges that her conduct breached one or more of the following requirements in the 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. Principle 1 specifically provides that LPNs:

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

**Principle 2:** Responsibility to Clients – Licensed Practical Nurses provide safe and competent care for their clients. Principle 2 specifically provides that LPNs:

- o 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.
  - 2.3.3 Ensure that any discussion/communication (verbal, written or electronic) is respectful and does not identify the client unless appropriate.
  - 2.3.4 Maintain professional boundaries in the use of electronic media.
- o 2.8 Use evidence and judgement to guide nursing decisions
- o 2.9 Identify and minimize risks to clients.

**Principle 3:** Responsibility to the Profession – Licensed Practical Nurses 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 3.3 Practise in a manner that is consistent with the privilege and responsibility of self-regulation.
- 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 5:** Responsibility to Self – Licensed Practical Nurses recognize and function within their personal and professional competence and value systems. Principle 5 specifically provides that LPNs:

- o 5.1 Demonstrate honesty, integrity and trustworthiness in all interactions.

#### CLPNA Standards of Practice

Ms. McMonagle acknowledges that her conduct breached one or more of the following 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:

- o 1.1. Practice within applicable legislation, regulations, by-laws, and employer policies.
- o 1.5. Have a duty to report any circumstances that potentially and/or actually impede professional, ethical, or legal practice.
- o 1.6. Adhere to established client safety principles and quality assurance measures to anticipate, identify, evaluate, and promote continuous improvement of safety culture.
- o 1.8. Are accountable and responsible for their own practice, conduct, and ethical decision-making.

**Standard 2:** Evidence-informed Practice – Licensed Practical Nurses apply evidence-informed knowledge in practice:

- o 2.1. Attain and maintain evidence-informed knowledge to support critical thinking and professional judgement.

**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:

- o 3.3. Lead and contribute to a practice culture that promotes safe, inclusive, and ethical care.
- o 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:

- o 4.2. Identify ethical issues and respond in the interest of the public.
- o 4.3. Advocate for the protection and promotion of clients’ right to autonomy, confidentiality, dignity, privacy, respect, and access to care and personal health information
- o 4.6. Demonstrate practice that upholds the integrity of the profession.

Ms. McMonagle was in contravention of another enactment that applies to the profession in that she violated the *Health Information Act* by looking at patients’ electronic charts that she did not require access to. The *Health Information Act* contains within it strict requirements for the safeguard and privacy protection of individual’s health care information. By her admitted actions, Ms. McMonagle did not safeguard health or personal information with respect to the patients whose electronic health records that she accessed and by doing this she contravened another enactment that applies to the profession.

Ms. McMonagle’s conduct harmed the integrity of the regulated profession, as she behaved in a manner that is not expected of an LPN in a similar situation. Patients in the hospital should be able to expect that LPNs are not looking up their personal information or gaining access to personal records when they are not providing care to that patient.

### Allegation 2

Ms. McMonagle admitted that on or between February 11 and April 17, 2023, while working on Unit 43 of the Facility, she accessed on Connect Care the personal and/or health information of one or more of nineteen (19) patients admitted to Unit 43 who were not under McMonagle’s care, without justification or authorization to do so.

Between February 11 and April 17, 2023, Ms. McMonagle worked on Unit 43 of the Facility. Between these dates, Ms. McMonagle looked at the personal and/or health information on Connect Care of 19 individuals who were admitted to Unit 43 of the Facility, but were not under Ms. McMonagle's direct care.

Ms. McMonagle viewed the following patient information screens in Connect Care for these patients, which contained their personal and health information: "AHS ED First Nursing Note Report", "AHS IP MD EXPIRING ORDERS REVIEW POPUP", "AHS IP RAPID ROUNDS OCP HOVER BUBBLE", "AMB PATIENT SNAPSHOT (HTML/CSS)", "Encounter Vitals Hover", "IP Inpatient Nurse Storyboard", "IP Nursing Clinical Overview", "IP Patient Header Active Meds Hover", "IP Patient Header Infection", "IP Patient Header Length of Stay - Admitted Patient", "IP Patient Header Problem List", "IP Patient Header Unacknowledged Orders List Report", "IP RN Patient List Profile", "IP Sidebar Index", "MEDIA REPORT: MEDIA INFORMATION", and "Notes Activity Display". These accesses included a mix of Extended Accesses and Short Accesses.

The patients whose records Ms. McMonagle accessed were not under Ms. McMonagle'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 and/or health information.

The Hearing Tribunal considered the facts included in the Agreed Statement of Facts and Ms. McMonagle's admission of unprofessional conduct. The Hearing Tribunal found that the facts and documents included in Exhibit #2 prove that the conduct for Allegation 2 did in fact occur.

The Hearing Tribunal finds that the conduct admitted to Ms. McMonagle 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. McMonagle displayed a lack of knowledge of or lack of skill or judgment by accessing one or more of 19 patients' personal health information even though these patients were not in Ms. McMonagle care. Ms. McMonagle did this on two occasions, on or between February 11, 2023 and April 17, 2023. Patients have a right to privacy regarding their health information. Unauthorized access breaches this right and can lead to a loss of trust in healthcare providers. Healthcare professionals have an ethical duty to maintain patient confidentiality. Unauthorized access goes against professional ethical standards and can harm the reputation of the individual and their professional standing.

Ms. McMonagle did not abide by the CLPNA Code of Ethics or the CLPNA Standards of Practice, as acknowledged by Ms. McMonagle in the Agreed Statement of Facts and Acknowledgement of

Unprofessional Conduct, and as set out in detail in Allegation 1. The Hearing Tribunal finds the conduct breached the CLPNA Code of Ethics and the CLPNA Standards of Practice as set out in Allegation 1 and that such breaches are sufficiently serious to constitute unprofessional conduct.

Ms. McMonagle was in contravention of another enactment that applies to the profession in that she violated the *Health Information Act* by looking at patients' electronic charts that she did not require access to. The *Health Information Act* contains within it strict requirements for the safeguard and privacy protection of individual's health care information. Ms. McMonagle did not safeguard health or personal information with respect to the patients whose electronic health records that she accessed, and by doing this she contravened another enactment that applies to the profession.

Ms. McMonagle's conduct harmed the integrity of the regulated profession as she behaved in a manner that is not expected of an LPN in a similar situation. Patients should be able to expect that LPNs are not looking up their personal information or gaining access to personal records when they are not providing care to them.

### Allegation 3

Ms. McMonagle admitted that on or between January 27 and April 10, 2023, while working in the Emergency Department at the Facility, she accessed on Connect Care the personal and/or health information of one or more of six-hundred and forty-one (641) patients not under McMonagle's care, without justification or authorization to do so.

Between January 27 and April 10, 2023, Ms. McMonagle was working in the Emergency Department at the Facility. Between these dates, she accessed:

- a. The personal and/or health information of 50 patients in the Facility's Emergency Department but not under Ms. McMonagle's direct care for an Extended Access;
- b. The personal and/or health information of one patient in the Emergency Department but not under Ms. McMonagle's direct care for a Modified Extended Access (as described below);
- c. The personal and/or health information of 324 patients in the Facility's Emergency Department but not under Ms. McMonagle's direct care for a Multiple Review Access; and
- d. The personal and/or health information of 266 patients in the Facility's Emergency Department but not under Ms. McMonagle's direct care.

Between January 27 and April 10, 2023, Ms. McMonagle looked at the personal and/or health information on Connect Care of 50 individuals who were admitted to the Facility in the Emergency Department but were not under Ms. McMonagle's direct care for an Extended Access.

She viewed the following patient information screens in Connect Care for these patients, which contained their personal and health information: “AHS ED First Nursing Note Report”, “ED Encounter Summary”, “ED Nurse Storyboard”, “Notes Activity Display”, “AHS ED Unresultd Labs Since Admission Hover Bubble Report”, “MR STORYBOARD PREFERRED NAME HOVER BUBBLE”, “ED Storyboard Required Doc Hover Bubble”, “AHS IP RAPID ROUNDS OCP HOVER BUBBLE”, “ED Admit - Widget”, “ED Storyboard Vitals Hover Bubble”, “OB/Gyn Status Storyboard Hover”, “AHS IP BEHAVIOURAL SAFETY REPORT”, “IP Patient Header Treatment Team”, “ED REQUIRED DOCUMENTATION”, “ED Current Infusion Report”, “ED Storyboard Bed and Status Hover Bubble”, “LAB CHART REVIEW ORDERS REPORT - HYPERLINK”, “Order Report - Labs”, “AHS AMB SMARTTEXT LAB REPORT - REPRINT”, “AHS ED FYI Hover Bubble”, “ED Storyboard Chief Complaint”, and “RX ORDER RECENT MESSAGES AND DISPENSING ACTIONS (12 Hours)”.

On January 29 and 30, 2023, Ms. McMonagle looked at the personal and/or health information on Connect Care of one individual who was admitted to the Facility in the Emergency Department but was not under Ms. McMonagle’s direct care for a Modified Extended Access. She viewed the following patient information screens in Connect Care for this patient, which contained their personal and health information: “AHS ED First Nursing Note Report”, “ED Nurse Storyboard”, “ED Storyboard Vitals Hover Bubble”, “MR STORYBOARD PREFERRED NAME HOVER BUBBLE”, and “Notes Activity Display”.

Between January 27 and March 29, 2023, Ms. McMonagle looked at the personal and/or health information on Connect Care of 324 individuals who were admitted to the Facility in the Emergency Department but were not under Ms. McMonagle’s direct care for a Multiple Review Access. She viewed the following patient information screens in Connect Care for these patients, which contained their personal and health information: “AHS ED First Nursing Note Report”, “AHS ED Unresultd Labs Since Admission Hover Bubble Report”, “ED Encounter Summary”, and “ED Admit – Widget”.

Between January 29 and April 4, 2023, Ms. McMonagle looked at the personal and/or health information on Connect Care of 266 individuals who were admitted to the Facility in the Emergency Department but were not under Ms. McMonagle’s direct care for a Short Access. She viewed the following patient information screens in Connect Care for these patients, which contained their personal and health information: “AHS ED First Nursing Note Report”, “AHS ED FYI Hover Bubble”, “AHS ED Unresultd Labs Since Admission Hover Bubble Report”, “AHS IP RAPID ROUNDS OCP HOVER BUBBLE”, “ED Encounter Summary”, “ED Nurse Storyboard”, and “ED Treatment Team - Nursing Hover”.

The patients whose records Ms. McMonagle accessed were not under Ms. McMonagle’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 and/or health information.

The Hearing Tribunal considered the facts included in the Agreed Statement of Facts and Ms. McMonagle’s admission of unprofessional conduct. The Hearing Tribunal found that the facts and documents included in Exhibit #2 prove that the conduct for Allegation 3 did in fact occur.

The Hearing Tribunal finds that the conduct admitted to by Ms. McMonagle 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. McMonagle displayed a lack of knowledge of or lack of skill or judgment by accessing one or more of 641 patients' personal health information not in Ms. McMonagle's care. This was a clear breach of privacy of the patients involved. Patients have a right to privacy regarding their health information. Unauthorized access breaches this right and can lead to a loss of trust in healthcare providers. Healthcare professionals have an ethical duty to maintain patient confidentiality. Unauthorized access goes against professional ethical standards and can harm the reputation of the individual and their professional standing.

Ms. McMonagle did not abide by the CLPNA Code of Ethics or the CLPNA Standards of Practice, as acknowledged by Ms. McMonagle in the Agreed Statement of Facts and Acknowledgement of Unprofessional Conduct, and as set out in detail in Allegation 1. The Hearing Tribunal finds the conduct breached the CLPNA Code of Ethics and the CLPNA Standards of Practice as set out in Allegation 1 and that such breaches are sufficiently serious to constitute unprofessional conduct.

Ms. McMonagle was in contravention of another enactment that applies to the profession in that she violated the *Health Information Act* by looking at patients' electronic charts that she did not require access to. The *Health Information Act* contains within it strict requirements for the safeguard and privacy protection of individual's health care information. Ms. McMonagle did not safeguard health or personal information with respect to the patients whose electronic health records that she accessed, and by doing this she contravened another enactment that applies to the profession.

Ms. McMonagle's conduct harmed the integrity of the regulated profession as she behaved in a manner that is not expected of an LPN in a similar situation. Patients should be able to expect that LPNs are not looking up their personal information or gaining access to personal records when they are not providing care to them.

#### Allegation 4

Ms. McMonagle admitted that on or about March 8, 2023, while working at the Rockyview General Hospital, she accessed on Sunrise Clinical Manager the personal and/or health information of one or more of two (2) patients admitted to Rockyview General Hospital without justification or authorization to do so.

On March 8, 2023, Ms. McMonagle was working at Rockyview on Unit 72. On this date, Ms. McMonagle looked at the personal and/or health information on Sunrise Clinical Manager (“SCM”) of two individuals who were admitted to Rockyview, but were not under Ms. McMonagle’s direct care.

SCM is the predecessor software to Connect Care and at the time, Rockyview had not yet switched to Connect Care.

Ms. McMonagle viewed the following patient information in SCM for these patients, which contained their personal and health information: spiritual care documentation and discharge process documents which included assessments and wounds.

The patients whose records Ms. McMonagle accessed were not under Ms. McMonagle’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 and/or health information.

The Hearing Tribunal considered the facts included in the Agreed Statement of Facts and Ms. McMonagle’s admission of unprofessional conduct. The Hearing Tribunal found that the facts and documents included in Exhibit #2 prove that the conduct for Allegation 4 did in fact occur.

The Hearing Tribunal finds that the conduct admitted to amounts to unprofessional conduct as defined in s. 1(1)(pp) of the Act, in particular, the Hearing Tribunal found the following definitions of unprofessional conduct have been met:

- 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. McMonagle displayed a lack of knowledge of or lack of skill or judgment by accessing one or more of 2 patients’ personal health information not in Ms. McMonagle’s care. This was a clear breach of privacy of the patients involved. Patients have a right to privacy regarding their health information. Unauthorized access breaches this right and can lead to a loss of trust in healthcare providers. Healthcare professionals have an ethical duty to maintain patient confidentiality. Unauthorized access goes against professional ethical standards and can harm the reputation of the individual and their professional standing.

Ms. McMonagle did not abide by the CLPNA Code of Ethics or the CLPNA Standards of Practice, as acknowledged by Ms. McMonagle in the Agreed Statement of Facts and Acknowledgement of Unprofessional Conduct, and as set out in detail in Allegation 1. The Hearing Tribunal finds the conduct breached the CLPNA Code of Ethics and the CLPNA Standards of Practice as set out in Allegation 1 and that such breaches are sufficiently serious to constitute unprofessional conduct.

Ms. McMonagle was in contravention of another enactment that applies to the profession in that she violated the *Health Information Act* by looking at patients' electronic charts that she did not require access to. The *Health Information Act* contains within it strict requirements for the safeguard and privacy protection of individual's health care information. Ms. McMonagle did not safeguard health or personal information with respect to the patients whose electronic health records that she accessed, and by doing this she contravened another enactment that applies to the profession.

Ms. McMonagle's conduct harmed the integrity of the regulated profession as she behaved in a manner that is not expected of an LPN in a similar situation. Patients should be able to expect that LPNs are not looking up their personal information or gaining access to personal records when they are not providing care to them.

**(9) Joint Submission on Penalty**

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

1. The Hearing Tribunal's written reasons for decision (the "Decision") shall serve as a reprimand.
2. Ms. McMonagle shall pay a fine of \$3,000.00 within **48 months of service** of service of the Decision.
3. Ms. McMonagle shall pay 25% of the costs of the investigation and hearing to a maximum of \$5,000, to be paid in full within **48 months of service** of service of the Decision. A letter advising Ms. McMonagle of the final costs will be provided once the final costs are confirmed.
4. Ms. McMonagle will not be eligible to have her practice permit reinstated until she has complied with the following:
  - a) Ms. McMonagle 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 "Knowledge Hub". Ms. McMonagle shall provide to the CLPNA, a signed written declaration, attesting she has reviewed the following CLPNA documents:
    - i. Code of Ethics for Licensed Practical Nurses in Canada;
    - ii. Standards of Practice for Licensed Practical Nurses in Canada;
    - iii. CLPNA Practice Policy: Professional Responsibility and Accountability;
    - iv. CLPNA Interpretive Document: Privacy Legislation in Alberta;

- v. CLPNA Practice Guideline: Confidentiality;
- vi. CLPNA Competency Profile A1: Critical Thinking;
- vii. CLPNA Competency Profile A2: Clinical Judgment and Decision Making;
- viii. 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.

- b) Ms. McMonagle shall complete the following remedial education, at her own cost. If any of the required education becomes unavailable, Ms. McMonagle shall make a written request to the Complaints Officer to be assigned alternative education. Upon receiving Ms. McMonagle's written request, the Complaints Officer, in their sole discretion, may assign alternative education in which case Ms. McMonagle will be notified in writing of the new education requirements. Ms. McMonagle shall provide the Complaints Officer with certificates confirming successful completion.

- i. **LPN Code of Ethics Learning Module** available online at [www.learningnurse.org](http://www.learningnurse.org)
- ii. **Privacy Legislation Micro-Module** – CLPNA course available online at <https://www.clpna.com/lpn-knowledge-hub/privacy-legislation-micro-module/>
- iii. **Privacy Awareness in Health Care Training – Alberta** available online at <https://corridorinteractive.com/online-training/privacy-awareness-in-healthcare/privacy-awareness-alberta/>
- iv. **IPHE201 - Professionalism and Ethics for Healthcare Professionals** offered online by NAIT.

5. Once Ms. McMonagle has provided proof to the Complaints Officer that she has completed the written reflection and courses referred to above at paragraph 4, upon submitting her application for registration, and provided that she meets all requirements for registration, she will be eligible to have her practice permit reinstated.

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

- a) The requirement to complete the remedial education and readings outlined at paragraph 4 will appear as "CLPNA Monitoring Orders (Conduct)" on Ms.

McMonagle's practice permit and the Public Registry until the below sanctions have been satisfactorily completed:

- i. Readings/Reflection;
  - ii. LPN Ethics Course;
  - iii. Privacy Legislation Micro-Module;
  - iv. Privacy Awareness in Health Care Training – Alberta; and
  - v. Professionalism and Ethics for Healthcare Professionals.
- b) The requirement to pay costs and fines will appear as “Conduct Cost/Fines” on Ms. McMonagle's practice permit and the Public Registry until all costs and fines have been paid as set out above at paragraphs 2-3.
7. The conditions on Ms. McMonagle's practice permit and on the Public Registry will be removed upon completion of each of the requirements set out in paragraph 6.
8. Ms. McMonagle shall provide the CLPNA with her contact information, including home mailing address, home and cellular telephone numbers, current e-mail address and current employment information. Ms. McMonagle will keep her contact information current with the CLPNA on an ongoing basis.
9. Should Ms. McMonagle be unable to comply with any of the sanctions' deadlines identified above, Ms. McMonagle may request an extension. The request for an extension must be submitted in writing to the Complaints Officer prior to the deadline, and must state a valid reason for requesting the extension and a reasonable timeframe for completion. The Complaints Officer shall, in their sole discretion, determine whether a time extension is accepted. Ms. McMonagle will be notified by the Complaints Officer, in writing, if the extension has been granted.
10. Should Ms. McMonagle 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 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. McMonagle's non-compliance as information for a complaint under s. 56 of the *Health Professions Act*;
  - c) In the case of non-payment of the fines or costs described in paragraphs 2-3 above, suspend Ms. McMonagle'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; or

- d) In the case of non-payment of the fine and costs described in paragraphs 2-3 above, the fine and costs shall be a debt due to CLPNA pursuant to section 82(4) of the *Health Professions Act* and may be recovered by CLPNA by an action in debt.

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. McMonagle 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. McMonagle 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:

##### **1. The nature and gravity of the proven allegations**

This was a significant factor, as Ms. McMonagle demonstrated a lack of skill, knowledge, and judgment regarding these allegations. The allegations involve multiple breaches of confidentiality, a serious matter given that patients expect privacy when in the care of a healthcare provider. Healthcare information is intensely personal and private. Such conduct is grave, involving breaches of the *Health Information Act*, and is a core competency expected of an LPN, regardless of their experience. LPNs are trained about

privacy concerns by the CLPNA, and all should know the basics underlying the requirement for patient confidentiality.

**2. The age and experience of the investigated member**

Ms. McMonagle was initially registered with the CLPNA on January 31, 2022. Ms. McMonagle started working part-time at the Facility in Unit 43 and the Emergency Department in January 2022. She also worked part time at Rockyview General Hospital starting in January 2022. Although a relatively new member of the profession, this is not a mitigating factor for the Hearing Tribunal, due to the fundamental and core nature of these allegations, which should be known by all members of the LPN profession, regardless of their age or experience.

**3. The previous character of the investigated member and in particular the presence or absence of any prior complaints or convictions**

There was no evidence of any prior complaints or convictions with respect to Ms. McMonagle.

**4. The number of times the offending conduct was proven to have occurred**

Ms. McMonagle accessed the health information of 733 individuals, comprised of 2045 access instances. This was an aggravating factor for the Hearing Tribunal, as this was not a one-time instance, or a mistake. Ms. McMonagle's behaviour demonstrated a complete lack of judgment, and a pattern of disregarding patient confidentiality.

**5. Age and mental condition of the victim**

No information was provided to the Hearing Tribunal regarding the ages or mental conditions of the victims of Ms. McMonagle's conduct.

**6. The role of the investigated member in acknowledging what occurred**

Ms. McMonagle did acknowledge each of the four allegations that were presented to the Hearing Tribunal and did cooperate with the CLPNA, and provided the Hearing Tribunal with an Agreed Statement of Facts and an Admission of Unprofessional Conduct. Although Ms. McMonagle was not in attendance at the Hearing, a representative of Ms. McMonagle was present and acknowledged her conduct and stated that she accepted that her actions were wrong.

**7. Whether the investigated member has already suffered other serious financial or other penalties as a result of the allegations having been made**

The Complaint stated Ms. McMonagle, LPN, had been terminated from her employment with AHS on June 20, 2023 as a result of significant privacy breaches by Ms. McMonagle. There was no further evidence provided in this respect.

**8. The impact of the incident(s) on the victim**

Although no evidence of harm to the victims was provided to the Hearing Tribunal, patient privacy is extremely important and there could be a sense of violation when privacy is not maintained, if a patient had realized that his or her private personal information had been accessed by an LPN who was not providing care.

**9. The presence or absence of any mitigating circumstances**

The Hearing Tribunal was not made aware of any mitigating circumstances.

**10. The need to promote specific and general deterrence and, thereby to protect the public and ensure the safe and proper practice**

General deterrence is required to ensure that other members in the LPN profession do not engage in this type of conduct, and to make it known that this type of conduct will not be tolerated by the CLPNA. LPNs are recognized as independent and capable members of the healthcare team and are self-regulating. The sanctions imposed will demonstrate to other members of the profession that the CLPNA takes this conduct, and patient privacy, very seriously.

**11. The need to maintain the public's confidence in the integrity of the profession**

The CLPNA addresses the actions of its members when they engage in unprofessional conduct. It deals with any breaches of the Act, the CLPNA Code of Ethics, and the CLPNA Standards of Practice, and other enactments relating to the profession in a manner that reflects the seriousness of the conduct, aiming to protect the public. This decision, along with the sanctions ordered, will maintain the public's confidence and uphold the integrity of the profession by demonstrating the gravity with which the CLPNA views such breaches.

**12. The range of sentence in other similar cases**

The Hearing Tribunal was provided with references to four decisions involving breaches of confidentiality: *Re: Sarah Guydash* (May 2023), *Re: Jan Serafico* (July 2020), *Re: Jasmine Fenske* (November 2020), and *Re: Robyn Robinson* (November 2023).

These cases were cited in relation to the Joint Submission on Penalty, specifically concerning costs, as they presented a fact scenario similar to Ms. McMonagle's case. The Hearing Tribunal reviewed the range of costs ordered in the similar cases in deciding whether to accept the proposal on costs in this matter.

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

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. McMonagle shall pay a fine of \$3,000.00 within **48 months of service** of service of the Decision.
3. Ms. McMonagle shall pay 25% of the costs of the investigation and hearing to a maximum of \$5,000, to be paid in full within **48 months of service** of service of the Decision. A letter advising Ms. McMonagle of the final costs will be provided once the final costs are confirmed.
4. Ms. McMonagle will not be eligible to have her practice permit reinstated until she has complied with the following:
  - a) Ms. McMonagle 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 "Knowledge Hub". Ms. McMonagle shall provide to the CLPNA, a signed written declaration, attesting she has reviewed the following CLPNA documents:
    - i. Code of Ethics for Licensed Practical Nurses in Canada;
    - ii. Standards of Practice for Licensed Practical Nurses in Canada;

- iii. CLPNA Practice Policy: Professional Responsibility and Accountability;
- iv. CLPNA Interpretive Document: Privacy Legislation in Alberta;
- v. CLPNA Practice Guideline: Confidentiality;
- vi. CLPNA Competency Profile A1: Critical Thinking;
- vii. CLPNA Competency Profile A2: Clinical Judgment and Decision Making;
- viii. 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.

- b) Ms. McMonagle shall complete the following remedial education, at her own cost. If any of the required education becomes unavailable, Ms. McMonagle shall make a written request to the Complaints Officer to be assigned alternative education. Upon receiving Ms. McMonagle's written request, the Complaints Officer, in their sole discretion, may assign alternative education in which case Ms. McMonagle will be notified in writing of the new education requirements. Ms. McMonagle shall provide the Complaints Officer with certificates confirming successful completion.
    - i. **LPN Code of Ethics Learning Module** available online at [www.learningnurse.org](http://www.learningnurse.org)
    - ii. **Privacy Legislation Micro-Module** – CLPNA course available online at <https://www.clpna.com/lpn-knowledge-hub/privacy-legislation-micro-module/>
    - iii. **Privacy Awareness in Health Care Training – Alberta** available online at <https://corridorinteractive.com/online-training/privacy-awareness-in-healthcare/privacy-awareness-alberta/>
    - iv. **IPHE201 - Professionalism and Ethics for Healthcare Professionals** offered online by NAIT.
5. Once Ms. McMonagle has provided proof to the Complaints Officer that she has completed the written reflection and courses referred to above at paragraph 4, upon submitting her application for registration, and provided that she meets all requirements for registration, she will be eligible to have her practice permit reinstated.
6. The sanctions set out above at paragraphs 2-4 will appear as conditions on Ms. McMonagle's practice permit and the Public Registry subject to the following:

- a) The requirement to complete the remedial education and readings outlined at paragraph 4 will appear as “CLPNA Monitoring Orders (Conduct)” on Ms. McMonagle’s practice permit and the Public Registry until the below sanctions have been satisfactorily completed:
    - i. Readings/Reflection;
    - ii. LPN Ethics Course;
    - iii. Privacy Legislation Micro-Module;
    - iv. Privacy Awareness in Health Care Training – Alberta; and
    - v. Professionalism and Ethics for Healthcare Professionals.
  - b) The requirement to pay costs and fines will appear as “Conduct Cost/Fines” on Ms. McMonagle’s practice permit and the Public Registry until all costs and fines have been paid as set out above at paragraphs 2-3.
7. The conditions on Ms. McMonagle’s practice permit and on the Public Registry will be removed upon completion of each of the requirements set out in paragraph 6.
  8. Ms. McMonagle shall provide the CLPNA with her contact information, including home mailing address, home and cellular telephone numbers, current e-mail address and current employment information. Ms. McMonagle will keep her contact information current with the CLPNA on an ongoing basis.
  9. Should Ms. McMonagle be unable to comply with any of the sanctions’ deadlines identified above, Ms. McMonagle may request an extension. The request for an extension must be submitted in writing to the Complaints Officer prior to the deadline, and must state a valid reason for requesting the extension and a reasonable timeframe for completion. The Complaints Officer shall, in their sole discretion, determine whether a time extension is accepted. Ms. McMonagle will be notified by the Complaints Officer, in writing, if the extension has been granted.
  10. Should Ms. McMonagle 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 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. McMonagle’s non-compliance as information for a complaint under s. 56 of the *Health Professions Act*;

- c) In the case of non-payment of the fines or costs described in paragraphs 2-3 above, suspend Ms. McMonagle’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; or
- d) In the case of non-payment of the fine and costs described in paragraphs 2-3 above, the fine and costs shall be a debt due to CLPNA pursuant to section 82(4) of the *Health Professions Act* and may be recovered by CLPNA by an action in debt.

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 JULY 24, 2024 IN THE CITY OF LETHBRIDGE, ALBERTA.**

**THE COLLEGE OF LICENSED PRACTICAL NURSES OF ALBERTA**



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Jeff Bell, LPN  
Chair, Hearing Tribunal