

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 ROGELIO VASQUEZ**

**DECISION OF THE HEARING TRIBUNAL
OF THE
COLLEGE OF LICENSED PRACTICAL NURSES OF ALBERTA**

Corrected decision: A corrigendum was issued on April 10, 2025; the corrections have been made to the text and corrigendum is appended to this decision.

**IN THE MATTER OF A HEARING UNDER THE *HEALTH PROFESSIONS ACT* REGARDING THE
CONDUCT OF ROGELIO VASQUEZ, LPN #31907, WHILE A MEMBER OF THE COLLEGE OF
LICENSED PRACTICAL NURSES OF ALBERTA (“CLPNA”)**

DECISION OF THE HEARING TRIBUNAL

(1) Hearing

The hearing was conducted via teleconference on March 4, 2025 with the following individuals present:

Hearing Tribunal:

Kunal Sharma, Licensed Practical Nurse (“LPN”) Chairperson

Allan Castillo, LPN

Andrew Otway, Public Member

Leanne Axelsen, Public Member

Heidi Besuijen, Independent Legal Counsel for the Hearing Tribunal

Staff:

Kim Precht, Legal Counsel for the Complaints Director, CLPNA

Susan Blatz, Complaints Director, CLPNA

(2) Preliminary Matters

The hearing was open to the public.

The Complaints Director’s Legal Counsel made an application to the Hearing Tribunal to proceed with the Hearing without Mr. Vasquez’s presence. She submitted evidence that Mr. Vasquez had been provided repeated and significant notice of the proceedings and he elected not to attend. Under the Act, the Hearing Tribunal does have the statutory authority to proceed in Mr. Vasquez’s absence. As per section 79(6) of the *Health Professions Act* (the “Act”), despite having been given notice, if the investigated person does not appear at the hearing and there is proof they have been given notice to attend the hearing, the Hearing Tribunal may proceed with the hearing in the absence of the member and may act or decide on the matter being heard in the absence of the investigated person.

On December 13, 2024, Mr. Vasquez was notified by Ms. Precht via courier mail and email about the Complaint of Unprofessional Conduct and Referral to Hearing, Termination of Standstill Agreement and Scheduling of Hearing.

Mr. Vasquez received notice the matter was referred to a hearing, as well as a copy of the Investigation Report and Statement of Allegations under cover of letter dated January 15, 2025.

A Notice of Hearing, Notice to Attend and Notice to Produce respecting the Complaint were served upon Mr. Vasquez via registered mail and e-mail on January 15, 2025.

On February 4, 2025, Ms. Precht again notified Mr. Vasquez about the upcoming hearing via registered mail and e-mail. On February 4, 2025, Mr. Vasquez notified Ms. Precht's assistant, via e-mail, that he would not attend the hearing on March 4, 2025.

On February 13, 2025, Ms. Precht advised Mr. Vasquez via e-mail that he can ask for an adjournment for six months. She also outlined the Complaints Director's intended position with respect to seeking a finding of unprofessional conduct and the proposed sanction in the event unprofessional conduct was found. On February 16, 2025, Mr. Vasquez advised Ms. Precht's assistant that he did not want an adjournment, and he would not attend the hearing.

Mr. Vasquez did not attend the hearing on March 4, 2025.

The Hearing Tribunal considered the Complaints Director's application pursuant to section 79(6) of the Act and the evidence presented. The Hearing Tribunal was satisfied Mr. Vasquez had received notice of the hearing. Further, when he had advised Ms. Precht he would not attend, he was provided with the opportunity to seek an adjournment which he declined. The Hearing Tribunal confirmed that the hearing could proceed in Mr. Vasquez' absence.

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.

(3) Background

Mr. Vasquez 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. Vasquez was initially licensed as an LPN in Alberta in 2010.

An investigation was conducted by Judy Palyga, Investigator for CLPNA. After reviewing the Investigation Report, the Complaints Director determined there was sufficient evidence the matter should be referred to the Hearings Director in accordance with s. 66(3)(a) of the Act.

Mr. Vasquez received notice the matter was referred to a hearing, as well as a copy of the Investigation Report and Statement of Allegations under cover of letter dated January 15, 2025.

A Notice of Hearing, Notice to Attend and Notice to Produce respecting the Complaint were served upon Mr. Vasquez under cover of letter dated January 15, 2025.

In March 2024, criminal charges were filed against Mr. Vasquez based on the same underlying events that led to this hearing. Mr. Vasquez served 170 days incarceration as he was found guilty of sexual assault in the Alberta Court of Justice.

(4) Allegations

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

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

1. On or about March 9, 2021 engaged in inappropriate sexual behavior with ED, a Health Care Aide, without obtaining her consent, particulars of which include one or more of the following:
 - a. Rubbed her arm;
 - b. Held her hand;
 - c. Fondled her breast or breasts over and/or under her clothing;
 - d. Touched or rubbed her vagina and/or vulva;
 - e. Kissed her;
 - f. Removed or pulled her bra down;
 - g. Put her breast in his mouth;
 - h. Pulled her pants and/or underwear down and licked parts of her body;
 - i. Attempted to have sexual intercourse with her;
 - j. Masturbated in her presence.
2. On or about March 9, 2021, followed ED to the bathroom and/or locked the door behind him before engaging in the conduct referred to above at allegation 1(e) – (j) making it difficult for ED to leave.
3. Further or in the alternative to allegation #1, engaged in the sexual conduct referred to above in allegation #1 without regard to the power imbalance that existed given Vasquez’ role as ED’s supervisor.
4. On or about March 10, 2021, made inappropriate comments to ED, particulars of which include one or more of the following:
 - a. Commented that he had thought about ED all day, or words to that effect;
 - b. Commented that he and ED had “let our feelings get in the way” or words that effect.

5. On or about March 20, 2021, engaged in inappropriate behavior with ED, without obtaining her consent, particulars of which include one or more of the following:
 - a. Rubbed her shoulders;
 - b. Rubbed or pushed his pelvis against her arm.
6. On or about March 20, 2021, told ED “I miss you” or words to that effect.

It is further alleged that your conduct constitutes “unprofessional conduct” as defined in s. 1(1)(pp)(i)(ii)(xii) of the *Health Professions Act*, R.S.A. 2000, c. H-7, in particular your conduct breaches one or more of the following:

1. *Standards of Practice for Licensed Practical Nurses on Boundary Violations*, Standard 8.2;
2. *Standards of Practice for Licensed Practical Nurses in Canada*, Standard 4, Indicator 4.9;
3. *Code of Ethics for Licensed Practical Nurses in Canada*: Principle 3: Responsibility to the Profession, Indicator 3.1, 3.4.
4. CLPNA’s Policy for Professional Responsibility and Accountability for Licensed Practical Nurses practising in Alberta and CLPNA’s policy for Client and Co-Worker Abuse;
5. Alberta Health Services Code of Conduct, Principles 1, 2, and/or 3.”

(5) Exhibits

The following exhibits were entered at the hearing:

Exhibit #1: Complaint’s Director’s Exhibits which included the following:

- TAB 1 – Statement of Allegations
- TAB 2 – Letter from K. Precht to R. Vasquez
- TAB 3 - Letter from B. Lafond, Hearings Director, to R. Vasquez originally enclosing:
 - Notice of Hearing, Notice to Attend and Notice to Produce
 - Health Professions Act – Part 4
 - Virtual Hearings Information Package
- TAB 4 - Letter from K. Precht to R. Vasquez
- TAB 5 - Email from R. Vasquez to K. Precht (via assistant)
- TAB 6 – Letter from K. Precht to R. Vasquez
- TAB 7 – Email from R. Vasquez to K. Precht (via assistant)
- TAB 8 – Email from K. Precht to R. Vasquez
- TAB 9 – Alberta Court of Justice decision in criminal proceedings: *R v Vasquez*, 2024 ABCJ 75 (“*Vasquez*”)
- TAB 10 - Alberta Court of Justice transcript from sentencing in criminal proceedings

(6) Evidence

The evidence was adduced by way of Exhibits 1 and 2, and no witnesses were called to give *viva voce* testimony. The Complaints Director for CLPNA only proceeded with Allegation 1 a-d and Allegation 3. Allegation 1 e-j and Allegations 2, 4, 5 and 6 were withdrawn by the Complaints Director.

In response to the Hearing Tribunal's inquiry as to whether the Complaints Director could elect to withdraw certain of the allegations from the Statement of Allegations, Ms. Precht provided the British Columbia Court of Appeal (BCCA) decision in *Reddy v Professional Engineers Assn.*, 2001 BCCA 237. The BCCA confirmed that charges could be withdrawn by a party, such as the Complaints Director, provided the legislation under which a proceeding was being held did not prohibit this. As the Act contains no such provision, the Hearing Tribunal was satisfied that the Complaints Director had the discretion to withdraw the allegations.

The Complaints Director relied on the decision and, to a lesser extent, transcript of proceedings in the Alberta Court of Justice for the purposes of evidence to establish the allegations the Complaints Director sought to prove in the hearing.

The Complaints Director submitted that section 79(5) of the Act directs that hearings of the CLPNA do not require strict adherence to the rules of evidence. Nonetheless, where appropriate, the rules and the principles underlying them could be applied in this context. Further, the Complaints Director's counsel submitted that section 26(2) of the *Alberta Evidence Act*, RSA 2000 c A-18 allows that where a person had been found guilty of an offence anywhere in Canada, that proof of the conviction or finding of guilt is admissible as evidence for the purpose of proving that the person committed the offence.

As such, the Complaints Director would, considering the *Alberta Evidence Act*, section 26(2), rely on the trial judge's decision at the Alberta Court of Justice in order to prove the allegations noted above. The Hearing Tribunal accepted that the Court's decision in respect of Ms. Vasquez was acceptable to rely on for the purposes of proving these allegations and proceeded accordingly.

(7) Decision of the Hearing Tribunal and Reasons

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

The Hearing Tribunal has reviewed the documents included in Exhibit #1.

Allegation 1

It is alleged that on or about March 9, 2021, Mr. Vasquez engaged in inappropriate sexual behavior with ED, a Health Care Aide, without obtaining her consent, particulars of which include one or more of the following:

- a. Rubbed her arm;
- b. Held her hand;
- c. Fondled her breast or breasts over and/or under her clothing;
- d. Touched or rubbed her vagina and/or vulva;

The Hearing Tribunal reviewed Exhibit # 1 and, in particular, TAB 9 and 10, which was the Court's decision in *Vasquez*.

On the basis of the facts established in *Vasquez*, on March 9, 2021, Mr. Vasquez worked a night shift with HCA E.D. at an assisted living facility. Mr. Vasquez and E.D. had worked together for several years and only knew each other at a professional level. At the time of the incident E.D. was a 26-year-old HCA. Her job duties included answering call bells, cleaning, filing and other related duties. Mr. Vasquez was a 55-year-old LPN primarily responsible for administering medication and other health procedures. When these events occurred, Mr. Vasquez had just been promoted to team lead and was also tasked with the supervision of the Health Care Aides. Around 0400 hours, E.D. went to the staffroom to take a break. The staffroom was described as a small space divided by a large white board and stacks of chairs pursuant to Covid health and safety protocols then in force.

Mr. Vasquez and E.D. became involved in a sexual encounter that began in the staffroom and continued in the adjacent restroom. E.D. stated that she was playing a colouring game on a phone app, when Mr. Vasquez entered and sat down beside her to the left. She described him as a very touchy person; he hugged everybody and liked to touch everyone's arm.

Mr. Vasquez recalled that he entered the staffroom and asked E.D.'s permission to sit. E.D. responded okay; you can join me. E.D. then moved the chair closer. Mr. Vasquez thought that E.D. appeared quite fatigued, prompting questions about her wellbeing and that of her family. E.D. did not respond but continued to focus on her phone. E.D. recalled that after she asked Mr. Vasquez if she could work in the dementia lockdown unit the following night, Mr. Vasquez moved his hand along E.D.'s left arm and held her left hand. Mr. Vasquez acknowledged patting and tapping E.D.'s arm and hand to comfort her.

Mr. Vasquez's evidence was that E.D. was kind of already posing for him and that her actions suggested that she liked him or something like that. E.D. gave evidence that Mr. Vasquez then reached under her scrub top and grabbed her left breast inside her bra. Mr. Vasquez acknowledged doing this, again explaining he was merely comforting her. E.D. testified that Mr. Vasquez then moved his hand out from her scrub top to her crotch area over her clothing. After

a minute, Mr. Vasquez reached into E.D.'s scrub pants and began rubbing her vagina inside her underwear. Mr. Vasquez stated that as things were progressing, he inquired whether E.D. was comfortable and okay.

According to Mr. Vasquez it was clear to him that E.D. said yes, it was just fine. E.D. showed no resistance to what Mr. Vasquez was doing to her. Mr. Vasquez then progressed to touch E.D.'s inside.

During cross examination in court, Mr. Vasquez was asked about what steps he took to ascertain consent and if Mr. Vasquez had asked E.D. if she was okay with him touching her vagina. Mr. Vasquez said that he had asked E.D. in the process. E.D. recalled that Mr. Vasquez asked if she was enjoying this as he rubbed her vagina inside her scrub pants and that she did not respond. Mr. Vasquez testified that E.D. had spread her legs for that. Mr. Vasquez said that this suggested to him that E.D. wanted him to go inside or something like that.

E.D. testified that Mr. Vasquez rubbed her vagina for five minutes.

On March 20, 2024, the trial judge found Mr. Vasquez guilty of sexually assaulting E.D. by sexually touching her breast and vagina under her clothing in the staff room incident.

The Hearing Tribunal considered and found that the decision in *Vasquez* in Exhibit # 1 proved that the conduct for Allegation 1 a, b, c and d did in fact occur.

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

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

Mr. Vasquez displayed a serious lack of professionalism when he rubbed E.D.'s arm, held her hand, fondled her breasts over and or under her clothing, touched or rubbed E.D.'s vagina or vulva without her consent. As regulated health professionals, LPNs must be responsible and accountable for their actions when they are interacting with patients or colleagues. Responsibility can be defined as the ability to respond and answer for one's actions and obligations, and to be trustworthy, reliable and dependable, whereas accountability is the obligation to answer for the professional, legal, and ethical responsibilities of one's activities and actions.

All LPNs are responsible and accountable to adhere to the Act, the Licensed Practical Nurses Profession Regulation, the Standards of Practice, and the Code of Ethics of the profession. These documents establish the foundation of LPN professionalism in the provision of practical nursing services. The Competency Profile for LPNs further details the aspects of professionalism expected of LPNs upon entry to practice, which includes the understanding of these foundational regulatory documents. Being a member of a self-regulated health profession is a privilege that comes with professional responsibilities to the public, clients, profession, colleagues, and oneself.

Professionalism is defined as the conduct, aims or qualities that characterize a profession or a member of the profession; in other words, the competence or skills expected of a professional.

Nursing is considered a compassionate profession. The physical, psychological, and social elements of nursing care inherently create feelings of familiarity between nurses and clients. Compassion remains essential in nursing while maintaining professional boundaries – including preventing and responding to abuse. Any type of abuse is unacceptable. Both client and co-worker abuse in healthcare negatively impacts everyone by causing physical and emotional suffering. LPNs have a professional responsibility to behave ethically while interacting with clients, their families, and co-workers. Abusive behaviors towards co-workers is a noteworthy problem in the profession which may negatively impact the nurse's health and compromise client care. Disruptive behavior or abuse in the workplace increases stress, decreases concentration, and reduces communication which negatively impacts employee health and puts clients at risk.

LPNs are responsible for upholding the integrity of the profession, maintaining public confidence in the profession, and adhering to all standards of practice. Abuse of co-workers breaches the Standards of Practice and the Code of Ethics for Licensed Practice Nurses in Canada.

The Standards of Practice on Boundary Violations outlines the expectation to maintain professional boundaries with colleagues.

The LPN profession and its integrity as trusted caregivers must be maintained in the public's confidence. Thousands of people every day leave their loved ones in the care of responsible, skilled, and compassionate LPNs. They trust and expect that the care given to their loved ones is safe. Conduct such as that of Mr. Vasquez undermines this trust. If a member of the public was made aware of Mr. Vasquez's conduct, it would be understandable if they had a diminished view of LPNs and their 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 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.

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

CLPNA Standards of Practice:

Standard 4: Ethical Practice.

Licensed Practical Nurses uphold, promote and adhere to the values and beliefs as described in the Canadian Council for Practical Nurse Regulators (CCPNR) Code of Ethics.

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

Standard 8: Other Types of LPN Boundary Violations.

In addition to Standards 1 to 7, which focus on sexual abuse and sexual misconduct, the CLPNA requires that all types of boundary violations be avoided. All boundary violations may give rise to allegations and findings of unprofessional conduct.

- 8.2 An LPN must maintain professional boundaries with their colleagues and co-workers. Boundary violations:
 - can be related to behaviours between an LPN and a co-worker in areas such as an incident or repeated incidents of objectionable or unwelcome conduct, behaviour or remarks and sharing of unwanted sexually explicit content of a sexual nature by an LPN towards a colleague that the LPN knows or ought reasonably to know will or would cause offence or humiliation.

LPNs are required to reflect and recognize when they need to improve their practices and ensure they are not abusing or harming colleagues. Doing so is an integral aspect of self-regulation which requires that all regulated members participate in ensuring they are providing safe and effective care. For these reasons, the Hearing Tribunal concluded Mr. Vasquez breached the CLPNA Code of Ethics and Standards of Practice.

Further, the Hearing Tribunal is satisfied that Mr. Vasquez' conduct is sufficiently serious to constitute unprofessional conduct.

Allegation 3

Further or in the alternative to Allegation #1, Mr. Vasquez engaged in the sexual conduct referred to above in Allegation #1 without regard to the power imbalance that existed given Mr. Vasquez's role as E.D.'s supervisor.

As mentioned in Allegation #1, Mr. Vasquez was convicted of sexually assaulting E.D. During the time of the incident Mr. Vasquez was recently promoted as a team lead for HCAs. Mr. Vasquez was E.D's direct supervisor, and he had authority over E.D. The Hearing Tribunal notes that there was 30-year age gap between Mr. Vasquez and E.D. E.D. and Mr. Vasquez were not friends outside of the work environment, they had no other contact outside of work. This was a professional work environment; they were not at a date or a party.

Co-worker abuse comprises anything that a reasonable person would consider as victimizing, humiliating, undermining, or threatening and does not include ordinary respectful conflict. Co-worker abuse could be sexual, physical, or emotional in nature. LPNs are expected to maintain professional conduct with co-workers both on and off-duty. Like client abuse, co-worker abuse can arise from an exploitation of an existing power imbalance regardless of position hierarchy. LPNs who find themselves in positions of leadership should be aware of the power dynamics between themselves and their co-workers. As is the case with nurse-client relationships, LPNs must avoid exploiting their co-workers for personal gains.

The Hearing Tribunal considered and found that the evidence included in Exhibit #1 proves that the conduct for Allegation #3 did in fact occur.

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

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

The Hearing Tribunal found that Mr. Vasquez displayed a serious lack of professionalism and judgement when he engaged in the conduct outlined in Allegation #1. Mr. Vasquez was in a position of power and trust as E.D.'s supervisor. The Hearing Tribunal also takes into consideration that Mr. Vasquez had no regard to the power imbalance that existed given his role as E.D.'s supervisor. The Court found Mr. Vasquez's sexual misconduct towards his colleague, and direct report, was a criminal act. This conduct falls well below the expectations of an LPN. Mr. Vasquez's conduct harms the integrity of the regulated profession as Mr. Vasquez did not act in a manner which would be expected of an LPN.

Mr. Vasquez did not abide by the provisions of the CLPNA Code of Ethics or the CLPNA Standards of Practice.

For the reasons discussed above, this conduct also does harm to the integrity of the profession. Finally, the Hearing Tribunal has also determined that for substantially the same reasons given at Allegation #1, Mr. Vasquez has also breached the CLPNA Code of Ethics and CLPNA Standards of Practice as set out above.

The Hearing Tribunal concluded that this conduct was unprofessional for these reasons.

(8) Complaints Director's Submission on Penalty

The Complaints Director proposed the following sanctions to the Hearing Tribunal for consideration.

First, the Complaints Director asked the Hearing Tribunal to rely on the criminal decision to find that Allegation 1(a)-(d) and Allegation 3 are proven and withdrew the other allegations from consideration.

Instead of seeking cancellation of Ms. Vasquez's practice permit and registration, the Complaints Director asked the Hearing Tribunal to impose a further six-month suspension on his practice permit with a requirement that he complete the John Collins Consulting Inc. course on Professional Boundaries in Nursing, at his own expense, before his practice permit may be reinstated. This course takes approximately 10-12 weeks to complete and costs approximately \$600.

The Complaints Director did not ask the Hearing Tribunal to impose a fine or an order requiring payment of any of the costs of the investigation and hearing.

Legal Counsel for the Complaints Director 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.

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 Submission on Penalty proposed by the Complaints Director.

(9) 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. Vasquez 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 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:

The Hearing Tribunal considers the nature and gravity of Mr. Vasquez's actions as being very serious. Mr. Vasquez took advantage of a 26-year-old colleague while Mr. Vasquez was 55 years old. Also Mr. Vasquez had supervising authority over E.D. and the sexual misconduct took place in a professional work environment while on duty during a break. Mr. Vasquez did so for sexual gratification without regard to the impact of his actions on the E.D.'s wellbeing.

LPNs are expected to treat colleagues with respect, professionalism and dignity. However, Mr. Vasquez failed in protecting that responsibility. The Hearing Tribunal considers this as a failure to meet the minimum obligations of treating colleagues with respect. This demonstrates a need for significant penalties to address these failures.

The age and experience of the investigated member:

Mr. Vasquez was initially registered as a member of the CLPNA in 2010. At the time of the investigation, he had been an LPN for 11 years. As such, this is not a case where allegations have been made against a young or new member of the profession who is unaware how to treat colleagues. Based on Mr. Vasquez's knowledge and experience, he should have realized that his conduct was unacceptable. This is therefore an aggravating factor and demonstrates the need for significant sanctions, particularly sanctions with a remedial focus.

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

The Hearing Tribunal is not aware of any prior complaints or convictions against Mr. Vasquez.

The age and mental condition of the victim, if any

At the time of this incident E.D was 26 years old. Even though this Hearing Tribunal did not hear direct testimony from E.D. The Hearing Tribunal read E.D.'s testimony from the court trial. E.D. testified how she suffered from anxiety, numbness and shame after the incident. The Hearing Tribunal also finds that E.D. was vulnerable due to the supervisory role Mr. Vasquez had over her. This is therefore an aggravating factor due to the power imbalance between LPN and HCA.

The number of times the offence was proven to have occurred.

The conduct took place on one night shift on March 9, 2021. Mr. Vasquez's conduct was a matter of a single instance. The conduct was a single anomalous incident. The Hearing Tribunal considers this as a neutral factor.

The role of the investigated member in acknowledging what occurred:

The Hearing Tribunal takes into consideration that Mr. Vasquez acknowledged the conduct in these allegations and for cooperating during the investigation. This demonstrates accountability and Mr. Vasquez's willingness to take 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:

The Hearing Tribunal takes into consideration that Mr. Vasquez has paid greatly due to his actions. Mr. Vasquez was incarcerated for 170 days. Nine days after Mr. Vasquez was released from prison, his wife passed away. Mr. Vasquez has not been able to secure employment since 2021, as an LPN or in other field due to the criminal record. It is apparent that his financial situation is very strained.

The impact of the incidents on the victim:

E.D. testified in court that due to Mr. Vasquez' conduct, she has felt and feels shameful, anxious and numb.

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

The Hearing Tribunal believes that there is a need to impose a sanction that deters Mr. Vasquez from repeating this conduct as well as a sanction that would deter other LPNs from engaging in similar conduct. The sanctions that are ordered should send a message to both Mr. Vasquez as well as other LPNs to state that this type of conduct will not be tolerated. There are two aspects to deterrence. The first is specific deterrence, meaning that the orders imposed ought to deter the member from repeating the conduct in the future. The second aspect of deterrence is general deterrence, meaning that the orders ought to deter other members of the profession from engaging in similar conduct. A professional discipline hearing involves not just the individual, but it also affects the individual's conduct on their patients, colleagues and the profession. This public dimension is of critical significance.

Mr. Vasquez should have known that engaging in inappropriate sexual behaviour with a colleague, without their consent, is illegal, wrong and unacceptable. The orders sought by the Complaints Director are suited to deter Mr. Vasquez from conducting himself in such a manner again by imposing a remedial sanction. The orders also reflect an appropriate response to the unprofessional conduct at issue and would serve as general deterrence for other members of the profession. It will send a message to other members of the profession that this conduct is

unacceptable and that such conduct will not be tolerated, and it will be addressed with appropriate sanctions.

The Hearing Tribunal notes that the seriousness of this conduct cannot be diminished but also that the approach the Complaints Director has taken towards sanction has been not to seek penalty or costs in light of Mr. Vasquez's financial situation, the time he spent incarcerated for these actions, and that following his release.

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

LPNs are recognized as independent and capable members of the healthcare team and follow self-regulation. The public needs to be reassured that this standard is upheld.

The Hearing Tribunal understands that it is important to hold the members of the CLPNA to the standards and obligations expected of them. Particularly regarding fundamental aspects of an LPN's practice to treat colleagues with dignity and respect. The Hearing Tribunal must consider what message it will send to the public to maintain confidence in the profession. The public would therefore expect a Hearing Tribunal to sanction Mr. Vasquez in a manner that would deter such conduct from occurring again and which demonstrates the regulator has taken the conduct seriously. The orders sought by the Complaints Director will maintain the public's confidence in the integrity of the profession.

The range of sentence in other similar cases.

The Hearing Tribunal has considered the sentencing in similar cases. The Hearing Tribunal's decisions indicate that a sanction focusing on remedial education is appropriate and in line with the response to similar conduct adjusting for the unique circumstances of each case.

It is important to send a message to other LPNs, and thereby to the public, that these issues are taken very seriously. 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 Mr. Vasquez'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 will not be tolerated and it is intended that these orders will, in part, act as a deterrent to others.

The Hearing Tribunal is of the view the proposed penalties adequately balance the factors, referred to in Jaswal, and are consistent with the overarching mandate of the Hearing Tribunal, which is to ensure the public is protected. After considering the proposed orders for penalties, the Hearing Tribunal finds the submission on penalties is appropriate, reasonable and serves the public interest and therefore accepts the 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. Mr. Vasquez’s practice permit will be suspended for a further 6-month period following service of this decision.
2. Before Mr. Vasquez’s permit may be re-instated, he must complete, at his own expense, the John Collins Consulting Inc. course on Professional Boundaries in Nursing.

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 31st OF MARCH 2025 IN THE CITY OF CALGARY, ALBERTA.

THE COLLEGE OF LICENSED PRACTICAL NURSES OF ALBERTA



Kunal Sharma, LPN
Chair, Hearing Tribunal

Corrigendum of the Decision

Please note that references to sexual abuse on page 4 of this Decision referencing the decision in the Alberta Court of Justice have been amended to reflect a finding of sexual assault. Further, on page 14, the discussion relating to the impact on the victim has removed reference to sexual

assault and instead references the Investigated Member's actions. Finally, on page 14 in the discussion of deterrence, reference to sexual abuse of a colleague has been changed to inappropriate sexual behaviour.