

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 JAMES BAUTISTA**

**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 JAMES BAUTISTA, LPN #54370, 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 21, 2025 with the following individuals present:

Hearing Tribunal:

Jeff Bell, Licensed Practical Nurse (“LPN”) Chairperson
Paris Pirani, LPN
Deborah Gust, Public Member
Leanne Axelsen, Public Member

Staff:

Jason Kully, Legal Counsel for the Complaints Director, CLPNA
Tracy Zimmer, Legal Counsel for the Complaints Director, CLPNA
Sanah Sidhu, Director of Professional Conduct, CLPNA
Stephanie Karkutly, Complaints Officer, CLPNA

Regulated Member:

James Bautista, LPN (“Mr Bautista” or “Regulated Member” or “Investigated Member”)
Lee Watson, AUPE Representative for the Regulated 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

This Agreed Statement of Facts and Admission of Unprofessional Conduct (the “ASF”) addresses a complaint received and handled under Part IV of the *Health Professions Act* (“HPA”) about Mr. Bautista, a regulated member of the CLPNA.

The Regulated Member has been registered as an LPN with the CLPNA since March 24, 2021, with registrant number #54370, and was registered at all times material to the allegations.

The complaints outlined below were in regard to an alleged personal relationship with patient SB (“SB” or “Client SB”). SB was an inpatient at the University of Alberta Hospital (the “Facility”), Neurosciences Unit (the “Unit”) from about October 3 – 27, 2023, during which time the Regulated Member worked on the Unit and provided professional nursing services to SB.

On September 3, 2024, the CLPNA received notice from Alberta Health Services (“AHS”), dated August 30, 2024, reporting that the Regulated Member was being investigated for an allegation of sexual misconduct with a former patient. Subsequently, on September 12, 2024, AHS gave notice of the Regulated Member’s termination following the conclusion of their investigation. The termination proceeded based on a finding that the Regulated Member had violated professional boundaries and that his conduct was inconsistent with AHS values and Code of Conduct. These notices were treated as a complaint in accordance with section 57(2) of the HPA.

Additionally, on September 9, 2024, the CLPNA received a complaint against the Regulated Member from Norm Thoms, Member of the Public. Mr. Thoms advised that he had also previously submitted the same complaint to AHS, which prompted their investigation. Mr. Thoms is a Registered Psychologist who was supervising the Provisional Registered Psychologist who was responsible for treating SB through the Glenrose Rehabilitation Program at the time. During a therapy session on July 29, 2024, SB disclosed a potential personal relationship with the Regulated Member.

The Complaints Director for the CLPNA delegated their powers and duties under the HPA to Stephanie Karkutly, Complaints Officer and appointed Judith Palyga, Investigator, to conduct an investigation into both complaints.

The Regulated Member’s practice permit is currently suspended and has been since September 10, 2024 through a Voluntary Suspension Agreement.

Following the receipt and review of the Investigation Reports, the Complaints Officer determined both complaints should jointly be referred to a hearing on March 31, 2025 and provided the Regulated Member with the Statement of Allegations.

The Regulated Member was provided with all the required hearing notices, under the HPA, on May 21, 2025.

The Member’s Representative did not provide an opening statement.

(4) Allegations

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

It is alleged that **James Bautista, LPN** while practising as a Licensed Practical Nurse engaged in unprofessional conduct by:

1. On or between October 3 – October 27, 2023, while working at the University of Alberta Hospital, failed to maintain professional boundaries with Client SB, by doing one or more of the following:
 - a. gave gifts to Client SB;
 - b. spent time with Client SB beyond providing professional nursing services;
 - c. provided personal hygiene care to Client SB beyond professional nursing services;
 - and
 - d. allowed Client SB to kiss him on the cheek.
2. On or between July 12 - 27, 2024, failed to maintain professional boundaries with Client SB, by doing one or more of the following:
 - a. communicated with Client SB on social media;
 - b. drove Client SB in his vehicle;
 - c. socialized with Client SB at a coffee shop;
 - d. gave a gift to Client SB;
 - e. visited Client SB’s home; and
 - f. played video games with Client SB at their home;
3. On or about July 12, 2024, engaged in “sexual misconduct” as defined in s. 1(1) (nn.2) of the Health Professions Act, R.S.A. 2000, c. H-7 (the “HPA”) towards Client SB, by doing one or more of the following:
 - a. kissed Client SB on multiple occasions;
 - b. cuddled with and hugged Client SB in her home; and
 - c. while kissing and cuddling Client SB, asked Client SB to move to SB’s bed.

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

1. *Standards of Practice for Licensed Practical Nurses on Boundary Violations, Standard 1: The LPN-Patient Relationship;*
2. *Standards of Practice for Licensed Practical Nurses on Boundary Violations, Standard 8: Other Types of Boundary Violations;*

3. *Standards of Practice for Licensed Practical Nurses in Canada*, Standard 1: Professional Accountability and Responsibility, Indicators 1.1, 1.8;
4. *Standards of Practice for Licensed Practical Nurses in Canada*, Standard 3: Protection of the Public through self-regulation, Indicators 3.1, 3.5;
5. *Standards of Practice for Licensed Practical Nurses in Canada*, Standard 4: Professional and Ethical Practice, Indicators 4.4, 4.6;
6. *Code of Ethics for Licensed Practical Nurses in Canada*, Principal 1: Responsibility to the Public, Ethical Responsibilities, Indicators 1.1;
7. *Code of Ethics for Licensed Practical Nurses in Canada*, Principal 2: Responsibility to Clients, Ethical Responsibilities, Indicators 2.3.4, 2.7, 2.8, 2.9;
8. *Code of Ethics for Licensed Practical Nurses in Canada*, Principal 3: Responsibility to the Profession, Ethical Responsibilities, Indicators 3.1, 3.3;
9. *Code of Ethics for Licensed Practical Nurses in Canada*, Principal 5: Responsibility to Self, Ethical Responsibilities, Indicators 5.1, 5.3, 5.5.

(5) Admission of Unprofessional Conduct

Section 70 of the HPA permits a Regulated Member to make an admission of unprofessional conduct. An admission under s. 70 of the HPA must be acceptable in whole or in part to the Hearing Tribunal.

Mr. Bautista acknowledged unprofessional conduct to all the allegations as evidenced by his signature on the Agreed Statement of Facts and Admission of Unprofessional Conduct and verbally admitted unprofessional conduct to all the Allegations during the hearing.

Legal Counsel for the Complaints Director 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: Agreed Statement of Facts and Admission of Unprofessional Conduct
- Exhibit #2: Joint Submission on Penalty
- Exhibit #3: Victim Impact Statement

(7) Evidence

The evidence was adduced by way of Agreed Statement of Facts, and no witnesses were called to give *viva voce* testimony. The Hearing Tribunal accepts the evidence set out in the Agreed Statement of Facts which was admitted as Exhibit #1.

(8) Decision of the Hearing Tribunal and Reasons

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

The Hearing Tribunal has reviewed the documents included in Exhibit #1 and finds as facts the events as set out in the Agreed Statement of Facts.

The Hearing Tribunal also accepts Mr. Bautista's admission of unprofessional conduct as set out in the Agreed Statement of Facts and Admission of Unprofessional Conduct, within Exhibit 1. Based on the evidence and submissions before it, the Hearing Tribunal did not identify exceptional circumstances that would justify not accepting the admission of unprofessional conduct from Mr. Bautista.

Allegation 1

Mr. Bautista admitted that on or between October 3 – October 27, 2023, while working at the University of Alberta Hospital, he failed to maintain professional boundaries with Client SB, by doing one or more of the following:

- d. gave gifts to Client SB;
- e. spent time with Client SB beyond providing professional nursing services;
- f. provided personal hygiene care to Client SB beyond professional nursing services; and
- g. allowed Client SB to kiss him on the cheek.

Client SB was admitted to the Facility on or between October 3 to October 27, 2023, following a severe to extremely severe traumatic brain injury.

Client SB was approximately 20 years old at the time and suffered from cognitive impairment from her traumatic brain injury. A copy of Client SB's Discharge Summary, confirming her diagnosis, was attached to Exhibit 1.

The Regulated Member was employed in the capacity of an LPN on the Unit at all relevant times.

An LPN-Patient relationship existed between the Regulated Member and Client SB in accordance with the CLPNA's Standards of Practice for LPNs on Boundary Violations (the "Boundary Violations SOP"), Standard 1, as the Regulated Member was assigned to and provided professional nursing services to Client SB during their admission to the Facility on or about October 10, 11, 12, 16, 18, 22, 23, 24, 25 and 26, 2023. Additionally, the Regulated Member contributed to Client SB's patient record by authoring several handover notes.

The Regulated Member ceased providing professional nursing services on October 26, 2023 and Client SB was discharged from the Facility on October 27, 2023. However, in accordance with the Boundary Violations SOP, the LPN-Patient relationship continues to exist for a minimum of one year from the last day professional nursing services are provided.

Between approximately October 3 – 27, 2023, the Regulated Member gifted Client SB a Starbucks plush toy for her upcoming birthday. He also purchased Starbucks drinks for Client SB on one or more occasions.

Between October 3 – 27, 2023, on multiple shifts, the Regulated Member spent time in Client SB's room when assigned to other clients.

The Regulated Member provided personal hygiene care to Client SB beyond the standard professional nursing services and contrary to Unit practices of delegating such tasks to a Health Care Aide, including when he:

- a. assisted Client SB in showering without another person present, on at least one occasion; and
- b. applied cream all over Client's SB's body following showers or baths on one or more occasions.

The Regulated Member also:

- a. received hugs from Client SB on one or more occasions; and
- b. allowed Client SB to kiss the Regulated Member on the cheek when saying goodbye as she was being discharged from the Facility.

Mr. Bautista, Regulated Member acknowledges that the events noted above did take place and has admitted to this in an Agreed Statement of Facts.

Mr. Bautista admitted to giving gifts to Client SB. Between approximately October 3 and 27, 2023, he gifted SB a Starbucks plush toy for her upcoming birthday. He also acknowledged purchasing Starbucks drinks for her on one or more occasions.

Mr. Bautista admitted to spending time with Client SB beyond providing professional nursing services. Between October 3 – 27, 2023, on multiple shifts, the Regulated Member spent time in Client SB's room when assigned to other clients

Mr. Bautista admitted to providing personal hygiene care to Client SB beyond the scope of standard professional nursing services. This included tasks typically delegated to a Health Care Aide, such as assisting SB in the shower without another person present and applying lotion over SB's entire body on one or more occasions, contrary to unit practices.

Mr. Bautista admitted to allowing Client SB to kiss him on the cheek when saying goodbye as she was being discharged from the Facility.

The Hearing Tribunal considered the facts included in the Agreed Statement of Facts and Mr. Bautista's admission of unprofessional conduct. The Hearing Tribunal found that the facts and documents included in Exhibit #1 prove that the conduct for Allegation 1 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 HPA, 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.

Mr. Bautista demonstrated a lack of knowledge, skill, and judgment by initiating a relationship with Client SB that extended beyond the professional boundaries expected of an LPN. This breach of conduct was evidenced by his decision to purchase personal gifts for SB, including a Starbucks plush toy and Starbucks coffee on more than one occasion. These actions occurred both during SB's admission and following her discharge, between October 3 and October 27, 2023. Mr. Bautista further demonstrated poor judgment by engaging with SB outside the scope of his professional nursing duties. On multiple occasions during this period, while assigned to other clients, he chose to spend time with SB instead. Contrary to Unit protocols, and on more than one occasion, he assumed the responsibilities of a Health Care Aide by personally showering SB and applying lotion to her entire body, without supervision or the presence of a second staff member in the room. Additionally, upon SB's discharge from the unit, Mr. Bautista allowed her to kiss him on the cheek, an action that further blurred professional boundaries and reinforced the lack of judgement on the part of Mr. Bautista.

This conduct represents a serious deviation from the professional standards of an LPN and raises significant concerns regarding Mr. Bautista's understanding of professional boundaries, judgment, knowledge, and adherence to the role's expectations. Maintaining appropriate boundaries is a fundamental responsibility of an LPN, and it is incumbent upon the nurse to protect and uphold those boundaries at all times. Unprofessional conduct of this nature constitutes a serious violation of trust and professional ethics.

Furthermore, Mr. Bautista's actions call into question the integrity of the LPN profession as a whole. It would be reasonable for a member of the public to lose confidence in the profession based on this conduct. Given the inherent power imbalance in the LPN patient relationship, Mr. Bautista held a position of authority over Client SB, making his actions a clear breach of trust.

The conduct breached the following principles and standards set out in the Code of Ethics for Licensed Practical Nurses in Canada adopted June 3, 2013 ("CLPNA Code of Ethics") and the 2020 Standards of Practice for Licensed Practical Nurses in Canada, copyright March 1, 2021 and the Boundary Violations Standards of Practice, adopted by the CLPNA on May 31, 2023 ("CLPNA Standards of Practice"):

Mr. Bautista acknowledges that his conduct breached one or more of the following requirements in the CLPNA Code of Ethics:

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 2 specifically provides that LPNs:

- 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:

- 2.7 Develop trusting, therapeutic relationships, while maintaining professional boundaries.
- 2.9 Identify and minimize risks to clients.

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

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

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

- 5.1 Demonstrate honesty, integrity and trustworthiness in all interactions.
- 5.3 Accept responsibility for knowing and acting consistently with the principles, practice standards, laws and regulations under which they are held accountable.
- 5.5 Inform the appropriate authority in the event of becoming unable to practice safely, competently, and/ or ethically.

CLPNA Standards of Practice:

Mr. Bautista acknowledges admits that his conduct contravened one or more of the following Boundary Violations Standards of Practice adopted by the CLPNA on May 31, 2023:

Standard 1: The LPN-Patient Relationship

- 2. An LPN must not engage in behaviour towards a patient that is objectionable or unwelcome, including acting in a manner, or making remarks of a **sexual nature**, that the LPN knows, or ought reasonably to know, will cause offence or humiliation or adversely affect the patient's health and well-being. This behaviour is considered sexual misconduct.

Standard 8: Other Types of Boundary Violations

- 1. An LPN must maintain professional boundaries in the LPN-patient relationship at all times. Boundary violations:
 - can be related to behaviours between an LPN and a patient in areas such as cultural insensitivity, gift giving or receiving, emotional or financial abuse, and
 - may occur physically and verbally.

Mr. Bautista acknowledges that his conduct breached one or more of the following other 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. LPNs:

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

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

- 3.1. Establish, maintain, and appropriately end the professional therapeutic relationship with the client and their families.
- 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. LPNs:

- 4.4. Maintain professional boundaries in the nurse/client therapeutic relationship.
- 4.6. Demonstrate practice that upholds the integrity of the profession.

Maintaining professional boundaries is a fundamental component of an LPN's practice, and it is the responsibility of the LPN to ensure that all relationships with clients remain within appropriate and ethical limits. Mr. Bautista's conduct not only constitutes unprofessional

conduct, it constitutes sexual misconduct, one of the most serious boundary violations, as defined under the HPA, as well as a clear breach of the CLPNA Standards of Practice.

His actions demonstrated a disregard for professional boundaries, failed to minimize risk to SB as a client, and reflected a lack of integrity and accountability. This conduct undermines the privilege of self-regulation and compromises the public's trust in self-regulated professionals who are expected to uphold the principles, values, and standards of the profession.

By falling significantly short of the expectations for an LPN in similar circumstances, Mr. Bautista's behaviour diminished the integrity of the regulated profession. Clients receiving care from an LPN must be able to trust that their provider is acting in their best interests delivering safe, competent, and ethical care that supports optimal health and well-being.

Allegation 2

Mr. Bautista admitted that on or between July 12 - 27, 2024, he failed to maintain professional boundaries with Client SB, by doing one or more of the following:

- h. communicated with Client SB on social media;
- i. drove Client SB in his vehicle;
- j. socialized with Client SB at a coffee shop;
- k. gave a gift to Client SB;
- l. visited Client SB's home; and
- m. played video games with Client SB at their home;

On or about July 12, 2024, Mr. Bautista initiated communication with Client SB through social media, specifically through SnapChat, for the purpose of engaging in a personal relationship.

On July 12, 2024, between approximately 1900 – 2000 hours, Mr. Bautista drove to Client SB's home to pick her up in his vehicle. They then drove to a nearby coffee shop, which was a Starbucks, together.

While together, Mr. Bautista and Client SB purchased drinks from the coffee shop and spent time together sitting in his vehicle in the coffee shop's parking lot. They engaged in a FaceTime call with KB while in the vehicle together.

On July 12, 2024, Mr. Bautista gifted Client SB a pink shirt while they were in his vehicle together.

Following coffee, Mr. Bautista drove Client SB home and then he entered SB's home to continue spending time together. No one else was present in Client SB's home, leaving her and Mr. Bautista alone in the home together. Mr. Bautista and Client SB played video games and had a FaceTime call with a friend of Client SB's at approximately midnight. Mr. Bautista left Client SB's home after midnight.

Client SB blocked Mr. Bautista from Snapchat on or about July 13, 2024. On July 13, 2024 and July 26, 2024, Mr. Bautista and Client SB exchanged several messages over TikTok.

Mr. Bautista acknowledges that the events described above did take place and has admitted to them in an Agreed Statement of Facts.

He admitted to initiating communication with SB through social media, specifically Snapchat, and confirmed that this communication was intended to pursue a personal relationship.

Mr. Bautista admitted that on or about July 12, 2024, between approximately 1900 and 2000 hours, he drove to SB's home, picked her up in his vehicle, and took her to Starbucks for coffee. He further admitted that he purchased the coffee for SB, and that they remained in his vehicle in the parking lot, where they participated in a FaceTime call with KB.

Following this, Mr. Bautista admitted that he drove SB back to her home, entered the residence, and continued to spend time with her. The two were alone in the home, where they played video games and later engaged in another FaceTime call with one of SB's friends around midnight. Mr. Bautista then left SB's residence following the call.

He also admitted that SB blocked him on Snapchat on July 13 and again on July 26, 2024. Despite this, he acknowledged that they continued to exchange messages through an alternative social media platform—TikTok.

The Hearing Tribunal considered the facts included in the Agreed Statement of Facts and Mr. Bautista's admission of unprofessional conduct. The Hearing Tribunal found that the facts and documents included in Exhibit #1 prove that the conduct for Allegation 2 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 HPA, 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.

Mr. Bautista demonstrated a lack of knowledge, skill, and judgment by initiating a relationship with Client SB that extended beyond the professional boundaries expected of a Licensed Practical Nurse. This breach of conduct was first evidenced by his decision to contact SB through the social media platform Snapchat for the purpose of pursuing a personal relationship.

Mr. Bautista admitted to driving to SB's residence, picking her up in his vehicle without the presence of a third party, and taking her to Starbucks to spend time together. He further exercised poor judgment by purchasing personal gifts for SB, including a pink shirt and Starbucks coffee on July 12, 2024.

Mr. Bautista's pattern of unprofessional conduct continued when he drove SB back to her home and entered the residence to spend additional time with her. While alone in the home, they played video games and participated in a FaceTime call with one of SB's friends.

On July 13, 2024, SB blocked Mr. Bautista on Snapchat. Nevertheless, he continued to demonstrate a lack of judgment by remaining in touch with her through another social media platform—TikTok.

This conduct represents a serious deviation from the professional standards of an LPN and raises significant concerns regarding Mr. Bautista's understanding of professional boundaries, judgment, knowledge, and adherence to the role's expectations. Maintaining appropriate boundaries is a fundamental responsibility of an LPN, and it is incumbent upon the nurse to protect and uphold those boundaries at all times. Unprofessional conduct of this nature constitutes a serious violation of trust and professional ethics.

Furthermore, Mr. Bautista's actions call into question the integrity of the LPN profession as a whole. It would be reasonable for a member of the public to lose confidence in the profession based on this conduct. Given the inherent power imbalance in the LPN patient relationship, Mr. Bautista held a position of authority over Client SB, making his actions a clear breach of trust.

Finally, Mr. Bautista's conduct breaches the principles and standards of the CLPNA Code of Ethics and the CLPNA Standards of Practice, as set out above under Allegation 1, and the same reasoning expressed there applies to Allegation 2 as well. Such breaches are sufficiently serious to constitute unprofessional conduct.

Allegation 3

Mr. Bautista admitted that on or about July 12, 2024, he engaged in "sexual misconduct" as defined in s. 1(1) (nn.2) of the Health Professions Act, R.S.A. 2000, c. H-7 (the "HPA") towards Client SB, by doing one or more of the following:

- a. kissed Client SB on multiple occasions;
- b. cuddled with and hugged Client SB in her home; and
- c. while kissing and cuddling Client SB, asked Client SB to move to SB's bed.

On July 12, 2024, the Regulated Member engaged in repeated acts of sexual misconduct.

Following initiating contact with Client SB and picking her up from her home to go to Starbucks together, Mr. Bautista repeatedly kissed Client SB on the lips while in his personal vehicle together in the coffee shop parking lot.

Mr. Bautista then drove Client SB home and entered her home to continue spending time together. Mr. Bautista and SB were alone together in the home. During this time, Mr. Bautista continued to kiss SB on the lips.

Mr. Bautista also cuddled and hugged Client SB while sitting on a couch together in her home.

While kissing, hugging, and cuddling with Client SB, Mr. Bautista asked Client SB to move to Client SB's bed. Client SB declined.

Mr. Bautista left Client SB's home after midnight.

Mr. Bautista acknowledges that the events described above did take place and has admitted to them in an Agreed Statement of Facts.

Following the initiation of contact with Client SB and transporting her from her residence to a Starbucks location, Mr. Bautista engaged in physical contact with Client SB by repeatedly kissing her on the lips while the two were alone in his personal vehicle, parked in the coffee shop parking lot.

Subsequently, Mr. Bautista drove Client SB back to her residence and entered the home, where the two continued to spend time alone together. While inside the residence, Mr. Bautista continued to kiss Client SB on the lips.

Mr. Bautista also engaged in physical intimacy with Client SB by hugging and cuddling with her while seated together on a couch within the home.

During the course of this physical contact, Mr. Bautista asked Client SB to move to her bed. Client SB declined.

The Regulated Member departed from Client SB's residence after midnight.

The Hearing Tribunal considered the facts included in the Agreed Statement of Facts and Mr. Bautista's admission of unprofessional conduct. The Hearing Tribunal found that the facts and documents included in Exhibit #1 prove that the conduct for Allegation 3 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 HPA, 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.

The conduct displayed by Mr. Bautista falls under the definition of sexual misconduct. The Regulated Member admits that their conduct contravened one or more of the following Boundary Violations SOP adopted by the CLPNA on May 31, 2023:

Standard 1: The LPN-Patient Relationship

- An LPN must not engage in behaviour towards a patient that is objectionable or unwelcome, including acting in a manner, or making remarks of a sexual nature, that the LPN knows, or ought reasonably to know, will cause offence or humiliation or adversely affect the patient's health and well-being. This behaviour is considered sexual misconduct.

Standard 8: Other Types of Boundary Violations

- An LPN must maintain professional boundaries in the LPN-patient relationship at all times. Boundary violations:
 - can be related to behaviours between an LPN and a patient in areas such as cultural insensitivity, gift giving or receiving, emotional or financial abuse, and
 - may occur physically and verbally.

Sexual Misconduct means any incident or repeated incidents of objectionable or unwelcome conduct, behaviour or remarks of a sexual nature by a regulated member towards a patient that the regulated member knows or ought reasonably to know will or would cause offence or humiliation to the patient or adversely affect the patient's health and well-being but does not include sexual abuse.

Mr. Bautista demonstrated a lack of knowledge, skill, and judgment by initiating a relationship with Client SB that extended beyond the professional boundaries expected of an LPN. This breach of conduct was first evidenced by his decision to initiate contact with SB following her discharge.

Mr. Bautista demonstrated a serious lack of knowledge and judgment by initiating and continuing personal contact with Client SB outside of a professional context. He picked up Client SB in his personal vehicle and drove her to Starbucks, during which time he engaged in repeated physical contact by kissing her on the lips while parked in the vehicle. This conduct was highly inappropriate, objectionable, and constitutes a clear violation of the professional boundaries expected of an LPN.

Rather than recognizing and correcting this boundary violation, Mr. Bautista continued to spend personal time with Client SB by driving her home, entering her residence, and engaging in further inappropriate conduct. While alone with Client SB in her home, he participated in additional problematic activities with her, including playing video games, cuddling, and kissing her repeatedly on the lips. He further escalated the situation by suggesting they move to her bed. Although Client SB declined, this request further exemplifies his disregard for the ethical and professional limits of the LPN-patient relationship.

These actions reflect a fundamental misunderstanding of the principles of professional boundaries and a failure to uphold the integrity and responsibilities of the Licensed Practical Nurse role. Engaging in physical intimacy and personal relationships with a patient, particularly given the inherent power imbalance, is a significant breach of trust and a severe violation of the CLPNA Standards of Practice and the LPN-patient relationship.

This conduct represents a serious deviation from the professional standards expected of a Licensed Practical Nurse and raises significant concerns regarding Mr. Bautista's understanding of professional boundaries, judgment, knowledge, and adherence to the expectations of the role. Maintaining clear and appropriate boundaries is a fundamental obligation of an LPN, and it is the responsibility of the nurse to uphold and protect those boundaries at all times. The unprofessional and inappropriate nature of Mr. Bautista's actions—particularly his physical contact including cuddling, and repeatedly kissing with Client SB constitutes sexual misconduct and a severe violation of both trust and professional ethics.

Such conduct undermines the integrity of the nursing profession and brings the role of the LPN into disrepute. It would be reasonable for a member of the public to lose confidence in the profession as a result of this behavior. Given the inherent power imbalance within the LPN-patient relationship, Mr. Bautista's actions reflect a clear abuse of his position of authority and a serious breach of trust.

Finally, Mr. Bautista's conduct breaches the principles and standards of the CLPNA Code of Ethics and the CLPNA Standards of Practice, as set out above under Allegation 1, and the same reasoning expressed there applies to Allegation 3 as well. Such breaches are sufficiently serious to constitute unprofessional conduct.

(9) Joint Submission on Penalty

The Complaints Officer and Mr. Bautista jointly proposed to the Hearing Tribunal a Joint Submission on Penalty, which was entered as Exhibit #2. The Joint Submission on Penalty proposed the following sanctions to the Hearing Tribunal for consideration:

1. In light of the circumstances described in the ASF, the Regulated Member and the Complaints Officer jointly submit that the following are appropriate orders for the Hearing Tribunal to impose following a finding of unprofessional conduct by the Regulated Member:
 - a. The Hearing Tribunal's written decision (the "Decision") shall serve as a reprimand.
 - b. The Regulated Member's registration and practice permit with the CLPNA shall be cancelled immediately.

The CLPNA advised within the Joint Submission on Penalty that it will provide notices under s.119 of the HPA regarding the cancellation of the Regulated Member's practice permit, which includes

providing the information to governing bodies of any similar profession in other provinces or territories.

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 HPA 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 give deference to a joint submission unless the proposed sanction is unfit, unreasonable or contrary to public interest. Joint submissions make for a better process and engage the member in considering the outcome. A rejection of a carefully crafted agreement would undermine the goal of fostering cooperation through joint submissions and may significantly impair the ability of the Complaints Director to enter into such agreements. If the Hearing Tribunal had concerns with the proposed sanctions, the proper process is to notify the parties, articulate the reasons for concern, and give the parties an opportunity to address the concerns through further submissions to the Hearing Tribunal.

The Hearing Tribunal therefore carefully considered the Joint Submission on Penalty proposed by Mr. Bautista and the Complaints Officer.

(10) Decision on Penalty and Conclusions of the Hearing Tribunal

The Hearing Tribunal recognizes its orders with respect to penalty must be fair, reasonable and proportionate, taking into account the facts of this case.

The orders imposed by the Hearing Tribunal must protect the public from the type of conduct that Mr. Bautista 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 Regulated Member
- The previous character of the Regulated 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 Regulated Member in acknowledging what occurred
- Whether the Regulated Member has already suffered other serious financial or other penalties as a result of the allegations having been made
- The impact of the incident(s) on the victim, and/or
- The presence or absence of any mitigating circumstances

- The need to promote specific and general deterrence and, thereby to protect the public and ensure the safe and proper practice
- The need to maintain the public's confidence in the integrity of the profession
- The range of sentence in other similar cases

1. The nature and gravity of the proven allegations

The nature and gravity of the proven allegations are significant. The conduct engaged in by Mr. Bautista was not isolated or incidental but involved a series of deliberate actions that occurred over an extended period of personal interaction with a patient. These actions included initiating and maintaining personal contact, buying gifts for the patient, transporting the patient in his private vehicle, entering her home, and engaging in repeated physical intimacy, including kissing and cuddling. He further escalated the situation by inviting the patient to move to her bed. This conduct demonstrates not only a profound disregard for the professional boundaries required within the LPN Patient relationship but also a fundamental failure to understand the seriousness of his role as a regulated health professional. Accordingly, this conduct is very grave and the sanction chosen must reflect the gravity of this conduct.

2. The age and experience of the investigated member

The Regulated Member has been registered as an LPN with the CLPNA since March 24, 2021. The Regulated Member was employed in the capacity of an LPN on the Unit at all relevant times noted in the allegations. Although a relatively new member of the profession at the time of the conduct in 2023, this is not a mitigating factor for the Hearing Tribunal, due to the fundamental and core nature of the knowledge and judgment that was breached by 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

During the hearing, it was discussed that Mr. Bautista, the Regulated Member, had a prior complaint on file, on a separate subject matter. However, this was not included in the Agreed Statement of Facts and was instead brought forward verbally during the hearing. This was a neutral factor for the Hearing Tribunal.

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

This conduct occurred on or between October 3 – October 27, 2023. Although the specific number of times this occurred was not before the Hearing Tribunal, it was agreed by Mr. Bautista that there were multiple times that he failed to operate within professional boundaries while providing care to SB. Including purchasing her gifts, spending time with Client SB beyond providing professional nursing services, and providing personal hygiene care

to Client SB beyond professional nursing services. On one occasion prior to discharge Mr. Bausista allowed SB to kiss him on the cheek. Mr. Bautista's behaviour demonstrated a complete lack of judgment, and a pattern of disregarding the LPN-patient relationship, including violating boundaries. Upon SB's discharge from the Unit, Mr. Bautista continued his actions in violating LPN-patient boundaries in contacting SB via social media, picking her up in his car, visiting her home, playing video games, and further advancing his actions with continued kissing, cuddling, and verbal attempts to physically advance their relationship. The fact that this was not an isolated incident, but represented a pattern of misconduct which appeared to be escalating was an aggravating factor for the Hearing Tribunal.

5. Age and mental condition of the victim

Client SB was approximately 20 years old at the time and suffered from cognitive impairment from her traumatic brain injury. Accordingly, she was extremely vulnerable and this is an aggravating factor in relation to these allegations.

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

Mr. Bautista did acknowledge each of the three 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. Mr. Bautista was present and acknowledged his conduct and stated that he accepted that his actions were wrong, which is a mitigating factor.

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

On September 3, 2024, the CLPNA received notice from AHS, dated August 30, 2024, reporting that the Regulated Member was being investigated for an allegation of sexual misconduct with a former patient. Subsequently, on September 12, 2024, AHS gave notice of the Regulated Member's termination following the conclusion of their investigation. The termination proceeded based on a finding that the Regulated Member had violated professional boundaries and that his conduct was inconsistent with AHS values and Code of Conduct. This is a neutral factor.

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

Further to s.81.1(2) of the HPA, the patient was contacted by the CLPNA to be advised of their opportunity to make a written or oral statement describing the impact the sexual impact had on the patient. SB submitted an impact statement, entered as Exhibit 3 in this hearing, expressing that she felt taken advantage of, she was placed in an uncomfortable situation, made to feel uneasy, and stated she felt like a victim. Therefore, there was a detrimental impact on SB in this case, and this is an aggravating factor.

9. The presence or absence of any mitigating circumstances

Although Mr. Bautista cooperated with the investigation and entered into an Agreed Statement of Facts, these are not seen as mitigating factors to the allegations.

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 a violation of LPN-patient relationship, very seriously. Sexual misconduct is of the most severe offenses and will not be tolerated by CLPNA.

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 HPA, 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 not provided with similar cases by either party.

The Regulated Member's practice permit is currently suspended and has been since September 10, 2024 through a Voluntary Suspension Agreement.

It is important to the profession of LPNs to maintain the Code of Ethics and Standards of Practice, and in doing so to promote specific and general deterrence and, thereby, to protect the public. The Hearing Tribunal has considered this in the deliberation of this matter, and again considered the seriousness of the Regulated 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 HPA to make orders in response to findings of unprofessional conduct. The Hearing Tribunal makes the following orders pursuant to s. 82 of the HPA:

1. The Hearing Tribunal's written decision (the "Decision") shall serve as a reprimand.
2. James Bautista's registration and practice permit with the CLPNA shall be cancelled immediately.

The CLPNA has advised that it will provide notices under s. 119 of the HPA regarding the cancellation of the Regulated Member's practice permit, which includes providing the information to governing bodies of any similar profession in other provinces or territories.

The Hearing Tribunal believes these orders adequately balance 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 HPA, the Regulated Member has the right to appeal:

"87(1) An investigated person or the complaints director, on behalf of the college, may commence an appeal to the council of the decision of the hearing tribunal by a written notice of appeal that

- (a) identifies the appealed decision, and
- (b) states the reasons for the appeal.

(2) A notice of appeal must be given to the hearings director within 30 days after the date on which the decision of the hearing tribunal is given to the investigated person."

DATED THE 6th DAY OF AUGUST 2025 IN THE TOWN OF TABER, ALBERTA.

THE COLLEGE OF LICENSED PRACTICAL NURSES OF ALBERTA



Jeff Bell, LPN
Chair, Hearing Tribunal