

IN THE MATTER OF *THE LICENSED PRACTICAL NURSES ACT, 2000* AND BYLAWS
AND IN THE MATTER OF A COMPLAINT AGAINST FLORENCE CEASER OF
YORKTON, SASKATCHEWAN

DECISION OF:

SASKATCHEWAN ASSOCIATION OF LICENSED PRACTICAL NURSES
DISCIPLINE COMMITTEE

INTRODUCTION:

The hearing by the Discipline Committee into the complaints against Florence Ceaser was convened in the Shakespeare Room of the Radisson Hotel in Saskatoon, Saskatchewan, on December 1, 2009, being the location and the date agreed upon at the request of Ms. Ceaser and her representative, Mike Keith, following the delivery of a Notice of Hearing dated March 31, 2009, sent to Ms. Ceaser.

Previous arrangements had been made for Mr. Keith to participate in the hearing by way of conference call. However, given inclement weather which delayed the personal attendance of others at the hearing, the hearing did not commence until approximately 10:10 a.m. A number of attempts were made to join Mr. Keith by conference call but were not successful. Ms. Ceaser was not present and we were advised that she did not intend to appear. In view of the fact that the complaint before us was to proceed by way of an Agreed Statement of Facts and Joint Submission as to Penalty, the Discipline Committee proceeded with the hearing without the presence of Mr. Keith, pursuant to its authority in s. 29 (11) of *The Licensed Practical Nurses Act, 2000*, which permits the Discipline Committee to proceed with the hearing in the absence of the member on proof of service of the notice of hearing. Also present at the hearing were Merrilee Rasmussen, Q.C. (legal counsel for the Counselling and Investigation Committee of the Saskatchewan Association of Licensed Practical Nurses (SALPN)), Della Bartzen (investigator with SALPN), and Sheri Biemans (chairperson of the Counselling and Investigation Committee of SALPN).

We note that at the conclusion of the hearing, we were advised by Ms. Rasmussen that she had reached Mr. Keith by telephone, advised him of the circumstances of the delay in the commencement of the hearing and what had occurred at the hearing. Ms. Rasmussen indicated

that Mr. Keith had no issue with the Discipline Committee having proceeded on the basis of the Agreed Statement of Facts and Joint Submission as to Penalty.

EVIDENCE:

At the outset of the hearing, the following Agreed Statement of Facts and Joint Submission were filed with the Discipline Committee:

1. *Florence Ceaser, LPN, has been a member of SALPN since 1973. At all times material to the formal complaint in this matter, Ms Ceaser was employed as a licensed practical nurse in the Yorkton & District Nursing Home.*
2. *On February 25, 2008, Ms Ceaser's employment at the Yorkton & District Nursing Home was terminated by her employer for having allegedly slapped a resident of the Home in her care on February 10, 2008.*
3. *On March 12, 2008, the SALPN Counselling & Investigation Committee received a complaint from [REDACTED] Manager, Yorkton & District Nursing Home, that Ms Ceaser had been terminated from her position for causes that the employer reasonably believed were related to professional incompetence and/or professional misconduct, in accordance with subsection 43(1) of The Licensed Practical Nurses Act, 2000.*
4. *Ms Ceaser grieved her dismissal through her union and an arbitration hearing was held on November 3 and 4, 2008 before an arbitration panel chaired by Mr. Bob Pelton Q.C. In the course of his Award, Arbitrator Pelton held that Ms Ceaser did "slap" the resident as a reflexive response to his pinching her breast and that she had at least partially "checked" herself when she realized what she was doing so that the effect of the slap was minimized. There were no marks or bruises on the resident's cheek as a result. Nevertheless, Ms Ceaser acknowledges that such conduct is inappropriate and constitutes professional misconduct, as that term is defined in section 24 of The Licensed Practical Nurses Act, 2000.*
5. *The arbitration decision dated February 11, 2009 reinstated Ms Ceaser to her position, but without any compensation or accumulation of seniority. As a result, the period of almost one year from the date of her termination until the date of her reinstatement was an unpaid disciplinary suspension.*
6. *On March 12, 2009, the Counselling & Investigation Committee made its report to the Discipline Committee of SALPN recommending that a hearing be held in respect of the formal complaint attached as Exhibit 1 to this Agreed Statement of Facts.*

7. *On November 29, 2009, Ms Ceaser acknowledged receipt of a formal Notice of Hearing and agreed that the formal complaint would be heard by the Discipline Committee by conference call on December 1, 2009 at 9:30 am.*
8. *Recognizing that Ms Ceaser has been in fact suspended as a result of this incident for a period of almost a year, the remedy jointly proposed by the Counselling & Investigation Committee and Florence Ceaser is as follows:*
 - a. *That the member be formally reprimanded; and*
 - b. *That the member provide confirmation that she has completed a PART course acceptable to the Counselling & Investigation Committee prior to March 1, 2010, failing which the member be suspended on and after March 1, 2010 and until the date on which such confirmation is provided.*

In light of the information contained in the Agreed Statement of Facts and Joint Submission as to Penalty, it is unnecessary for us to set out the formal complaint referenced in paragraph 6 as "Exhibit 1 to this Agreed Statement of Facts."

SUBMISSIONS OF PARTIES:

Counsel for the Counselling and Investigation Committee submitted that the Discipline Committee should accept the facts as set out in the Agreed Statement of Facts and should accept that an appropriate penalty for the conduct admitted by the member to be professional misconduct is as set out in the Joint Submission as to Penalty. Counsel highlighted the fact that Ms. Ceaser has already been effectively suspended from her practice as an LPN for approximately one year as a result of the incident in question. Counsel also asserted that case law supports the proposition that a discipline committee of a self-governing professional association should carefully consider any joint submission on penalty made by the prosecuting body and member and only decline to accept it if there are clear and compelling reasons for doing so.

No additional submissions were made on behalf of the member at the hearing.

DECISION:

On the basis of the evidence presented to the Discipline Committee in the form of the Agreed Statement of Facts (as set out above) at its hearing held on December 1, 2009, including the acknowledgement of the member that her conduct was inappropriate and constitutes professional

misconduct as defined in s. 24 of *The Licensed Practical Nurses Act, 2000*, the Discipline Committee finds that Florence Ceaser did commit an act of professional misconduct within the meaning of s. 24 of *The Licensed Practical Nurses Act, 2000* by engaging in conduct that is harmful to the best interests of the public or its members, tends to harm the standing of the profession, and/or is a breach of the *Act* or the bylaws.

The Discipline Committee also finds that the proposed penalties for that misconduct, as jointly submitted by the Counselling and Investigation Committee and the member, are appropriate in the circumstances, particularly in light of the fact that Ms. Ceaser has been effectively suspended from her practice as an LPN for a period of approximately one year. Therefore, in accordance with s. 29 of *The Licensed Practical Nurses Act, 2000*, the Discipline Committee makes the following orders:

1. That Florence Ceaser be formally reprimanded in respect of her professional incompetence; and
2. That Florence Ceaser provide confirmation that she has completed a PART course ("Professional Assault Response Training") acceptable to the Counselling and Investigation Committee prior to March 1, 2010, failing which Ms. Ceaser will be suspended from the Association on and after March 1, 2010 until the date on which such confirmation is provided.

DATED at Regina, Saskatchewan, this 29 day of January, 2010.

**SASKATCHEWAN ASSOCIATION OF
LICENSED PRACTICAL NURSES,
DISCIPLINE COMMITTEE**


Angela Zborosky, Chairperson

Marjorie Moslbery, LPN, Member
Kathy Ogle, LPN, Member