

December 3, 2021

Ms. Janine Cavan



Delivered via email

Dear Ms. Cavan,

The attached Decision of the Discipline Committee with Reasons has been issued on behalf of the Discipline Committee.

This letter includes additional information on the appeal process.

As per the **Licensed Practical Nurses Act, 2000**, a member may appeal a decision and or order of the Discipline Committee. *The Licensed Practical Nurses Act, 2000*, sets out your appeal rights, which may include an appeal to the SALPN Council or to the courts. The relevant sections of appeal can be found directly in the Licensed Practical Nurses Act 2000, beginning at Section 35. For your reference, the web-link follows. [The LPN Act 2000](#).

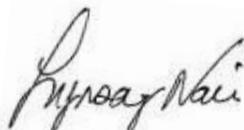
If you choose to appeal a discipline decision to the SALPN Council, please submit your appeal in writing to the SALPN Executive Director, Ms. Lynsay Nair, at lnair@salpn.com. Your written appeal must be received within 30 days of the committee issuing its decision and or order. You must identify the decision you are appealing and set out the grounds of the appeal.

If you wish to appeal to the courts, as part of your right for statutory appeal, you would be required to submit an application with the Court within 30 days.

Please be advised, should you appeal the decision of the Discipline Committee, any orders contained within the attached written decision remain in effect during the appeal process, unless you apply to the Court for a stay.

It is strongly encouraged that you consult with legal counsel to obtain appropriate advice regarding the appeal processes to either the SALPN Council or the Saskatchewan Courts. Please be informed that any related costs incurred would be at your expense.

Thank you.



Lynsay Nair
SALPN Executive Director

IN THE MATTER OF A DISCIPLINE HEARING BY A DISCIPLINE COMMITTEE,
ESTABLISHED PURSUANT TO *THE LICENSED PRACTICAL NURSES ACT, 2000* AND
BYLAWS TO INQUIRE INTO THE CONDUCT OF LICENSED PRACTICAL NURSE
JANINE CAVAN

REASONS FOR DECISION BY:

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

Discipline Committee:

D. Robinson (Chair), E. McFadyen, K. Huckabay; M. Halyk; M. Wellsch, Q.C.

Legal Counsel:

Chris Butz (Solicitor for the Respondent)

Darcia Schirr, Q.C. (Counselling and Investigation Committee)

Matthew Klinger (Discipline Committee)

INTRODUCTION:

This matter was heard by a panel of the Discipline Committee (the "**Discipline Committee**") of the Saskatchewan Association of Licensed Practical Nurses ("**SALPN**") on October 18, 2021 in Regina, Saskatchewan. The Respondent, Licensed Practical Nurse Janine Cavan, has been charged with professional misconduct within the meaning of s. 24 of *The Licensed Practical Nurses Act, 2000* (the "**Act**"). The respondent was properly served with the formal complaint, and proof of service was filed with the Discipline Committee (**Exhibit P-1**). The formal charges, as outlined in Amended Appendix A to the Notice of Hearing (**Exhibit P-2**), stated that:

1. On or about September 8, 2020, you improperly administered a wound VAC dressing to patient J.Z. as you broke the sterile field.
2. On September 11, 2020 and September 13, 2020, you "held" and did not administer Kayexalate to patient J.H.:
 - (a) Contrary to a physician's order.
 - (b) Outside your scope of practice as a licensed practical nurse.
 - (c) You failed to document that you had "held" the medication in the nursing notes for patient J.H.

(d) During the employer's investigation you stated that you reported that you held the medication to the oncoming licensed practical nurse and the charge nurse. Your representations to your employer were false and incorrect.

3. On September 17, 2020, you charted on the 7 Day Medication Administration Record (7 Day MAR) that you administered Cimzia to patient R.D. which was false and incorrect.
4. Further to charge 3 and after meeting with your supervisor, you made another entry on the 7 Day MAR for September 17 writing "N/A. Pharmacy called @ 1100. Given 18th. " Such an entry is inappropriate and further, the entry was false.
5. On October 26, 2020, patient B.A. refused to take her medication. You directed a continuing care aide to hold the patient's arm so that you could administer the medication which was in pudding. The continuing care aide did not accept your direction. When the patient began to speak to object to the medication, you administered the medication to her notwithstanding her objections and lack of consent.
6. Further to charge 5, you failed to consider and take alternative measures with the resistant patient including, *inter alia*, returning to see the patient and/or involving another nurse who could successfully use appropriate persuasion measures.
7. On July 30, 2019, you executed an Alternative Dispute Resolution Agreement (ADR) with the SALPN Counselling and Investigation Committee that was intended to address a complaint received about your nursing practices when you were employed on Unit *SD* of the Pasqua Hospital in Regina. The ADR included the following provision:

10.1 The Member will immediately report to the Committee any suspensions or terminations of her employment.

On October 8, 2020, you were suspended by your employer Wascana Rehabilitation Centre for ten days. You did not report the suspension to the Counselling and Investigation Committee or to anyone at SALPN.

The formal charge alleged that such conduct constituted a breach of ss. 23, 24 and 49 of the Act, s. 20 of the *SALPN Regulatory Bylaws*, the *Code of Ethics for Licensed Practical Nurses in Canada* and the *Standards of Practice for Licensed Practical Nurses in Canada*.

Ms. Darcia Schirr, Q.C., appeared by telephone as legal counsel for the Investigation Committee of the SALPN (the "**Investigation Committee**"). Mr. Chris Butz appeared by telephone as legal counsel for Ms. Cavan.

At the outset of the hearing, Ms. Cavan, entered a plea of guilty to the allegations as set out in Amended Appendix A to the Notice of Hearing. The hearing proceeded by way of an Agreed Statement of Facts ("**Exhibit P-3**"). The parties also submitted a partial joint submission on

penalty (“**Exhibit P-4**”). The partial joint submission on penalty set out a proposed sanction for Ms. Cavan, although the parties did not agree with respect to the amount of a costs order to be imposed, as well as the time which should be provided for Ms. Cavan to pay a costs order.

On the hearing of this matter, the Discipline Committee accepted Ms. Cavan’s guilty plea. After hearing submissions, the Discipline Committee accepted the partial joint submission on penalty. The Discipline Committee determined that Ms. Cavan should pay costs of \$10,000, with the costs to be payable on or before November 1, 2024. In response to a request from the parties, the Board issued its formal order on October 18, 2021, in order to ensure that Ms. Cavan would be able to enroll in the continuing education courses set out in the order on a timely basis. The order was issued with reasons to follow. These are those reasons.

FACTS:

This matter proceeded pursuant to an Agreed Statement of Facts, which is summarized below.

Ms. Cavan registered with SALPN in April 2011. At the time material to the allegations, she was employed as a licensed practical nurse at the Wascana Rehabilitation Centre in Regina.

Ms. Cavan has a history of prior complaints with SALPN. In February 2014 she was issued a cautionary letter from SALPN regarding allegations that she addressed residents improperly. The matter did not proceed to a formal referral to the Discipline Committee. In April 2016 Ms. Cavan entered into an Alternative Dispute Resolution Agreement with the Investigation Committee as a result of allegations she inappropriately flushing a hemodialysis line because she failed to be aware of the difference between a hemodialysis line and a peripherally inserted central catheter. On March 6, 2017 Ms. Cavan entered into a further Alternative Dispute Resolution Agreement with the Investigation Committee as a result of allegations that she failed to complete a required neurological check on a resident, failed to obtain a required urine specimen from a resident, and asked a continuing care aid to administer medication to a resident. On July 30, 2019 Ms. Cavan entered into a further Alternative Dispute Resolution Agreement with the Investigation Committee as a result of a number of allegations including failing to administer medication in a timely fashion, administering inappropriate pain medications to a patient. As a result, Ms. Cavan was required to complete a nursing course, and was required to participate in a series of performance appraisals after 500, 1000, and 1500 hours of work. Ms. Cavan was also required to report to SALPN any suspension or termination of her employment until all of the requirements of the agreement were met.

The charges against Ms. Cavan in this hearing arise from several incidents occurring in 2020 arising out of Ms. Cavan’s work on Unit 3-5 at the Wascana Rehabilitation Centre. Ms. Cavan began working on Unit 3-5 in a full time capacity in June 2020.

On or about September 8, 2020, Ms. Cavan was required to apply a VAC dressing to a patient J.Z. J.Z.’s wife witnessed the procedure, with which she was familiar because of her work as a continuing care aide. When applying the VAC dressing Ms. Cavan broke the sterile field. J.Z.’s wife filmed the improper application of the VAC dressing and reported the matter to a manager of Unit 3-5. The application of VAC dressings is a common nursing procedure on Unit 3-5 which Ms. Cavan had previously performed on patients.

In September 2020, Ms. Cavan provided care to patient J.H. who was on dialysis. Dr. Abdulhadi prescribed J.H. with Kayexalate to treat high levels of potassium. On September 11 and September 13, 2020, Ms. Cavan withheld the Kayexalate from patient J.H. and charted the hold on J.H.'s 7 Day Medication Administration Record. The hold was not documented on J.H.'s nursing notes for those dates. Significantly, Ms. Cavan did not call Dr. Abdulhadi before deciding to withhold the Kayexalate. Ms. Cavan's reasoning for withholding the medication was that her understanding was medication was usually not given before dialysis, that giving the patient Kayexalate before dialysis would lower J.H.'s potassium levels, and that the dialysis procedure would clear J.H.'s body of potassium. However, a licensed practical nurse is not authorized to withhold prescribed medication without a physician's order. When her employer investigated this incident Ms. Cavan falsely claimed that she had advised the registered nurse in charge of the unit of her actions, when she had not done so.

On September 17, 2020 a patient, R.D. required administration of Cimzia, which is used to treat rheumatoid arthritis along with a number of other similar conditions. On September 17, 2020 Ms. Cavan made an entry on the 7 Day Medication Administration Record indicating that she had given R.D. this medication, despite the fact that she had not done so. She made the entry but failed to actually administer the medication. The error was discovered because the Cimzia was found in the unit fridge by a registered nurse (R.D. was the only patient on the unit receiving that medication). When her employer investigated the allegations, Ms. Cavan falsely claimed that she had called the pharmacy which was to send the Cimzia to the unit. After the investigation meeting Ms. Cavan made an additional late entry for September 17 in which she falsely claimed that she had called the pharmacy and that the medication was given on September 18.

On October 26, 2020, Ms. Cavan was responsible for administering medication to patient B.A. B.A. was 101 years old and suffered from dementia. When Ms. Cavan attempted to administer medication to B.A., B.A. raised her arm up and refused to take medication. Ms. Cavan told a continuing care aid to hold down the patient's arm (the continuing care aid refused to do so). When the patient's mouth was open Ms. Cavan put the medication into the patient's mouth despite protests from the patient. Ms. Cavan did not attempt to persuade the patient to agree to take her medication.

Ms. Cavan's employer investigated the incidents described above. As a result of the incidents involving patients J.Z., J.H., and R.D., Ms. Cavan was suspended from her employment without pay for a period of 10 days, effective October 8, 2020. As a result of the incident involving patient B.A., Ms. Cavan was suspended from her employment without pay for a period of 30 days effective December 10, 2020.

Despite her obligation pursuant to the July 30, 2019 Alternative Dispute Resolution Agreement with SALPN to report any suspension of her employment (which remained in effect as all required performance appraisals were not yet complete), Ms. Cavan failed to report the 10 day suspension of her employment which occurred on October 8, 2020. SALPN only learned of this suspension after a manager of unit 3-5 at the Wascana Rehabilitation Centre filed a letter of complaint with SALPN on October 28, 2020.

Ms. Cavan completed the performance appraisals required pursuant to the July 30, 2019 Alternative Dispute Resolution Agreement. The first two performance appraisals were included as

exhibits to the Agreed Statement of Facts. The final performance appraisal was also provided to the Discipline Committee (**Exhibit P-6**).

Counsel for the Investigation Committee submitted an estimate of both the actual costs to date, and the anticipated further costs for SALPN relating to this hearing (**Exhibit P-5**).

DECISION:

There are two issues before the Discipline Committee: first, whether the conduct of Ms. Cavan was professional incompetence and professional misconduct as defined within s. 23-24 of the Act; and, second, if so, whether the proposed agreed-upon penalties are appropriate under s. 30 of the Act.

Professional Misconduct Decision

Licensed Practical Nurses have a duty to uphold the standards of the profession and carry out their practice in a manner which ensures patients are treated safely and respectfully. The proper administration of treatments, including medication is a critical competency for Licensed Practical Nurses. The *Code of Ethics for Licensed Practical Nurses in Canada* requires nurses to maintain standards of professional competence and conduct, to provide safe and competent care to clients, and to provide care to each client which recognizes their individuality and their right to choice. The *Code of Ethics* also requires nurses to demonstrate honesty, integrity and trustworthiness in all of their interactions.

With respect to charge 1, it is the responsibility of every Licensed Practical Nurse to carry out treatments competently and safely. Maintaining the sterility of wound dressings is important to ensuring patient safety. Mr. Cavan had done this work before and it was work regularly required in her job. The failure to maintain sterility was a failure to uphold the standard of professional competence required of nurses.

With respect to charge 2, Ms. Cavan withheld a required medication from a patient despite the medication being prescribed by a doctor. If Ms. Cavan was concerned that the medication may not have been appropriate for the patient, she ought to have contacted the prescribing physician. Withholding the medication in the absence of any communication with the prescribing physician was a failure to uphold the standard of professional competence required of Licensed Practical Nurses, who must respect the limits of their own practice and the expertise of other medical professionals. Ms. Cavan's failure to document the withholding of medication in nursing notes was also a failure to abide by professional standards. Licensed Practical Nurses must accurately document the manner in which patients have been treated in order to ensure clear communications with other medical professionals. Ms. Cavan's integrity is also called into question by her dishonesty during her employer's investigation. As part of their obligation to demonstrate honesty and integrity, Licensed Practical Nurses are expected to cooperate honestly with investigations into apparent errors in patient care. Such cooperation is essential to identifying, correcting, and preventing any future errors.

With respect to charge 3, Ms. Cavan failed to administer medication to a patient, and recorded incorrect information on the 7 Day Medication Administration Record. Licensed Practical Nurses

must administer the medications required by patients in a timely way as part of their duty to provide safe and competent care to clients. This duty also requires accurate documentation of the care provided to patients. Charting that medication was provided, when it had not been provided is a serious lapse in patient care. Other medical professionals must be able to rely on records to confirm what medication has and has not been provided to a patient. Accurate charting is fundamental to professional standards of care for nursing.

With respect to Charge 4, Ms. Cavan made a further false entry on the 7 Day Medication Administration Record for patient R.D. The false entry was made after an investigation meeting by her employer, and appears to have been an attempt to bolster the false story she provided to her employer at that meeting. This was a serious failure to uphold the standard of honesty and integrity which is required of all Licensed Practical Nurses.

With respect to charges 5 and 6, Ms. Cavan ignored the protests of a patient who was refusing medication. Ms. Cavan attempted to have a co-worker physically restrain the patient. She administered the medication despite clear verbal protests by forcing the medication into the patient's mouth. This was a serious breach of the obligation of every Licensed Practical Nurse to provide care to clients which is respectful of their individuality and choice. It is not acceptable to ignore the lack of consent from a patient simply because it is easier for the Licensed Practical Nurse. Ms. Cavan had other alternatives open to her, including trying to persuade B.A. to cooperate and accept her medication, or asking other nurses to assist in obtaining B.A.'s cooperation. The failure to attempt these approaches was a breach of the standard of care required of Licensed Practical Nurses, who must provide respectful care to each patient.

With respect to charge 7, Ms. Cavan failed to inform SALPN that she had been suspended without pay by her employer, despite having an obligation to do so pursuant to the July 30, 2019 Alternative Dispute Resolution Agreement she had agreed to. Licensed Practical Nurses have an obligation to demonstrate honesty, integrity and trustworthiness in all interactions, which includes interactions with SALPN. As a result of prior complaints, Ms. Cavan had agreed that she would notify SALPN if she faced disciplinary action at work. She failed to do so. As a result SALPN was not aware of the suspension, and only became aware of the suspension because a manager at the Wascana Rehabilitation Centre submitted a complaint to SALPN. Ms. Cavan's failure to report her suspension demonstrated a lack of integrity.

Upon reviewing and considering the evidence submitted by way of the Agreed Statement of Facts, the Discipline Committee accepts Ms. Cavan's guilty plea and finds her guilty of professional misconduct and professional incompetence with respect to each of the charges set out in Amended Appendix "A" to the notice of hearing. Ms. Cavan's conduct fell well below the standards which Licensed Practical Nurses are required to uphold when providing care to patients.

Penalty Decision

The parties provided a partial Joint Submission on Penalty. This penalty called for Ms. Cavan to be reprimanded, and to be required to take courses on *Critical Thinking in Nursing, Roles Responsibilities and Ethics, Professionalism in Nursing, and Safe Medication Administration*. If Ms. Cavan fails to take the required courses by dates specified for each course, the joint submission indicated that Ms. Cavan would then be suspended pending completion of the course. In addition,

the joint submission called for Ms. Cavan to advise SALPN if she is subject to discipline sanctions by a nursing employer, to advise SALPN of changes to her nursing employment, to provide copies of the Discipline Committee Decision and Order to her nursing employer. Ms. Cavan would also be required to have performance appraisals completed after working a further 500, 1000, and 1500 hours as a Licensed Practical Nurse with these performance appraisals to be filed with SALPN. The joint submission contemplated that Ms. Cavan would be required to pay a portion of the costs of the investigation and hearing, although the parties did not agree on the amount of a costs order.

As this matter comes before the Discipline Committee partially a joint submission, the decision of *Rault v Law Society of Saskatchewan*, 2009 SKCA 81 [*Rault*], is relevant. In *Rault* at para 28, the Saskatchewan Court of Appeal affirmed that in the context of a disciplinary proceeding, a joint submission should not be disregarded unless there are good or cogent reasons for doing so. To that end, a joint submission should be accepted unless it is not within the range of appropriate penalties, unfit or unreasonable, or contrary to the public interest.

In considering whether the joint submission proposes a penalty that is unfit, unreasonable or contrary to the public interest, the Discipline Committee notes the decision of *Camgoz v College of Physicians and Surgeons (Sask)* (1993), 114 Sask R 161 (QB), in which the Court of Queen's Bench set out a number of factors which may be relevant in evaluating an appropriate sanction in professional discipline proceedings regarding medical professionals. The Court held:

[49] In my respectful view, in determining an appropriate sentence to be imposed on a member of the medical profession found guilty of unbecoming, improper, unprofessional and discreditable conduct, the factors which the respondent ought to take into account include:

1. The nature and gravity of the proven allegations;
2. The age of the offending physician;
3. The age of the offended patient;
4. Evidence of the frequency of the commission of the particular acts of misconduct within particularly, and without generally, the Province;
5. The presence or absence of mitigating circumstances, if any.
6. Specific deterrence;
7. General deterrence;
8. Previous record, if any, for the same, or similar, misconduct; the length of time that has elapsed between the date of any previous misconduct and conviction thereon; and, the member's (properly considered) conduct since that time;
9. Ensuring that the penalty imposed will, as mandated by s. 69.1 of the Act, protect the public and ensure the safe and proper practice of medicine;
10. The need to maintain the public's confidence in the integrity of the respondent's ability to properly supervise the professional conduct of its members;

11. Ensuring that the penalty imposed is not disparate with penalties previously imposed in this jurisdiction, particularly, and in other jurisdictions in general, for the same, or similar acts of misconduct.

[50] The above factors are not to be considered as being an exhaustive list of the factors to be considered by the respondent in its future considerations of like matters. Nor are the factors identified by me listed in order of their importance. The noted factors identified by me are those which I consider to be generally applicable to the consideration of a proper penalty to be imposed following conviction of a member for unbecoming, improper, unprofessional and discreditable conduct. The factors to be considered in a particular case will of course vary, as will their particular relevance, in each case under consideration.

In evaluating the partial joint submission as to penalty, the Discipline Committee has considered the serious nature of the misconduct, including errors in basic nursing practice as well as failures to show respect for patients and to act with integrity, as well as the fact that the complaints show a pattern of repeated failures. The Discipline Committee has also taken into account that Ms. Cavan has accepted responsibility for her actions and pled guilty to the charges she faced.

The Discipline Committee has a mandate to protect the public and ensure the safe and proper practice of nursing. The joint submission would require Ms. Cavan to take a number of courses both addressing her general professional obligations, as well as a specific course on safe administration of medication, which is an area where Ms. Cavan failed to meet her professional obligations. The educational component of the joint submission will impress upon Ms. Cavan the need to improve her practice.

Protection of the public will also be provided through the mandated performance appraisals which must be submitted to SALPN. This will assist in monitoring Ms. Cavan's performance and ensuring that she does improve her practice. If Ms. Cavan continues to engage in conduct which falls below the standard expected of Licensed Practical Nurses, Ms. Cavan may face further disciplinary action.

The Discipline Committee notes that, despite the seriousness of the misconduct at issue, and the fact that Ms. Cavan had failed to comply with a previous Alternative Dispute Resolution Agreement, the joint submission does not provide for a suspension unless Ms. Cavan fails to complete the required courses. Given the serious misconduct at issue, including both failures to abide by medical practice standards and a lack of integrity, a more serious disciplinary penalty may well have been imposed in the absence of a joint submission. The Discipline Committee is prepared to accept the joint submission, as it is not unreasonable, but cautions Ms. Cavan that any further professional misconduct may be met with more serious sanctions.

The Discipline Committee is satisfied that, taking into account the order of costs discussed below, the joint submission is reasonable and would provide for protection of the public, specific deterrence of Ms. Cavan through educational requirements for which she must bear the costs, as well as through the requirement for multiple performance reviews to be submitted to SALPN. Therefore, the Discipline Committee will adopt the joint submission, subject to a correction to remove the reference to the last performance appraisal required pursuant to the July 30, 2019 Alternative Dispute Resolution Agreement, which was already complete at the time of the hearing.

With respect to the issue of costs, Counsel for the Investigation Committee requested that Ms. Cavan be required to pay \$10,000 in costs. The Investigation Committee submitted that this was reasonable in light of the evidence in Exhibit P-5 that the estimated costs for the investigation and hearing would exceed \$23,000. The Investigation Submitted that Ms. Cavan continued to be employed earning nursing income, and that this sanction was appropriate, noting that in past uncontested hearings this Committee has ordered a member to pay between 40% and 60% of the costs of the investigation and hearing. The Investigation Committee submitted that this was appropriate in light of the number of sanctions, even taking into account that Ms. Cavan was suspended without pay by her employer as a result of the same misconduct, and that Ms. Cavan would be required to pay in excess of \$1000 to attend the courses set out in the joint submission. The Investigation Committee submitted that the amount of the costs award could be mitigated by providing for a lengthy period for payment of the costs award.

Counsel for Ms. Cavan noted that Ms. Cavan had pled guilty to the charges against her, fully accepted to facts, and welcomed the opportunity to take additional courses through the agreed sanction. Counsel for Ms. Cavan submitted that her most recent performance appraisal demonstrated that Ms. Cavan had improved and was trainable. Counsel for Ms. Cavan directed the attention of the Discipline Committee to a decision of the SALPN council regarding Elizabeth Omeka-Okere, in which the SALPN Council reduced a costs award from \$42,000 to \$21,000 which was 16% of the costs of the investigation and hearing. Counsel for Ms. Cavan submitted that the costs order should not be punitive, and submitted that an order to pay costs of \$5000 was appropriate in this case.

The Court of Appeal reviewed the principles applicable to costs awards in a professional discipline context in *Abrametz v The Law Society of Saskatchewan*, 2018 SKCA 37. The court held at paras 44-45 that the purpose of awarding costs in professional discipline proceedings is to ensure that a member bears part of the cost of disciplinary proceedings and that those costs are not borne solely by their fellow members. Such cost orders must not be so prohibitive as to prevent a member from defending their right to practice in their profession or to dispute misconduct charges. The court endorsed the following principles regarding costs decisions at paras 47-48:

- a. The balance between the effect of a cost award on the Appellant and the need for the Provincial Dental Board to be able to effectively administer the disciplinary process;
- b. The respective degrees of success of the parties;
- c. Costs awards ought not to be punitive;
- d. The other sanctions imposed and the expenses associated therewith;
- e. The relative time and expense of the investigation and hearing associated with each of the charges and in particular those on which guilt were entered and those where the Appellant was found not guilty.

In our view it is appropriate that Ms. Cavan contribute towards the costs of these disciplinary proceedings. While Ms. Cavan should not be required to indemnify SALPN for the costs of the investigation and hearing, it is appropriate that she bear a portion of those costs instead of all of

those costs falling upon the membership of SALPN. The Discipline Committee has determined that it is appropriate for Ms. Cavan to pay \$10,000 in costs. Ms. Cavan will be provided until November 1, 2024 to pay those costs. The Discipline Committee is satisfied that she could reasonably pay those costs within that period of time.

The Discipline Committee considered the Elizabeth Omeka-Okere decision of the SALPN Council. In reviewing the decision, the Council expressed concern that the total costs ordered were a significant burden which could have served to drive the respondent in that case away from her profession forever. The Council did not indicate that it was rejected a higher ratio of costs. In that case, where the complexity of the investigation and hearing resulted in very high costs, the Council concluded that an order of costs of \$21,000 was appropriate. While this resulted in the respondent paying a lower ratio of the costs, the overall magnitude of the sanction, in light of the respondent's financial circumstances remained significant.

In previous cases involving both contested and uncontested hearings, this Committee has ordered payment of a ration of 40-60% of the costs of an investigation and hearing, including in decisions relating to Pamela Quintin, and Lee Steib,

In the present case, a mitigating factor is that Ms. Cavan pled guilty and accepted responsibility. Ms. Cavan will also incur expenses to take the required nursing courses. It is also relevant that she was disciplined by her employer as a result of the incidents at issue. However, the Discipline Committee considers that there are a number of aggravating factors in this case. Ms. Cavan's misconduct occurred on multiple occasions. She demonstrated a pattern of failing to follow accepted standards of care for Licensed Practical Nurses. Her actions were very serious, including disregarding a patient's lack of consent when administering medication. The Discipline Committee is also concerned that on multiple occasions Ms. Cavan demonstrated a lack of honesty and integrity by making false statements during her employer's investigation of her misconduct, and in failing to disclose her suspension from her employment to SALPN. These aggravating factors demonstrate the need for specific deterrence of Ms. Cavan, as well as general deterrence to encourage all Licensed Practical Nurses to act with professionalism, honesty, and integrity when carrying out their duties.

The Discipline Committee has also taken into account that although Ms. Cavan has not been found guilty of professional misconduct before, she has been required to participate in three different Alternative Dispute Resolution Agreements, one of which she failed to abide by. This increases the need for specific deterrence.

In light of the factors set out above, the Discipline Committee has determined that Ms. Cavan should be required to pay \$10,000 in costs, but should be provided three years (until November 1, 2024), in order to make the payment. If Ms. Cavan fails to pay the costs order, her license to practice will be suspended until she complies with the Order.

In closing, the Discipline Committee notes that during the hearing there were references to Ms. Cavan facing significant stressors involving personal problems. The performance appraisals which were produced pursuant to the July 30, 2019 Alternative Dispute Resolution Agreement, including the most recent performance appraisal dated September 30, 2021, indicate that Ms. Cavan's

personal difficulties have affected her practice of nursing, but that she has sought help in dealing with those issues. The Discipline Committee urges Ms. Cavan to seek, or continue to seek, counselling or other resources which may be appropriate in order for her to ensure her own health and wellness. Addressing these personal life stressors in an effective way will be important for Ms. Cavan to improve her practice and to allow her to work effectively as a Licensed Practical Nurse.

CONCLUSION:

For the foregoing reasons, the Discipline Committee confirms its oral decision of October 18, 2021, and the Order it issued on that date. The Discipline Committee orders that:

1. Pursuant to section 30(1)(e) of *The Licensed Practical Nurses Act, 2000* (the “Act”), Janine Cavan shall be reprimanded.
2. Pursuant to section 30(1)(c) of the Act, Janine Cavan’s license shall be suspended effective February 4, 2022 unless, on or before that date, Ms. Cavan provides verification to the Registrar that she has successfully completed the course *Critical Thinking in Nursing*, (CTN01) offered by John Collins Consulting Inc. Janine Cavan shall bear all costs of this course.
3. Pursuant to section 30(1)(d)(ii) of the Act, Janine Cavan’s continued practice shall be subject to the following conditions:
 - (a) On or before May 1, 2022, Janine Cavan shall successfully complete the SaskPolytech course *Roles, Responsibilities and Ethics (NURS – 1677)* and provide verification of completion to the Registrar. Janine Cavan shall bear all costs of the course.
 - (b) On or before November 1, 2022, Janine Cavan shall successfully complete the course *Professionalism in Nursing* (NProf005) offered by John Collins Consulting Inc. Janine Cavan shall provide verification of completion to the Registrar. Janine Cavan shall bear all costs of the course.
 - (c) On or before November 1, 2022, Janine Cavan shall successfully complete the course the SaskPolytech course *Safe Medication Administration (PHAR-1608)*. Janine Cavan shall provide verification of completion to the Registrar. Janine Cavan shall bear all costs of the course.
4. Pursuant to section 30(1) (f) of the Act:
 - (a) For so long as Janine Cavan holds a practising license, she shall immediately advise the Registrar if she is the subject of any discipline sanctions taken by her nursing employer.
 - (b) For so long as Janine Cavan holds a practising license, she shall advise the Registrar if she changes her nursing employment to a different facility within the Saskatchewan

Health Authority (SHA) or if she takes a nursing position where the SHA is not her employer. Ms. Cavan shall provide this notification to the Registrar within seven days of the date of the change.

- (c) Janine Cavan shall ensure that her nursing employer completes and files performance appraisals with the Registrar at the following increments, following the date of this decision:
- (i) After having completed 500 actual worked hours of LPN practice;
 - (ii) After having completed 1,000 actual worked hours of LPN practice;
 - (iii) After having completed 1,500 actual worked hours of LPN practice.

Any unfavourable reviews shall be reported by the Registrar to the Counselling and Investigation Committee.

5. For a period of two years from the date of the Discipline Committee order, Janine Cavan shall be required to provide a copy of the Discipline Committee decision and order to her nursing employer. Further, Janine Cavan shall ensure that each nursing employer will provide written confirmation to the Registrar that the decision and order has been received.
6. Pursuant to section 30(2)(a)(ii) of the Act, Janine Cavan shall pay the costs of the investigation and hearing which costs shall be fixed in the amount of \$10,000.00. The costs shall be paid on or before November 1, 2024, failing which Janine Cavan's license shall be suspended until payment is made pursuant to section 30(2)(b) of the Act.
7. Pursuant to section 30(3) of the Act, a copy of the Discipline Committee order and decision shall be provided to Tyler Campbell, Wascana Rehabilitation Centre.
8. A copy of the Discipline Committee order and decision shall be published on the SALPN website.

DATED at Regina, Saskatchewan, this 3rd day of December, 2021.



D. Robinson, Chairperson, Discipline Committee of the Saskatchewan Association of Licensed Practical Nurses on behalf of the Discipline Committee consisting of A. Patron, K. Huckabay; M. Halyk; and M. Ellen Wellsch, Q.C.