

Professional Conduct Disciplinary Proceedings

Introduction

Disciplinary proceedings help the College of Nurses of Ontario (CNO) protect the public from unsafe nursing services and preserve public confidence in the nursing profession. The process gives the public an opportunity to voice its concerns about nursing services and allows the public to access disciplinary proceedings by way of open hearings and published decisions of the Discipline Committee.

Disciplinary proceedings are used in cases of very serious matters of professional misconduct and incompetence. A case is referred to the Discipline Committee when the issues are serious and there is evidence to support the allegations. Following a hearing, and when appropriate, the Discipline Committee has a number of options, including the power to revoke, suspend or put limits on a nurse's registration.

Ontario nurses regulate themselves in accordance with the Nursing Act, 1991, and the Regulated Health Professions Act, 1991, and their accompanying regulations, as well as the standards of practice set out by the College for the nursing profession in this province.

Grounds for discipline

Only a discipline panel can make a finding of professional misconduct or incompetence. Lesser breaches of standards are dealt with by the Complaints Committee or the Executive Committee.

Professional misconduct occurs when a nurse violates the ethical standards set out for the profession, fails to meet or breaches the standards of practice, or crosses the boundaries of the therapeutic nurse-client relationship. This includes sexual, emotional, verbal, physical or financial abuse of a client, or neglect of a client.

Incompetence occurs when the member's professional care of a client displays a lack of knowledge, skill or

judgment, or disregard for the welfare of a client of a nature or to an extent that demonstrates that the member is unfit to continue to practice, or that the member's practice should be restricted.

A pre-hearing conference, conducted by a member of the Discipline Committee, is attended by the representative of the College, the prosecutor, the defence counsel and the nurse. This meeting is held to try to narrow issues for the hearing, to identify legal and procedural issues for the panel and to provide the parties with the opportunity to receive a candid assessment of the case to help them reach a resolution on some or all of the matters.

Composition of discipline panels

A discipline panel may be composed of three to five people, but it is CNO's practice to schedule five-person panels for all discipline hearings. At least two of the panel members are public members from CNO Council. The remaining three panel members are nurses, two of whom are generally of the same category (RN or RPN) as the member facing the allegations.

What happens at a disciplinary hearing?

At a hearing, the discipline panel will:

- consider the allegations, hear the evidence and determine the facts of the case;
- determine whether the evidence proves the allegations;
- determine whether the member has committed an act of professional misconduct or is incompetent; and
- determine the penalty to be imposed in cases where such findings have been made.

The member is entitled to representation at the hearing by a lawyer. The College's lawyer presents the College's case.

What are the outcomes of a hearing?

If the Panel determines that the allegations are proven, it may order a wide range of penalties, such as:

- an oral reprimand;
- a fine;
- specification of remedial courses to be taken by the member;
- imposition of terms, conditions and/or limitations on the member's registration (e.g., restricting the scope of practice);
- suspension of the member's registration (for a specified period); or
- revocation of the member's registration.

The decision of the discipline panel can be appealed to the Divisional Court of Ontario.

Further information about this issue can be found in the *Addressing Complaints at the College of Nurses of Ontario Process Guide*.

For more information

Contact the College of Nurses of Ontario at:

E-mail: cno@cnomail.org

Tel.: 416 928-0900

Toll-free in Ontario: 1 800 387-5526

Fax: 416 928-6507

Website: www.cno.org