

Independent Practice

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THE STANDARD OF CARE.

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Using this document

Practice guidelines are documents that help nurses understand their responsibilities and legal obligations to enable them to make safe and ethical decisions when practising. They provide an outline of professional accountabilities and relevant legislation.

This document describes the College of Nurses of Ontario's practice expectations for nurses in independent practice. Use this document along with other relevant College practice documents.

Bolded terms are defined in the glossary on page 7.

For more information, see the references and suggested reading on page 8.

All College practice documents are available at www.cno.org/docs.

Introduction

The College of Nurses of Ontario defines nurses in independent practice as those who are:

- **self-employed** for the purpose of providing nursing services, and/or
- operating their own nursing business.

Using your nursing knowledge and expertise, you provide a wide range of services, including, but not limited to, direct nursing care, care coordination, consulting services and education. Your nursing practice is diverse and can include a direct or indirect effect on patient care or on health care systems.

If you are a self-employed nurse in independent practice, you have options for incorporating your own business. These include incorporating with the Ontario or federal government. As a nurse, you also have the option of setting up a **Health Professional Corporation** with the College. It is not a requirement, but if you intend to set up a Health Professional Corporation you will need to be incorporated with the Ontario government. Regardless of which option you choose, you should discuss your situation with an accountant or lawyer to determine the best choice for you.

Operating a Health Professional Corporation involves the same professional and ethical obligations that all nurses have to patients.

You are accountable for complying with the expectations in the College's practice documents, as well as the laws that apply to your practice. As well, you are accountable for following the College's

requirements for ongoing continued competence by participating in the QA (Quality Assurance) Program. The program includes reflecting on your practice and engaging in ongoing self-assessment. Given the autonomous nature of independent nursing practice, your QA participation may involve collaborating with professional networks and identifying appropriate peers to provide peer assessment.

As a nurse in independent practice, you should obtain legal and business advice as needed, so you can identify, understand and comply with the laws that apply to your practice (for example, laws relating to privacy, employment standards and taxation). The College does not provide legal advice.

Nurses in independent practice accept new **clients** with health needs that can be met by the nursing services they provide. You are expected to provide your services according to the legal scope of nursing practice and your individual level of knowledge, skill and judgment. You should adopt policies for accepting new clients, discontinuing the nurse-client relationship and managing client care, with the goal of meeting clients' needs and providing safe and ethical nursing care.

Record keeping

In your practice, you are accountable for documenting and maintaining your own records of client care. Under PHIPA (*Personal Health Information Protection Act, 2004*) nurses who provide health care services may be considered **health information custodian** for records associated with the nursing services they provide.

Consult legal counsel to clarify whether you are a health information custodian. The health information custodian is responsible for the collection, use, modification, disclosure, retention and disposal of clients' personal health information in a manner that is consistent with PHIPA.¹ This includes a process for managing client health records if you stop practising, (such as when you retire)

It is prudent to retain clients' health records of nursing services for a minimum of 10 years after the nurse-client relationship is terminated. Or, if the client is a minor, for a minimum of 10 years after the client's 18th birthday.

If you are a health information custodian, then your employees are considered to be your **agents**. Therefore, you must establish policies that are consistent with PHIPA requirements, educate your employees about these policies and put procedures in place to monitor their compliance with the policies.

According to provincial law, the College has the authority to inspect nurses' records and practice premises.² You may be required to provide the College with access to your client or business records and practice premises when the College is:

- conducting an investigation (a College investigator may need to visit your practice setting and examine anything that is relevant to an investigation, including client and business records)
- administering the QA Program (a College assessor may enter and inspect your practice premises and records of care provided to clients).

Fees and services

Nurses in independent practice set fees for the services they offer in their practice. The College does not determine or approve fees.

When setting fees, you should consider fees comparable to that of other nurses and/or health care providers who have similar competencies and experience, and who provide similar services.

You are accountable for:

- informing clients in advance of your fees and acceptable methods of payment
- informing clients in advance of fees for missed appointments or late payments
- providing clients with adequate notice before changing your fees and informing clients in advance of what the notice period is
- providing clients with an official receipt listing the nursing services provided and products sold.

Under provincial law,³ the following activities are considered to be professional misconduct:

- submitting an account or charge for services, which is false or misleading
- failing to fulfil the terms of an agreement for professional services
- charging a fee that is excessive in relation to the services provided
- charging a fee to be available to provide services to a client
- offering or giving a reduction for prompt payment
- failing to itemize an account for professional services
- selling or transferring any debt owed to you for professional services.

Nurses in independent practice do not recommend or promote unnecessary services to clients. In addition, if your nursing practice involves direct interaction with individual clients, you should not:

- offer discounts or coupons for your services
- provide promotional offers
- charge fees in advance for a service you have not yet provided.

If you provide group education sessions or consulting services to organizations, use your professional judgment to determine whether it is appropriate to offer discounts, coupons and promotions, and/or charge fees in advance for the nursing service you provide.

¹ See resources on the Office of the Information and Privacy Commissioner's website: www.ipc.on.ca.

² *Regulated Health Professions Act, 1991*. S.O. 1991, c. 18, s. 76(1). Section 33 of the *Public Inquiries Act, 2009* also applies to any inquiry and/or examination the College makes to investigate a nurse's practice.

³ *Professional Misconduct*. O. Reg. 799/93.

Using, recommending, providing, or selling client-care products

Recommending and selling client care products can create a conflict of interest for nurses. You must identify and ethically manage potential conflict associated with using, recommending, providing and selling products. You must avoid situations when the nurse-client relationship could be used for personal **benefit**.

You may use a wide range of products (such as dressing supplies) when providing client care. This includes:

- using products during a client-care visit
- recommending, providing free-of-charge, or selling products to clients for their own self-care.

When selecting products, use your professional judgment to consider the:

- best interests of the client
- best available evidence from appropriate and objective sources
- client's individual needs and choices.

When using, recommending, providing or selling products, you must:

- provide objective, evidence-based health education to clients about factors to consider when selecting a product
- discuss evidence-based options and other products if available.

If you supply products for use in client care, you are accountable for:

- procuring the products from appropriate sources
- storing the products according to the manufacturers' directions.

If you use, provide or sell products to clients, then you are expected to keep records that will make it easy to track the products from the point of procurement to the point of client care. In addition, you must avoid:

- using your professional designation to endorse a product
- benefitting from using, recommending, providing or selling products to clients, or
- **advertising** that you sell products to clients.

Medication

Any nurse may recommend or administer over-the-counter **medication** to clients, in compliance with College standards and applicable legislation.⁴ NPs are legally authorized to perform the **controlled act** of prescribing, selling or compounding drugs in accordance with regulations.

Nurses in independent practice who provide nursing services to clients in facilities must confirm whether they are authorized to administer medications or treatments to clients in that particular setting, and what requirements may apply.

To ensure safe client care and prevent inadvertent duplication, you must consider the coordination and continuity of care. For example, when providing services to clients in facilities, you should ensure that relevant members of the health care team are given information that is important for the client's care plan, such as services provided and client's response.

Professional liability protection

Nurses in independent practice are expected to obtain professional liability protection in accordance with current regulatory requirements.

Advertising

The College maintains the public's trust in the nursing profession by regulating nurses' advertisements to ensure that the public is given relevant information and is not misled.

When advertising your services to the public, you are accountable for:

- including a description of your services, to help clients make informed decisions
- including only accurate, factual and verifiable information
- providing evidence-based references to support statements
- including your name and **protected title** (RPN, RN or NP).

If you have both RN and RPN certificates of

⁴ Governing legislation may limit or prevent this authority in certain practice settings. For example, the *Public Hospitals Act* requires that all treatments, including over-the-counter medication, be ordered by an authorized professional, such as an NP or a physician.

registration, then you should use the title that is consistent with the type of nursing services offered in the advertisement.

If you are self-employed and also practise nursing as an employee, you must avoid promoting your independent nursing services and/or recruiting clients from your employer's practice setting.

Your advertisements must not include:

- the College's logo
- guarantees
- references to products that you use or sell
- comparative or superlative statements
- sensational claims.

When your nursing practice involves direct interaction with individual clients, you must not include client testimonials in your advertising. If you provide group education sessions or consulting services to organizations, use your professional judgment to determine whether it is appropriate to use unsolicited client testimonials in your advertising. It is never appropriate to solicit testimonials from clients

Employees

When you employ staff (regulated and/or unregulated), you must be familiar with the unique accountabilities associated with employing staff. These include developing appropriate policies for staff and ensuring they are aware of the policies.

Glossary

Advertise

To make known to the general public. It does not include communicating directly to an existing client about professional services.

Agent

A person who is authorized by the health information custodian to collect, use, modify, disclose, retain or dispose of personal health information, whether or not the person is employed by the custodian or is being paid.⁵

Benefit

Any incentive (financial or other, direct or indirect) that conflicts with the nurse's professional or ethical duty toward a client.⁶

Client

A person or persons with whom the nurse is engaged in a professional therapeutic relationship. This may include the client's family members and/or the substitute decision-maker. A client may also be a group, community or population.

Controlled act

A restricted activity under the *Regulated Health Professions Act, 1991*, that is considered to be potentially harmful if an unqualified person performs it.

Health information custodian

As described in PHIPA, a health information custodian is a person or organization that controls personal health information as a result of, or in connection with, providing health care services to clients. Examples of health information custodians include:

- health care practitioners
- long-term care homes
- hospitals, including psychiatric facilities.⁷

Health profession corporation

A corporation incorporated under the *Business Corporations Act* that holds a valid certificate of authorization issued under the *Regulated Health Professions Act, 1991*.

Medication

Any substance that is manufactured, sold or represented for use in the diagnosis, treatment, mitigation or prevention of a disease, disorder, abnormal physical or mental state or their symptoms.⁸

Protected title

A professional title that only specific professionals can use. In the nursing profession, the titles and abbreviations, nurse, RN (Registered Nurse), RPN (Registered Practical Nurse), NP (Nurse Practitioner), and RN(EC) (Registered Nurse Extended Class), are legally protected. They may only be used by a member of the College in the appropriate category and class.

Self-employed

A person who operates her or his own economic enterprise. The individual may own a business or professional practice, or have a business relationship in which she or he performs specific work for another party in return for payment.

⁵ For the complete definition, see section 2 of the *Personal Health Information Protection Act, 2004*.

⁶ For more information, see the *Professional Misconduct* reference document at www.cno.org/docs.

⁷ For the complete definition, see section 3 of the *Personal Health Information Protection Act, 2004*.

⁸ For the complete definition, see sub-section 1(1) of the *Drugs and Pharmacies Regulation Act*. Search the national drug schedule at: <http://napra.ca/>

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Suggested reading

Many of the practice requirements in this guideline are also discussed in the following College documents:

1. *Documentation, Revised 2008* practice standard
2. *Confidentiality and Privacy—Personal Health Information* practice standard
3. *Refusing Assignments and Discontinuing Nursing Services* practice guideline
4. *Professional Misconduct* reference document
5. *Medication* practice standard
6. *Nurse Practitioner* practice standard

View and download all College documents at www.cno.org/docs.



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ORDRE DES INFIRMIÈRES
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