



RNAO

Registered Nurses' Association of Ontario
L'Association des infirmières et infirmiers
autorisés de l'Ontario

REGISTERED NURSES' ASSOCIATION OF ONTARIO

LEGAL ASSISTANCE PROGRAM (LAP®) POLICIES

November 2023

**REGISTERED NURSES' ASSOCIATION OF ONTARIO
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1. INTRODUCTION

LAP (also referred to hereinafter as the “Program”) was established by the Registered Nurses’ Association of Ontario (“RNAO”) in 1986. The goal is to assist individual participants in the Program with certain legal problems related to the professional practice of nursing (professional practice of nursing refers to all aspects of nursing as recognized by the College of Nurse of Ontario).

LAP is not insurance. It is a discretionary program and enrolment is voluntary. The LAP Administrator will receive and approve routine requests for legal assistance and provide eligible members with referral to a lawyer contracted by LAP. The LAP Committee, in its discretion, will decide if the Program will provide funding for fees of a lawyer of the participant’s choice.

The Program provides assistance to individuals in matters arising under the *Nursing Act*, 1993, and the *Regulated Health Professions Act*, 1993 of Ontario and any amending or superseding legislation. It also covers some employment matters and other matters where the participant is called as a witness arising out of an incident in nursing practice.

RNAO Board of Directors in consultation with the LAP Committee may, in its discretion, use LAP funds for legal cases to advance, support and advocate for the profession of nursing.

LAP is available to members of the RNAO who are enrolled in the Program, and is funded by contributions by such members who choose to participate in the Program. RNAO members who have not joined LAP would not be entitled to the assistance provided.

The detailed rules, regulations and exceptions governing the Program follow.

2. ELIGIBILITY

- (a) The eligibility requirements in order to be considered for legal assistance through LAP are as follows:
- (i) the person requesting legal assistance must have been a Registered Nurse with the College of Nurses of Ontario (“CNO”) at the time of the incident;
 - (ii) the incident must have occurred within the Province of Ontario;
 - (iii) the person requesting assistance must be a member or associate member of the RNAO;
 - (iv) the person requesting assistance must be a member of the Program at the time of the incident and remain a member continuously from the time of the incident until the case is resolved or the maximum assistance available from the program has been reached. Continuous membership is defined as membership in RNAO and LAP, which is renewed annually, for the entire membership year November 1 to October 31. The Committee may, at its discretion, consider exceptions to the foregoing.

- (v) Any person enrolled in LAP requesting assistance is deemed to have accepted the terms and conditions of the Program.
- (b) A person is no longer eligible and will not be considered for legal assistance through LAP if any of the eligibility requirements outlined above are not met.
- (c) The Committee may, at its discretion, consider exceptions to the foregoing.

3. DEFINITION OF LEGAL EXPENSES

Subject to the limitations contained in section 6 below, “Legal Expenses” means fees and disbursements payable by the participant to a lawyer for meetings with a lawyer, counseling with a lawyer, investigation, assessments, preparation of documents or reports, judicial or similar proceedings, costs awarded against the participant and witness fees.

4. ASSISTANCE PROVIDED

Subject to the exclusions and limitations set forth herein, the Program may assist a participant in payment of Legal Expenses incurred in relation to:

- (a) College of Nurses of Ontario (“CNO”) investigations and/or proceedings in relation to a member’s professional conduct and/or capacity while the participant was a participant in the Program;
- (b) Appearances pursuant to a subpoena or summons as a witness before a legally constituted tribunal or a court in Ontario, in relation to an incident which occurred while the participant was a participant in the Program;
- (c) Some employment-related matters, including terminations, Workplace Safety and Insurance Board and Human Rights claims, which occurred in Ontario while the participant was a participant in the Program;
- (d) Initial consultation for employment contract review prior to accepting a non-unionized nursing position;
- (e) Situations where the participant may have a substantial direct interest in a Coroner’s Inquest, as evidenced by a letter to the LAP Administrator and any other supporting material that may be required;
- (f) Other legal matters related to the professional practice of nursing as determined by the LAP Committee in its discretion (professional practice of nursing refers to all aspects of nursing as recognized by CNO).

5. EXCLUSIONS

(a) The Program will not assist with any Legal Expenses in respect of matters under the following sections of the *Health Professions Procedural Code*, or any similar section of any amending or superseding legislation:

Sections 15(1) and (2)	References to the Registration Committee
Sections 72, 73 and 74	Reinstatement

(b) The Program will not assist with any amounts arising out of the following:

- i) Legal expenses incurred on a contingency fee basis;
- ii) Fines and Penalties;
- iii) Personal expenses except for case related travel, accommodation and communication costs, to a maximum of \$1,500.00;
- iv) Damages awarded against the participant;
- v) Loss of income

(c) Requests for assistance under the Program will only be considered for assistance which is not covered by an employer, union, or by any insurance or other plan in which the participant is a member or participates, except where the only source of alternative advice may involve bias as determined by the Committee.

(d) The Program will not be used to solely create or amend legislation.

6. FINANCIAL LIMITS

Individual Case

(a) maximum funding per case, including initial consultation and all legal expenses, is \$10,000.00 (plus HST)

(b) initial consultation having a value of up to \$500.00 (plus HST);

(c) time and billings, including disbursements and outside counsel, will be docketed for each case and a summary provided to the member periodically;

(d) the LAP Committee may, at its discretion, consider requests for assistance which exceed the maximum amounts set out in 6(a) above.

Group Case

- (a) the LAP Committee may approve a request to provide financial assistance, to a maximum of \$10,000.00 (plus HST) per group case, to a group of nurses who engage a lawyer for assistance;
- (b) All LAP members within the group must be eligible for assistance under LAP, in order for the group to qualify for consideration;
- (c) where an eligible LAP member who participates in a group consultation subsequently applies to the Program for financial assistance related to the matter discussed at the group level, that member's percentage share of costs already paid will be deducted from the individual case maximum, if approved.

7. LIMIT OF LIABILITY

The Program, the LAP Committee, nor any other party, guarantees the reimbursement of any Legal Expenses incurred by a participant, and particularly limits assistance to the extent that funds are available in the Program and to the extent and subject to the limitations set forth herein.

8. PAYMENT OF LAWYERS ACCOUNTS AND COSTS

- (a) Where a member has engaged or retained a lawyer prior to LAP Committee approval of the case, the Program is under no obligation to reimburse such costs;
- (b) Participants in the Program shall be serviced by a lawyer on an approved list to whom the participant is referred by the LAP Administrator;
- (c) When a request for funding assistance for legal expenses has been approved, the Program will pay that lawyer directly to the extent that the amounts paid to the lawyer have been approved by the LAP Administrator or LAP Committee in advance;
- (d) All accounts rendered by the lawyer for which assistance is sought from the Program must contain detailed descriptions of the services performed, disbursements incurred, hours devoted to the participant's action, hourly rate charged by the lawyer and the exact amount of any costs awarded to the participant by the CNO or any court or pursuant to any settlement;
- (e) Legal expenses incurred on a contingency fee basis are not eligible for reimbursement through LAP;
- (f) Costs awarded to the participant; by the CNO in accordance with the *Health Professions Procedural Code* or any amending or superseding legislation; by any court; or any costs awarded by way of settlement shall be applied to reduce any claim for assistance of Legal

Expenses under the Program by the amount of such costs actually received by or for the benefit of the participant. The Program requires the participant to take reasonable actions to recover such costs;

- (g) The Program may require that the participant proceed with an assessment of an account submitted by a lawyer for which the participant seeks assistance from the Program. The costs of such a required assessment will be paid by the Program.

9. LAP COMMITTEE

The LAP Committee shall be established by RNAO, consisting of not less than three, nor more than six, persons who shall be selected by the RNAO Board of Directors. The members of this Committee shall elect from among those who also serve on the Board of Directors, the Chairperson of the Committee. The members of the Committee shall serve on a voluntary basis for the Program year provided that members of the Committee shall be entitled to receive expenses in accordance with the current RNAO expense policy. The Committee shall meet at least quarterly and as required. The Committee may retain consultants to assist it in the performance of its duties at the expense of the Program.

If a Committee member believes that she/he may have a conflict of interest with a file before the Committee, the Committee member shall withdraw from the discussion and any voting related to that file.

The Committee shall consider certain requests for assistance and review the operations of the Program. Each request for assistance must be approved by the Committee before payment except that the LAP Administrator shall have the authority to approve routine requests for assistance and personal expenses as defined in section 5.(b)(iii), up to such maximum amounts and for such matters as may be set by the Committee from time to time. The Committee shall report to the RNAO Board of Directors at least annually.

The Program shall be responsible for all expenses incurred in connection with its administration and operation, including meeting expenses of the Committee, printing and mailing costs, secretarial services, legal fees and disbursements for consultations regarding the provisions of the Program, and all other direct expenses so incurred. The Committee may approve the expenditure of funds from the Program for the purpose of providing information and education concerning the Program.

10. AMENDMENTS, SUSPENSION OR TERMINATION OF THE PLAN

This Program may be amended, suspended or terminated by the RNAO Board of Directors at any time. Participants will be notified of the date on which suspension or termination will take effect. Participants will be advised of any amendments to the Program. Upon suspension, no further claims will be accepted. Claims commenced before suspension or termination shall be completed

without regard to said suspension or termination. On termination, all amounts remaining in the fund shall be used for the general purposes of RNAO.

11. LAP FUND

From time to time access to the LAP fund may occur with consultation from the Committee and as approved by the RNAO Board of Directors; it would be for matters such as for any inquests and/or other matters in which the nursing profession has an interest; investments deemed appropriate and which would benefit the RNAO membership.

12. LAP COMMITTEE DISCRETION

Terms referenced in this Policy are subject to the interpretation and discretion of the Committee.

13. RELEASE

The participant releases the Program, RNAO, the Committee and their agents from any liability for the results or outcome of any legal proceeding in which assistance is extended to the participant under the Program.