



Know your rights

A PRACTICAL GUIDE TO DEALING WITH CNO COMPLAINTS.

ONE OF THE MOST STRESSFUL SITUATIONS that can arise for any nurse is receiving notice from the College of Nurses of Ontario (CNO) that a complaint has been launched against you. These complaints can take months, and sometimes years, to reach a final resolution, and the potential consequences may include a suspension of your license, and in rare cases, reversal of your nursing certification.

I recently represented a nurse who has been practising since 1980 without incident. Last year, a patient's family member issued a complaint against all of the nurses involved in their loved one's care, including my client, who managed the nurses providing that care. I have also represented a nurse dealing with at least four separate complaints over the past six years. In each case, the nurse acted appropriately, but given she regularly performs capacity assessments, she is at higher risk if a family member objects to her assessment.

As stressful and difficult as these situations can be, there are a number of rights that RNs have, and should keep in mind. You have the right to legal assistance; the right to know the details of the complaint and the specific nursing issues being investigated; the right to provide a written response; and the right to have adequate time to provide that response. Nurses also have the right to an adequate

and impartial investigation, and a written explanation of the final decision.

Notice of a complaint from CNO typically arrives by mail. The letter will include a copy of the original criticism or grievance, and usually an invitation to contact CNO to discuss the matter further. Prior to initiating that contact, nurses should first seek legal advice. For those who have enrolled in RNAO's

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Legal Assistance Program (LAP), this starts with a phone call to the program's administrator. If you are represented by a lawyer (through LAP or otherwise), CNO will not contact you directly, but rather deal with your lawyer. This removes some of the stress of the situation, particularly when it comes to explaining your position clearly, or worries associated with misstating something that could prove to be an issue during an investigation.

You do not have to respond

immediately to a complaint. If CNO investigates the matter, the investigator will gather relevant documentation, and you will receive disclosure of the relevant materials. CNO will identify specific areas that require a response, including the practice issues involved. You will have at least 30 days to prepare and provide your written submissions.

It is important to note that investigators are not decision-

investigation, through a process called Alternative Dispute Resolution (ADR). Approximately one-third of all complaints are resolved this way each year. This involves the complainant and the nurse agreeing on a co-operative resolution. This process is not about blame, or acknowledgement of wrong-doing, but rather a commitment to engage in activities that are mutually agreed upon and approved by ICRC. I have been involved in a number of cases where the parties have successfully resolved the complaint with the understanding the nurse will engage in reviewing certain educational information related to the issue(s) identified.

According to CNO's Annual Report, there were 340 complaints resolved in 2013. Of these, 122 were resolved through ADR, 156 resulted in no action, and 49 concluded with a letter of concern or caution. Four complaints led to oral cautions, and the same number resulted in specific actions agreed upon by both parties. Only five matters were referred to the *Discipline Committee*.

I always tell clients that a complaint can happen to anyone. Be aware of your rights, and don't be afraid to ask for help. **RN**

makers. Their job is to gather the information, including your response, and present it to the *Inquiries, Complaints and Reports Committee* (ICRC). Upon review, ICRC may close the matter without action, issue a non-disciplinary caution or concern, or refer the matter to the *Discipline Committee*. Its decisions are not public, and it cannot discipline the member. This is the responsibility of the *Discipline Committee*.

Complaints may also be resolved without a complete

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