



RNAO's Legal Assistance Program (LAP)

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

Speaking out for nursing. Speaking out for health.

INTRODUCTION

- LAP established by the RNAO in 1986
- Assist RNAO members enrolled in the Program with certain legal problems related to nursing practice
- Not insurance but a discretionary program
- Participation is voluntary
- More than 19,000 members currently enrolled in the Program

INTRODUCTION

- Program may cover all or part of legal expenses incurred by a participant who has requested and received approval for funding assistance
- Requests for assistance from LAP must be made *prior* to engaging or retaining legal counsel
- Requests for assistance only considered for assistance which is not covered by a union or other provider or plan
- Decisions regarding assistance are made by LAP Committee based on established criteria
- Maximum funding per case is \$10,000.00 (plus HST)
- In exceptional circumstances, the Committee will consider requests for assistance which exceed the maximum amount

Complaints to the College of Nurses of Ontario (CNO)

- Most common reason for which participants seek assistance from LAP
- Assistance provided to almost two dozen LAP participants in the first quarter of 2013 alone for this reason
- No Statute of Limitations (complaint can be made any number of years after alleged incident(s) took place)
- Complaints and can be made by anyone
- Outcome can have detrimental and long-lasting implications
- CNO is mandated to protect the public. Who is protecting you?

Employment-related Legal Concerns

- Termination, including Wrongful and Constructive Dismissals
 - “Constructive Dismissal” may occur when an employer makes substantial changes to fundamental implied terms of employment, such as compensation or reassignment of job duties
 - Act of quitting one’s job in the face of these changes is constructive dismissal
- Second most common reason for which participants seek assistance from LAP
- Assistance provided to more than 25 LAP participants in the first quarter of 2013 alone for employment-related legal issues relating to nursing practice

Other circumstances in which LAP may provide assistance

- Human Rights matters
- Workplace Safety and Insurance Board claims
- Contract/legal document review prior to accepting or in the course of a non-unionized, administrative or managerial nursing position
- Advice prior to appearing as a witness before a court or tribunal concerning incidents which occurred in the course of nursing practice
- LAP Committee may in its discretion consider other legal matters related to nursing practice

Case Examples

**names and any information which may identify the members involved has been changed*

After 25 years of dedicated service, Susan was suddenly told that her nursing position was being discontinued as a result of restructuring and she would be terminated. When Susan initially contacted LAP she was understandably shocked, demoralized, hurt and unsure of what to do or where to go for support. Because Susan was enrolled in LAP, she was referred to legal counsel who successfully negotiated a more appropriate severance package that recognized her years of service.

Case Examples

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Linda had been practising nursing in different settings for almost 15 years when she was notified by the College of Nurses of Ontario (CNO) for the first time in her career that a complaint had been made by a former patient in relation to an incident that occurred a number of years earlier. Because Linda was enrolled in LAP, a lawyer explained the complaints investigation process , prepared her written submissions in response to the allegations and guided her through the process.

Case Examples

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Driving home one day from work, Paolo was horrified to see a car a short distance ahead of him spin out of control and rollover into a ditch. While someone else called 911, Paolo ran to the scene to see what he could do to help. As an experienced nurse, he felt a moral and ethical obligation to help anyone who might be injured. Unfortunately, despite his best efforts Paolo was not able to save the badly injured driver who succumbed to his injuries. The late driver's wife who was a passenger in the vehicle subsequently filed a complaint with the CNO alleging that Paolo's conduct and the assistance he provided as a nurse was deficient. Because he was enrolled in LAP, a lawyer represented Paolo throughout the complaints investigation process.

Case Examples

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Nathan is a Nurse Practitioner who works in a community health clinic and his clients include a family with two young children whose parents are going through a very bitter divorce. In the course of family law court proceedings, the children's father raised concerns about the health and wellbeing of his children while in sole custody of their mother. Because the children have been assessed and treated by Nathan on a number of occasions, he has been called as a witness to testify in court. Because Nathan was enrolled in LAP, he was able to obtain legal advice and information about his professional obligations, as well as guidance throughout the process.

HOW DOES THE PROGRAM WORK? HOW CAN I OBTAIN LEGAL ADVICE THROUGH THE PROGRAM?

- Contact the LAP Administrator as soon as you think you may need legal advice*

**where a member has engaged a lawyer prior to contacting LAP, the Program is under no obligation to reimburse such costs*

OBTAINING ASSISTANCE: Eligibility Requirements

- 1) Program policies provide for assistance in your circumstances
- 2) Incident(s) in relation to which you are seeking assistance occurred in the Province of Ontario
- 3) You are a current RNAO member and were an RNAO member at the time of the incident(s)
- 4) You were enrolled in LAP at the time of the incident(s) and remained a participant continuously and without interruption from that time, up until your case is resolved or you no longer require assistance through the Program

REFERRAL TO LEGAL COUNSEL

- Lawyer on the LAP referral list
 - LAP will pay lawyer's account(s) up to the approved amount
 - No payment required by program participant
- Lawyer of the participant's choice
 - Participant is responsible for payment of any account rendered by legal counsel and must seek reimbursement from LAP

Legal risk is an inevitable part of nursing practice

Most lawyers charge between \$250 and \$500 per hour (or more) for legal advice and representation

*For the very low cost of only **\$64.57** annually in addition to your RNAO membership, you can have the essential coverage and protection that LAP offers*

Questions or Concerns?

If you have any questions or think you may need legal advice, please contact:

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The information provided in LAP webinars and materials does not constitute legal advice/opinion by the RNO.

For more complete details regarding the rules, regulations and exceptions which govern the Legal Assistance Program, please visit: <http://rno.ca/join/benefits/lap> or contact Mara Haase, LAP Administrator