



MEMORANDUM

TO: Mollie Butler
Dennis Benoit
Carla Wells

FROM: Elaine Warren, President & Lynn Power, Executive Director

DATE: November 30, 2018

SUBJECT: Resolution #1 to ARNNL AGM:

Be it resolved that ARNNL

- (i) Undertake an environmental scan to identify how other nursing and other health professional regulatory bodies are answering the TRC Calls to Action;**
- (ii) Collaborate with Indigenous RN leaders and indigenous communities and their agencies and where relevant other health professional bodies and provincial ministries to develop an action plan to address the relevant Calls to Action in this province; and**
- (iii) Report progress to members through newsletters and other forms of communication tools.**

On behalf of Council we are writing to inform you of the outcome of Council's deliberation on the aforementioned resolution you submitted to the ARNNL AGM 2018.

Thank you for taking the time and reflection necessary to prepare and present this topic for Council's consideration. Your interest in the profession and in the role that ARNNL, as the regulatory body, can play in the aforementioned resolution is important to Council. Consequently, this written response is to ensure you are informed of the outcome of the October Council discussion. Notwithstanding this memo, the opportunity to further dialogue on the matter through other means remains open.

Prior to the motion at the AGM, ARNNL had already begun the incorporation of the TRC Calls to Action into various documents: The Standards of Practice, RN & NP Entry Level Competencies, and Code of Ethics. In addition, during the Annual General Meeting, Julie Nicholas, past president opened the meeting with an acknowledgement of the territory which we were gathered.

Following the movement of the motion at the AGM, ARNNL explored initiatives/activities that other provincial health professional regulatory bodies, Eastern Health, and a national nursing regulatory body (College of Registered Nurses of British Columbia) are planning or have completed in answering the TRC Calls to Action.

Our initial exploration of initiatives/activities provincially and nationally has revealed that organizations are in the early stages of exploring and implementing appropriate actions to response to the TRC in accordance with their mandate.

Council re-affirmed their commitment to support the relevant recommendations of the TRC. We encourage you to connect with Rolanda Lavallee, Nursing Consultant – Policy and Practice. Rolanda has been assigned to this resolution as her current portfolio includes the Entry Level Competencies and the RN Standards. In ensuring the regulatory expectation to be respectful and knowledgeable on diversity is incorporated into the education and competencies required of registered nurses, we are aware that Memorial University of Newfoundland & Labrador School of Nursing is currently including Aboriginal content into the BN and NP curriculum. In addition, the current revision of the RN Entry Level Competencies includes RNs advocating for the use of Indigenous health knowledge and healing practices in collaboration with Indigenous healers and Elders consistent with the Calls to Action of the Truth and Reconciliation Commission of Canada.

ARNNL recognizes that learning about this important matter will require ongoing attention and reflection. Consequently, Council has also referred this resolution to Council's Linkage Committee. The mandate of this committee is to evaluate/update the stakeholder linkage framework to support the ARNNL approved Strategic Outcomes; and in particular, identify new or emerging trends that could impact the profession. This committee will take the lead on part (ii) of your resolution to collaborate with stakeholders to identify relevant actions ARNNL can undertake that would address the intent of the resolution.

Council commits to reporting progress to the membership as relevant actions on this resolution unfold. Communications could be through any of our established mechanisms including, but not limited to; ACCESS, Regulation Matters, ARNNL teleconferences, site specific education sessions, ARNNL website and annual report. Information will also be presented at the next AGM.

Again, thank you for your submission and please follow up with the aforementioned contact persons and/or with Council as you deem appropriate.



Elaine Warren
President



Lynn Power
Executive Director



MEMORANDUM

TO: Carla Wells
Alice Gaudine

FROM: Lynn Power

DATE: November 30, 2018

SUBJECT: Resolution #2 to ARNNL AGM:

Be it resolved that ARNNL explore and adopt a mechanism that allows for ARNNL members who are unable to attend the ARNNL AGM in person to participate in voting and moving and seconding resolutions via an alternative method in real time.

On behalf of Council we are writing to inform you of the outcome of Council's deliberation on the aforementioned resolution you submitted to the ARNNL AGM 2018.

Thank you for taking the time and reflection necessary to prepare and present this topic for Council's consideration. Your interest in the profession and in the role that ARNNL, as the regulatory body, can play in the aforementioned resolution is important to Council. Consequently, this written response is to ensure you are informed of the outcome of the October Council discussion. Notwithstanding this memo, the opportunity to further dialogue on the matter through other means remains open.

The AGM and other important governance initiatives are noted to be one of the most valued opportunities for the membership to inform the strategic directions of ARNNL. Towards this purpose, for example, in 2015-2016 Council amended the By-laws governing elections that provided for an online ballot for Council elections. The first Council election using online ballots was held in 2016. The opportunity for members to attend the AGM by teleconference has been available since 2010, however, the number of members who vote in election and attend the AGM via teleconference continues to be small.

Council also recognized that there would need to be information technology support, budgetary commitments and member communication if the proposed changes mentioned in the resolution were to be implemented.

Consequently, given all this, Council supported the resolution but acknowledge that the activities to bring this resolution to full implementation will proceed in steps. A first step will be to offer the AGM via a more engaging method such as webcast. The technical resources required to build a platform to perform all functions for a fully interactive AGM (eg. validation of member identify, ability to vote, ability to move/second and ability to submit a motion or an amendment to a motion) will require financial resources as well as staff time (in collaboration with external IT consultants), to research, design and test the process prior to bringing it live for an AGM. Staff initial research on this process and also experience with implementation of other online functions (eg. Online Registration Renewal) suggest the time required may exceed the amount of time available prior to the next AGM.

Council commits to reporting progress to the membership as relevant actions on this resolution unfold. Communications could be through any of our established mechanisms including, but not limited to; ACCESS, Regulation Matters, ARNNL teleconferences, site specific education sessions, ARNNL website and annual report. Information will also be presented at the next AGM.

Again, thank you for your submission and please follow up with Council as you deem appropriate.



Elaine Warren
President



Lynn Power
Executive Director



MEMORANDUM

TO: April Manuel
Mollie Butler

FROM: Lynn Power

DATE: November 30, 2018

SUBJECT: Resolution #3 to ARNNL AGM:

Be it resolved that the ARNNL survey other complaint processes in other jurisdictions and of other organizations such as the Human Rights Commission, for guidelines for dismissing complaints on intake and for identifying if the complaint is within the mandate of public protection, and consider developing their guidelines for dismissing a complaint on intake and recommending a change in The Nurses Act (2008) if required.

On behalf of Council we are writing to inform you of the outcome of Council's deliberation on the aforementioned resolution you submitted to the ARNNL AGM 2018.

Thank you for taking the time and reflection necessary to prepare and present this topic for Council's consideration. Your interest in the profession and in the role that ARNNL, as the regulatory body, can play in the aforementioned resolution is important to Council. Consequently, this written response is to ensure you are informed of the outcome of the October Council discussion.

Council appreciated the intent behind the resolution and engaged in a comprehensive review of the resolution in the context of our legislation. As a result of its review, Council identified that they could take no further action on the resolution based on the rationale outlined below:

ARNNL's Professional Conduct Review ("PCR") process is set out in the *Registered Nurses Act, 2008* (the "*Act*"). The *Act* does not provide authority to the Director of PCR or any other staff person to dismiss an allegation. Only the Complaints Authorization Committee (the "CAC") is authorized in legislation to dismiss an allegation. There is no provision included in the *Act* for the CAC to delegate this authority.

Section 23(2) of the *Act* specifically states the CAC may dismiss an allegation "where the Complaints Authorization Committee is of the opinion that there are no reasonable grounds to believe the respondent has engaged in conduct deserving of sanction". The

Supreme Court of NL has confirmed that in this Province the “screening mechanism” for an allegation in assessing whether there are reasonable grounds to believe that a registrant has engaged in conduct deserving of sanction, is the CAC. The CAC, as the “screening mechanism” for allegations is similar for other self-regulated bodies in this Province.

ARNNL is a self-regulated body with a mandate to protect the public. Dismissing an allegation without due process by the screening authority, the CAC, notwithstanding that to do so would be a breach of the *Act*, may also be viewed by the public as member focused and inconsistent with ARNNL’s public protection mandate.

While an allegation submitted to ARNNL may have been investigated by other authorities and organizations (referenced in your recitals to the motion), this does not absolve ARNNL of its statutory duty. Other authorities and organizations do not have the legislative mandate to regulate Registered Nurses to determine whether a registrant has engaged in conduct deserving of sanction and have different purposes and processes. As well, most associations and organizations (referenced in your recitals) do not have the investigative powers of an investigator appointed under the *Act*.


In addition to the *Act*, ARNNL is also required under law to adhere to the principles of natural justice and procedural fairness which would require that an allegation be afforded due process. Notwithstanding that there is no authority under the *Act* to delegate the screening mechanism, to develop guidelines to dismiss an allegation on intake without due process (and contextual analysis) would leave ARNNL open to court challenges on the basis that there has been a breach of the principles of natural justice and procedural fairness. Reputational damage may also be sustained should a court challenge find that ARNNL did not follow due process in reviewing an allegation.

While the above discussion relates specifically to the authority and powers of the CAC, mechanisms to address quality assurance concerns outside of the PCR process which will be available when the Quality Assurance provisions in the *Act* are enforced, may provide ARNNL an alternate option for select cases. We will keep your resolution in mind when the QA program is in force and subsequently developed.

Again, we thank you for your engagement with ARNNL.



Elaine Warren
President



Lynn Power
Executive Director



MEMORANDUM

TO: Daphne Kennedy
Carla Wells

FROM: Lynn Power

DATE: December 4, 2018

SUBJECT: Resolution #4 to ARNNL AGM:

Be it resolved that the ARNNL explore the option of not renewing their contract with the National Council of State Boards of Nursing for the NCLEX-RN® exam, or if necessary, explore the option of renewing the contract for a shorter period of time until another exam option is found.

Be it further resolved that: The ARNNL explore the Canadian exit exam being developed by CASN as an option to the NCLEX-RN® exam.

Be it further resolved that: The ARNNL ensure a fair regulatory process is in place and advocate for a Canadian exam in consultation with the Canadian Nurses Association and the Canadian Council of Registered Nurse Regulators.

On behalf of Council we are writing to inform you of the outcome of Council's deliberation on the aforementioned resolution you submitted to the ARNNL AGM 2018.

Thank you for taking the time and reflection necessary to prepare and present this topic for Council's consideration. Your interest in the profession and in the role that ARNNL, as the regulatory body, can play in the aforementioned resolution is important to Council. Consequently, this written response is to ensure you are informed of the outcome of the October Council discussion. Notwithstanding this memo, the opportunity to further dialogue on the matter through other means remains open.

Council wishes to convey that the topic of significance in this resolution, the NCLEX-RN® entry to practice exam, is a matter of discussion/information sharing at most Council meetings and will remain a focus into the future. Further, Council has affirmed their ongoing confidence that the NCLEX exam is a reliable and valid regulatory exam that meets ARNNL's legislative regulations. Therefore, Council's deliberation on this resolution, pertained to the reference to contract renewal.

ARNNL's contract with NCSBN for the NCLEX-RN® exam explicitly addresses the term of the contract and the circumstances in which the contract may be subject to termination and renegotiation.

The term of the contract is June 15, 2012 to December 31, 2019, **renewing automatically** on an annual basis until either party gives at least **three years written notice** to the other party of its intention to terminate. There is no option of "not renewing" or renewing "for a shorter period". Under the contract if

ARNNL fails to give three years notice we would be in breach of the contract unless ARNNL is able to invoke the termination provisions set out in the contract. Council reviewed each clause of the contract and determined that all requirements were met and there is no basis to invoke the termination process.

On September 12, 2018 CASN announced a new “Made in Canada” national certification exam for baccalaureate-prepared nurses to be launched in late 2019. This announcement, along with prior communications on the plans for developing the exam has led to public discussion on whether this was a possible replacement for NCLEX. Although it may have the potential once developed and can show data on its reliability and validity as a regulatory exam, it will not be at the rigor required for consideration as a replacement for NCLEX in the near future. Council will stay informed on the development of potential alternate exams (eg. CASN) and engage in relevant national discussions throughout this same period.

Due to all of the above Council confirmed that ARNNL will remain in the current contractual relationship with NCSBN. However, out of respect for the dialogue at the AGM and previous AGM discussions, ARNNL established a liaison committee with representatives from the Schools of Nursing whose purpose is to enhance information sharing and discussion between ARNNL and the Schools of Nursing regarding the current entry to practice licensure exam (NCLEX-RN®):

- To identify areas of concern that require exploration;
- To collaborate on the development of actions to address areas of concern; and
- To communicate actions/findings to both parties and other identified stakeholders.

It is hopeful that this process will further inform opportunities to support the continued understanding of the role of and rigor required for a regulatory entry-to-practice exam.

Council commits to reporting progress to the membership as relevant actions on this resolution unfold. Communications could be through any of our established mechanisms including, but not limited to; ACCESS, Regulation Matters, ARNNL teleconferences, site specific education sessions, ARNNL website and annual report. Information will also be presented at the next AGM.

Again, thank you for your submission and please follow up with Lynn Power and/or with Council as you deem appropriate.



Elaine Warren
President



Lynn Power
Executive Director



MEMORANDUM

TO: Debbie Forward
Yvette Coffey
Tracy MacDonald
Melissa Colbourne

FROM: Lynn Power

DATE: November 30, 2018

SUBJECT: Motion to ARNNL AGM:

Be it resolved that ARNNL develop and implement a strategy to promote the CNPS optional supplementary insurance and encourage members to purchase this annual insurance.

Amended Motion: ARNNL develop an education strategy to promote the CNPS Optional Supplementary Protection and encourage members to purchase this annual assistance.

On behalf of Council we are writing to inform you of the outcome of Council's deliberation on the aforementioned motion you submitted to the ARNNL AGM 2018.

Thank you for taking the time and reflection necessary to present this topic for Council's consideration. Your interest in the profession and in the role that ARNNL, as the regulatory body, can play in the aforementioned resolution is important to Council. Consequently, this written response is to ensure you are informed of the outcome of the October Council discussion. Notwithstanding this memo, the opportunity to further dialogue on the matter through other means remains open.

Council appreciated that the membership who are in the PCR process may require and benefit from legal assistance, however, as a regulatory body Council also understood their mandate of public protection could be perceived as being in a conflict of interest if a formal strategy to promote the CNPS supplemental protection program was implemented. As CNPS supplementary assistance is an optional purchase versus a mandatory requirement for licensure under the RN Regulations, promoting it may confuse members thinking purchase is required. It was also noted that CNPS has a complete and current list of ARNNL member emails and have the permission/ability to send member-direct communication thus they are able to inform all ARNNL practicing members about the program.

Consequently, Council supported that the current advertisement of this program by the ARNNL would continue but no further initiatives would be undertaken. The current outreach includes: information related to CNPS services in communications to the membership, such as: our website; CNPS teleconferences; registration renewal FAQs; ACCESS; and staff presentations, where appropriate.

The assigned ARNNL contact person for this resolution is Michelle Osmond and she can be reached at mosmond@arnnl.ca

Council commits to reporting progress to the membership as relevant actions on this resolution unfold. Communications could be through any of our established mechanisms including, but not limited to; ACCESS, Regulation Matters, ARNNL teleconferences, site specific education sessions, ARNNL website and annual report. Information will also be presented at the next AGM.

Again, thank you for your submission and please follow up with the aforementioned contact persons and/or with Council as you deem appropriate.



Elaine Warren
President



Lynn Power
Executive Director