PROFESSIONAL CONDUCT REVIEW PROCESS

MICHELLE OSMOND, RN MS(N) DIRECTOR OF PROFESSIONAL CONDUCT REVIEW

TRUDY BUTTON, BSW LLB IN HOUSE LEGAL COUNSEL

PROFESSIONAL CONDUCT REVIEW
LESSONS LEARNED
OCTOBER 11, 2016
AGENDA

- ARNNL Mandate
  - RN Act (2008)

- Professional Conduct Review (PCR) Process
  - Overview, sections 18-35 RN Act (2008)

- Top Lessons Learned

- Questions
Objects

- The objects of the association are, in the interest of the public of the province,
  - (a) to advance and promote the ethical and professional standards of the nursing profession;
  - (b) to promote proficiency and competency in the nursing profession; and
  - (c) to encourage its members to participate in activities promoting the health and well-being of the public.
The RN Act provides ARNNL the authority to license and the ability to discipline licensees.

The primary mandate of ARNNL is to protect the public.
The Supreme Court of Canada has recognized the crucial role regulatory bodies play in protecting the public interest, stating:

The privilege of professional self-regulations therefore places the individuals responsible for enforcing professional discipline under an onerous obligation. The allegation of power by the state of properly discharging this obligation and the seriousness of the consequences of failing to do so.

*Pharmascience Inc. v. Binet, 2006 SCC 48*
Professional Conduct Review Process

- Used to assess an allegation, and to intervene when, a member’s practice or conduct is unacceptable and deserving of sanction.

- Number of allegations increased in 2015-2016 following a two year decline (n=28).

- Complexity of cases continues to increase.

- Continued increase in program costs for past seven consecutive years.
The PCR Process: When an Allegation is Submitted (RN Act, 2008)

- Allegation in writing to DoPCR* (or DoPCR makes an allegation)
- DoPCR determines if it appears it can be resolved
- DoPCR attempts to resolve Respondent and Complainant must consent
- Unsuccessful or no consent - DoPCR refers to CAC
- Agreement developed with conditions for Respondent
- Respondent completes all conditions - successful resolution

On review CAC may:
- Investigate
- Refer for investigation/ADR or both
- Require Respondent to appear before CAC
- Dismiss allegation
- Caution or counsel Respondent
- Instruct DoPCR to file complaint and refer to Disciplinary Panel
- Recommend to Council
  - Suspend or restrict Respondent's licence, or
  - Direct DoPCR to investigate Respondent's practice
- Disciplinary Hearing before an Adjudication Tribunal
  - Not guilty - dismiss
  - Guilty - sanctions/conditions
  - May be subject to publication

*Director of Professional Conduct Review

Notification of allegation to Respondent
Professional Conduct Review Process

• Conduct Deserving of Sanction
  ○ Set out in Section 18 (c)
    ✷ (i) professional misconduct
    ✷ (ii) professional incompetence
    ✷ (iii) conduct unbecoming a registered nurse
    ✷ (iv) incapacity or unfitness to engage in the practice of nursing
    ✷ (v) acting in breach of the Act, the Registered Nurses Regulations or the Code of Ethics
Articulate conduct or performance required of registered nurses
Define responsibilities set out in legislation and regulation
Identify the level of performance expected of RNs in practice
Performance and conduct will be measured against these standards

Members are responsible for **understanding and applying** the Standards in practice
Other Guidance Documents

- Interpretive Documents
- Regulatory Documents
- Fact Sheets

*Professional Conduct Review process may use these documents in conjunction with the Standards for Practice to review an allegation*
Lessons Learned: Therapeutic Nurse Client Relationship

- Knowledge of the therapeutic nurse-client relationship as foundational to the practice of nursing is critical
- Expectation under the Standards to use evidence-informed knowledge, skill and judgement in initiating, maintaining and concluding this relationship – competency based
- Communication and judgement is critical to this relationship
- Boundaries of relationship

*Lack of knowledge of and appreciation for professional expectations with respect to this relationship may result in an allegation*
Lessons Learned: Documentation - A key part of the Nursing Process

- Professional Accountability
- Standards
- Critical to Client Care
- Quality
  - Employer policy and procedures
- Evidence that care was provided

*Documentation reflects the application of nursing knowledge, skills and judgement and demonstrates accountability*
Lessons Learned: Privacy and Confidentiality

- Requirement of the Standards and Code of Ethics
  - *Standard 4 Public Trust* – protects clients’ privacy and confidentiality
  - *Code Value E: Maintain Privacy and Confidentiality*

- Circle of Care

- Provincial and Federal Legislation

- Employer Policies

*Information obtained in the context of a professional relationship must be maintained private and confidential*
Lessons Learned: Professionalism - Meeting expectations

- Accountability
- Knowledgeable
- Visible
- Ethical
- Professional Presence

*Rathie v. The College of Physicians and Surgeons of Ontario 2013 ONSC 821*

RNs encourage and support professionalism through demonstrating and role modeling professional values, behaviors, qualities and attitudes in accordance with the Standards.
Trends in Professional Conduct Review

- Increased contacts from the Public

- Categories of Allegations
  - Competency
  - Assessment
  - Communication
  - Social Media
  - Conduct unbecoming a registered nurse

- Complexity (e.g. Appeals)
Questions?