

2008

**REGISTERED NURSES'
PROFESSIONAL DUTY TO
ADDRESS UNSAFE AND
UNETHICAL SITUATIONS**



Association of
Registered Nurses
of Newfoundland
and Labrador



This Interpretive Document was approved by ARNNL Council in 2008.

This document is under review due to changes in Section 20 of the RN Act (Report by Registered Nurse), and the revision of the Standards of Practice for Registered Nurses (2013). If you have any questions or concerns, please contact Siobhainn Lewis, Nursing Consultant for Policy and Practice at 753-0124, 1-800-563-3200 or e-mail slewis@arnnl.ca.

This Interpretive Document outlines the process for, and the professional responsibility of all registered nurses to identify, address, and report situations in their workplace that adversely affect, or could affect, client¹ safety and quality of care.

Professional Obligation

All registered nurses are responsible to provide leadership in the identification and resolution of unsafe and unethical situations that adversely affect or could affect the quality of client care (ARNNL, 2007). Leadership is required by nurses in all the domains of practice including: direct care providers, administrators, educators, researchers, and policy advisors. The role undertaken in response to unsafe and unethical situations may vary and can include a range of activities from one-on-one discussions, to formal advocating for system changes to, if necessary, external reporting of concerns.

The duty to identify and address unsafe and unethical situations is a professional, ethical, and legal responsibility arising of the RN's obligation to protect clients from harm and to uphold the integrity of the nursing profession. These obligations are articulated in the *RN Act*, *Standards for Nursing Practice*, *Code of Ethics*, and other relevant legislation (see appendix A). Reporting to an employer or regulatory body an honestly held belief that a situation may be unsafe or unethical is not defamation or whistleblowing, but participation in a legitimate regulatory process (CNA, 1999; CNPS, 2003).

Once aware, employers have an obligation to examine and resolve situations that may adversely affect client care. If the concern is ignored and the quality of client care is compromised, the RN and the employer can be held accountable for failing to take action (ARNNL, 2000; CCHSA, 2003; CPSI, 2006).

Despite these obligations, RNs may experience internal conflict between doing what is right for the client and not wanting to get involved or incriminate another person(s).

The following practices may limit the sense of conflict this situation can evoke:

- a) focus on client safety, not on laying blame;
- b) objectively evaluate the situation, applying professional standards of practice;
- c) adhere to ethical principles of fairness, dignity, respect, and honesty;
- d) maintain confidentiality, sharing information only as necessary; and
- e) work as a team, seeking appropriate colleague and administrative support.

¹Client as the recipient of nursing services is defined as individuals, families, groups, communities or populations. Includes terms patient and resident.



Identifying unsafe and unethical situations

Defining unsafe and unethical situations is not always straightforward, thus requiring the use of professional judgment. Unethical and unsafe situations that might affect client safety and quality of care can be grouped in two categories:

- Concerns regarding the practice or behaviour of another health professional or individual in the workplace, or
- Concerns regarding the workplace.

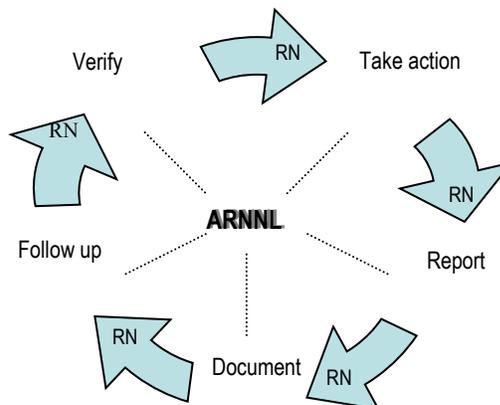
Specific examples of potential situations are included in Table 1.

<p>Table 1. Examples of situations whereby client safety or quality of care could be negatively affected include but are not limited to:</p>	
<ul style="list-style-type: none"> • Individual under the influence of drugs and/or alcohol in the work place • Breach of confidentiality • Falsifying information • Repeated errors • Verbal, physical, mental and/or sexual abuse • Provision of care outside the scope of nursing practice 	<ul style="list-style-type: none"> • Unrealistic performance expectations in absence of adequate educational preparation • Questionable practices of others • Conflict between professionals • Lack of required equipment /resources to provide safe care • Breach/ lack of policy or standards to direct, provide, and support care (CRNBC, 2003)



Framework for Resolving Unsafe and Unethical Situations

The following framework reflects the process RNs need to follow when addressing unsafe and unethical situations.



Verify the Concern

The nurse's first indication that something is wrong is frequently intuitive or a 'gut feeling'. Therefore, it is important to first gather the facts about the unethical or unsafe situation. It is important to be objective, separating personal feelings from professional concerns (CNA, 2002).

Some questions to consider:

- Has or will the situation put clients at risk for harm or adversely affect their quality of care?
- Who or what is the root of the concern?
- Is there a legislative requirement, standard, policy, or ethical obligation breached?
- Has there been a pattern of questionable behaviour or is the unsafe situation or unethical behaviour likely to continue?
- Does the situation interfere with your ability to practice according to standards, code of ethics, and/or workplace policies?

Gathering the facts may involve obtaining evidence through a variety of means including but not limited to: direct observation, review of written data or, client report. The nurse should contact his/her manager and consider seeking guidance on expected roles and responsibilities from their organization's professional practice, risk management and/or quality assurance personnel. There may also be a need to seek an external opinion, from ARNNL or the Canadian Nurses Protective Society, when exploring whether a standard or law has been breached.

Take Appropriate Action

If the evidence supports the validity of the concern, the nurse must take action. The timing of action will depend on whether the client is in immediate, imminent, or potential risk of harm. There may be situations where the nurse will need to intervene immediately to address the concern and report the situation later.

The nurse will have to determine the most appropriate action to take. Action may be taken as an individual, as a group, or it may mean reporting the information for others to take action, e.g., to the manager. If no client harm has occurred, and the nurse is able to successfully resolve the concern, it may not be necessary to take further action. If the nurse is unable to address the situation, or if there continues to be a valid concern after personally attempting to address it, the nurse is obligated to report the situation.

Make a Report

Report the situation to the appropriate person(s) using the established chain of authority in the workplace, while adhering to the principles of confidentiality. This involves informing your immediate manager and as appropriate, designated personnel for professional practice, quality, and/or risk management in your organization. Initially the situation may be verbally reported but the nurse must follow up with written documentation.

There may also be a legal obligation to report to an external authority such as law enforcement agencies and/or relevant provincial or federal government departments for example, in situations of abuse or the occurrence of a reportable adverse event. This should be done in consultation with your manager, and/or appropriate organization personnel, in accordance with applicable agency policy.



Document the Concern

If the organization has designated forms, such as incidence, occurrence, and/or professional practice forms, the RN is required to document the concern using these forms accordingly. If there are no identified forms or relevant direction in policy, the concern should be documented in a written statement or letter. The RN should seek assistance as necessary when preparing the documentation. All relevant documentation detailing the concern should be recorded and shared appropriately. It is not recommended that personal notes about the situation be kept after the concern is formally reported. However, the nurse should keep copies of all written correspondence, e.g., letters or emails requesting meetings, etc.

Details regarding the professional practice concern should not be noted or referenced in the client record. If, however, a client has been adversely affected as a consequence of the concern, the nurse must document client specific assessment, care and outcomes in the client's record.

Documentation of the concern(s) should:

- Be objective and accurate, including dates, time, place, who was involved, behaviours, and situational factors. Do not make assumptions, draw conclusions, find fault, or lay blame.
- Be as complete as possible, without inappropriately infringing on the privacy rights of anyone who may be involved or breaching client confidentiality.
- Identify all relevant professional standards, code of ethics value statements, and/or agency policies that have been breached.
- Identify how the client has been affected, or may be affected by the particular situation of concern, providing relevant factual information.
- Identify any actions already taken in relation to the concern.
- Indicate your commitment to help resolve the concern. If possible, suggest constructive solutions for resolution of the concern.
- Request a response on the actions taken by the organization within a specific and reasonable time frame. Client, and/or staff confidentiality, may limit the amount of detail that can be reported back.
- Sign all correspondence either as an individual or as a group, whatever is appropriate.

Follow-Up if the Concern(s) is Unresolved

If the concern has been successfully resolved in the best interest of client within a reasonable time frame, no further action may be required. If the appropriate action has not occurred, the nurse should advise, in writing, the manager to whom the concern was reported, his/her intent to pursue the matter with the next level in the administrative structure. It may be necessary to repeat this step up the chain of authority until all avenues within the agency have been exhausted, up to and including the board of management. If the concern is still unresolved then the nurse can bring it to the appropriate professional authority.



Reporting of Unsafe and Unethical Situations to ARNNL or other Professional Authority

The option to call ARNNL for confidential information and advice can be initiated at any point. The nurse may also call the Canadian Nurses Protective Society if there is a concern that the situation may have legal implications (see appendix B). If the matter involves a member of another discipline, the nurse should contact the appropriate regulatory authority for that profession, e.g., College of Licensed Practical Nurses of Newfoundland and Labrador (CLPNL), College of Physicians and Surgeons of Newfoundland and Labrador, Newfoundland and Labrador Association of Social Workers, etc. Before contacting ARNNL or the appropriate authority, the nurse should advise the person(s) involved and the employer that he/she will be taking such action.

Professional regulatory authorities, including ARNNL, have the mandate under legislation to ensure professional standards for practice are upheld. The following are examples of situations when a regulatory body should be contacted:

- If there is confirmed knowledge that the professional's conduct is deserving of a sanction, e.g., incompetence.
- If all channels within the organization have been exhausted and the situation has not been resolved.
- If the concern requires immediate intervention and the appropriate administrators within the agency have been notified but corrective action has not occurred.
- If the situation involved unsafe or unethical practice and there is a risk that the person(s) in question may move to another agency, or jurisdiction, or the situation is occurring in another location.
- If the person(s) in question has more than one employer.
- If the person(s) involved employment has been terminated.
- If there are restrictions placed upon the person(s) practice by an employer due to unsafe/unethical practice.

Conclusion

All RNs have a professional obligation to identify and address unsafe and unethical situations. This position statement outlines the process the nurse should undertake to ensure that this obligation is enacted, when necessary, in an appropriate and professional manner. Likewise, this statement articulates the ARNNL's public protection mandate in resolving unsafe and unethical situations involving registered nurses. Consequently, when ARNNL is contacted about a situation(s) that adversely affects, or could affect, the quality of client care, ARNNL will act appropriately, within its legislated authority.



Resources

- Association of Registered Nurses of Newfoundland & Labrador (ARNNL) (2007). *Standards for nursing practice*. St. John's: Author.
- Association of Registered Nurses of Newfoundland & Labrador (ARNNL) (2006). *Quality professional practice environment standards*. St. John's: Author.
- Association of Registered Nurses of Newfoundland & Labrador (ARNNL) (2000). *Professional conduct review process*, St. John's: Author.
- Association of Registered Nurses of Newfoundland & Labrador (ARNNL) (1992). *Registered Nurses Act, RSN R-9*. St. John's: Author.
- Canadian Council on Health Services Accreditation (CCHSA) (2003). *CCHSA and Patient Safety*. Ottawa: Author.
- Canadian Nurses Association (CNA) (1999). I see and am silent/I see and speak out: The ethical dilemma of whistleblowing. *Ethics In Practice*. Ottawa: Author.
- Canadian Nurses Association (CNA) (2002). *Code of ethics for registered nurses*. Ottawa: Author.
- Canadian Nurses Protective Society (CNPS) (2003). Defamation. *InfoLAW*, 12(3). Ottawa Author.
- Canadian Patient Safety Institute (CPSI) (2006). *Background paper for the development of national guidelines for the disclosure of adverse events*. Edmonton: Author.
- College of Registered Nurses of British Columbia (CRNBC) (2003). *Standards for registered nursing practice in British Columbia*. Vancouver: Author.
- College of Registered Nurses of Nova Scotia (CRNNS) (2006). *Problematic substance use in the workplace: A resource guide for registered nurses*, Halifax: Author.



Appendix A

Professional Obligation Reference Information

The duty to identify and address unsafe and unethical situations is articulated in the *RN Act (1990)*, *Standards for Nursing Practice (2007)*, *Code of Ethics (2002)*, and relevant legislation. The following excerpts are provided to illustrate this accountability.

ARNNL Registered Nurses Act RSNL 1990 Chapter r-9

The objects of the association are:

- (a) to dignify the profession by maintaining and improving the ethical and professional standards of nursing education and service;
- (b) to encourage its members to participate in affairs promoting the public welfare;
- (c) to promote the best interests of the nurses of the province and to maintain unity among them;
- (d) to encourage an attitude of mutual understanding with the nurses of other countries; and
- (e) other lawful acts and things that are incidental or conducive to the attainment of the preceding objects.

Note: The legislation governing RN practice in NL is under review. In the new RN Act the objects of the association will be changed, with a stronger emphasis on ARNNL's public protection mandate.

Standards for Nursing Practice (ARNNL, 2007)

Standard 1: Self-Regulation and Professional Accountability.

Each Registered Nurse:

- 1.8 Participates in the identification and resolution of professional practice issues, conflicts and ethical dilemmas.
- 1.9 Responds to and reports situations that may be adverse for clients and/or health care providers. When adverse events occur, utilizes opportunities to prevent harm and improve the system.

Standard 4: Professional Interactions and Advocacy.

Each Registered Nurse:

- 4.11 Acts as an advocate to protect clients from harm due to unsafe situations and/or incompetent or unethical care.

Standard 5: Professional Leadership.

Each Registered Nurse:

- 5.5 Questions practices and contributes to improvements to support client and nurse safety.



CNA Code of Ethics for Registered Nurses (2002)

Value- *Safe, Competent and Ethical Care*

8. Nurses must admit mistakes and take all necessary actions to prevent or minimize harm arising from an adverse event.
9. Nurses must strive to prevent and minimize adverse events in collaboration with colleagues on the health care team. When adverse events occur, nurses should utilize opportunities to improve the system and prevent harm.

Value- *Quality Practice Environments*

2. Nurses must advocate, to the extent possible within the circumstances, for sufficient human and material resource to provide safe and competent care.
4. Nurses must support a climate of trust that sponsors openness, encourages questioning the status quo and supports those who speak out publicly in good faith (e.g. whistle blowing). It is expected that nurses who engage in responsible reporting of incompetent, unsafe or unethical care or circumstances will be supported by their professional association.
5. Nurses must advocate for work environments in which nurses and other health workers are treated with respect and support when they raise questions or intervene to address unsafe or incompetent practice.
6. Nurses must seek constructive and collaborative approaches to resolve differences impacting upon care amongst members of the health care team and commit to compromise and conflict resolutions.

ARNNL Professional Conduct Review Process (2000)

Step 1 - Identification of unacceptable practice or behaviour/professional misconduct

Unacceptable practice/professional misconduct occurs when a nurse breaches the code of ethics for nursing. Assessing for unacceptable practice/professional misconduct may involve asking: Is the nurse failing to provide safe and appropriate nursing care? Unacceptable practice/professional misconduct is a symptom that the nurse is not functioning at the level expected of a professional nurse.

The following are examples of unacceptable practice/professional misconduct under Section 21 of the Registered Nurses Act. These are only examples and are not meant to be all inclusive:

1. Section 21 2(a) Dishonesty:
Example – Falsifying observations, orders, treatments, or nursing records or reports, either verbal or written.
2. Section 21 (2)(b) Incompetence:
Example – Acts or omissions demonstrating a lack of reasonable knowledge, skill and/or lack of concern for the client's welfare to the extent that client safety was placed in jeopardy.
3. Section 21 (2)(c) Habit or Illness Making the Nurse Unfit to Care for the Sick:
Example – Demonstrates personal behaviour indicating unfitness such that she/he is unsafe to be entrusted with the care of clients.
4. Section 21 (2)(d) Conduct That Does Not Conform to the Standards of the Profession:
Example – Abandonment or neglect of a client.
5. Section 21 (2)(e) Fraud or Misrepresentation in the Obtaining of a Licence:
Example – Submitting false documents.
6. Section 21 (2) (g) Default of Not Less Than Three Months in Payment of Annual Fee:
Example – Failure to pay licensure fee prior to deadline or commencing employment and practices nursing for three months without a licence.



Appendix B

Contact Information

Association of Registered Nurses of Newfoundland and Labrador

To obtain assistance contact ARNNL at:

55 Military Road
St. John's, NL A1C 2C5
709-753-6040
1-800-563-3200 (toll free)
Email: info@arnnl.ca
Web site: www.arnnl.ca

The Canadian Nurses Protective Society (CNPS)

Mission Statement

CNPS exists so that nurses are enabled to effectively manage their professional legal risks and are appropriately assisted when in professional legal jeopardy.

Eligibility for CNPS Assistance

CNPS services and assistance are available to you free of charge as a benefit of membership in any one of the following professional associations or colleges: CARNA, SRNA, CRNM, RNAO, NANB, CRNNS, ANPEI, ARNNL, RNANT/NU and YRNA. To be eligible for financial assistance you must be a member or a permit holder in good standing with one of the above associations or colleges at time of the occurrence. Your employment status is irrelevant. You may be an independent practitioner, an employee, or a volunteer. The occurrence can take place anywhere in the world but the claim or lawsuit must be brought in Canada.

To obtain assistance contact CNPS at:

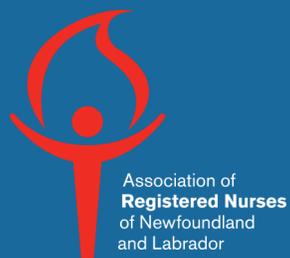
50 Driveway
Ottawa ON K2P 1E2
1-800-267-3390 (toll-free)
613-237-2092
Fax: 613-237-6300
e-mail: info@cnps.ca
(non-confidential messages only)

Web site: www.cnps.ca

User name: ARNNL

Password: assist





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