

Duty to Report

The following document provides guidance to registered nurses and employers about their legal obligations under *The Regulated Health Professions Act (RHPA)* to report RNs to the College of Registered Nurses of Manitoba.

For RNs there is an added ethical duty to report that arises from the RN's primary responsibility to provide safe, competent and ethical care to clients. This includes understanding how to respond in a situation where an RN is not providing safe, competent or ethical care.

It is important for RNs to understand when to report, what to report, how to report and to know what is required of them both legally and ethically.

Duty of RNs to Report

The following sets out the legal responsibility of an RN member of the College.

The RHPA, Section 138(1) states:

“A member who reasonably believes that another member of the same regulated health profession
(a) is unfit to practise, incompetent or unethical; or
(b) suffers from a mental or physical disorder or illness that may affect his or her fitness to practise, and continues to practise despite having been counselled not to;
must disclose that belief to the registrar, along with the name of the other member and particulars of the suspected disorder, illness, lack of fitness to practise, incompetency or unethical behaviour.”

Exemption from Liability for Disclosure

An RN who discloses information in accordance with the RHPA, Section 138(2):

“is not subject to any liability as a result, unless it is established that the disclosure was made maliciously.”

Addressing Issues or Concerns

RNs are advocates for clients and inaction may have serious consequences if issues or concerns regarding RN conduct and practice are not addressed. Tools that can assist an RN in determining how to address issues or concerns about another RN's conduct or practice include the College's document *Registered Nurse Responsibilities Related to Professional Practice Issues* and the *Code of Ethics for Registered Nurses*, Appendix B.

These tools assist in guiding the decision-making process by highlighting important steps such as:

- gathering the facts;
- seeking relevant information from the individual(s) involved;
- consulting appropriately with others;
- working with colleagues and managers; and
- speaking directly to the RN involved.

It can be difficult to decide whether to report a RN to the College. Therefore, these steps should be taken before informing the College.

Not all physical or mental health conditions or disorders need to be or should be reported to the College; only those that place the public at risk. Some reportable examples that

might place public at risk if the RN continues to practise include:

- practising while intoxicated by alcohol or drugs; or
- an impairment (health issue) such as an acute mental health crisis; or
- a health condition that affects the RN's ability to provide safe and competent care.

While protection of the public is the primary mandate of the College, respect for the dignity and privacy of the RN is an important consideration. Appropriate treatment and health monitoring may be put into place if warranted.

In non-emergency circumstances where there is a concern about potentially substandard practice, it is appropriate to speak directly to the RN. A discussion with the RN may resolve the matter. If there is a concern about speaking directly to the RN involved:

1. talk with the area/unit manager;
2. consult with resources in the workplace; and/or
3. consult with the College.

It is always possible to contact the College to obtain clarification about the situation or to determine if it is necessary to make a formal report. Making an inquiry does not automatically turn into a formal report.

Providing Care to an RN Client

For the purpose of this section, RN client means a client who is an RN.

An RN providing care to an RN with a health condition that has the potential to impair practice must exercise prudent judgment in determining the duty to report. In a nurse-client relationship, RNs may be privy to information about another RN's personal health information such as mental health issues or an addiction that could put the public at risk if the RN were to remain engaged in practice. RNs have an ethical obligation to safeguard information learned in the context of a professional nurse-client relationship. Information is only disclosed outside the health-care team with the client's informed consent, as legally required, or where there is serious risk and failure to disclose would result in significant harm to the person or others.

It is important to discuss with your RN client the risks to client safety and their professional obligation to practise safely if the unfit RN client does not withdraw from practice and self-report to the College. There may also be an overall risk to the public if RNs with a health condition that results in impaired practice fail to seek help for fear that their registration to practise is put in jeopardy.

Employer Responsibilities to Report

The RHPA, Section 168(2) states:

“If a hospital or regional health authority

(a) employs or engages a member as a member of its professional or medical staff; and

(b) suspends or terminates the employment or engagement of the member, or withdraws the member's privileges, for misconduct, incompetence or incapacity;

then the hospital or regional health authority must promptly report the suspension, termination or withdrawal to the council of the member's college and give the member a copy of the report.”

The benchmark for measuring satisfactory nursing practice is practice that one would expect from a reasonable and prudent RN with similar background and experience.

The College's nursing practice expectations documents provide a framework to review an RN's practice and objectively determine which standards, ethical values and competencies the RN is demonstrating, not demonstrating or demonstrating inadequately. The **North Carolina Board of Nursing Complaint Evaluation Tool** is recommended by the College to assist the employer in its investigation and objectively measure the conduct and practice that is of concern.

Employers who report RNs who have been suspended or terminated for professional incompetence or professional misconduct are required to submit in writing the grounds of the alleged incompetence or misconduct. For more information on professional misconduct or professional incompetence please refer to the College's *Discipline Definitions* document.

When reporting a suspension to the College, the employer should include:

- details regarding the conduct or practice that lead to the suspension;
- a copy of the suspension correspondence sent by the employer to the RN;
- a description of any performance improvement indicators required of the RN; and
- details of any subsequent follow up with the RN.

When reporting a termination to the College, the employer should include:

- details regarding the conduct or practice that lead to the termination (e.g. information/documentation regarding any previous conduct issues, any process/

policy documents relied on and copies of any relevant client health records);

- a copy of the termination correspondence sent by the employer to the RN; and
- a summary of the employer's investigation.

Resources

- *The Regulated Health Professions Act*
- Nursing practice and standards consultants

College Documents

- *Complaints, Discipline & Appeals Process*
- *Discipline Definitions*
- *Guidelines for Reasonable Suspicion Testing*
- *Remediation, Enhancement and Additional Learning (REAL)*
- *Professional Boundaries for Therapeutic Relationships*
- *Registered Nurse Responsibilities Related to Professional Practice Issues*
- *Substance Abuse/Misuse*

The following is a list of nursing practice expectation documents:

- *Practice Expectations for RNs*
- *Code of Ethics for Registered Nurses*
- *Entry-Level Competencies for Registered Nurses in Manitoba*
- *Practice Expectations for RN(NP)s*

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