

Responding to Complaints Before the College of Nurses of Ontario (CNO)

Complaints | Health

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As legal counsel for all types of nurses, including Nurse Practitioners, Registered Nurses and Registered Practical Nurses, we are frequently retained to provide assistance in responding to complaints filed with the College of Nurses of Ontario (“CNO”). Although the regulatory framework governing complaint matters is complex, the following summarizes the core information that nurses should be aware of in order to navigate the process effectively.

Role of CNO

At the outset, it is imperative that nurses recognize that the mandate of the CNO is to protect the public by ensuring that nurses act in accordance with the *Nursing Act*, the *Regulated Health Professions Act, 1991*, and CNO standards and guidelines. This public protection mandate underlies all actions taken by CNO.

It is also important to recognize that the CNO will process all complaints relating to nursing care. In less serious cases, the CNO may offer alternative dispute resolution, but most cases will proceed through the standard complaint structure, which will be discussed below.

Responding to a Complaint

Once a complaint is received, the nurse has 30 days to submit a written response to the complaint. If a nurse requires additional time to prepare their response, they should contact the CNO investigator assigned to the file to request a short extension (which is typically approved). In most cases, the CNO will also require the nurse to provide a copy of the patient chart with their response.

It is important to ensure that the complaint response is drafted in a clear and professional manner – and thoroughly addresses all of the concerns raised. By proceeding in such a manner, the nurse will not only improve their chances of obtaining a good outcome but will hopefully eliminate any requests for clarification or further information.

If the complaint reveals any shortcomings on the part of the nurse, it is often advisable to recognize such items and complete educational steps and/or implement practice changes. Such actions are generally viewed favorably, as they demonstrate insight into the concerns at issue.

In the event a nurse has a prior complaint or discipline history, they will also be afforded an opportunity to comment on the prior decision(s).

ICRC Review & Decision

Ultimately, all of the documentation collected as part of a complaint matter is provided to a panel of the Inquiries, Complaints and Reports Committee (“ICRC”), which is comprised of nurse and public members, to determine the appropriate action to be taken. Nurses and complainants are not permitted to attend the ICRC meeting.

If the ICRC determines that additional information is necessary, it may request further details from either party or conduct further investigations, which could include interviews with the parties and other relevant individuals.

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On the other hand, if the ICRC concludes that it has sufficient information, it may proceed to issue a decision. The ICRC has a broad range of possible dispositions. For example, if it determines that the conduct of the nurse poses little or no risk, it will take no further action or provide written advice.

Where the ICRC determines that there is a moderate level of concern, it will direct the nurse to attend for a caution or complete a Specified Continuing Education and Remediation Program (“SCERP”). These are considered more serious dispositions because they are noted on the nurse’s public register, which is publicly available on the CNO website.

Finally, in the most serious cases, the ICRC can refer a nurse to the Discipline Committee on specific allegations of professional misconduct or incompetence. If a referral is made, a notation is immediately added to the public register and the nurse will receive a Notice of Hearing outlining the charges.

For all matters not referred to the Discipline Committee, the ICRC issues a detailed Decision and Reasons, which is provided to both the nurse and the complainant.

HPARB Review

Both the nurse and the complainant have the right to request a review of an ICRC decision to an independent tribunal called the Health Professions Appeal and Review Board (“HPARB”). A key exception is that ICRC decisions referring complaint matters to the Discipline Committee cannot be appealed to HPARB.

Historically, most HPARB reviews were initiated by complainants. Increasingly, however, nurses are requesting these reviews in order to challenge ICRC decisions that have resulted in notations on the public register (such as cautions and SCERPs).

An HPARB review typically consists of oral submissions from the nurse and the complainant (or their respective counsel) addressing the reasonableness of the ICRC’s decision and/or the adequacy of its investigation. HPARB does not have the authority to conduct additional inquiries beyond this mandate.

Following the review, HPARB may do one or more of the following:

- confirm all or part of the ICRC’s decision;
- make recommendations to the ICRC; or
- require the ICRC to exercise any of its powers, other than to request a Registrar’s investigation.

Final Comments

In view of the potential consequences, it is imperative that nurses treat all complaints very seriously and take great care in preparing responses. Given the stakes involved, nurses should also strongly consider obtaining assistance from experienced legal counsel to ensure that their interests are being properly protected. A PDF version is available to download [here](#).

About the Author

Lad Kucis is certified by the Law Society of Ontario as a specialist in health law and provides advice and representation to nurses and other regulated health professionals in respect of all types of regulatory matters, including complaint and disciplinary matters before their regulatory colleges, and complaint reviews before the Health Professions Appeal and Review Board.

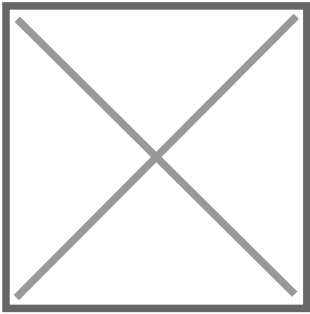
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