

DISCIPLINE DEFINITIONS

Most complaints received by the College of Registered Nurses of Manitoba are managed and resolved by the investigation committee. One of the options for the management of complaints is referral of the entire complaint or a part of the complaint to the discipline committee for a hearing. For a hearing, a panel is chosen from the discipline committee by the chair of the committee. The discipline panel acts much like a judge and jury would. The panel hears the case and makes a determination of whether or not the registered nurse is guilty of the charges. The Registered Nurses Act (the Act), section 42 provides for the following possible findings:

- (a) guilty of professional misconduct;
- (b) contravened this Act, the regulations, the by-laws or the code of ethics of the college;
- (c) guilty of an offence that is relevant to the member's suitability to practise;
- (d) displayed a lack of knowledge or lack of skill or judgement in the practice of nursing;
- (e) demonstrated an incapacity or unfitness to practise nursing;
- (f) suffering from an ailment that might, if the member continues to practise, constitute a danger to the public; or
- (g) guilty of conduct unbecoming a member.

If the registered nurse is guilty, the discipline panel makes a determination of penalty for the registered nurse in accordance with the Act.

DEFINITIONS OF THE POTENTIAL CHARGES AGAINST A REGISTERED NURSE

Professional Misconduct

“Misconduct” is a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances. The standards of propriety may be found by reference to rules or to standards ordinarily required to be followed by a registered nurse in the particular circumstances. “Misconduct” is qualified by the

word “professional” which links the misconduct to the practice of registered nursing. Without restricting the generality of the foregoing, examples of conduct, which may amount to professional misconduct, are as follows:

- abuse of a client or health care team member, verbally, physically or sexually;
- discontinuance of professional services unless: the client requested the discontinuance; alternative or replacement services were arranged; or the client was given reasonable opportunity to arrange alternative or replacement services;
- failure to exercise discretion with respect to the disclosure of confidential information about a client;
- falsification of a client record;
- influencing or attempting to influence a client/agency to change the client's last will and testament;
- theft of drugs;
- theft of property belonging to the client or the employer;
- inappropriate use of the nurse's professional status for personal gain;
- failure to report to CRNM the incompetence of a colleague whose actions put the safety of a client at risk;
- failure to comply with the CRNM Standards of Practice for Registered Nurses or Code of Ethics;
- failure without reasonable cause to respond to inquiries from CRNM regarding alleged professional misconduct, professional incompetence or incapacity;
- failure to comply with directives arising from the complaint – investigation – discipline process;
- obtaining registration by misrepresentation or fraud.

Incapacity or Unfitness to Practice Nursing

Incapacity or unfitness to practise refers to professional incompetence. Professional incompetence is an act or omission or a series of acts or omissions demonstrating a lack of reasonable knowledge, skill, judgment and/or lack of concern for a client's welfare to the extent that the client's safety was in jeopardy. Without restricting the generality of the foregoing, examples of circumstances where a member may be found to have demonstrated incapacity or unfitness to practice nursing are:

- failure to carry out assessments such that client safety was placed in jeopardy;
- failure to develop and implement a reasonable plan of care such that client safety was placed in jeopardy;
- failure to provide direct nursing care such that client safety was placed in jeopardy;
- failure to use judgment in relation to individual competence when accepting, delegating and/or carrying out duties.

Suffering from an Ailment

A member may be found to be suffering from an ailment which might, if the member continues to practice, constitute a danger to the public where the member is suffering from a physical or mental condition or disorder of a nature and extent that it is desirable in the interests of the public and/or the

member that the member no longer be permitted to practice or that the member's practice be restricted. Without restricting the generality of the foregoing, a member may be found to be suffering from an ailment which might, if they continue to practice, constitute a danger to the public if the member is:

- using intoxicating liquor, opiates, narcotics or other mood altering substances to the extent that client safety is at risk;
- practising the profession of nursing while the member's ability to do so is impaired by a substance.

Conduct Unbecoming

Professional misconduct relates to conduct while actually engaged in the practice of nursing, while conduct unbecoming a member relates to conduct not in the course of the practice of nursing. It is recognized that it is not appropriate for CRNM to seek to regulate and discipline all conduct of its members which is not in the course of professional duties. However, where conduct is reprehensible and seriously reflects upon and shatters professional integrity to the point where protection of the public is involved, CRNM is justified in making a finding of conduct unbecoming.

For more information, please contact CRNM Complaints Resolution Services at (204) 774-3477 or (800) 665-2027 (Manitoba toll-free)

This publication is provided for general information. For more specific information see the CRNM *Standards of Practice for Registered Nurses*, the Canadian Nurses Association *Code of Ethics for Registered Nurses* and the Registered Nurses Act and Regulations. CRNM publications are available on our website at www.crnmb.ca

PUBLISHED: 09/2007