



The Complaint Process: A Fact Sheet for Complainants

Purpose

If you have a concern about the conduct, competence or capacity of a practical nurse in Manitoba, this fact sheet will provide you with information on how to report your concern to the College of Licensed Practical Nurses of Manitoba (CLPNM), and about the process that the CLPNM will follow in response to your concern.

Who is the CLPNM?

The CLPNM is the professional regulatory body for practical nurses in Manitoba, including student practical nurses (SPNs), graduate practical nurses (GPNs) and licensed practical nurses (LPNs). The CLPNM's duty is to regulate practical nurses in a manner that serves and protects the public. This includes, among other things, investigating complaints about practical nurses and taking action when necessary to ensure the public interest is protected.

Under what circumstances are complaints made to the CLPNM?

Before a person is authorized to practice as a practical nurse, they are evaluated against strict criteria to determine their competence and suitability for membership in the profession. Once registered with the CLPNM, all members of the profession are bound by legislation and professional standards that provide for ongoing competence and safe and ethical practice. Despite these safeguards, concerns about the conduct, competence or capacity of a practical nurse do sometimes arise.

If you have a concern about a practical nurse, and do not believe the concern poses a serious risk to you or someone else, you might wish to discuss the matter with the nurse or the nurse's employer to see if the matter can be resolved informally. If that approach does not remedy the situation or is not appropriate in the circumstance, you may make a complaint to the CLPNM.

Who can make a complaint to the CLPNM?

Any person may make a complaint to the CLPNM regarding the suspected misconduct, incompetence or incapacity of a practical nurse. A complaint may be made by an employer, a co-worker, another member of the profession, a client or any member of the public. Complaints may relate to a nurse's conduct while the nurse was on duty, or to the nurse's conduct while off duty if that conduct was contrary to the standards of the profession. A complaint may be made respecting an active practising member of the profession, or even a former member of the profession, within five years, if the complaint relates to conduct while the nurse was registered with the CLPNM.

Please note that, while any person may make a complaint, employers and members of the profession are required to report certain information to the CLPNM. For more details, please refer to the CLPNM's Interpretive Document on the Duty to Report, available on the CLPNM website (www.clpnm.ca).

How do I make a complaint to the CLPNM?

Whenever possible, complaints are to be submitted in writing to the CLPNM Executive Director and signed. Any person who requires support to submit a complaint in writing is encouraged to contact the CLPNM for assistance. Please include as much information as possible with your complaint, such as:

- the name of the practical nurse about whom you have concerns
- a detailed description of the circumstances that led to your concern, including the date, time and location of any specific incidents
- copies of any supporting documentation available
- any notes written by the complainant or witnesses about the alleged conduct
- any other information that may be relevant, and
- your name, address, email, home phone and cell phone numbers.

Please note that the names of witnesses who are listed in the letter of complaint may be shared with the nurse who is the subject of the complaint. If you have concerns about the identity of witnesses being shared with the nurse, you might wish to refer to them as witness A, B, C, or redact their names in the letter of complaint. Note that, even if witness names are withheld from the letter of complaint, it may not be possible for the CLPNM to protect the anonymity of witnesses throughout the entire complaint process. Read more on this below.

If you are the employer, manager or supervisor of the practical nurse, please also include:

- the nurse's current employment status (full or part time, casual, suspended, terminated)
- copies of relevant employer policies
- copies of relevant medical records
- copies of any relevant internal investigations, audits, practice assessments or performance appraisals
- information about any disciplinary action taken in response to the current concern, and
- information about past disciplinary action, if applicable.

You may submit your letter of complaint by email, mail or in-person to the CLPNM office. The address is included in this fact sheet below.

Is my complaint confidential?

The CLPNM cannot act on an anonymous complaint, nor can it withhold a complainant's name from the nurse who is the subject of the complaint or his/her legal counsel. However, if information about a complaint is published by the CLPNM, for example on its website, the CLPNM will withhold the identity of the complainant and any clients or witnesses.

Will the identity of witnesses remain confidential?

One of the principles of procedural fairness dictates that the person affected by a decision will be provided with the information about them that will be considered when a decision about them is made. In keeping with this principle, the nurse will receive a copy of the initial letter of complaint, which may name witnesses. Any information submitted along with the initial letter of complaint may also be shared with the nurse and the nurse's legal counsel.

The CLPNM will not share copies of identifiable personal health information gathered from client records. If sharing copies of client records with the nurse, or the nurse's legal counsel, is necessary to support procedural fairness, the records will first be de-identified.

The nurse will also be given the opportunity to respond to all additional information gathered in the course of an investigation. When this information is shared with the nurse, the identity of witnesses may be revealed, even if they are not expressly named, based on the context and the information shared. For this reason, it is important for both the complainant and witnesses to be aware that it is not always possible for witnesses to remain anonymous throughout the complaint and investigation process.

What will happen after I submit my complaint?

You will receive a letter from the Executive Director acknowledging receipt of your complaint. You may be asked for additional substantiating documentation. The nurse, against whom the complaint was made, will receive a copy of your letter of complaint and will be given 14 days to respond to the CLPNM. All relevant information, including the nurse's response, will then be referred to the CLPNM's Investigation Committee.

The Investigation Committee is mandated in *The Licensed Practical Nurses Act* (the Act) to consider - and when it deems necessary, to direct investigations into - the practice and conduct of Manitoba's practical nurses. The Committee is comprised of members of the profession and members of the public. When considering a case, the Committee is guided by principles of fundamental justice. It will be fair in its procedures, its decisions, and in the way it relates to complainants, witnesses and the nurses whose conduct and practice it reviews.

After reviewing a complaint, as well as the nurse's response to the complaint, the Committee will determine what additional information it needs, if any, to make a fair and sound decision. The Committee may direct an investigation into the matter, and/or refer the nurse for a practice audit, a clinical competence assessment, or a fitness to practice assessment. If the Committee directs an investigation, the complainant will be provided with the opportunity to be interviewed and to provide additional information as part of the investigation process.

What are the possible outcomes of a complaint?

All cases are unique. After considering all relevant information, including the findings of any investigation, audit or assessment, the Committee may arrive at a number of different decisions. The Act guides the Committee in the decisions that it may make. Specifically, the Committee may:

- enter into an agreement with the nurse, which might include expectations for remedial education, monitoring, and/or further assessments
- accept the voluntary surrender of the nurse's registration
- censure the nurse
- refer the matter to mediation
- direct that no further action be taken
- direct that the case be referred, in whole or in part, to the discipline committee, or
- take any other action that the Committee considers appropriate in the circumstances, provided that it is not contrary to the Act, regulations or by-laws.

The Committee's general aim is not to pursue punishment if other appropriate alternatives are available. For this reason, most complaints do not result in the removal of a nurse's licence or a referral to discipline. Although each case is unique, if a nurse demonstrates insight and is not deemed a serious ongoing risk to the public, the Committee will often pursue an approach that focuses on remediation and monitoring. When possible, the Committee will seek options that

support the public interest while also providing the nurse the opportunity to restore his or her competence, fitness to practice, and/or professionalism.

When a decision is made, the Committee will send the complainant and the nurse a written notice of its decisions and the reasons for its decisions. The complainant may receive this correspondence via email, if requested.

Conditions and Suspensions

When a complaint give rises to serious concerns about ongoing public protection, the Committee may consider imposing conditions on, or suspending, a nurse's licence while the matter is resolved or a final decision is made. Interim conditions and suspensions are not imposed by default, however. Before deciding to impose conditions or a suspension, the Committee will consider a number of factors, including:

- whether the information on hand suggests that the nurse
 - demonstrated a reckless disregard for client safety and wellbeing,
 - intended to cause harm, and/or
 - attempted to conceal the issue
- whether the nurse has a history of misconduct and/or incompetence that has not been corrected
- the severity of any gaps in the nurse's competence or professionalism
- the degree to which the nurse has demonstrated insight regarding the issue(s), and
- the extent to which the public would be at ongoing risk of harm if the nurse were to continue to practise, without restriction.

What if I do not agree with the decision?

If the Investigation Committee decides to take no further action, to accept the voluntary surrender of the practical nurse's licence, or to enter into an agreement with the nurse, the complainant has the right to appeal that decision to the Board of Directors of the CLPNM. A notice of appeal must be made in writing to the Executive Director within 30 days of the date the complainant is notified of the Committee's decision.

What if I still have questions?

If you are thinking about making a complaint and still have questions, the CLPNM is available to provide further information. If required, a CLPNM consultant will:

- listen to your specific concerns/complaint
- ask questions to clarify and better understand your concerns/complaint
- discuss what options are available to resolve your concerns
- provide you with instructions on submitting a complaint
- meet with you in person to discuss your complaint
- answer your questions about the complaint process, and
- discuss and clarify any documentation you receive from the CLPNM.

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