



Conduct Deserving of Sanction: Interpretation of RN Act section 18(c)(i)-(v)

The definitions of conduct deserving of sanction were approved by Council in October 2013 and are set out in Article X of the ARNNL By-Laws. The definitions are repeated here with accompanying examples.

18(c)(i) Professional misconduct

Professional misconduct for the purposes sections 18 to 35 of the Act shall include conduct of a registered nurse while directly engaged in the practice of nursing or relevant to the practice of nursing that does not adhere to the Standards of Practice for Registered Nurses, Code of Ethics and other standards of the profession, or which contravenes the Act, Regulations or By-Laws of the Association or other statutes applicable to the practice of nursing. Professional misconduct may arise from one incident or a pattern of conduct. Examples of professional misconduct are as follows:

Examples of professional misconduct include but are not limited to the following:

- 1. Contravening a federal, provincial or other law
Contravening the Act, Regulations, By-Laws**
 - a. Contravening a federal, provincial or other laws applicable to the practice of nursing (example, Controlled Drug and Substances Act, Personal Health Information Act)
 - b. Contravening or failing to comply with a term, condition or limitation on a licence or registration with the Association.
 - c. Failing to comply with any term or condition of an order made by an Adjudication Tribunal under section 27(2) or 28(3) of the Act or an Alternative Dispute Agreement made pursuant to section 23(1) or an Agreement made pursuant to section 22(1).
 - d. Failing to report conduct deserving of sanction contrary to Section 20 of the Act.
- 2. Contravening a standard of practice of the profession, or failing to comply with the code of ethics of the profession, or failing to meet the standard of practice of the profession.**

- a. Failure to maintain confidentiality.
- b. Breach of client privacy.
- c. Failure to take action to safeguard a client(s) if endangered by a co-worker or other person.
- d. Accessing records for persons outside circle of care.
- e. Failing to practice within scope of practice.
- f. Failure to advise supervisor of one's inability to accept a specific responsibility outside one's competency level.
- g. Abuse of a client inclusive verbal, physical or sexual.
- h. Practicing the profession while impaired by drugs or alcohol.
- i. Tampering with medication.
- j. Misappropriation of medication.

3. Prescribing (Nurse Practitioners)

- a. Prescribing drugs for an improper purpose.
- b. Prescribing or dispensing drugs contrary to the Act, other legislation or the NP Standards as approved by Council.
- c. Prescribing to a client without establishing an appropriate nurse practitioner-client relationship.
- d. Practicing without an arrangement with a physician for the purpose of consultation with respect to the care of a client contrary to Section 8(3) of the Registered Nurses Regulations.

4. Responsibilities to Clients

- a. Discontinuing professional services that are needed by a client unless,
 - (i) the client requests the discontinuation,
 - (ii) alternative professional services are arranged for the client, or
 - (iii) the client is given a reasonable opportunity to arrange alternative professional services.

5. Responsibilities to the Association

- a. Failing to cooperate and/or respond appropriately or within a reasonable time *without reasonable cause* to a written inquiry from the Council, Executive Director, or Director of Professional Conduct Review.

6. Misrepresentations

- a. Making a misrepresentation to the Council in an application for registration or licensure which misrepresentation may include an act of omission.
- b. Using a name other than the member's name, or variation thereof accepted by the Council, as set out in the applicable register under the Act, in the course of providing or offering professional services.

7. Records and Documents

- a. Failure to document the provision of client care.
- b. Falsifying a record/document relating to the member's practice.
- c. Creating or altering a record relating to the RNs/NPs practice other than in a manner consistent with the standards of nursing practice.
- d. Signing or issuing, in the member's professional capacity, a document that the member knows or ought to know is false or misleading.

8. Boundary Violations, Impropriety, Abuse, or Sexual Misconduct in relation to a Client

- a. Entering into financial or legal obligations for or on behalf of a client other than any such obligations related to the professional services provided by the member.
- b. Requesting, accepting or communicating with a patient/client via a social media application (example Facebook) that is not approved as a method/tool for patient/client communication via an authorizing mechanism (examples: employer/agency policy).
- c. Accepting from, or giving to, a client any gift or benefit of a substantial nature, whether monetary or in the form of property.
- d. Influencing a person to withdraw an allegation filed under Section 21 of the Act and/or contacting for the withdrawal of an allegation.
- e. Inappropriate comments or questions reflecting a lack of respect for client's dignity or privacy.
- f. Inappropriate assessment/examination procedures or the inappropriate provision of nursing care, reflecting a lack of respect for client's dignity or privacy.
- g. Abuse of a client including verbal, physical, emotional or financial.
- h. Sexual abuse/impropriety of a client, including but not limited to:
 - i. engaging in sexual intercourse or other sexual activity or sexual touching with a client, or the attempt to engage in such activity
 - ii. engaging in sexual activity in the presence of a client;

- iii. the invitation to or encouragement of a client to engage in any sexual activity in the presence of the member.
- iv. Sexual comments in relation to a client, verbal or written including in the social media.
- v. the invitation to or encouragement of a client to engage in any sexual activity to be recorded by or for the member, for the personal use of the member or of others, or the acceptance of such recorded material; whether or not with the client's purported consent.

9. Fees

- a. Submitting an account or charge for services that the member knows is false or misleading.
- b. Failing to issue a statement or receipt for fee for services to a client or the person or agency who is to pay, in whole or in part, for the services if requested by a client, person or agency.

10. General

- a. Practising the profession while the member is in a conflict of interest.
- b. Harassing and/or discriminating conduct.
- c. Directing a member, student or other health care team member to perform a functions which he/she is not adequately trained or that he/she is not competent to perform.
- d. An act or omission made in the course of the practice of nursing that, having regard to all the circumstances, is contrary to a standard or expectation of professional conduct generally recognized by the nursing profession or generally recognized within the applicable nursing specialty, and which is harmful or potentially harmful to a client, to the public interest or to the nursing profession.

18(c)(ii) Professional incompetence

Professional incompetence for the purposes of sections 18 to 35 of the Act means the demonstration by a registered nurse's care of one or more clients that he or she lacks reasonable knowledge, skill, judgment and/or lack of concern for the client's welfare to the extent that client safety was placed in jeopardy, or to an extent that the nurse is unfit to continue to practice, or that his or her practice should be restricted, or that the nurse should comply with one or more of the remedial measures which may be ordered pursuant to subsection 27(2) or 28(3) of the Act or required pursuant to section 23(1) or section 22(1). Professional incompetence may arise from one incident or a pattern of careless conduct. Examples of professional incompetence are attached at Appendix B.

Examples of professional incompetence include but are not limited to the following:

Errors in assessing patients, and/or in planning, implementing and/or evaluating care and/or documentation.

Failure to use judgement in relation to individual competence when accepting and delegating and/or carrying out duties.

Failure to record significant changes in clients' conditions or failing to notify others of significant changes.

Incorrect assessment/examination procedures or incorrect provision of nursing care.

18(c)(iii) Conduct unbecoming a nurse

Conduct unbecoming a nurse for the purposes of sections 18 to 35 of the Act means conduct outside the practice of a registered nurse that would be reasonably regarded by registered nurses as disgraceful, dishonourable or harmful to the standing or reputation of the nursing profession. Conduct unbecoming a nurse may arise from one incident or a pattern of conduct and does not require that the conduct be relevant to the practice of nursing. Examples of conduct unbecoming registered nurse are as follows:

Examples of conduct unbecoming a registered nurse include but are not limited to the following:

Conviction of a criminal act that would reasonably be regarded by registered nurses as disgraceful, dishonourable, or harmful to the standing or reputation of the nursing profession.

Persistent or egregious conduct towards professional colleagues which is contrary to the codes of ethics

18(c)(iv) Incapacity or unfitness to engage in the practice of nursing

Incapacity or unfitness to engage in the practice of nursing for the purposes of sections 18 to 35 of the Act means that a registered nurse's physical or mental condition is such that it makes it desirable in the interest of the public that the nurse no longer be permitted to practice or that his or her practice should be restricted. Examples of incapacity or unfitness to engage in the practice of nursing are as follows:

Examples of incapacity or unfitness to engage in the practice of nursing include but are not limited to:

Impairment due to alcohol or substance abuse.

Excessive, unverified absenteeism from employment.

Physical or mental incapacity which is likely to be long term or permanent.

18(c)(v) Acting in Breach of the Act, the Registered Nurse Regulations or the Code of Ethics

Acting in Breach of the Act, the Regulations or the Code of Ethics for the purposes of sections 18-35 of the Act means conduct by a registered nurse that is in breach of the Act, the Regulations or By-Laws of the Association including the Code of Ethics for registered nurses which is approved by Council under the By-Laws. Examples of acting in breach of the Act, the Regulations or the Code of Ethics are as follows:

Examples of acting in breach of the Act, the Regulations or the Code of Ethics include but are not limited to:

Practicing as a registered nurse or nurse practitioner in NL without a valid license.

Failing to comply with the Continuing Competency Program as set out in Section 12(1)(c) of the Registered Nurse Regulations.

Failing to pay the annual licensure fee or other fees in accordance with the By-Laws.