



Counselling & Investigation and Discipline Committee

Process Manual
July 2023

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The Legislated Authority of the CLPNS & Statutory Committees

The Government of Saskatchewan has granted the College of Licensed Practical Nurses of Saskatchewan (CLPNS) the authority and responsibility to regulate Licensed Practical Nurses (LPNs) in Saskatchewan.

Professional regulation aims to protect the public from risk and reduce harm to those a profession serves. LPNs are regulated because their service can pose a risk to the public if care is performed incompetently or unethically.

The Licensed Practical Nurses Act, 2000 (the *Act*) establishes two statutory committees: the counselling & investigation committee and the discipline committee. They manage investigation and discipline proceedings involving CLPNS members. The *Act* outlines the composition and the authority of the committees. The decision-making functions of the committees are independent of the CLPNS and are supported administratively by CLPNS staff.

The Terms of Reference for the committees can be found on the CLPNS website.

The principles of natural justice and procedural fairness guide the processes and decision-making of the committees:

- The right to be informed
- The right to respond to the allegations
- The right to be represented
- The right to a fair and impartial decision-making process
- The right to have the case decided by those who have heard the case
- The right to timely proceedings
- The right to be provided reasons for decision-making.

Definitions

Affidavit: A written statement sworn to be true by a person who can provide information about the case. An affidavit is sworn or affirmed to be true before a Commissioner for Oaths or Notary Public.

Agreed Statement of Facts: A written list of the facts and documents agreed upon by the counselling & investigation committee and the member for presentation to the discipline committee. The discipline committee reserves the right to accept the facts as presented.

Agreement of Consensual Resolution (ACR): A consensual agreement between the counselling & investigation committee and the member to address and resolve the issue(s) identified in the complaint.

CLPNS: College of Licensed Practical Nurses of Saskatchewan.

CLPNS Council: The governing body authorized in the *Act* to regulate the LPN profession in Saskatchewan and oversee the management and affairs of the CLPNS. The Council is responsible for appointing members to the statutory committees and hearing appeals of discipline decisions.

Code of Ethics: Articulates the ethical values and responsibilities that LPNs uphold and promote and to which they are accountable. The CLPNS has adopted the *Code of Ethics for Licensed Practical Nurses in Canada*.

Complainant: The person who submitted the complaint.

Complaint Investigator: The individual(s) responsible for investigating a complaint on behalf of the counselling & investigation committee.

Complaints, Investigation, and Discipline Manager (CIDM): The CLPNS employee responsible for receiving, managing, and directing the flow of complaints and committee(s) decisions as part of the complaints, investigation, and discipline processes. The CIDM provides administrative support to the committees.

Conflict of Interest: A conflict of interest occurs when a party has competing interests or loyalties because of their duties to more than one person or organization. A conflict of interest includes any situation that impairs, interferes with, or appears to impair or interfere with a committee member's ability to make decisions in the best interest of the public or the CLPNS.

Counselling & investigation committee (C&I committee): The C&I committee is authorized by the *Act* to investigate complaints alleging professional misconduct or professional incompetence.

Discipline committee: The *Act* authorizes the discipline committee to hear complaints referred by the C&I committee and determine whether or not the member is guilty of professional misconduct and/or professional incompetence.

Evidence: A formal term for the relevant information presented to the committees to prove a fact.

Executive Director: The CLPNS employee appointed by the CLPNS Council as prescribed in Section 11(2) of the *Act*. The Executive Director reports to the CLPNS Council and is accountable for the operation of the CLPNS. The Executive Director is responsible for adequately resourcing the statutory committees and dispersing reports and notices of the committees.

Former Member: An individual who has not held CLPNS membership within the last two years.

Discipline Hearing: A formal prosecutorial-style hearing in which the discipline committee hears the evidence presented by the C&I committee and the member who is the subject of a complaint.

LPN: Licensed Practical Nurse.

The Licensed Practical Nurses Act, 2000: The statute delegating the authority to regulate the LPN profession in Saskatchewan to the CLPNS.

Mediation: A consensual method of complaint resolution offered by the counselling & investigation committee to the LPN subject to the complaint and the complainant. A neutral third party facilitates mediation.

Member: A person registered with the CLPNS and, in the context of the complaints and discipline process, former members.

Prosecutor: Legal counsel representing the counselling & investigation committee. The counselling & investigation committee prosecutes cases before the discipline committee.

Professional Practice Standards and Ethics Consultant: The CLPNS employee responsible for developing and providing guidance to members about the profession's professional practice standards and ethics.

Professional Incompetence: Defined in Section 23 of the *Act* as "*a question of fact, but the display by a member of a lack of knowledge, skill or judgement or a disregard for the welfare of a member of the public served by the profession of a nature or to an extent that demonstrates that the member is unfit to:*

- (a) *continue in the practice of the profession; or*
- (b) *provide one or more services ordinarily provided as a part of the practice of the profession."*

Professional Misconduct: Defined in Section 24 of the *Act* as "*a question of fact, but any matter, conduct or thing, whether or not disgraceful or dishonourable, is professional misconduct within the meaning of the Act if it:*

- (a) *is harmful to the best interests of the public or the members;*
- (b) *tends to harm the standing of the profession;*
- (c) *is a breach of the Act or the bylaws; or*
- (d) *is a failure to comply with an order of the counselling & investigation committee, the discipline committee or the council."*

Registrar: The CLPNS employee responsible for CLPNS registration and licensure functions.

Standards of Practice: The minimum expected levels of practitioner performance or behaviour against which actual practitioner performance or behaviour is measured. The CLPNS has adopted the 2020 Standards of Practice for Licensed Practical Nurses in Canada.

Subpoena: An order to compel someone to participate in a hearing.

Testimony: Statements made by witnesses who have taken an oath or affirmed that they would tell the truth.

Complaint Information & Submission Process

WHAT IS A COMPLAINT?

A complaint is a report alleging professional incompetence and/or professional misconduct of a member of the CLPNS.

When a complaint is submitted, it is preferred that it include a detailed description(s) of the allegation(s). The complaint may include photos/video/and other supporting documentation or materials.

WHO CAN SUBMIT A COMPLAINT?

Any person, including CLPNS staff, may submit a complaint.

The CLPNS will take reasonable steps to support the complaint submission process, including, but not limited to, interpreters, dictation, and other support services, where possible.

The CLPNS will take reasonable steps to support complainants by making culturally appropriate services and supports available, where possible.

Anonymous complaints may be accepted in some circumstances.

HOW IS A COMPLAINT SUBMITTED?

A complaint may be submitted in the following formats:

- Electronically via the online complaints submission process available on the CLPNS website
- In a written format, delivered to the CLPNS office by mail or email
- Verbally over the phone or in person.

THE COMPLAINT PROCESS

The member is provided with a summary of the complaint, including the allegation(s).

The member is provided with the opportunity to respond in writing to the allegation(s) within 21 days.

At various stages, some or all details of the complaint may be shared with any of the following individuals:

- The CLPNS member named in the complaint
- CLPNS staff, as required
- Counselling & investigation committee
- Complaint investigator
- Discipline committee
- Legal counsel(s)
- Any other person or agency, as required, to meet legal obligations.

TERMINATION OF EMPLOYMENT

If a member's employment is terminated for professional incompetence and/or professional misconduct, the employer is required by the *Act* to report the termination to the CLPNS.

- Reports of termination may be submitted via email or through the CLPNS website [Submit a Complaint | CLPNS](#).

Reports of termination are not complaints as defined within the *Act*.

- Upon receipt of a termination notice, the CLPNS may proceed with filing a complaint, dependent on the nature of the termination.
- The person filing a termination notice will be asked if they intend to file a complaint related to the reasons for the termination.

Receipt & Notification of Complaints

The C&I committee reviews all complaints submitted to the CLPNS. Section 26 of the *Act* outlines that upon receipt of allegations of professional incompetence and/or professional misconduct, the C&I committee shall review and investigate the complaint.

As a member of the CLPNS, it is the member's professional responsibility to participate in and cooperate with the complaints, investigation, and discipline process. This process can proceed without the member's participation, including when the member has not responded to the notice of the complaint or other attempts to communicate with the member.

RISK ASSESSMENT & PRIORITIZATION

Risk assessment is an important part of the complaints process and is conducted on an ongoing basis throughout the process. The risk assessment informs the prioritization and expediency of the complaints process.

Throughout the process, complaints and new information are assessed to identify if the nature and circumstances of the complaint present an existing or increased risk to the public or an individual(s), including the member.

Factors considered include, but are not limited to:

- the nature of the behaviour described in the complaint
- presence of dishonesty or deceit
- system issues
- potential for harm
- intentionality and degree of harm caused
- harm to the public's confidence in the profession
- member's complaint history.

If an ongoing and immediate risk exists to the public or an individual(s), including the member, the CLPNS will expedite the process to address the risk.

In cases where there is no immediate risk to the public or an individual(s), including the member, but the circumstances of the complaint are egregious in nature, and there is a risk to the public's confidence in the profession, healthcare, and the CLPNS, the CLPNS will prioritize and expedite the process.

CONFLICT OF INTEREST

A conflict of interest may arise at any point throughout the complaints process.

When the CLPNS receives a complaint, it is assessed by the CIDM to identify any real or perceived conflict of interest within a committee or supporting staff. The conflict of interest is evaluated throughout the process and as new information is obtained or revealed.

An identified or potential conflict of interest is reported to the relevant committee chair and the Executive Director. Steps to manage the conflict may include using a different complaint investigator, excluding conflicted staff or committee members from the process, or other necessary and reasonable steps to manage the conflict of interest.

See also *Reporting a conflict of interest* in the C&I committee obligations section on page 10 of this manual.

THE COMPLAINT RECORD

When the CLPNS receives a complaint, the complaint is recorded, and a case file number is assigned to it. The following information forms the initial complaint record:

- Name of the CLPNS member the complaint is regarding
- Name of the complainant
- The complete complaint as submitted, including all documentation provided with the complaint
- A summary of the incident(s) and allegation(s), when required
- Names of any witness provided with the submitted complaint
- Any documentation provided by the complainant following the submission of the complaint

During the course of the investigation of the complaint, additional information can be added to the complaint record:

- Member's response to the complaint/allegation(s)
- Names of additional witnesses
- Evidence
- Committee documents and reports, including an investigation report

MEMBER NOTIFICATION & RESPONSE

When the CLPNS receives a complaint, the CIDM makes telephone contact, where possible, with the member named in the complaint to notify them. An email notification is sent if the CIDM cannot reach the member.

Formal notification is emailed to the member following the initial phone call. This notification

includes the following:

- A copy of the complaint as received by the CLPNS
 - the CLPNS reserves the right to redact names and contact information
- An invitation to respond to the allegations in writing within 21 days
- An explanation of the right to access legal representation at their own expense
- An explanation of the member's current licensure status and their eligibility to practice
- Information about the CLPNS's complaints, investigations, and discipline processes, including a copy of the C&I committee's investigative procedures (this CID Process Manual)

Upon receipt of the member's written response, the following is sent to the member:

- An email confirming receipt of the response
- Notification that the complaint and the member's response will be presented to the C&I committee for their initial review

C&I Committee Obligations

PANELS

The C&I committee chair may constitute a panel of at least three persons, a majority of whom are practising members, to investigate a complaint.

REPORTING A CONFLICT OF INTEREST

Upon receipt of a complaint, members of the C&I committee will conduct a conflict-of-interest check and inform the committee chair of the outcome. A committee member who declares a conflict of interest is excluded from all matters pertaining to the complaint file.

Where a committee member declares a conflict of interest, the member shall not thereafter participate in any further consideration of the complaint, and any such withdrawal from the committee does not impair the power of the remaining committee members to act.

If a committee member declares a conflict of interest, the committee chair may then assign an alternate member to the committee for the duration of the process. If the committee chair declares a conflict of interest, the committee proceeds without the chair.

- The alternate committee member may sit for the discussion where the chair has declared a conflict of interest.
- If an alternate member cannot be assigned to the committee, a panel of available committee members will be formed
 - A decision of a panel has the same effect as the whole (section 25(3) of the *Act*)

DUTY TO REPORT CRIMINAL ACTIVITY

If, during an investigation or hearing, the C&I committee has a reasonable belief that the member has been engaged in, or is engaging in possible criminal activity, they are required to report this to

the appropriate law enforcement agency.

Scope of Investigation

According to sections 26 and 26.1 of the *Act*, when the C& I committee receives a complaint alleging that a member may be guilty of professional misconduct and/or professional incompetence, the committee will review the complaint and investigate by taking any steps it considers necessary, including, but not limited to, expanding the scope of the investigation beyond the allegations initially reported to the CLPNS.

DIRECT FURTHER INVESTIGATION

As previously stated, the C&I committee reviews all complaints submitted to the CLPNS.

Where the C&I committee determines, upon their initial review and investigation, that it does not have adequate information to make a decision, the C&I committee may direct that further investigation occur.

Any additional information obtained during the complaint's initial or subsequent investigation(s) will be presented to and reviewed by the C&I committee. The member will be provided with an opportunity to respond to new information.

COMMITTEE-DIRECTED INVESTIGATION

When the C&I committee directs further investigation, the complaint investigator is provided with the submitted complaint, the member and complainant responses, and all case file documentation received by the CLPNS in accordance with the CLPNS's [Privacy and Release of Information Policy](#). This further investigation aims to gather evidence related to the complaint. This process can include document collection and interviews.

Methods of evidence collection

- Interviews may be conducted in person, via a virtual platform, or via telephone with the following people:
 - the member
 - the complainant
 - any named or subsequently identified witnesses
 - the member's supervisor or employer
 - any other person that the investigator believes may have relevant information.
- Section 26.1 of the *Act* authorizes the CLPNS to:
 - require any person to answer any relevant questions and direct the person to answer the questions under oath or affirmation;
 - require any person to give to the committee any book, record, document or thing relevant to the investigation that is in the person's possession or under the person's control;
 - enter and inspect any premises or place where the investigated member practises or has

practised in the profession;

- inspect, observe or audit the investigated member's practice; and
 - examine any equipment, materials or any other thing used by the investigated member.
 - require the investigated member to provide access to any computer system used in connection with the member's practice in order to produce a record in readable form;
 - photograph or create images of the premises or place; or
 - use any copying equipment at the premises or place to make copies of any record related to the investigated member's practice.
- No person shall obstruct the C&I committee, or a committee member making an investigation pursuant to this *Act* or withhold from the committee or the member or conceal, alter or destroy any book, record, document or thing relevant to the matter being investigated (section 26.1(8))

Interview arrangements

All interviews will be conducted in a confidential setting within a public facility or institution. For the safety of all participants, the complaint investigator will not conduct in-person interviews within a private home setting.

Recording interviews

To ensure the integrity of the interview process, the complaint investigator may record all interviews. The recordings form part of the investigative record.

To represent information collected during the interview accurately, the complaint investigator will issue the member and complainant a summary of their statements for review and rebuttal. Any corrections to the information are recorded in the investigation report.

Investigation report

Upon completion of the directed investigation, the complaint investigator will prepare a report for review by the C&I committee.

The investigation report shall include, but is not limited to, the following:

- Identity of individuals and date of interviews
- Summary of the interviews
- Any supporting documentation collected during the investigation.

Decision-Making Related to the Complaint

C&I COMMITTEE DECISION

The C&I committee is required to review all complaints to determine if:

- It is likely that the member would be found guilty of professional misconduct and/or professional incompetence if the discipline committee heard the complaint at a hearing.

The committee chair may constitute a panel of at least three persons, a majority of whom are

practising members, to review the complaint.

The C&I committee is expected to make one or more of the following decisions (section 26(3) of the Act):

- Refer the matter to the discipline committee for a hearing
- Refer the complaint to mediation if the C&I committee decides that the complaint is of concern only to the complainant and the investigated member, both of whom agree to mediation;
- Require the investigated member to appear before the C&I committee, or a panel of the committee, to be cautioned;
- Require the investigated member to complete a specified continuing education or remediation program;
- Accept the voluntary surrender of the investigated member's registration or licence;
- Accept an undertaking from the investigated member that provides for one or more of the following:
 - assessment of the investigated member's capacity or fitness to practise in the profession;
 - counselling or treatment of the investigated member;
 - monitoring or supervision of the investigated member's practice;
 - completion by the investigated member of a specified course of studies by way of remedial training;
 - placing conditions on the investigated member's right to practise in the profession;
- Take any other action that the C&I committee considers appropriate that is not inconsistent with or contrary to the Act or CLPNS bylaws.
- Take no further action
 - At times, the C&I committee may decide not to take further action on a complaint.
 - In those circumstances, the C&I committee provides a written report outlining why it is taking no further action on the complaint, which it shares with the complainant and the LPN named in the complaint.
 - Possible reasons for taking no further action on a complaint can include:
 - The complaint is not within our legislated authority
 - The information obtained during the investigation does not substantiate the allegations in the complaint
 - The complaint is frivolous, vexatious or constitutes an abuse of process
 - The conduct or behaviour under investigation, even if shown to have occurred, does not appear to amount to a breach of the Standards of Practice or Code of Ethics, and does not otherwise constitute professional misconduct or professional incompetence.

Supports available

The CLPNS aims to provide culturally appropriate resources to support the complainant and the member throughout the complaints process. These resources can include a support person, a change in location for interviews and hearings, and the use of ceremony.

REFERRAL TO THE DISCIPLINE COMMITTEE

The C&I committee will recommend to the discipline committee that they hear and determine the formal complaint at a hearing when the C&I committee:

- believes the member is likely guilty of professional misconduct and/or professional incompetence and
- the conduct and/or behaviour of the member cannot be remediated by the C&I committee.

REPORTING REQUIREMENTS

When the C&I committee makes a decision other than referring the complaint to the discipline committee for a hearing, it will issue a written report explaining the reasons for the outcome(s). This decision is sent to the complainant and the LPN(s) named in the complaint. The CLPNS Council and the discipline committee may also receive copies of the decision when required by *The Licensed Practical Nurses Act, 2000*, or the CLPNS bylaws.

When the C&I committee refers the complaint to the discipline committee for a hearing, this referral is provided to the LPN(s) named in the complaint and the complainant. The CLPNS Council is not provided with this report because if there is an appeal of the decision of the discipline committee, the Council may be asked to hear the appeal.

Depending on the decision made, the CLPNS may be required by the *Act* to publish decisions. Publication is done as follows:

- Official copies of the discipline committee's decisions are posted on the public register and on the CLPNS website.
- Summaries of complaints that are resolved by any action other than a referral for a hearing or no further action are posted on the public register.

Discipline Committee Obligations

PANELS

The discipline committee chair may constitute a panel of at least three persons, a majority of whom are practising members and one of whom is a government appointee to the Council to hear and determine the formal complaint.

REPORTING A CONFLICT OF INTEREST

Upon receipt of a complaint, members of the discipline committee will conduct a conflict-of-interest check and inform the committee chair of the outcome. A committee member who declares a conflict of interest is excluded from all matters pertaining to the complaint file.

Where a member of the discipline committee declares a conflict of interest, the member shall not thereafter participate in any further consideration of the complaint, and any such withdrawal from the committee does not impair the power of the remaining members of the committee to act.

If a committee member declares a conflict of interest, the committee chair may then assign an alternate member to the committee for the duration of the process. If the committee chair declares a conflict of interest, the committee proceeds without the chair.

- The alternate committee member may sit for the discussion where the chair has declared a conflict of interest.
- If an alternate member cannot be assigned to the committee, a panel of available committee members will be formed
 - A decision of a panel has the same effect as the whole (section 28(4) of the Act)

DUTY TO REPORT CRIMINAL ACTIVITY

If, during an investigation or hearing, the discipline committee has a reasonable belief that the member has been engaged in or is engaging in possible criminal activity, they are required to report this to the appropriate law enforcement agency.

Discipline Hearing

MEMBER NOTIFICATION

When a formal complaint is referred for hearing by the discipline committee, the Executive Director shall, at least 14 days before the date of the hearing:

- send a copy of the formal complaint and/or report to the member and
- serve notice to the member of the date, time, and place of the hearing.

The formal charges are prepared by the C&I committee and its legal counsel and provided to the member and the discipline committee.

The complainant is notified of the hearing date but is not provided with a copy of the formal charges.

MEMBER'S RIGHT TO LEGAL REPRESENTATION

The member may wish to be represented by legal counsel at a hearing. Costs for legal representation are the responsibility of the member.

DISCIPLINE HEARING PROCESS

A discipline hearing can take place either in-person or online. The process is as follows:

- Any member of the public may attend discipline hearings unless otherwise decided by the discipline committee.
- During the hearing, the C&I committee will act as the prosecutor and present evidence to the discipline committee. Generally, the C&I committee's legal counsel will represent the C&I committee.
- The C&I committee, through their legal counsel, will disclose all documentation and provide a list of witnesses to the member or the member's legal counsel that they intend to introduce

at the hearing.

- The member, or the member's legal counsel, is responsible for obtaining a subpoena to compel the attendance of any witnesses they wish to have testify during the hearing.
- If the hearing takes place virtually, the hearing will be guided by the Virtual Hearing policy (see Appendix A). Witness testimony occurs under oath or affirmation, and the member and the C&I committee have the full right to examine, cross-examine, and re-examine all witnesses.
- The member can present evidence in defense and reply by themselves or their legal counsel.
- Legal counsel supports the discipline committee to ensure decisions are legally sound.

Hearing evidence

As outlined in Section 29 (10) of the *Act*, the records of any facility operated by the provincial health authority may be brought before the C&I committee.

Evidence heard by the discipline committee may be received in the following forms:

- Witness Testimony
- Affidavit Evidence
- Agreed Statement of Facts.

Protection of privacy

The discipline committee has the discretion to exclude the public and the complainant from any part(s) of the hearing to protect the privacy of a person other than the member whose conduct is the subject of the hearing.

Failing to appear before the discipline committee

The process may proceed in their absence if the member fails to appear before the discipline committee for the hearing.

DISCIPLINE COMMITTEE DECISION & ORDER(S)

After hearing the formal complaint, the discipline committee will deliberate in private and come to its decision. Its written decision and any order(s) are provided to the Executive Director for distribution and publication as follows:

- The Executive Director will send a copy of the order to the member who is the subject of the complaint and to the complainant
- The discipline committee order is posted on the CLPNS website and on the public registry
- The order may also be provided to other relevant individuals as determined by the discipline committee.

The discipline committee attempts to provide their decision, with reasons, within 30 days of the close of the hearing.

PUBLICATION

The full text of the discipline committee's decision will be included on the public registry. A summary of the decision will be included on the CLPNS website.

DISCLOSURE OF IDENTITY

The member's name will be disclosed in the order unless the discipline committee orders that the member's name be redacted to protect the health or security of the member or some other person.

The discipline committee will provide reasons for this limitation in their decision.

DISCIPLINARY POWERS

When the discipline committee has found a member guilty of professional misconduct and/or professional incompetence as defined in sections 23 and 24 of the *Act*, the discipline committee has the power to:

- Expel the member from the CLPNS and have their name "struck from the register"
- Suspend licensure for a specific period
- Suspend licensure until the member meets specific requirements
- Permit the member to practise with certain conditions specified in the order
- Assign a specified monetary fine, not to exceed \$5000, with a fixed deadline for payment
- Order the repayment of all or some of the costs of the investigation and hearing
- Any other orders that the discipline committee determines are just.

Appeal Process

Once the decision of the discipline committee has been made, the member who was subject to the complaint has the right to appeal the decision or any of the orders in the decision.

The member may appeal the decision or order(s) to the CLPNS Council or to the Court of King's Bench.

The member may wish to be represented by legal counsel during the appeal process. Any associated costs would be the responsibility of the member.

APPEAL TO THE CLPNS COUNCIL

The member must serve the Executive Director with notice that they intend to appeal within 30 days of the date of the decision.

The Executive Director will provide the Council with the following:

- The formal complaint that was submitted to the discipline committee
- A transcript of the discipline hearing
- The decision and order(s) of the discipline committee.

An appeal to the Council is similar to the previously described hearing process:

- The appeal may occur in person or virtually
- The member is entitled to obtain their legal counsel at their own expense
- The member will present their reasons why the decision or order(s) of the discipline

committee should be overturned

- The Council acts as the jury that hears and determines the outcome of the appeal
- The Council is supported by its own legal counsel to ensure legal decision-making occurs
- The Council will not accept new evidence during the appeal hearing
- No member of the Council who was a member of the discipline committee that made the decision shall be allowed to participate in the appeal.

DECISION ON THE APPEAL TO THE CLPNS COUNCIL

Upon hearing the appeal, the Council may:

- Dismiss the appeal
- Quash the finding of guilt
- Direct a new hearing or further inquiries by the Discipline committee
- Vary the order of the Discipline committee
- Substitute its own decision for the decision appealed

The Council may also make any order as to costs that it considers appropriate.

APPEAL TO THE COURT

A member may appeal to the Court of King's Bench instead of appealing to the CLPNS Council or appeal the Council's decision to that court by filing a notice of appeal with the court within 30 days of the decision date.

A decision of the Court of King's Bench can be appealed to the Court of Appeal only on a question of law. The member is responsible for all costs associated with an appeal to the court.

Starting an appeal process does not stop the discipline committee's order(s). However, the member may apply to the court for a stay of the decision and/or order(s) pending the outcome of the appeal.

References

The Licensed Practical Nurses Act, 2000, <https://clpns.com/wp-content/uploads/2023/06/LPN-Act-2023-Current.pdf>

CLPNS Regulatory Bylaws <https://clpns.com/wp-content/uploads/2023/08/CLPNS-Regulatory-Bylaws-CONSOLIDATION-2023-08-17.pdf>

Code of Ethics for Licensed Practical Nurses in Canada <https://clpns.com/wp-content/uploads/2022/12/2020-Standards-of-Practice.pdf>

2020 Standards of Practice for Licensed Practical Nurses in Canada <https://clpns.com/wp-content/uploads/2022/12/2020-Standards-of-Practice.pdf>

First issued: December 2017

Current version: July 2023

Previous versions: November 2020, July 2023

Reviews:

Approved by: Counselling & Investigation committee

Department Responsible for review: Complaints, Investigation & Discipline (CID)

Appendix A: Virtual Hearing Policy



Virtual Hearing Policy

Purpose

The objective of this policy is to outline how to attend and navigate a video hearing or other meeting of the discipline committee or its members.

Policy

The CLPNS may decide it is in the best interest of the public to hold hearings virtually to ensure safety and/or access to justice. The decision to use video attendance is decided on a case-by-case basis.

Authority

The Licensed Practical Nurses Act, 2000

CLPNS Regulatory Bylaws

Procedure

The discipline committee's preferred video platform for hearings is ZOOM.

This document is a guideline for how the discipline committee conducts video hearings. However, there is no guarantee there will not be technological or human issues that may require adaptation of, or changes to, these guidelines when necessary.

The CLPNS promotes a hearing process that improves access to justice, where reasonably practical or short of undue hardship.

USING ZOOM

The CLPNS is not responsible for providing education on using ZOOM, or any other meeting platform.

The link below outlines the system requirements for using Zoom:

<https://support.zoom.us/hc/en-us/articles/201362023-Zoom-system-requirements-Windows-macOS-Linux>

You can also find tutorials on how to use Zoom at: www.zoom.us

PRELIMINARY MATTERS

When there are issues to be addressed before the scheduled hearing occurs, a prehearing conference can be scheduled.

Prehearing conferences are the appropriate time to consult with the discipline committee regarding questions, concerns, or requests about video hearings. The prehearing conference can be held by telephone or video call.

DOCUMENTS

The following process outlines how to prepare and submit documents electronically, unless the discipline committee chair or CLPNS staff provides different instructions.

Document Submission Prior to the Hearing

- Parties will identify and exchange the documents they intend to enter as exhibits during the hearing.
- Parties will assemble the documents into one PDF file in three parts:
 - **Part A** – Documents to be entered by consent of the parties, which will be marked as an exhibit at the start of the hearing.
 - **Part B** – Documents the Party proceeding first intends to enter, which will not be entered by consent.
 - **Part C** – Documents the Responding Party intends to enter, which will not be entered by consent.
- PDFs should ideally be in their original format. Scanned copies of printed PDFs are discouraged.
- Once the single PDF has been compiled, with page numbers and bookmarks, the parties will email the completed PDF Document Book to the CLPNS at complaints@clpns.com for distribution.
- If the volume of documents in a hearing is not conducive to using the PDF Document Book process, then the parties will discuss how best to share the documents.
 - Adobe can "shrink" the file size.
 - An alternative option for sharing large amounts of material is to deliver a flash drive containing the information. Do not mail paper copies to the CLPNS.

Document Submission During the Hearing

All efforts must be made to identify and include in the PDF Document Book documents the parties anticipate entering as evidence during the hearing. If any additional documents are submitted during the video hearing, they will be handled in the following way, unless the discipline committee chair directs otherwise:

- The party will email the document to the other counsel or the self-represented member and to the CLPNS staff member as directed.
- Once shared, documents can be viewed using the ZOOM screen share function.

HEARING PROCESS

Providing Access to the Online Hearing

The CLPNS staff will provide an online meeting link to the self-represented member and/or counsel before the hearing. It is the obligation of each party to ensure those attending at the request of the party, such as witnesses, are provided with this information.

The same meeting link and password will be used for the entire hearing unless the discipline committee chair or CLPNS staff advise otherwise.

Commencing the Online Hearing

The online meeting room will open thirty minutes before the scheduled start time. Everyone should join the meeting at least fifteen minutes before the start time. You will be placed into a virtual waiting room.

If counsel would like to meet privately with their client, or others, before the hearing, advise CLPNS staff and this will be accommodated.

At the scheduled time, the discipline committee chair will bring everyone into the hearing room. Once everyone is present, video and audio connections will be assessed in preparation to proceed.

This procedure will be repeated for any persons testifying.

Conduct During the Online Hearing

All parties are expected to be respectful towards other parties and the proceedings. The discipline committee expects parties will conduct themselves in the same manner they would if attending an in-person hearing, regardless of attending from home or another venue remotely.

The parties must remain visible throughout the hearing and may not use virtual backgrounds.

During the hearing, all microphones will be muted unless speaking.

Witnesses on Standby

Self-represented members or counsel will need to organize their witnesses to ensure they are ready to testify when it is their turn.

The witnesses can be informed by email, call, or text when to join the hearing. They will be placed in the virtual waiting room where they will be kept until called to testify.

Rules for Witnesses

Witness will not:

- be allowed into the main meeting room before providing their testimony.

Witnesses must:

- be alone in the room, except as permitted by the discipline committee
- be clearly visible, face the camera and speak directly and audibly into the microphone
- not use a virtual background

- sit at a clear desk or table, with only exhibits that have been permitted by the discipline committee

Breakout Rooms

Breakout rooms allow Zoom meetings to be split into separate sessions. Breakout Rooms will be available during the hearing.

When one of the parties requests access to a Breakout Room, the chair will rule on the request. CLPNS staff will move the parties into a Breakout Room as directed.

Objections & Other Issues

If issues are brought to the attention of the discipline committee during the hearing that require the discipline committee to deliberate before making a ruling, the discipline committee will utilize a Breakout Room to discuss the issue. The discipline committee will return to the main meeting room to provide their decision.

If a witness is testifying at the time, the witness will be placed in their own breakout room. Any observers or other non-participants will be placed in the waiting room.

Technology Problems During the Online Hearing

If the connection is lost, the hearing will be paused; everyone affected will attempt to sign back in. The hearing will reconvene as soon as everyone who needed to be in the hearing at the point the disconnection occurred is confirmed to be present. For example, if a witness was being questioned, the discipline committee will wait until all parties to the complaint plus the witness are present. The discipline committee may not wait for all observers or non-participants to be present.

It is important that all parties have updated and current contact information at the time of the hearing to be able to communicate with them in the event of a disconnection. If there are any last-minute contact detail changes, the discipline committee must be informed at the start of the hearing.

Recording

Participants are not permitted to record the hearing on any recording device or take photos or screenshots during the hearing. The CLPNS will record the audio on a separate device, but only for use by the discipline committee, and where legislation permits.

Be mindful, there is often personal health information shared in hearings since the discipline committee's responsibilities are in professional regulation of nurses in practice. There are many laws and regulations that govern sensitive information. In addition, the discipline committee may make rulings on publication bans of sensitive information.

First issued: September 2022

Current version: September 2022

Previous versions: n/a

Reviews: Every two (2) years

Approved by: Discipline Committee

Department responsible for review: Complaints, Investigation & Discipline (CID)

Appendix B: Offence Ticket Policies



Offence Ticket: Engaging in LPN practice without holding a practising license

Purpose

This policy aims to provide a fair and transparent process to determine the outcome of a complaint filed against a member who engaged in LPN practice without holding a practising license.

A member who fails to meet the CLPNS licensure requirements and works as an LPN is guilty of professional misconduct and is in breach of Section 19 of *The Licensed Practical Nurses Act, 2000*.

Authority

The Licensed Practical Nurses Act, 2000
CLPNS Regulatory Bylaws

Scope

This policy applies to situations where a member has failed to meet licensure requirements before working as an LPN.

Procedure

When a member fails to meet the CLPNS's licensure requirements before working as an LPN, the Registrar (or designate) may forward a written complaint to the counselling and investigation (C&I) committee for review.

The C&I committee reviews the complaint and determines the outcome of the complaint.

If the C&I committee determines that the member is likely guilty of professional misconduct, as defined in *The Licensed Practical Nurses Act, 2000*, for failing to meet the licensure requirements described in the CLPNS Bylaws, they may issue an Offence Ticket.

A Standard Offence Ticket is issued using the Standard Discipline Offence Ticket Procedure, which includes Form A and Form B.

Fines assigned by the C&I committee are as follows:

Number of shifts worked unlicensed	Offence Ticket Fee Schedule
1-3 shifts	\$500
4-6 shifts	\$750
7-9 shifts	\$1000
10-14 shifts	\$1500
More than 15 shifts	As determined by the Committee

First issued: November 2022

Current version: November 2022

Previous versions: n/a

Reviews: Every two (2) years

Approved by: Counselling & Investigation committee

Department responsible for review: Complaints, Investigation & Discipline (CID)

Offence Ticket: Licensure Audits

Purpose

This policy aims to provide a fair and transparent process to determine the outcome of a complaint filed against a Member related to non-compliance or an unsuccessful licensure audit.

A member who fails to respond to a request for information from the Registrar or does not meet the renewal requirements as listed in the CLPNS Bylaws related to the Continuing Education Portfolio (CEP) program is guilty of professional misconduct and is in breach of Section 19 of *The Licensed Practical Nurses Act, 2000* (the *Act*).

Authority

The Licensed Practical Nurses Act, 2000
CLPNS Regulatory Bylaws

Scope

This policy applies to situations where a member has either:

- (a) Failed to respond to a request for information from the Registrar relating to a criminal record check (CRC) or practice hours verification licensure audit, or
- (b) Failed to meet the Bylaw requirements related to the CEP program and licensure renewal

Procedure

When a member fails to meet either (a) or (b) above, the Registrar may forward a written complaint to the counselling and investigations (C&I) committee for review.

The C&I committee reviews the complaint and determines the outcome of the complaint.

When the C&I committee has determined that the member would likely be found guilty if a formal hearing was held of professional misconduct as described in the *Act* for failing either (a) or (b) above, they may issue an Offence Ticket.

A Standard Offence Ticket is issued using the Standard Discipline Offence Ticket Procedure, which includes Form A and Form B.

Fines assigned by the Committee are as follows:

Offence Ticket	Fine Schedule
Criminal Record Check (CRC) Audit	
Non-compliance	\$500
Practice Hours Audit	
Non-compliance	\$500
Continuing Education Portfolio (CEP) Hours Audit (based on # of verifiable hours)	
1-2 hours	cautionary letter
3-6 hours	\$100
7-12 hours	\$200
13-18 hours	\$300
19-24 hours	\$400

Additionally, each member will:

- **CRC**
 - be required to submit a criminal record check
 - be notified that they will be audited in one of the three categories the following year
- **Practice Hours**
 - be required to provide the CLPNS with an employer-verified record of worked LPN hours in the most recent five-year period
 - be notified that they will be audited in one of the three categories the following year
- **CEP**
 - receive a cautionary letter outlining what CEP activity hours could not be verified and why
 - be notified that their practising license renewal will be blocked to allow CLPNS staff to audit their CEP activities to ensure compliance with the bylaws

First issued: June 2022

Current version: June 2022

Previous versions: n/a

Reviews: Every two (2) years

Approved by: Counselling & Investigation committee

Department responsible for review: Complaints, Investigation & Discipline (CID)