

**Guidelines for  
Licensed Practical Nurses  
in Nova Scotia**

**The  
Professional  
Practice Series**

**Duty of Care  
Duty to Provide Care  
Duty to Report**

2014

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### **Acknowledgement**

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***Licensed Practical Nurses have core nursing knowledge to independently care for clients with an established plan of care. Licensed practical nurses are an integral part of the health care team; accountable to provide safe, competent, ethical and compassionate care to individuals, families and communities.***

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## About the College

The College of Licensed Practical Nurses of Nova Scotia (CLPNNS), or the College, is the regulatory body for Licensed Practical Nurses (LPNs) in Nova Scotia. The College's mandate is to protect the public by promoting the provision of safe, competent, ethical, and compassionate nursing practice. The College sets, monitors and enforces standards for entry into the profession, practical nurse education, registration and professional conduct.

## Using this Document

Guidelines are documents that outline the licensed practical nurse's accountability in specific practice contexts. They reflect relevant legislation and are designed to help licensed practical nurses understand their responsibilities and legal obligations in order to they make safe and ethical nursing decisions.

This document is part of *The Professional Practice Series*. It is one document, in a group of documents that have been created to help LPNs and others better understand the scope of practice of the LPN in Nova Scotia. ***Guidelines for Licensed Practical Nurses: Duty of Care*** was developed to assist licensed practical nurses understand their professional obligations. This, as with all College documents, can be used with CLPNNS Standards of Practice, Code of Ethics and all applicable practice guidelines or position statements found on the College website at [www.clpnns.ca](http://www.clpnns.ca).

## Context of Care

It is important that LPNs recognize the independence of their practice varies in relation to the context of care, or the sum total of needs of the client, their own individual competence and the supports in the practice environment (CLPNNS, 2012). This means that even though the LPN may have the necessary knowledge and skill to perform an intervention, the overall complexity of care may be such that the judgments relating to the outcome of the intervention (including education, surveillance, monitoring, follow-up assessment or support) are better suited for another care provider with a broader knowledge base, (i.e., RN, NP or MD). As with all aspects of their practice, licensed practical nurses are accountable to recognize a change in the context of care, (e.g. an increase in client acuity, the needs of the client become more variable or exceed their individual capacity or there are a lack of supports in the practice environment), indicates they are required to work in collaboration with, or under the guidance or direction of an appropriate care provider.

## The Licensed Practical Nurse as a Leader

Every LPN in Nova Scotia is expected to demonstrate leadership in their everyday practice as part of meeting their commitment to their Standards of Practice and Code of Ethics (CLPNNS, 2013a, 2013b). Clinical leadership is the demonstration of leadership behaviour (e.g., clinical expertise, effective communication, collaboration and empathy) while providing care (Patrick, Laschinger, Wong & Finegan, 2011). LPNs act as leaders through their advocacy for and contribution to the development and maintenance of quality practice environments. Quality practice settings are required to support safe and effective nursing practice (CNO, 2006).

As leaders, licensed practical nurses are expected to be confident in their knowledge to assess clinical circumstances and articulate client needs to the team. Leadership requires the LPN to step into situations and do their best for the betterment of the client. Starting a difficult conversation, taking action and following up for the sake of improvement of the client, the system, and the profession are leadership actions that require initiative and courage. Everyday leadership is critical to professional growth and confidence.

Licensed practical nurses are expected to reflect on their own practice. Reflection is a method of learning and gaining insight through the critical analysis of one's experiences (Durgahee, 1997). LPNs look back at their actions and at the outcomes that were, or were not achieved. They make decisions about their future practice, based on the reflection or lessons learned from previous practice. Reflection is an important component of leadership and consistent with principles of the Colleges' Continuing Competence Program (CCP). For more information on Leadership, go to <http://clpnns.ca/introducing-the-professional-practice-series-documents-to-support-lpn-practice/>

### Introduction

Licensed practical nurses have a professional obligation or duty to provide clients with safe, competent, ethical and compassionate care. The duty that is embedded in this obligation extends to all contexts, at all times, including during an emergency or disaster, (CRNM, 2009; CRNNS, 2007). This requirement is defined and outlined in the LPN Act and regulations, Standards of Practice and Code of Ethics.

### Duty of Care

Duty of care is the moral, ethical and legal obligation that requires licensed practical nurses to adhere to a *reasonable standard of care* while providing, assigning, delegating, supervising, promoting, evaluating or advocating for care, (CNO, 2009). The duty of care applies to every direct or indirect aspect of the nurse-client relationship (Griffith, 2014) and begins when the nurse-client relationship is established (Keatings & Smith, pg. 197). For more information about the nurse-client relationship, go to <http://clpnns.ca/wp-content/uploads/2013/04/F-Therapeutic-Nurse-Client-Relationship-July-2013-HR1.pdf>.

### Obligations within the Duty of Care

By virtue of their education and competencies, licensed practical nurses hold themselves out to the public as having specialized knowledge and skills. As such, society has expectations of LPNs to meet specific professional standards and have safe, competent, ethical and compassionate practice when meeting their obligations, (CRNNS, 2007).



This document will outline three (3) obligations within the Duty of Care:

1. Duty to Meet the Standard of Care;
2. Duty to Provide Care, and;
3. Duty to Report.

### **Assignments in Relation to Competence**

Underpinning the obligations within the duty of care is the notion of competence. LPNs, acting as leaders are expected to engage employers, managers and assignment makers in professional conversations to ensure that work assignments match their individual competence with the needs of the client in the specific practice context.

Although there is no expectation that an LPN is to engage in practices that are beyond their level of competence, occasionally a work assignment exceeds the individual LPNs capacity. In these circumstances, the LPN is expected to negotiate the work assignment with their manager based on their own individual scope of practice and competencies, rather than refusing the assignment based on perceived lack of competence. LPNs have an obligation to inform employers when they are asked to deliver care beyond their level of competence or personal scope of nursing practice. It is important for LPNs to recognize when they have passed the limits of their knowledge, skills and/or judgment, and to know when and where to request assistance or additional education or training. It is equally important to remember that every LPN has basic entry-level competencies that are to be applied in any practice setting (CRNNS, 2007).

### Assignments in Unfamiliar Practice Environments

The refusal of an assignment in an unfamiliar practice setting is only justified when:

- the risk of harm to a client is greater by accepting the assignment than by refusing it, and;
- there is no opportunity to negotiate a modified assignment consistent with the LPNs individual competency.

If an LPN chooses to refuse an assignment (for any reason), they must inform their employer of the reason for refusal, document the decision-making process, and provide the employer with enough time to find a suitable replacement (CLPNBC, 2013; CRNNS, 2007)

### **1. Duty to Meet the Standard of Care**

The standard of care is the level of practice, action or conduct of a person that is required to achieve the appropriate outcomes of a given situation. To meet the standard of care, individuals' actions must satisfy the three elements. The individual must have:

1. acted honestly and in good faith with a view to the best interests of the person;
2. exercised the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances, (Keatings & Smith, 2010, p. 202) and;
3. complied with the legislation, practice standards and expectations of the profession or other unanimous member agreements, (Industry Canada, n.d.).

The standard changes depending on the context of the situation at hand or the assumed knowledge and experience of the person. For example, an accountant acting as volunteer treasurer for a community organization would be held to a higher standard than a non-accountant in a situation where poor record keeping resulted in a loss of money.

Licensed practical nurses have a duty or an obligation to meet the standard of care, because the standard of care represents safe, competent, ethical and compassionate nursing services. The obligation exists for every LPN in every practice context, within every nurse-client relationship and is imbedded in their Standards of Practice, Code of Ethics and Continuing Competence Program (CCP). The standards and code represent safe and ethical care and outline the minimal practice expectations of LPNs in Nova Scotia, (CLPNNS 2013a, and 2013b). The notion that LPNs are accountable to be current and remain current in their practice context (which includes the self-identification of knowledge deficits *and* taking action to correct them,) is a critical component of meeting the standard of care (Kline & Khan, 2013; Weaver, 2011) and inherent in the values that support the College's continuing competence program.

Standard of care differs from standards of practice. *Standard of care* is a legal term defined by Common Law referring to actions that are required to achieve appropriate results. *Standards of practice* are the minimal practice expectations of licensed practical nurses which are developed by the College. In essence, LPNs rely on their standards of practice to ensure they meet the standard of care. *Standard care practices* or *care standards* or *standard practice* is sometimes used to mean usual or routine care for a client or a group of clients with similar health needs, (e.g., all newly admitted clients have their vital signs checked every 8 hours, all clients with a diagnosis of dementia are placed on 'fall precautions').

### **Determining if an LPN has met the Standard of Care**

Licensed practical nurses must make every effort to ensure they meet the standard of care. To determine if an LPN has met the appropriate standard, their actions are tested against three elements of the standard of care. The LPN must have had:

1. the necessary knowledge, skill and judgment (competence) to appropriately care for the client (i.e., acted in the best interest of the client),
2. provided care to the best of their abilities using best practice, current evidence and appropriate actions, (i.e., their actions are comparable to a competent person with similar knowledge, skills and judgment, acting reasonably and responsibly in similar circumstances), and;
3. practiced in a manner that is consistent with their standards of practice, code of ethics and College and employer policies.

## **2. Duty to Provide Care**

Duty to provide care is defined as the requirement for a licensed practical nurse to provide safe, competent, ethical and compassionate care (in accordance with the Standards of Practice and Code of Ethics) to a client or clients within a defined period of time (which may be an entire shift or intermittent

assignment within a shift). The duty starts when the assignment is accepted and therefore can arise *before* any interaction with clients. Once accepted, the LPN has a duty to commence, continue and be available for care until this duty is transferred, assumed or shared with another care provider with the knowledge, skill and judgment to do so, (CRNNS, 2007).

Licensed practical nurses and employers have a shared responsibility to work together to ensure processes are in place for LPNs to acquire and maintain competence so that they may fulfill their accountabilities.

Employers are responsible for adequate staffing for safe, competent and ethical care and the most effective use of resources, (CLPNNS & CRNNS, 2012). They are also responsible for providing the necessary resources and supports to help LPNs meet their Standards of Practice, (CRNBC, 2014) and as well as the necessary protective equipment and supplies that will minimize risk to all nurses and other healthcare providers (CRNNS, 2007).

#### Duty to Provide Care in Public Health or Other Emergency Situations

There is a strong claim for a social contract between the healthcare professional and society in a publicly-funded healthcare system. It is a reasonable and legitimate expectation by the public that healthcare professionals will respond in public health or other emergencies. Society has granted and permits professions to be self-regulating on the understanding that such a response would occur, (CRNNS 2007).

The primary concern in times of public health or other emergency situations is the professional commitment to care. LPNs are expected to utilize appropriate safety precautions and to absorb a certain amount of risk while providing care during a public health or other emergency situations; however, there is no expectation that they place themselves at an unnecessary risk to do so, (CLPNBC, 2013).

#### **Refusal to Provide Care or Withdrawal from Care**

Even though licensed practical nurses have an obligation to provide safe, competent and ethical care to their clients there are some circumstances (every day or emergency situations) in which it is acceptable for an LPN to refuse to provide care or withdraw from care provision. Typically, refusal or withdrawal is warranted in circumstances where care provision puts the client at a greater risk for a poor outcome than not providing care.

These situations include:

- unreasonable burden;
- lack of individual competence;
- lack of mental, physical or emotional well-being;
- morally or ethically opposed to care, or;
- physical danger (client or LPN).

LPNs must clearly understand three very important points with respect to refusal to provide or withdrawal from care. First, even though the LPN may appropriately refuse to provide care or withdraw from care, they may still bear the accountability to ensure that care is provided by an appropriate care provider. LPNs should also be aware that this may include providing the care themselves until such time when accountability for care is transferred to an appropriate care provider.

Secondly, LPNs are expected to explore every reasonable option to ensure they have balanced their personal beliefs or safety with client care needs. This means the LPN is required to make sure the decision to refuse to provide or withdraw from care is based on an examination of all the relevant factors and all possible alternative options.

Finally, LPNs who plan to refuse to provide care or withdraw from care must communicate (verbally and in writing) their intent to do so to their employer or client if the LPN is self-employed. LPNs must give employers/client *reasonable time* to find an appropriate alternative care provider.

### **Circumstances That May Warrant Refusal to Provide Care or Withdraw from Care**

#### *Unreasonable Burden*

An unreasonable burden exists when a LPNs' ability to provide safe care and meet their Standards of Practice is compromised by unreasonable expectations, lack of resources, or ongoing threats to personal well-being. When an unreasonable burden exists, LPNs are expected to: do their best to meet their Standards of Practice, and: act as a leader and make their concerns known to their employer and, if appropriate, their union and/or CLPNNS. When faced with an unreasonable burden, LPNs who wish to refuse or withdraw from care are responsible to communicate with their employers (or clients if self-employed) and give them reasonable time to find a replacement.

The provision of professional nursing services does not include working in situations where any caregiver's health is at risk because an employer has not provided adequate protective resources. LPNs, acting as leaders, are expected to clearly articulate to their employer in writing, the actual and potential impact caused by the lack of appropriate protective resources, (CLPNNS, 2013b). Employers should manage work refusals (i.e., explore the reasons for an employee's refusal to work and respond appropriately to legitimate concerns) in accordance with the *Occupational Health and Safety Act*, (CRNNS, 2007).

#### *Lack of Individual Competence*

Licensed practical nurses are expected to only practice within their individual competence\*. They are accountable to continually acquire new knowledge and skills in their areas of practice and are not obligated to provide care beyond their level of competence. LPNs that are asked to provide care beyond their individual competence should: consider whether providing a part of the required care (i.e., that part for which they have competence to give) is more appropriate than not providing care at all, engage mentors and resources in the environment for practice support and act as leaders by informing their employer (verbally and in writing) of their lack of individual competence in the specific situation.

That said a lack of proficiency or comfort with the performance of a specific task may not support the refusal of care provision. When LPNs have self-assessed a deficit in the performance of a skill, they are expected to put a reasonable plan in place to address the deficit. This may include seeking out mentors for guidance and support, reviewing policy manuals or textbooks, observing a colleague perform the task and/or practicing with a simulation of the skill. It is important to recognize the intensity (timing and comprehensiveness) of the learning plan is directly related to the client's context (the needs of the client, the degree of skill deficiency and the supports in the environment) at hand. LPNs that refuse to provide care without initiating a reasonable plan to increase their individual capacity may be held in violation of the Standards of Practice, especially if the client experiences an untoward outcome directly related to their refusal.

*\*In life-threatening emergencies, LPNs are ethically obligated to provide the best care they can, given the circumstances and their level of competence.*

#### *Lack of Mental, Physical or Emotional Well-being*

Licensed practical nurses who have self-assessed they lack the necessary mental, physical or emotional well-being to provide safe and competent care, may refuse to provide or withdraw from care only after providing their employer (or clients if self-employed) reasonable notice to allow adequate time for an alternate care provider. LPNs are expected to take the necessary actions in their personal lives to ensure they maintain the necessary fitness to practice to provide safe and competent care, (CLPNNS, 2013a).

#### *Morally or Ethically Opposed to Care*

Licensed practical nurses that are morally or ethically opposed to providing care for a client should make arrangements with their employer to change their care assignment. LPNs should be aware that if their request cannot be accommodated, they will be required to care for the client in a professional and non-biased manner.

#### *Personal Danger*

Licensed practical nurses are not obligated to place themselves in situations where care delivery would entail unreasonable danger to their personal safety. Employers are obliged to provide a safe work environment, which includes providing a comprehensive program to eliminate or manage the risk for abuse or injury in the workplace.

### **Ethical Dilemmas**

The above situations generally involve a conflict between a nurse's professional obligations to clients and their own personal obligations. This conflict can create an ethical dilemma for the LPN and as is true with most ethical dilemmas, very often there is no one answer that clearly resolves the issues. However, using an ethical problem-solving approach can help LPN consider the relevant factors and work out the best solution. See Appendix A for a framework that can be used to help LPNs work through ethical dilemmas. The framework describes a decision making process to help LPNs address conflicting obligations while meeting their responsibility to provide safe care. LPNs are expected to demonstrate leadership and

accountability when weighing their professional and personal obligations, and to make decisions in the best interest of the public.

### **Abandonment**

Abandonment occurs when an LPN has engaged with the client or has accepted an assignment (thereby establishing the duty of care) and discontinues care without:

- negotiating with the employer/client to develop a mutually acceptable plan for withdrawal of service;
- arranging for appropriate alternative or replacement services;
- allowing the employer a reasonable opportunity to provide alternative or replacement services, or;
- ensuring adequate communication (verbal and written) and exchange of information with other care providers.

Once care of a client has been accepted, LPNs have a responsibility to continue to provide care for the assigned period of time or until relieved by an appropriately competent care provider. Abandonment is a violation of the CLPNNS Standards of Practice and may be deemed professional misconduct.

Abandonment only applies to situations where the licensed practical nurse has established a nurse-client relationship and as such, a duty of care with a client or clients. Abandonment does not apply to contexts where the LPN has not established a nurse-client relationship (i.e., an LPN-who is not in the work place - declines an overtime shift due to personal commitments).

### **3. Duty to Report**

As self-regulating professionals, LPNs in Nova Scotia are accountable and responsible to ensure clients are provided safe, competent, ethical and compassionate nursing care (CLPNNS, 2013a). As part of meeting their standards of practice and code of ethics, licensed practical nurses have a legal and ethical duty to report incompetent, unethical or impaired practice of any health care professional, (CRNNS, 2012; LPN Act, 2006).

It is important that LPNs understand that the duty to report extends beyond their own profession and applies equally whether the care provider is regulated by a governing body or not. It may also apply to situations where the LPN has a duty to report a client situation to a government agency (i.e. client with a gunshot wound) or an LPN has a duty to report themselves (i.e. a criminal conviction).

### **Legal Duty**

Licensed practical nurses in Nova Scotia have a legal duty to report in writing to the college or appropriate regulatory body if they have reasonable grounds to believe that another health care professional: has engaged in professional misconduct, incompetence or conduct unbecoming the profession; is incapacitated; or is practicing in a manner that otherwise constitutes a danger to the public,

(CLPNNS, 2013b; LPN Act, 2006). In situations where the care provider in question is not regulated by a governing body, the LPN is expected to report to their own and/or the provider's employer.

### **Ethical Duty**

Licensed practical nurses are accountable to report to appropriate authorities and take action in a timely manner to ensure a client's safety and quality of care when unethical or incompetent care is suspected, (CLPNNS, 2013b). LPNs must be attentive to signs that a colleague is unable to perform their duties regardless of the reason. Once aware that clients may be comprised, LPNs are ethically obligated to take the necessary steps to protect the client, (CRNNS, 2012).

The legal and ethical duty to report arises from LPNs primary responsibility, which is to provide competent and ethical care to clients. Reporting to a regulatory body or an employer in good faith that a situation may be unsafe or unethical is not defamation or whistleblowing, but participation in a legitimate regulatory process, (ARNNL, 2008). Failure to report these practice situations may be in violation of the CLPNNS Standards of Practice and/or Code of Ethics and may be considered professional misconduct.

### **Employers Duty**

Employers in Nova Scotia have a duty to report to the College in writing, when a LPN is terminated from their employment because of professional misconduct, conduct unbecoming the profession, incompetence or incapacity. Employers should also report situations when an LPN voluntarily resigns from their position before successfully completing a professional practice remediation plan.

### **Professional Practice Concerns**

Professional practice is nursing practice that is consistent with the *LPN Act & Regulations*, Standards of Practice, Code of Ethics, Continuing Competence Program (CCP) and other policies & documents developed by the College of Licensed Practical Nurses of Nova Scotia, (CLPNNS, 2014). A professional practice issue, for the purposes of this document is any situation, action, behaviour that actually or potentially, directly or indirectly inhibits, disrupts, or prevents the delivery of safe, competent, compassionate or ethical care. Issues may also be situations, actions or behaviours that actually or potentially, directly or indirectly support, encourage or perpetuate the delivery of care that is not consistent with best practice guidelines, standards of practice, code of ethics or employer policy, (CLPNNS, 2013).

Many practice problems result from combinations of unacceptable behaviours and appear as trends, rather than isolated incidents, (CLPNNS, 2011). Examples of situations or behaviours that may be professional practice concerns, include (but not limited to):

- a pattern of unsafe practices related to assessment, planning, intervention, evaluation, monitoring, documentation and prioritization;
- being under the influence of drugs/alcohol while in the workplace;
- confidentiality breaches;

- falsifying information;
- repeated errors;
- verbal, physical, mental or sexual abuse of clients;
- boundary violations;
- unethical behaviour (e.g., theft);
- scope of practice violations;
- failure to appropriately collaborate or consult;
- inappropriate communication, and;
- evidence of cognitive defects/mental health issues, (adapted from CRNNS, 2012).

### **Deciding if Reporting is Required**

Licensed practical nurses are accountable to take the necessary action in or reporting situations where there is unsafe or unethical practice, (CLPNNS, 2013a; 2013b). Generally, the greater the impact or potential impact on clients and the greater the likelihood that the practice issue will continue or be repeated, the greater the duty to report and urgency to act (CLPNNS, 2013c).

### **Determining What Reporting Action to Take**

LPNs are expected to follow a fair and thoughtful decision making process to determine the best action to take (CRNBC, 2012). Once it has been determined that action is required, the LPN bears the duty to report the issue and decide the type of action to take. The duty to report generally enables three actions:

- discuss the issue directly with the health care professional;
- report the issue to their employer, or;
- report the issue directly to the college or regulatory authority.

Each reporting action\* carries its own level of professional significance. The context and timing of the situation - the balance between the issue at hand and impact on the client, the urgency of the situation and whatever other activity is happening at the same time (CLPNNS, 2011) – will help the LPN determine the appropriate level of reporting that is required.

*\*Doing nothing is considered an action. However, doing nothing when clients are or could be at risk, is never an acceptable action. Taking no action when action is warranted may be a violation of the Standards of Practice and Code of Ethics and as such, be considered professional conduct.*

### **Possible Reporting Action #1: Discuss the Issues Directly with the Health Care Professional**

Leadership lives in the relationships that LPNs have with others. It is expressed through crucial or intentional conversations. Like most elements of LPN practice, the leadership conversation is an approach to a situation that requires the LPN leader to understand the entire context of the situation in order to ensure that the client receives safe and competent care, (CLPNNS, 2013c). When and where

possible, LPNs are expected to engage the health care professional in a discussion about the issues at hand, as this is the best approach. If a discussion with the health care professional resolves the matter, further action may not be needed.

**Possible Reporting Action #2: *Report the Issue to the Employer***

Reporting directly to the employer may be an appropriate action when:

- there is a possibility the discussion could lead to a volatile situation;
- there is ongoing evidence of similar practice issues even after addressing the issues with the health care professional;
- the health care professional lacks insight into their practice issues;
- client safety may be further jeopardized if there is a delay in addressing the situation (waiting to have a discussion with the health care professional), or;
- client outcomes have been negatively impacted.

Licensed practical nurses, acting as leader, are expected to confidentially discuss their concerns with the employer in a timely and professional manner and document them in writing. LPNs are accountable to reach out and share their knowledge and expertise with colleagues who may be struggling professionally, (CLPNNS, 2013a) and serve as a role model or mentor where appropriate.

**Possible Reporting Action #3: *Reporting to the College or Other Regulatory Body***

Reporting directly to the College or other regulatory body is an appropriate action when:

- the practice of an individual poses a significant risk to the public;
- the issue at hand is significant and client outcomes have been negatively impacted;
- the issue at hand has potential impact on the integrity of the profession, or;
- the issue at hand may undermine the public confidence in the self-regulatory process.

Formal reports to the College or other regulatory body must be submitted in writing to the attention of the executive director/registrar. The report should contain with as many details as possible, without breaching confidentiality of others else who may be involved. Decisions to make a formal report to the College or other regulatory authority should not be made in haste or isolation. College Consultants can provide direction and guidance as necessary. For more information about Duty to Report, go to <http://clpnns.ca/employer-guidelines/> . To speak to a College Consultant, call 902-423- 8517 or 1-800-718-8517. All consultations are confidential.

**Duty to Report Issues to Other Agencies**

There may also be a legal obligation to report to an external authority such as law enforcement and/or relevant provincial or federal legislation such as reporting child abuse in accordance with the *Children and Family Services Act*; reporting an adult in need of protection in accordance with the *Adult Protection*

Act, (CRNNS, 2012). LPN's are accountable to know when and to whom to report these situations as appropriate.

### **Duty to Self-Report a Criminal Offence**

In accordance with the *LPN Act* 2006, Section 42 (a)-(d), LPNs are required to self-report to the College they have been charged with, have pleaded guilty to, been convicted, or found to be guilty in or out of Canada, of any offence that is inconsistent with the proper professional behaviour of a member, including a conviction under (unless a pardon has been issued):

- the Criminal Code (Canada);
- the Controlled Drug and Substances Act (Canada), or;
- such other legislation as prescribed in the regulations.

LPNs are also required to report if they:

- have been found guilty of a disciplinary finding in another jurisdiction;
- have had a licensing sanction imposed by another jurisdiction, or;
- is the subject of an investigation or disciplinary process in another jurisdiction.

Self-reporting is an obligation that applies to both initial licensure and annual registration renewal.

Once a nurse self-reports, the executive director/registrar may, by reasonable notice, require the person to fully disclose all the facts or circumstances of a conviction.

The severity of the offence, the relevance to practice, as well as, the applicant's ability to demonstrate successful remediation, or rehabilitation will be assessed. The decision whether to proceed to a disciplinary hearing, and if so, what penalty to seek, will depend on all of the circumstances of the case. Failing to disclose such information or falsifying registration forms may be grounds for further action including professional misconduct. For more information about self-reporting a criminal offence, go to <http://clpnns.ca/sites/default/files/Self%20Report%20Criminal%20Offence%20July%202012.pdf> .

### **Conclusion**

Duty of care is the legal obligation to maintain the standards set by and expected of the profession, (Weaver, 2011). The obligations within the duty of care - duty to meet the standard of care, duty to provide care and duty to report (unprofessional or unethical care, situations of government agencies, and self-reporting of a criminal offence) are embedded deeply in the LPN standards and code. These obligations are important to the profession of practical nursing by contributing to the delivery of safe, competent, ethical and compassionate nursing care.

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## APPENDIX A

### Guidelines for Decision-Making

#### Refusing an Assignment or Discontinuing Nursing Services

Resolving dilemmas caused by conflicting obligations requires the thoughtful consideration of all relevant factors and the use of an ethical decision-making process to ensure that the best decision is reached. Sometimes there is no one best solution, but only the best of two or more imperfect solutions.

Collaboration, respectful behaviour and collegial communication among everyone in the nursing and health team contribute to positive outcomes for clients and prevent problems from arising in determining how nursing services are to be delivered. Communication is integral to all aspects of issue resolution. Communicating before a situation develops will prevent or minimize risks to clients.

#### Underlying principles

These guidelines are developed using the following principles:

1. LPNs are accountable for their own actions (includes inactions) and decisions at all times.
2. The safety and well-being of the client is of primary concern.
3. Critical appraisal of the all the factors in any situation is the foundation of clinical decision-making and professional judgment.

#### Key expectations

In choosing the appropriate course of action, LPNs are expected to do the following:

- Carefully identify situations in which a conflict with their own values interferes with the care of clients before accepting an assignment or employment.
- Identify concerns that affect their ability to provide safe, effective care.
- Communicate effectively to resolve workplace issues.
- Understand their employment contract and/or collective agreement relevant to their setting (especially with regard to the provision of essential services).
- Understand how legislation has relevance to their practice setting.
- Give enough notice to employers so that client safety is not compromised.

#### Decision-making process

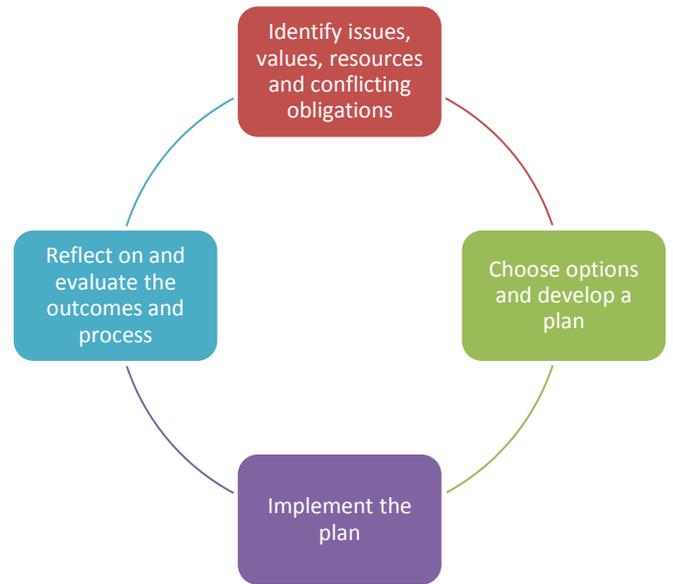
Use the process outlined below to resolve dilemmas related to conflicting obligations. Some actions are short term, while others are proactive and long term. No attempt has been made to identify all possible actions. The process includes four cyclical components. The process can begin at any point, but the best outcome requires consideration of all of the components. **Clear, effective communication is critical throughout this process.**

### Considerations within the Framework

To assist with the decision making process, consider the following statements and questions.

#### Identify the issues, values, resources and conflicting obligations

- Have you agreed to accept the shift/assignment?
- What are the conflicting obligations, beliefs and values? Sometimes talking to others (for example, a colleague, manager, College Practice Consultant) can help identify the values.
- What are your values and emotions as they relate to the situation? Are they influencing your ability to think clearly?
- Have you gathered the all the facts of the situation from credible sources?
- How have similar situations been handled in the past and what were the implications? Is there an organizational policy or relevant legislation in place?
- How will the care of the clients be affected if you leave?
- What are the specific nursing care needs and priorities of the clients?



#### Choose options and develop a plan

- Identify possible alternatives or solutions other than refusing the assignment or discontinuing a service. Are other resources available (for example, protective equipment or expert resources)? Can you ask the administrators for help?
- Identify the risks and benefits for clients, nurses and others associated with each solution. How can those risks be minimized?
- Prioritize client care needs. Consult institutional policy/process, if available.
- Identify all available resources and various options to ensure staffing is appropriate to meet essential client care needs. For example, can you stay for a short time beyond the end of your shift, or can someone come in early for the next shift?
- Consider modifying the existing plan of care temporarily so the remaining staff can focus on essential care needs, monitor the client(s) for changes in condition and act appropriately.
- Communicate to the appropriate person(s) the details of the problem and the planned solution.

### **Implement the plan**

- If you decide to leave, ensure that the remaining staff is aware of immediate and essential client care needs.
- If you stay to provide care, monitor ongoing client care priorities and your own ability to practice safely.
- Document (e.g., incident report and/or a letter/email to your manager) your decision, rationale and action taken. Include the date, time, who you communicated with and actions taken to safeguard the client(s). Keep a copy for yourself and give one to your employer.
- Document the care provided and any unmet client needs on the client record. Communicate outstanding care needs to the appropriate person.

### **Reflect on and evaluate the process and outcomes**

- When the immediate crisis is over, review the effectiveness of the decision/action.
- Collaborate with your leadership team/manager to plan strategies to prevent and/or manage similar situations in the future.
- Develop strategies to solve ongoing safety issues.
- Express ongoing concerns about staffing from the perspective of the impact on client care and safety.

## **APPENDIX B**

### **Scenarios**

These case scenarios illustrate some of the common situations related to refusing assignments and discontinuing nursing services. They do not describe every situation or practice setting but do demonstrate a problem-solving approach which nurses can apply in their own practice.

#### **Scenario 1**

##### Working in an Unsafe Environment

Maria is asked to provide care on the night shift to a ventilated child in his home. When she receives the information, she realizes the child lives in an area of the city that is notorious for its high crime rate. Maria does not feel safe travelling to that area, and her husband does not want her to go. Maria knows the child desperately needs the care. She also feels concern for any of her colleagues who might have to go in her place.

##### **Identify the issues, values, resources and conflicting obligations**

Maria is torn between her concerns for her own and her colleagues' safety and the care needs of the child and family. She knows that after accepting the shift she has an obligation to follow through. Maria decides that she needs more information and calls her manager to discuss her concerns and whether any safeguards are in place.

##### **Choose options and develop a plan**

Maria learns that there have been no safety-related incidents involving other nurses working at the home, but they have reported feeling unsafe. There is parking on the street but not always in front of the client's home. The client's father often waits for the nurse and is ready to let her in the house when she arrives. Both parents will be in the home during the entire shift. There are no other nurses available. To address her concerns, Maria calls the parents and arranges to use her cell phone to call the father and have him meet her at her car when she arrives.

##### **Implement the plan**

Maria decides to fulfil the assignment. All goes well, although Maria is nervous most of the time. Maria believes that more can be done to promote the safety of community nurses in general.

##### **Reflect on and evaluate the process and outcomes**

Maria requests a staff meeting to discuss the situation and look for creative solutions. She thinks that an intake assessment should include an evaluation of environmental safety and a plan to minimize the risk to nurses. She also suggests that the nurses receive some education about how to protect themselves on the streets at night. She suggests having a police officer speak with them.

## **Scenario 2**

### **No Replacement Staff**

John works in a long-term care facility, has 45 minutes left on his shift when the director of resident care asks him to work the next shift. The replacement nurse has called in sick, and there is no one to replace John if he leaves. This is the third time this month that John has been asked to work an extra shift. He is tired and upset and believes that his employer is not doing enough to attract more staff. Also, he was up most of the previous night with a sick child and is very tired. The last time he worked an extra shift he promised himself that he would not stay again, but he is concerned about the safety and well-being of the residents.

### **Identify the issues, values, resources and conflicting obligations**

John is accountable for the care he provides. Right now he believes it is not safe to provide care due to his fatigue. John has an obligation as a nurse to protect the safety and well-being of the residents. John recognizes his irritation with the employer and consults with a colleague who helps him see the situation more objectively. This reaffirms his professional obligations and he calls the director of resident care to discuss the options.

### **Choose options and develop a plan**

John quickly reviews the status of all of the residents. He prioritizes the care needs of the residents and determines which care providers can meet those needs safely. Based on his assessment, John recognizes that he needs to stay until midnight to meet the immediate and more complex care needs of the residents. He agrees to stay to provide the midnight treatments but states he cannot stay any longer. The director tries to persuade John to stay, but John is adamant and tells the director that he will be leaving after the midnight treatments. He informs the director of the remaining resident care needs including medications and the administrative documentation that he will be unable to complete. He also informs the director of her plan to ensure that remaining staff can identify and communicate any concerns and access emergency services (e.g., 911).

### **Implement the plan**

John informs the staff on the unit of his plan to leave after the midnight treatments and that the director is aware of this. He gives them guidelines for what to do if any untoward events happen (this includes calling the director and/or transferring the resident to the hospital). He documents his care and unmet client care needs.

Before he leaves, John contacts the director to confirm that he is leaving and reaffirm that remaining staff are aware of the plan to manage clients and they have been instructed to call the director for assistance to manage any client care issues. He also documents his assessment of the situation and the rationale for his decision and the plan he has developed in an incident/occurrence report. He leaves a copy for the director.

### **Reflect on and evaluate the process and outcomes**

The following day, John calls the director and asks if all of the nursing staff and administration can meet to discuss the ongoing shortage of staff. The purpose of the meeting is to identify ways to prevent and manage similar situations in the future. Openly discussing these situations helps identify the extent of the problem, possible contributing factors and solutions. If concerns have been expressed verbally and the situation remains unchanged, it would be important to outline clearly the problem in writing, explaining the impact on client safety. In this case, a copy should be kept by John and a copy should go to both the director of resident care and the next level of management until the issue is resolved.

*Note: Some collective agreements include mandatory overtime clauses. LPNs need to be aware of their employment agreements, while also considering their professional accountability to ensure they are able to provide safe care.*

### **Scenario 3**

#### Proper Equipment

Liz is working the evening shift in the emergency department (ED). The ED receives a call from the provincial chief medical officer alerting the staff that a client will arrive by ambulance from the airport in the next few minutes. The client's condition was getting progressively worse during the flight, and she is in significant respiratory distress. The medical officer says there is concern that the client may have a contagion and that hospital staff will need to take appropriate precautions. Liz is assigned to the team who will greet the client upon arrival. Liz anticipates that the client will be intubated.

Liz knows she will need specialized protective equipment, some of which is not available in the ED. The hospital's infection control practitioner is not in the building. Liz is still not certain whether the mask, face shield and other protective equipment that she was able to locate is sufficient. She is overcome with fear that she could be exposed to a serious, possibly deadly, virus. For a moment, she considers refusing to assist with the intubation. The client arrives to the ED and as expected, requires immediate intubation.

### **Identify the issues, values, resources and conflicting obligations**

In this example, Liz does not have enough time to work through all aspects of the decision-making process, and there is no obvious answer to her dilemma.

### **Choose options and develop a plan/approach**

Liz very quickly weighs the risk of harm to the client if she is not intubated against the potential risk Liz faces if she is exposed to a contagion.

### **Implement the plan**

Liz quickly determines that the client is at great risk if she is not intubated immediately and that the equipment Liz has will provide some protection. Liz uses the available equipment and assists the team as they perform the intubation.

### **Reflect on and evaluate the outcomes and process**

After her shift, Liz begins to reflect on her own values, beliefs and fears, and assesses whether she should continue working in the ED given its risks. She realizes there inherent risks and she has become increasingly fearful for her safety in the workplace. Despite this, she concludes that working in the ED is what she wants to do.

Liz is willing to accept a certain level of unavoidable risk in working in an unpredictable environment; however, she is not willing to expose herself to unnecessary risks that result from a lack of appropriate resources and equipment. She decides to advocate for the required resources before making a final decision about whether she can continue working in emergency nursing.

At the earliest opportunity, Liz meets with her manager and the infection control practitioner and presents her concerns both verbally and in writing. She explains the situation she was in and the ethical dilemma it created for her. She tells them that the experience highlights the need to be proactive in planning for similar situations and she advocates for the hospital to provide the specialized protective equipment that nurses need. Liz also offers to be involved in a discussion with the ED staff to reflect on the experience and the importance of working through the decision process ahead of time.

### **Scenario 4**

#### Floating to Another Unit

Noreen works on the medical unit of a community hospital. Upon arriving for her scheduled shift, the supervisor asks her to float to the obstetrics/gynaecology unit because the census on her unit is low. Noreen is anxious because she has never worked in obstetrics/gynaecology and feels she is not competent to provide care on that unit. A colleague tells Noreen to refuse the assignment.

### **Identify the issues, values, resources and conflicting obligations**

Noreen has accepted the shift, and the hospital is relying on her to provide care. Noreen has a professional obligation to provide competent care. Noreen understands that accepting an assignment with specific responsibilities that she is not competent to perform could lead to a poor client outcome (and may be considered professional misconduct) so she tells her manager that she does not have the all knowledge and skills to practice competently in obstetrics/ gynaecology.

### **Choose options and develop a plan/approach**

The manager reminds Noreen that she does have some basic competencies that are transferable. In collaboration with the manager, a plan is developed to negotiate Noreen's assignment based on her competencies. Noreen is to provide only the elements of care that she is competent to provide.

### **Implement the plan**

Noreen is very clear with the obstetrics/gynaecology nurses about her abilities and the areas in which she requires assistance. She also asks for a quick orientation to the unit and ensures that she is able to access assistance when necessary. The unit charge nurse seems impatient with Noreen's questions;

however, Noreen persists because she recognizes the importance of continuing to ask for assistance. The shift goes well, but Noreen is concerned about the increasing frequency of requests to float to other units.

**Reflect on and evaluate process and outcomes**

Noreen has a number of ideas for how the facility could better handle staffing and floating issues in the future. She speaks to her immediate manager after the shift and offers suggestions. Noreen also suggests a discussion about the challenges for both the LPN who is floating and the staff on the receiving unit. She says it would be helpful to remind all staff about the importance of good communication and collaboration.

***Licensed Practical Nurses have core nursing knowledge to independently care for clients with an established plan of care. Licensed practical nurses are an integral part of the health care team; accountable to provide safe, competent, ethical and compassionate care to individuals, families and communities.***