



Competence Assurance Process

Competent, caring, knowledge-based registered nursing for the people of Saskatchewan

Amended January, 2010

COMPETENCE ASSURANCE PROCESS

The Saskatchewan Registered Nurses' Association (SRNA) mandate is to ensure competent, caring, knowledge-based nursing for the people of Saskatchewan. The requirement for investigation of written reports regarding the practice of graduate nurses (GNs), registered nurses (RNs), and registered nurse(nurse practitioners) RN(NPs) is provided for in Section 28(1) of *The Registered Nurses Act, 1988, Bylaws IX; Section 3, and the Code of Ethics. The Registered Nurses Act, 1988* provides direction for the process of investigation and requires SRNA Council to establish two committees – the investigation committee and the discipline committee – to deal with allegations of professional incompetence and/or professional misconduct concerning the nursing practice of any of its members. The Advisor, Competence Assurance (ACA) is the SRNA staff person that receives and processes allegations/reports regarding professional incompetence and/or professional misconduct. The ACA will investigate the allegations/reports and provide a report including options for resolution/outcomes to the investigation committee.

The investigation committee of the SRNA makes the decisions regarding resolution/outcomes of the reports. The membership of this committee consists of three registered nurses and two public representatives, as defined in Section 27 of *The Registered Nurses Act, 1988*. The committee members each serve a three-year term, and can be re-appointed for a second three-year term. The members of the investigation committee are appointed by Council and are representatives of a variety of nursing practice fields, various nursing positions, experience, and geographical area. Council also appoints the chairperson of the committee.

Following are answers to common questions asked about the competence assurance process.

What Is Professional Incompetence?

The legislation defines professional incompetence in Section 25 of *The Registered Nurses Act, 1988* as "... the

display by a nurse in the professional care of a client of a lack in knowledge, skill or judgment or a disregard for the welfare of a client of a nature or to an extent that demonstrates that the nurse is unfit to (a) continue in the practice of nursing; or (b) to provide one or more services ordinarily provided as part of the practice of nursing".

What Is Professional Misconduct?

Professional misconduct is defined in Section 26(1) of *The Registered Nurses Act, 1988*, as "...conduct or thing whether or not disgraceful or dishonorable, that is contrary to the best interests of the public, or nurses or tends to harm the standing of the profession of nursing..." The legislation also includes some 17 specific examples of actions or omissions which may constitute professional misconduct.

How Are Concerns Dealt With?

Concerns or inquiries related to professional competence of nurses received over the telephone or by some other format other than a written report will be reviewed by the ACA. This review will involve some preliminary investigation to assist the ACA in determining whether the concern should move to an official investigation. This is one that directly relates to the standards and foundation competencies for the practice of nurses. In the event that the concern and/or inquiry moves to an official investigation, it will then follow the procedures outlined below. If not, the ACA will deal with the issue as needed and follow this with a report to the investigation committee of this activity.

What Procedures Are Used To Do Investigations?

The Registered Nurses Act, 1988 requires that when a report, in writing, of any person alleging that a nurse is guilty of professional incompetence or professional misconduct is submitted to the SRNA, the investigation committee must review the report and investigate. The report may come from a co-worker, employer, member of

"nurse" means a graduate nurse or a registered nurse or a registered nurse (nurse practitioner)

the public or an organization. The exact procedures used to investigate a report will vary. Generally, the process followed is:

- the ACA will contact the writer of the report to discuss the report and ensure the writer understands the investigation process;
- the nurse is advised in writing that a report has been received and asked for a written response to the concerns. A copy of the report may be sent to the nurse;
- the writer of the report is advised in writing that their report has been received and is being investigated;
- additional information is obtained from others who may have observed the nursing practice, or information dealing specifically with the incident. Information may also come from personnel files, clients' records, incident reports, policies and procedures of the agency;
- the nurse involved, the writer of the report, and other involved parties are interviewed.

What Happens If I Receive A Letter From The SRNA Regarding My Practice?

The SRNA recognizes that receiving a letter advising that one's professional practice is under investigation is an upsetting and frightening experience. It is important for members to remember that at this point the SRNA is simply advising that allegations have been made. The role of the investigation committee is to determine if there is evidence to support the allegations. Members who are under investigation by the SRNA are afforded a list of rights that protect their interests. For example, the nurse has the right to:

- have an adequate and impartial investigation;
- know the specifics of the report or what is being investigated;
- provide a written response;
- have adequate time to respond;
- obtain legal assistance;
- contact the Canadian Nurses Protective Society to receive information;
- contact Labour Union Representative, if any;
- have a written report of the decision after the completion of the investigation.

What Will Be Done Following The Investigation?

At the conclusion of the investigation, the investigation committee has several outcomes to decide on the next

action based on the evidence that has been obtained. The outcomes are:

- dismiss the case because there is insufficient evidence to support the allegations;
- dismiss with a letter of guidance;
- move to a consensual competence resolution agreement;
- move the case to a discipline hearing.

What Is A Letter Of Guidance?

Here insufficient evidence has been found to refer the case to discipline, but the investigation tends to show undesirable practice/conduct. A letter is sent to the nurse outlining practice or conduct concerns and making recommendations regarding how the nurse can practice more safely, effectively or ethically. In this process the nurse's license remains in good standing and there is not a mark made on the register. The writer of the report and the nurse are notified of this outcome.

What Is A Consensual Competence Resolution Agreement?

Here evidence has been found to support concerns regarding the nurse's professional incompetence or professional misconduct and the committee has made the decision to enter into an agreement with the nurse to deal with these. The investigation committee will in the agreement note the competencies of concern and outline terms/undertakings that the nurse must complete. This is a legal binding agreement and disregard for complying with the terms of the agreement is considered professional misconduct.

During the time that the nurse is involved in the agreement with the SRNA, his/her licence is marked "with conditions and/or restrictions". This is also noted on the register and disclosed to all Canadian nursing jurisdictions and any other nursing jurisdictions the member is registered with. The nurse's employer is sent a copy of the agreement. Once an agreement is in place, the Registrar of the SRNA monitors the agreement until it is completed. Once all the terms of the agreement are completed the nurse's licence is once again marked in good standing and all Canadian nursing jurisdictions are notified of this.

What Happens If The Case Is Referred To A Discipline Hearing?

The last option of referring to a discipline hearing happens in a very small percentage of cases. This is an option used if facts to support concerns regarding the

nurse's practice have been identified; the nurse has been asked to enter into a consensual competence resolution agreement with the SRNA and has refused.

There are situations that may not be deemed appropriate for a consensual competence resolution agreement to occur in which case the investigation committee will move the case immediately to a discipline hearing. A breakdown in an agreement may be referred to a discipline hearing depending upon the circumstances. In the event that the matter proceeds to a discipline hearing, the legal counsel for the investigation committee assists the committee in preparation of the notice of hearing. The notice of hearing describes the charges that the committee has defined. The notice of hearing is served to the nurse, at least 30 days before the hearing date. Once the notice of hearing has been served, full disclosure of information is provided to the nurse in preparation for his/her defense at the hearing. The investigation committee outlines the charges regarding alleged professional misconduct/incompetence and prepares the prosecution in support of the charges. The investigation committee also recommends penalty. Once a discipline hearing is completed the discipline committee deliberates in reaching a decision. The matter may be dismissed. If a guilty decision is reached a second stage penalty hearing is planned - about four weeks after the first stage discipline hearing. Once the penalty charges are completed by the discipline committee, the Registrar becomes responsible for monitoring the penalty decision order. The nurse's license is marked "with conditions and/or restrictions". This is also noted on the register, on the SRNA website and disclosed to all Canadian nursing jurisdictions. This information is also published in the SRNA newsbulletin and is available as public information.

Is There A Mechanism Of Appeal For Discipline Hearing Decisions?

The mechanism for appeal by the nurse who has been found guilty by the discipline committee is defined in Section 34 of *The Registered Nurses Act, 1988*. The nurse has the right to appeal to the SRNA Council or to a judge of the Queen's Court. The nurse must make an appeal within 30 days of the decision.

What Happens Once The Decision About The Outcome Is Made?

After the committee reaches a decision about the outcome: a written report is prepared by the ACA:

- the nurse is notified of the decision; and
- the writer of the report is notified of the decision.

How Do I Submit A Written Report As An Employer Or Co-worker Of The Nurse?

Provide as much of the following information as possible:

1. State you are reporting a concern regarding a members competence.
2. Provide:
 - the name of the nurse;
 - dates of employment;
 - area of employment;
 - category of employment i.e.: full-time, part-time, casual;
 - dates of any transfers or leaves; and
 - employment of the nurse.
3. List and number the incident(s). Give the following details:
 - date and time of incident(s);
 - place where incident(s) occurred;
 - initials or identification # of the patient;
 - names and contact numbers of other individuals who heard or saw the incident(s);
 - description of the incident(s).
4. Attach the following information, if available:
 - any anecdotal notes written by witnesses or others regarding the incident;
 - description of any action taken by employer/others in relation to the incident;
 - copies of letters of warning, suspension and/or termination, incident reports.
5. Mark the report as confidential and address to:
Advisor, Competence Assurance
Saskatchewan Registered Nurses' Association
2066 Retallack Street, Regina, SK S4T 7X5

As stated in *The Registered Nurses Act, 1988*, any employer who terminates the employment of a nurse on the grounds of alleged professional incompetence or professional misconduct must report this in writing to the SRNA. The termination of the nurse and the grounds of the alleged professional incompetence or professional misconduct should be noted in this report.

How Do I Submit A Written Report As A Member Of The Public?

Provide as much of the following information as possible:

1. State you are reporting a concern regarding a members competence.
2. List and number the incident(s) you are submitting a report about. Give the following details if available:

- the name of the nurse(s);
 - date and time of incident(s);
 - place where incident(s) occurred; and
 - description of the incident(s).
3. Attach the following information, if available:
 - any notes written at the time of the incident(s);
 - description of any action taken at the time of the incident(s); and
 - names and contact numbers of other people who heard or saw the incident(s).
 4. Mark the report as confidential, address to:
Advisor, Competence Assurance
Saskatchewan Registered Nurses' Association
2066 Retallack Street, Regina, SK S4T 7X5
 5. Be aware that a copy of your report may be sent to the nurse to respond to.

Who Can I Contact If I Have Any Other Questions About The Competence Assurance Process?

If you have any questions or require further information, please contact the Advisor, Competence Assurance at (306) 359-4240 or 1-800-667-9945 ext. 240. Website: www.srna.org RN Competence

Documents Referenced:

(available from the SRNA office upon request)

Standards and Foundation Competencies For The Practice Of Registered Nurses, SRNA Publication

Registered Nurse(Nurse Practitioner)RN(NP) Standards and Core Competencies, SRNA Publication

The Registered Nurses Act, 1988, SRNA Publication
Bylaws, SRNA Publication

Code Of Ethics For Registered Nurses, CNA

All documents referred to are the current published/amended publications

SASKATCHEWAN



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