

REGULATORY NOTES

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January's Q & A addressed jurisprudence: having knowledge of and applying relevant law or legal rules to your nursing practice. Building on this, in this issue, RNs and NPs legal obligation under section 20 of the *Registered Nurse Act (2008)* (the "Act") is reviewed.

What is conduct deserving of sanction?

Section 18(c) of the Act defines "conduct deserving of sanction" to include:

- Professional misconduct;
- Professional incompetence;
- Conduct unbecoming a Registered Nurse;
- Incapacity or unfitness to engage in the practice of nursing; and
- Acting in breach of the Act, the Regulations or the Code of Ethics.

Examples of conduct deserving of sanction are included in the ARNNL By-Laws Appendices https://www.arntl.ca/sites/default/files/By-laws_Amended_June_2016.pdf

Do Registered Nurses have a duty to report conduct deserving of sanction of another Registered Nurse?

Yes. Section 20(1) of the Act, making it mandatory to report, provides:

20(1) A registered nurse who has knowledge, from direct observation or objective evidence, of conduct deserving of sanction of another registered nurse shall report the known facts to the Director of Professional Conduct Review.

If a Registered Nurse reports conduct deserving of sanction to their employer does that absolve the Registered Nurse of their duty to report under section 20(1) of the Act?

No. A Registered Nurse needing to report is **separate** from any workplace processes and an employer will have to address issues that arise in the workplace. An employer's duty to report is set out in section 20(2) of the Act, which provides:

20(2) A person or a corporation, partnership or association that terminates or imposes restrictions on the employment of a Registered Nurse based on direct knowledge of the RN's conduct deserving of sanction shall report the known facts to the Director of Professional Conduct Review.

However, as most RN/NP's are employees and have internal reporting processes and supports, RNs should inform their relevant supervisor and discuss the reporting process.

What is required for a RN to file an allegation of conduct deserving of sanction against another RN?

Section 21(1) of the Act requires that "an allegation shall be in writing and signed by the Complainant or his or her solicitor, and filed with the Director of Professional Conduct Review. The "known facts" of the Registered Nurse's conduct that is alleged to be conduct deserving of sanction must be included in the report, such as name of the Registered Nurse, what occurred, including the date, time and location.

Can a Registered Nurse be sued for filing an allegation with the Director of Professional Conduct Review?

No. Section 20(3) of the Act provides that "an action shall not be brought against a Registered Nurse...for the sole reason that he or she...complied "with the duty to report."

Can a Registered Nurse be subject to an allegation of conduct deserving of sanction if he or she fails to comply with their duty to report?

Yes. ARNNL's By-laws provide examples of professional misconduct which under Appendix A, 1(d) includes, "Failing to report conduct deserving of sanction contrary to section 20 of the Act".

Can an employer require a Registered Nurse not to report their knowledge of the known facts of conduct deserving of sanction of another Registered Nurse to the Director of Professional Conduct Review?

No. The Act is the law governing the practice of RNs and NPs in this province thus you are required to comply with the law.

For more information regarding conduct deserving of sanction and the Professional Conduct Review process contact the Director of Professional Conduct Review, Michelle Osmond at mosmond@arntl.ca or 709-753-6181.