INTERPRETIVE DOCUMENT

FITNESS TO PRACTICE AND INCAPACITY

Interpretive documents promote clarity and understanding of legislation, regulation and by-laws which can be difficult to interpret and apply to practice. Interpretive documents directly support, and are linked to legislative documents. They can also link to quasi-legislative documents which are the Standards of Practice and Code of Ethics for the profession, to practice policies of the College and to other supportive documents.

<table>
<thead>
<tr>
<th>This document is linked to Legislation:</th>
<th>Health Professions Act</th>
<th>Alberta Regulation 2003: Licensed Practical Nurses Profession Regulation</th>
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<tr>
<td>This document is linked to Quasi-Legislative Documents: (documents established under the Health Professions Act)</td>
<td>Standards of Practice</td>
<td>Code of Ethics</td>
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**KEY WORDS:** fitness to practice, incapacity

The legislative mandate of the College of Licensed Practical Nurses of Alberta (CLPNA) is to serve and protect the public. To fulfill its duty, CLPNA obligates its members to deliver safe, competent and ethical nursing practice. These requirements are set out in the Standards of Practice and Code of Ethics for the profession and in relevant legislation. The College is committed to assuring the public that Licensed Practical Nurses (LPNs) meet these requirements as presented in this interpretive document related to fitness to practice and incapacity.

**INTRODUCTION** The College of Licensed Practical Nurses (CLPNA) is mandated to regulate the profession in the public interest. In fulfilling its duty, the College provides students, in-province, out-of-province and out-of-country applicants, regulated members, educators and other stakeholders of the LPN community with supportive documents that help to interpret legislation and regulation relevant to nursing. These documents may also be developed to support practice policies established by the College.

This interpretive document focuses on ‘fitness to practice’ and ‘incapacity’ and implications for LPN practice. CLPNA requires all new applicants and regulated members (LPNs currently registered with CLPNA) to report on their fitness to practice when applying for initial registration and registration renewal. Regulated members are obligated to also report on any changes to their fitness to practice at any time during the registration year.

**PURPOSE** The purpose of this document is to provide clear understanding of the LPNs accountabilities related to fitness to practice as established in the *Standards of Practice* and *Code of Ethics*, and of incapacity as defined in the *Health Professions Act*. This document has also been developed to help LPNs apply this knowledge to their practice and to explain their professional responsibility in maintaining fitness to practice.

**INTERPRETATION** The *Code of Ethics* and *Standards of Practice* obligate LPNs to be accountable for monitoring and maintaining their own fitness to practice and professional conduct. Fitness to practice means that initial applicants and regulated members have the physical and mental health to provide safe, competent and ethical nursing care.

Most licensed practical nurses recognize when a physical or mental condition or disorder is affecting their health and nursing practice and take appropriate action. This may include removing themselves from practice until their health returns. Most often, they are able to manage stressors and personal problems through private therapists, counsellors or an Employee Assistance Program. For other types of physical or mental health issues, they seek medical advice and follow treatment and ongoing monitoring as required. This may necessitate time off from work, including a medical leave or short term or long term disability. These actions are all considered *standard approaches to managing one’s fitness to practice*.

Typically, employers would not report concerns to CLPNA about an LPN’s fitness to practice in these situations. In these cases, the LPN is under the care of a physician and is following medical advice to achieve optimal health; therefore, is safeguarding his/her nursing practice and the...
safety of the public. As the nurse’s health improves, the employer’s occupational health and safety team and the nurse’s medical care providers work collaboratively to plan a return to work program. The process typically includes initial practice modifications. The modifications are established to support the health of the nurse, ensure the safety of clients and colleagues and guide successful transition back into the workplace.

Certain situations do arise where a health condition or disorder compromises or incapacitates the LPN’s ability to provide safe, competent and ethical care. The Health Professions Act provides a specific legal definition for incapacity. Incapacity is defined as "suffering from a physical, mental or emotional condition or disorder or an addiction to alcohol and drugs as defined in the Pharmacy and Drug Act or other chemicals that impair the ability to provide professional services in a safe and competent manner".1

Incapacity most commonly arises in cases of mental health, substance abuse and addiction disorders. These illnesses cloud judgment, and impair the nurse’s ability to recognize the health problem and how it is affecting his or her practice. Anyone who has a genuine concern that an LPN is not practicing safely is expected to report this in writing to the College. With written notification, CLPNA is alerted to take action to protect the public and ensure safe and competent practice by its members.

CLPNA investigates all written notifications. Under Section 28(3) of the Health Professions Act, the Registrar may require an applicant for initial registration to undergo a physical or medical examination if there are reasonable and probable grounds to be of the opinion that the applicant would create a danger to the public or be unsafe due to incapacity or disability. Under Section 118 of the Health Professions Act, the College may direct a regulated member to cease providing nursing services until such time as:

- a medical assessment is completed
- if treatment is recommended, CLPNA will direct the member to comply with treatment
- the results of treatment are provided to CLPNA
- the medical information is reviewed by CLPNA and the College is satisfied that the member is no longer incapacitated and does not pose a threat to client safety

It is likely that the member will have restrictions placed on his or her practice by CLPNA and may require monitoring upon return to practice.

CONCLUSION Nurses know that certain illnesses affect cognitive functioning, decision-making, and clinical judgment. These impairments can jeopardize client care. The commitment to providing safe, ethical and competent care begins with nurses taking care of themselves and having good emotional and psychological health as well as good physical health. As professional nurses, the obligation to ensure one’s own fitness to practice is the commitment each LPN makes upon joining the profession. Essentially, it is expected that LPNs have the professional insight to manage their own fitness to practice and seek assistance, medical attention and/or remove themselves from practice if required. LPNs have a professional duty to maintain their health and to not have health issues affect their practice or safety of their clients.

PUBLISHED SUPPORTIVE DOCUMENTS OF THE PARENT POLICY
This Interpretive Document is linked to other supportive documents. These documents include:

Practice Guideline: Preventing the Transmission of Nurse-to-Client Blood Borne Virus and Other Communicable Diseases
Interpretive Document: Duty to Report

REFERENCES


Office of Accountability
Registrar or designate
Office of Administrative Responsibility
Director of Regulatory Services
Scope and Applicability
This interpretive document extends to prospective applicants, students, regulated members, educators and other stakeholders. The interpretive document impacts all practice settings where nurses work.
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