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.

This document is linked to Legislation:
| Health Professions Act  
Alberta Regulation 2003: Licensed Practical Nurses Profession Regulation  
Protection for Persons in Care Act  
Child, Youth & Family Enhancement Act  
Public Health Act |

This document is linked to Quasi-Legislative Documents: (documents established under the Health Professions Act)
- Standards of Practice
- Code of Ethics

This document is linked to its parent practice policy:
- Personal Declaration for Registration Requirements

KEY WORDS: incapacity, incompetence, unprofessional conduct, unethical conduct

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 the duty to report obligations of Licensed Practical Nurses (LPNs) and their employers.

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 prospective applicants, regulated members, educators and other stakeholders of the LPN community with supportive documents that help to interpret legislation, quasi-legislation and regulation relevant to licensed practical nursing. These documents may also be developed to support the practice policies established by the College. This interpretive document focuses on the 'duty to report' obligations of LPNs and their employers and implications for nursing practice.

PURPOSE The purpose of this document is to provide clear understanding of the LPN's professional, ethical and legal duty to report. Duty to report accountabilities include:
- reporting concerns of the behaviour or professional conduct of an LPN or other regulated health professional to the employer, to CLPNA or other appropriate regulatory body;
- reporting concerns to external agencies as per provincial legislation;
- mandatory self-reporting to the College; and,
- the reporting obligations of employers under the Health Professions Act.

The document also addresses identifying reportable behaviours of concern, the information that needs to be included in a report to a supervisor or in a written complaint to CLPNA or other regulator, how CLPNA addresses complaint letters, and what outcomes to expect from making a written complaint to the College. This document also describes reporting to external agencies, mandatory self-reporting to the College and provides guidance for employers in submitting a complaint to the College about an LPN and under what types of circumstances a complaint is warranted as per legislation.

INTERPRETATION The duty to report is a professional, ethical and legal responsibility arising from the LPN's obligation to protect clients from harm, to advocate for safe, competent and ethical client care, and to uphold the integrity of the regulated profession. These obligations are articulated in the Standards of Practice, Code of Ethics, the Health Professions Act and other relevant legislation.

Professional Duty to Report
LPNs have a professional obligation to report concerns of the conduct or practice behaviours of an LPN or other regulated health professional that affects client safety or puts clients at risk. The Standards of Practice state, “The LPN reports unsafe practice, abusive behaviour or unprofessional conduct to the
appropriate authority”. The appropriate authority may be the employer, regulatory body, the police or other external agencies.

**Ethical Duty to Report**
The LPN has the ethical duty, as outlined in the *Code of Ethics*, “to advocate for safe, competent and ethical care for all clients”. LPNs must be attentive to behaviours that indicate a colleague or another member of the healthcare team is unable to provide such care regardless of the reason. The LPN is obligated to take the necessary steps to ensure safety and protect clients from risk.

**Legal Duty to Report**
The LPN has a legal duty to report to external authorities in certain situations. External reporting should be done in consultation with your manager or supervisor in accordance with applicable agency policy. The external authorities can include law enforcement and other agencies under provincial legislation.

In Alberta, the *Protection for Persons in Care Act* imposes mandatory reporting for any individual who has reasonable grounds to believe there is, or has been, abuse involving an adult client in a designated health facility. The concerns must be reported to either the Protection for Persons in Care Office; to the police if the client is in immediate danger or if the abuse involves criminal activity; to the Mental Health Patient Advocate if the client is detained under the *Mental Health Act* or is under a Community Treatment Order; or to the regulatory body if the abuse involves a health professional. “Abuse” is broadly defined in the Act and LPNs considering whether they are obliged to report should review the definition or seek guidance from their supervisor. Failure to report concerns of client abuse is an offence under the Act. All concerns of an LPN abusing a client must be reported to CLPNA; concerns of other health professionals abusing clients must be reported to the relevant regulatory body.

Under the *Child, Youth and Family Enhancement Act*, any person who has reasonable and probable grounds to believe that a child is endangered and in need of intervention has a duty to report. Concerns are reported to local Child and Family Services. If the child is in imminent danger, a report should also be made to the police. Failure to report concerns of child abuse or endangerment is an offence under the Act. If it comes to your attention that an LPN was aware of, and did not report the abuse, you must report this matter to CLPNA. Further, if the professional involved is other than an LPN, you may lodge a written complaint directly to that professional’s regulatory body.

Under the *Public Health Act*, health professionals who become aware that a client under their care or supervision is infected with a notifiable communicable disease, have a duty to report this information to the Medical Officer of Health (MOH) to protect public safety. Additionally, the Act provides a definition of ‘nuisance’, which means a condition that may become dangerous to public health, or that which can hinder prevention or suppression of a communicable disease. Under the *Health Professions Act, Section 1.1(1)*, regulated health professionals who know of, or have reason to believe, a nuisance or threat to public health safety exists, are obligated to report the information to the MOH. As an example, if an individual with a newly diagnosed communicable disease behaves in a way that causes further spread of the illness, he may be considered a nuisance and a threat to public safety. Reporting this individual to the MOH is required under the Act. If this individual is an LPN and you are concerned that the behaviour may be putting the health of clients and the healthcare team at risk, you may also report this to the College.

**Principles of the Duty to Report**
LPNs may often feel conflicted over their duty to report concerns of the practice behaviours of another member or other health professionals. They want to do the right thing to protect clients, but may not want to get involved or lay blame on a colleague. The following principles support LPNs in their duty to report:

- focus on the primary concern which is client safety
- adhere to ethical principles of fairness, dignity, respect and honesty
- be objective
- maintain confidentiality and share information only as necessary
- work collaboratively with the support of your manager

It is important that LPNs are able to recognize reportable behaviours of concern and to understand the reporting process.

**1. Identifying Behaviours of Concern**
Practice behaviours or professional conduct of a colleague that must be reported are those which adversely affect client safety or put clients at risk. These behaviours include incompetence, incapacity, unethical conduct and
unprofessional conduct. Although these behaviours can all fall under unprofessional conduct, they may be specifically defined as follows:

- **Incompetence** – acts or omissions demonstrating a lack of reasonable knowledge, skills or judgment and/or a lack of concern for the client’s welfare to the extent that the client is placed in jeopardy, and includes a belief that risk to client safety will persist if the professional continues to practice or if practice is not restricted in some way.

- **Incapacitated** – as per Section 1(1)(s) of the Health Professions Act, having a physical, mental or emotional condition or disorder or an addiction to alcohol or drugs or other chemicals that impairs the ability to provide professional service in a safe and competent manner.

- **Unethical conduct** – behaving in a way that contravenes the established Code of Ethics such as demonstrating a lack of integrity or disregard for the rights, values and beliefs of clients; failing to protect the safety of clients, failing to advocate for safe, competent and ethical care; behaving dishonestly or in any way that reduces public confidence.

- **Unprofessional conduct** – act or omission that falls short of what would be expected of a reasonable and prudent professional in similar circumstances, if judged by one’s peers. As per Section 1(1)(pp) of the Health Professions Act, unprofessional conduct includes incompetence, misrepresentation during registration, behaviours that contravene or breach the Code of Ethics, Standards of Practice, Health Professions Act, Regulations and other relevant legislation, and conduct that harms the integrity of the regulated profession.

Examples of reportable behaviours or unprofessional conduct include, but are not limited to:

- falsifying information on the client health record
- verbally, physically, mentally or sexually abusing clients or healthcare team members
- poor judgment
- pattern of omission (failing to assess, plan, implement, evaluate and document care)
- theft of belongings from clients, staff or agency
- repeated errors (i.e., during the course of medication calculation or administration, post-operative care, infection prevention and control practices)
- abandoning clients
- providing services while under the influence of drugs or alcohol
- Disclosing confidential client information inappropriately
- Inappropriate use of professional status for personal gain
- Convictions for violence, child pornography or sexual offences
- obtaining registration by misrepresentation or fraud

The following are some questions to consider when determining if you need to take action:

- Have you witnessed the health professional practicing in a way that you consider to be incompetent, incapacitated, unethical or unprofessional?
- Has the professional breached Standards of Practice, Code of Ethics, agency policies, or violated legislation or other laws relevant to the health professions?
- Has there been a pattern of behaviour and is the situation likely to continue?
- Are clients at risk because of the actions of the professional?
- Does the professional demonstrate a lack of regard and/or insight into how their behaviour is affecting client safety?
- Is the professional unwilling to acknowledge the problem and/or to change the behaviour?

If you have answered yes to any of these questions, you must address the situation.

2. **Addressing the Concern – Taking the Most Appropriate Course of Action**

There are different courses of action you can take to address your concerns. You can discuss your concerns directly with the health professional, report the concerns to your manager, contact the regulatory body, or report to other external authorities as mentioned earlier. Most healthcare organizations have policies in place to guide this process.

The timing of your action depends on whether the client is in immediate risk of harm. If the situation shows imminent risk, you may need to intervene immediately and report later. In other situations, you may be able to discuss your concerns with the health professional and resolve the matter without further incident. However, it is important that LPNs are aware that if legislation requires that a report be made, you must proceed to do so regardless of whether you consider the matter to have been satisfactorily resolved.
3. Reporting to the Employer
If you have discussed your concerns with the health professional and the behavior continues, you may report the situation to your employer using the established process and chain of authority in the workplace. Initially, the situation may be verbally reported. If the problem behavior persists, you must follow up with written documentation and take the following into consideration:\[^{4,11}]:

- include dates, times, place and a description of the behaviour
- indicate how the behaviour violates specific standards of care, ethics, organizational policies or legalities
- describe how client care and/or safety was affected for client specific situations
- maintain client confidentiality by using initials or room numbers instead of names, but ensure the client can be identified for the purposes of investigation
- if the concern is brought to you by a client or family member, inform them that you are required to bring the concern forward to the appropriate authority
- professional practice concerns should not be included in the client record

If the concern has been successfully resolved by reporting to your manager, no further action may be required (unless legislation requires that a report be made). If it comes to your attention that the situation/behaviour is still unresolved, you should then call the Complaints Director of CLPNA or other relevant regulator who will counsel you on the next course of action. Your manager should be informed of this decision. You may be required to submit a written complaint to the regulatory body.

4. Reporting to the Regulatory Body
When you file a formal complaint about an LPN or other regulated health professional, submit the complaint letter in writing with your signature to the Complaints Director of CLPNA (for a colleague) or of the relevant regulatory body (for other health professional) as per the Health Professions Act, Section 54(1). Consider the following:

- the complaint should be as complete as possible (follow the guidelines for reporting to your employer)
- the Complaints Director is available to assist you if have concerns of unprofessional conduct by an LPN or other health professional

LPNs who fail to report practice concerns that affect safety or place clients at risk could be subject to discipline by their employer and by the College. Reporting concerns that protects client safety is not slanderous unless the complaint is done maliciously or without reasonable and probable grounds.

**Mandatory Self-Reporting to CLPNA**
The duty to report accountabilities of LPNs also includes mandatory self-reporting. This is a requirement of the registration process and the information is to be updated throughout the year as necessary. Individuals seeking initial registration with the College and regulated members renewing their registration are required to report to the College:

- whether they are under investigation, the subject of a proceeding, or have been disciplined by another regulatory body
- whether they have been charged or have pleaded guilty or found guilty for a criminal offence for which a pardon has not been granted
- whether they have any physical or mental condition or disorder that may impair the ability to provide safe, competent and ethical care, and whether they are under medical care and following medical advice

The information provided is used by the College to determine eligibility for registration.

**Employer’s Duty to Report**
In Alberta, the Health Professions Act is the legislative document that establishes the legal responsibilities for regulators, employers, LPNs and other regulated health professions. The Health Professions Act, Section 57(1)^3 clearly establishes the legal responsibilities of employers in their duty to report. Under the Act, employers must submit a complaint in writing to the regulatory body when they:

- terminate a health professional’s employment due to unprofessional conduct
- suspend a health professional’s employment due to unprofessional conduct
- receive a resignation from a health professional prior to being suspended or terminated for unprofessional conduct

Even if an LPN tries to remove him/herself as a registered member of the College in an attempt to end a situation of unprofessional conduct reported by the employer, the Complaints Director will continue the conduct process to
determine the most appropriate course of action to resolve the complaint.

An employer should be prepared to provide the following information to the College:

- copies of any supporting documents, after obtaining appropriate releases; i.e., copies of incident reports, narcotic records, performance appraisals, client complaints, etc.
- an outline of any actions taken to deal with the behaviours and a description of how the health professional responded to those actions
- the date the health professional commenced work for the employer and the date the professional was disciplined or employment was suspended or terminated
- copy of the suspension/termination letter

**College Actions in Response to Reported Concerns**

Although the employer has the authority to suspend or dismiss an LPN, this may not prevent the LPN from working somewhere else. CLPNA is the body with the legislated authority to prevent LPNs from practicing if they pose significant risk to the public.

All concerns brought forward to the College are reviewed. In some cases, issues that cause an employer to take disciplinary action may not result in disciplinary action by the College. In other instances, the College may take more serious action than the employer. This may mean that the LPN may have restrictions placed on his/her practice, be suspended from practice for a period of time, or can no longer work in the profession.

The measure for satisfactory practice of an LPN is practice that one would expect from a reasonable and prudent LPN with similar background and experience. The Standards of Practice, Code of Ethics and Competency Profile documents are used to determine if nursing practice is reasonable and prudent. The documents provide a framework within which to review an LPN’s practice and to objectively determine which standards, ethical values and competencies the LPN is demonstrating, not demonstrating or demonstrating inadequately.

- incompetent nursing practice is measured against nursing standards and the competency profile, as well as best practices in the healthcare literature
- unethical practice is evaluated by the Code of Ethics
- incapacity is determined by definitions in the Act and medical examination
- unprofessional conduct is measured by definitions in the Act and against the practice requirements set by the College

**CONCLUSION**

Licensed Practical Nurses are accountable for mandatory self-reporting to CLPNA, for reporting to external agencies as per legislative Acts, and for reporting to CLPNA or other relevant regulatory body the practice of a colleague or other health professional practice that is incompetent, incapacitated, unethical or unprofessional. The duty to report accountability extends to employers who are legally obligated to report to CLPNA when they suspend or terminate an LPN for unprofessional conduct. The legislated duty of regulatory bodies is to protect the safety of the public receiving services from its members. Intervening when LPNs do not meet established standards is a requirement under legislation. By alerting CLPNA of concerns about an LPN’s practice, members and employers support the College’s mandate of protecting the public interest.

**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: Fitness to Practice and Incapacity
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, employers and other stakeholders. The interpretive document impacts all practice settings where nurses work.

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