

Canadian Nurses Protective Society

2017 ANNUAL REPORT



Canadian Nurses
Protective Society



who we are

The CNPS is a not-for profit society that was created by nurses for nurses in 1988. The CNPS offers legal advice, risk-management services, legal assistance and professional liability protection related to nursing practice to more than 130,000 eligible registered nurses (RNs) and nurse practitioners (NPs) across Canada.

Our mission

The CNPS exists so that Canadian nurses are enabled to effectively manage their professional legal risks, and are appropriately assisted when in professional legal jeopardy.

how the CNPS assists nurses

The CNPS is the Canadian nursing profession's own legal support system. CNPS beneficiaries are eligible to receive the following services:

- **Reliable, dependable protection:** In 2018, the CNPS is celebrating its 30th year of providing professional liability protection to nurses in Canada.
- **Comprehensive legal support:** The CNPS provides comprehensive legal support to help nurses navigate the broad range of legal issues that can arise in their practice. The professional liability protection we provide is specifically tailored to a nurse's unique needs, whether they provide care in a hospital, clinic, independent setting or as a volunteer.
- **Confidential legal advice:** Nurses can call anytime to speak with a lawyer specialized in health law to receive legal advice and support related to their nursing practice.
- **Education and risk management:** The CNPS provides a wide range of group workshops, webinars and online resources designed to reduce risk in nursing practice.
- **Occurrence-based protection:** There is no time limit on the protection that the CNPS provides. Claims may arise several years after an incident has occurred. A nurse is eligible for protection for an incident that occurred while they were a CNPS beneficiary and licensed to practise, regardless of when the claim is initiated.
- **Discretionary assistance:** Unlike an insurance policy, the discretionary assistance we provide allows a unique and flexible approach to providing professional liability protection. Our assistance is tailored to meet the individual needs of nurses practising in Canada.
- **Assistance and support every step of the way:** CNPS assistance includes legal advice, support and representation, and the payment of legal expenses from the onset of proceedings related to nursing practice.
- **No shared limits:** The CNPS provides individual professional liability protection that satisfies all regulatory requirements and responds to claims commenced anywhere in Canada. There is no group or shared limit of protection.

CNPS. More than liability protection

ceo & president's message

COMING TOGETHER

Nurses are seen as a calm and knowledgeable source of support to patients during times of anxiety. In much the same way that nurses are there for their patients, the Canadian Nurses Protective Society (CNPS) is there for nurses, providing professional and personal legal advice and assistance when they need it most.

While this has always been our mission, the environment within which this mission is fulfilled continues to evolve, and the CNPS must evolve with it to ensure that we deliver on our commitment to provide legal support in a meaningful and effective way.

Changing social values continue to raise new legal questions for the nursing profession. As the courts are expected to further define the boundaries of medical assistance in dying, and nurses contemplate potential responses to the opioid crisis, it is necessary to prepare for the legalization of cannabis, and its implications on its use for a medical purpose.

Technology is changing how nurses work, as electronic health records, health apps and social media become part of the "new normal." While social media has proved itself as a medium for social change, legal questions still abound as to how appropriate it is for nurses to use this channel to advocate for change in health care. Determining the limits of professionalism on freedom of speech is part of the new frontier, and many recent media cases are challenging our perceptions about the boundaries of both.

Along with this, the scope of practice of all nursing professions continues to expand, and there is a growing demand for health-care professionals to work together collaboratively and seamlessly. Some nursing associations and regulators are undergoing a corporate reorganization to bring together nurses of different professional designations. Recent appellate court decisions illustrate well that collaborative care brings with it greater individual accountability for members of the treatment team. Within this changing paradigm, there is a need for a common understanding, by all nursing professionals, of the greater accountability and the potential for legal responsibility that come with teamwork and an expanding scope of practice.

In this environment, the CNPS Board of Directors strives to be innovative and make decisions that are responsive to change and the evolving needs of its beneficiaries. At the same time, these decisions must remain anchored in the fundamental and time-tested mission of the CNPS:

- Serving as a reliable and expert source of legal information and risk-management services for the nursing profession
- Providing a comprehensive and sustainable legal assistance program for Canadian nurses
- Collaborating with stakeholders to promote a practice framework and environment that supports safe nursing practice

With these objectives in mind, in 2017, the CNPS Board of Directors undertook the following foundational work to ensure that the CNPS is positioned to best serve its membership into the future:

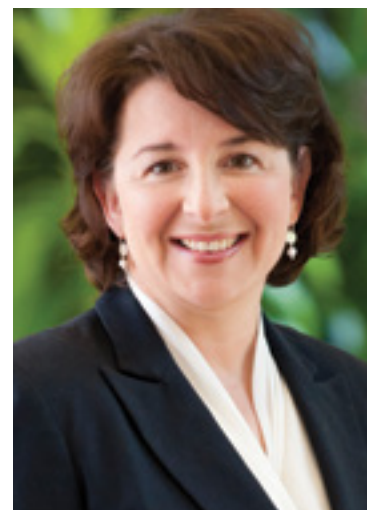
- After a few years of increasing frequency and severity of claims, the Board of Directors, working with external actuarial consultants, completed a comprehensive financial risk analysis. This analysis informed decisions to ensure the sustainability of the legal assistance fund. It also positioned the Board to make decisions on fee requirements under different scenarios.



Mary Ellen Gurnham

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President, CNPS Board of Directors



Chantal L. Léonard

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Chief Executive Officer

ceo & president's message

- In keeping with its pan-Canadian activities, the Board recommended, and the membership approved, bylaw amendments to enable Board representation from provinces where nurses access CNPS services on an individual basis. On the advice of its Nominating Committee, the Board then developed and implemented a process for the election of representatives from these jurisdictions to the Board of Directors.
- It collaborated with the Nurse Practitioners' Association of Ontario to facilitate ongoing access to CNPS services for Ontario nurse practitioners.
- The Board spent considerable time analyzing the implications of expanding services to all professional nursing designations and determining how it could do so on terms that would be fair to existing member organizations, beneficiaries and nurses of all professional designations.

As the Board turned to these important questions, the CNPS's focus remained on the delivery of programs to support nurses in the provision of safe nursing care and to prevent legal difficulties. CNPS legal advisors responded to an increasing number of inquiries by beneficiaries and reviewed a record number of provisional service agreements on their behalf. We also identified and informed nurses of emerging risks in areas such as collaborative care, the provision of cosmetic nursing services, and the use of technology and social media in practice.

In addition to legal matters falling within the range of core services, the CNPS extended assistance to beneficiaries facing regulatory investigations, following the introduction of this optional service in 2016. We are pleased with the success of this initiative and our ability to provide this additional resource for nurses.

We also engaged with various levels of provincial and federal governments to foster a common understanding of nurses' liability risk, to promote safe practice frameworks, to advocate for legal obligations that are reasonable and compatible with nurses' practice environment, to clarify ambiguous provisions, and to support the removal of barriers to practice that can hinder the provision of safe nursing care.

To meet the growing demand from our beneficiaries for legal assistance, we further increased our complement of legal advisors so that we can continue to provide customized legal services and support of the highest quality. As our organization continues to grow, we are focused on providing information technology that supports a positive user experience for beneficiaries, whether they are registering for services, renewing their beneficiary status or participating in our webinars.

The work that we provide on behalf of nurses throughout the year could not be accomplished without the expertise and dedication of our Board of Directors. We thank them for their collaboration and contributions which help us to provide insightful legal advice and assistance. We would also like to thank the CNPS staff for its commitment and dedication to serving our beneficiaries.

In 1988, a group of visionary nurses had the wisdom to create a national society for nurses grounded in discretionary assistance – the same model valued by health professionals in the United Kingdom and by physicians in Canada. The CNPS was created “for nurses by nurses,” and we are proud to continue this commitment today. We look forward to providing our beneficiaries with the best possible legal support services so that they in turn can provide the safest care possible to their patients.

legal assistance

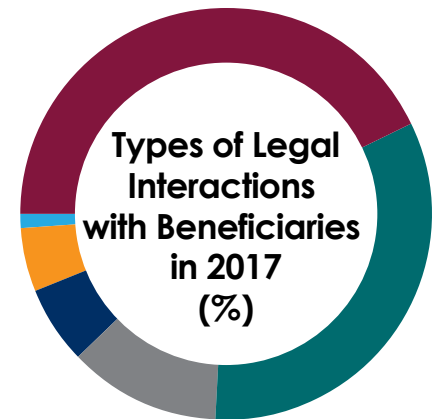
PROVIDING LEGAL ADVICE AND ASSISTANCE

The CNPS provides confidential advice and assistance to nurses related to their nursing practice. When nurses call the CNPS, they can speak with a lawyer who is specialized in health law to receive legal advice and support related to their nursing practice.

WHAT TYPES OF REQUESTS FOR ASSISTANCE DOES THE CNPS RECEIVE?

The CNPS receives a wide variety of requests for advice and assistance from its beneficiaries. These are just some of the questions (and requests for assistance) that fall within the CNPS scope of assistance:

- Does an occupational health nurse in a safety-sensitive workplace have a duty to report a client's use of cannabis to the employer?
- Would a nurse be found liable for an injury that occurred to a patient if the employer follows a staffing model that does not align with national standards?
- What are the liability risks regarding a server crash that results in loss of documentation?
- May an NP hired in an RN role work to the full scope of practice for an NP?
- What are the legal risks in administering drugs not approved by Health Canada?



Legal Risk Management

43%

Professional Liability Protection

33%

Litigation Management

12%

Employment Related

6%

Regulatory Issues

5%

Other

1%

top 5 legal risk management topics in 2017

1. **Assessment of legal risk or legal liability in specific circumstances**
2. **Documentation**
3. **Confidentiality and privacy**
4. **Liability surrounding medication orders and physicians' orders**
5. **Request for CNPS analysis of legal documents (review of legal documents such as contracts, bylaws and policies, or legislative interpretation)**

legal assistance

ASSISTANCE WITH LEGAL PROCEEDINGS

The CNPS provides a wide range of legal assistance to its beneficiaries, including

- Claims and civil proceedings
- Criminal investigations and prosecutions
- Statutory offences
- Witness appearances
- General legal advice

SUPPORTING NURSES

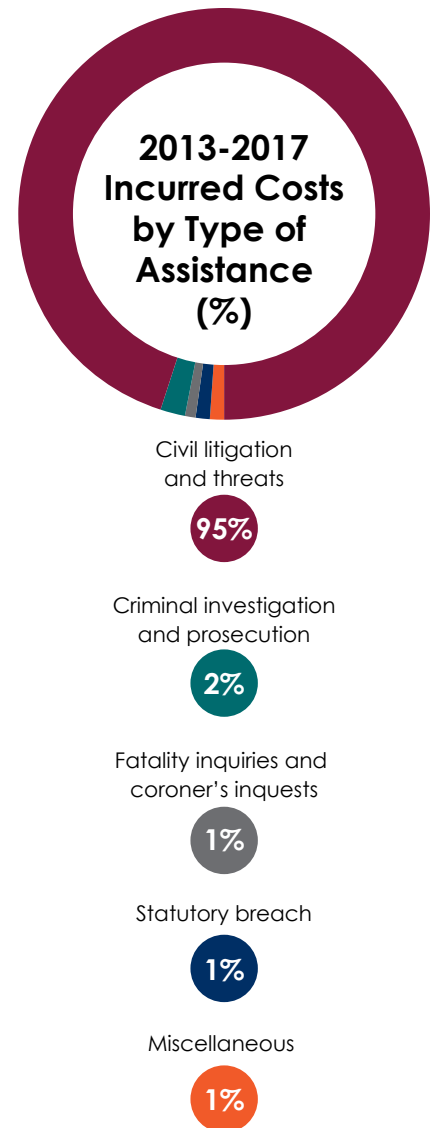
The CNPS provides nurses with legal support that is tailored to their unique needs. The CNPS generally extends assistance to its beneficiaries by retaining an experienced lawyer to represent them and, if necessary, by paying court-awarded damages on their behalf.

The CNPS provides a wide range of legal support to nurses with the following:

- Claims and civil proceedings: Defence of claims and legal actions commenced in Canada and arising from the provision of nursing services, including claims for defamation, slander, breach of privacy, neglect, abuse or discrimination
- Criminal investigations and prosecutions: Assistance with the investigation and defence of criminal allegations arising from nursing practice, including assistance with police inquiries and information
- Statutory offences: Assistance with investigations of alleged human rights infringements and violations under child protection or “protection for persons in care” legislation
- Witness appearances: Legal assistance for nurses compelled to appear as witnesses, including at fatality inquests and coroners’ inquests
- General legal assistance: Legal advice and support to contain or mitigate a legal risk, and appropriately respond to circumstances that could compromise patient safety

CNPS beneficiaries can also register for Supplementary Protection, an optional service which generally includes legal assistance with complaints as well as disciplinary and fitness-to-practise hearings before a nursing regulator, for an additional fee.

Visit www.cnps.ca/complaints for more information.



legal assistance

THE RIGHT PROTECTION FOR TODAY'S CHANGING ENVIRONMENT

In the evolving Canadian health-care environment, nurses need professional liability protection that is adaptable and responsive to the unique issues and circumstances that can arise in their practice. The nurses who founded the CNPS in 1988 chose the discretionary assistance model because it provides the flexibility necessary to respond to the unpredictable circumstances nurses face in their practice. Discretionary assistance is also the same model used and valued by health professionals in the United Kingdom and by physicians in Canada.

Here are two examples of circumstances in which the CNPS could extend assistance to a beneficiary:



A case of privacy

Mary lives in a town with only one hospital. Her neighbour, who has cancer, has accused Mary of accessing her medical records and sharing information about her diagnosis. The neighbour is threatening to sue Mary for breach of privacy. Mary called the CNPS and spoke to a legal advisor who advised her that the CNPS will generally provide legal representation for nurses who are being sued for privacy breaches or breaches reported to a privacy commissioner.

Contractual questions

Justin wishes to develop an independent practice in foot care with local long-term care facilities. A local foot-care facility has just presented him with a contract to sign before he can start working with them. The contract refers to Justin as an independent contractor and uses legal language which he finds difficult to understand. Among other issues, the contract is not clear about who will be responsible for maintaining and safeguarding patient records. He is concerned about this and other obligations imposed on him under the contract. Justin contacted the CNPS and spoke to a legal advisor who agreed to review the contract as it relates to issues of professional responsibility and legal obligations as a nurse. The legal advisor provided him with insights into his professional and legal obligations so that he can continue to discuss certain aspects of the proposed contract with the facility and possibly have changes made to the contract before it is finalized.

DISCLAIMER: The stories, names, circumstances and incidents described in these examples are fictitious and only intended to illustrate the range of services available from the CNPS.

Visit cnps.ca and click Beneficiary Services for a complete list of our services.

inspiring nurses



BREAKING DOWN BARRIERS FOR INDIGENOUS NURSES – DANIELLE BOURQUE

Danielle Bourque is a registered nurse who was “born into nursing.” Her mother has her PhD in nursing and her sister is also a nurse. Her grandmother was a medicine woman from the Beaver Lake Cree Nation in northern Alberta, where Danielle is from.

Danielle’s “caring health background” is never far from her mind, nor is her desire to advocate for improving the health of Indigenous peoples. When she began her undergraduate degree at the University of Alberta, she noticed the lack of Indigenous content and cultural safety in the nursing curricula. Having become involved as an advocate in the Canadian Nursing Student Association and being knowledgeable about the recommendations of the Truth and Reconciliation Commission, she realized that nursing could be a path for her to become an agent of change for advancing Indigenous health issues.

After graduating from the University of Alberta, Danielle began her master of science in nursing at McMaster University. Her current research interests include the awareness of cultural safety in nursing education and the barriers that may arise from “indigenizing the nursing curricula,” which is an important recommendation from the Truth and Reconciliation Commission. “When Indigenous nurses go into traditional nursing programs, they experience a dichotomy of identity as they have to put their Indigenous knowledge and identity aside while they learn western knowledge,” said Danielle. “I would like to see the inclusion of other knowledge systems, like Indigenous ways of knowing, into the nursing curriculum.”

When she is not researching her thesis, this busy 24-year old provides direct care at Hamilton’s Juravinski Hospital and is active in multiple research projects contributing to increasing Indigenous knowledge in nursing pedagogy. “Improving the health of Indigenous peoples and being an advocate for Indigenous health has been at the top of my priority list since I became a nurse,” said Danielle. By completing her master’s degree and pursuing her PhD, she hopes to carry on her work as an advocate and to keep pushing down the barriers she once struggled against in the hopes that future Indigenous nurses won’t have to.



A VOICE FOR DYING WITH DIGNITY – NOREEN CAMPBELL

Noreen Campbell, MA, was a registered nurse and nurse educator from North Saanich, British Columbia. Her career was as diverse as it was distinguished. She was a clinical nurse, an educator, an innovator in wound management, and a strong advocate for the benefits of medical assistance in dying. Noreen was a member of the Victoria chapter of the Registered Nurses Association of British Columbia and served on its education committee. She was also the treasurer of the British Columbia Nurses’ Union.

In the early 80s, Noreen designed a continuing clinical education course in physical assessment for the University of Victoria for registered nurses and licensed practical nurses – one of the first distance education courses offered in North America. Noreen also developed a Level 1 and 2 course on wound management for health professionals which continues to attract health-care students from around the world to the university.

In 1987, Noreen began working as a clinical wound care specialist with the Vancouver Island Health Authority. She collaborated with Dr. Ron Fisher to develop the Foot and Leg Ulcer Clinic. Over a three-year period, the clinic achieved improved healing times and outcomes for patients with ulcers and received permanent funding. Noreen’s innovations in wound management include the creation of the Wound Trend Scale and a padded heel dressing, which are still used today. Her pioneering work in wound management resulted in a nomination for the prestigious Jeanne Mance Award.

In 2014, Noreen developed a terminal illness and became one of the first Canadians to apply and be approved for medical assistance in dying. During her final years, she became an advocate and a powerful voice for dying with dignity. She worked closely with the Victoria chapter of Dying with Dignity Canada to produce a series of testimonial videos about her journey. On January 12, 2017, surrounded by family, and with her beloved horse Dasha in view, Noreen died peacefully at home. Her advocacy work on medical assistance in dying and her internationally recognized work in wound management ensures that her legacy will live on for many years to come.

a legal voice for nurses

As the provider of professional liability protection to over 130,000 nurses across Canada, the Canadian Nurses Protective Society is an important legal voice for nurses. The CNPS shares its legal expertise with its beneficiaries, member organizations and health-care stakeholders. It also responds to provincial and federal policy issues by providing submissions on legal matters that affect the practice environment of Canadian nurses.

Cannabis for medical purposes: Legal implications for nurses

By The Canadian Nurses Protective Society

In recent years, the lawful use of marijuana for medical purposes (also known as cannabis for medical purposes) in Canada has been perpetually evolving. The most recent change in the landscape has been the coming into force of the Access to Cannabis for Medical Purposes Regulations (ACMPR) on Aug. 24, 2016; it replaced the Marihuana for Medical Purposes Regulations. This legislative change arose as a result of a federal court ruling in February 2016 allowing for reasonable and expanded access to cannabis for medical purposes for Canadians who have been authorized to use the substance by their health professional.

For nurses to be able to define their roles in authorized use of or administering cannabis, they must understand the legislation that governs it, the provincial/territorial legislation that regulates the relevant aspects of nursing practice, as any restrictions, guidelines or standards imposed on them.

Issuing of medical documents
The use of cannabis for medical purposes is governed by the ACMPR. It authorizes health practitioners — a defined term in the regulation — to issue a medical document to a patient that permits the lawful use of cannabis. These practitioners are authorized to transfer or administer the substance to the patient. Furthermore, the ACMPR permits practitioners to possess fresh or dried cannabis oil for that purpose.

Under the ACMPR, a practitioner is defined as a practitioner (physician) or a practitioner who is “per-

Are you considering a career in cosmetic nursing?

Private clinics and spas continue to actively recruit nurses to assist with cosmetic procedures. Positions offered to registered nurses can range from administering dermal filler injections or botulinum toxin, commonly known as Botox, to providing surgical nursing services if surgical procedures are performed at the clinic. At times, nurse practitioners may be asked to serve as clinical directors.

Nurses should know that there is a much wider range of legal implications that should be considered before entering into a professional agreement to provide cosmetic services, particularly when the services are to be provided in a private facility.

Some of the legal considerations include:

An esthetic practice generally presents a higher risk of litigation than

onerous



Medical Cannabis

Are you a custodian or trustee of health records?



Registered nurses and nurse practitioners may at times be custodians of health information (also known as “trustees” in some provinces) by application of the law, whether or not they have previously agreed to undertake these responsibilities. Why do you

need to know if you are a custodian of personal health information? All provinces and territories have now adopted legislation governing the management of personal health information. Although it varies from one



www.cnps.ca

Can RN prescribing lead to new professional liability risks?

By The Canadian Nurses Protective Society

A growing number of jurisdictions across Canada are expanding the scope of practice of registered nurses to enable certain RNs to diagnose and prescribe within their expertise, practice setting and patient population. The circumstances in which RNs can diagnose and prescribe vary from one jurisdiction to another.

In Quebec, for example, authorized RNs may order laboratory tests and prescribe medications for wound care, public health matters (including contraception, smoking cessation and treatment of sexually transmitted diseases) and other common health issues. Saskatchewan nurses who hold a licence known as RN with Additional Authorized Practice may diagnose and treat specific common medical disorders when working in primary care in remote areas. The provincial governments and regulatory bodies of Ontario, Manitoba and Alberta are in the process of introducing RN prescribing. Other regulators are exploring this option.

In British Columbia, RNs may not prescribe but, with the appropriate certification from the regulatory body, may diagnose, treat and dispense medications for contraceptive management, sexually transmitted infections or minor illnesses.

The decision to expand the scope of practice of RNs was made after a careful assessment of

the risks and within a framework to optimize patient safety. RNs who are authorized to diagnose and prescribe must generally complete additional education and undergo an evaluation process to ensure they have the necessary competencies. RN prescribers also benefit from supportive measures such as guidelines, clinical decision tools and access to physicians or nurse practitioners for consultation. Despite these measures, complications may still occur.

If a patient is the result of the care, the professional (on behalf of the patient) may be held liable for compensation. The professional who is named in the recommendation often the professional who prescribed the treatment. The professional who prescribed the treatment but did not that was used. Professional liability insurance for RN prescribers in a facility that serves or clients.

including private clinics, are generally expected to supply the instruments used to assess patients and implement processes to communicate test results and followup care. It is important for RN prescribers and the facility where they practise to each have adequate professional liability protection. Because the amounts of compensation awarded by the courts tend to increase over time, the amount of liability protection available should be reviewed and



To Post or Not to Post? Legal Risks in Social Media and Mobile Devices

October 28, 2017



www.cnps.ca

Re PHIA Review

We write further to your invitation to present submissions with respect to the review of Newfoundland and Labrador's Personal Health Information Act ["PHIA"].

The Canadian Nurses Protective Society [CNPS] is a not for profit organization which provides professional liability protection and legal services to more than 134,000 nurses across all of Canada, including all registered nurses and nurse practitioners of Newfoundland and Labrador, with a focus on prevent and risk management.

The CNPS wishes to commend the Newfoundland and Labrador government for instigating a review of the PHIA. There is no doubt that the PHIA was the result of a thoughtful process, at the outset. However, with changing models of care, evolving technological advances, it was wise to contemplate that legislation as complex as the PHIA should be reassessed to ensure that it appropriately meets its objectives.

Lessons from the courtroom: Collaborative care

Lessons from the courtroom: A reminder that with collaborative care comes greater individual responsibility

Two recent court decisions have focused on the important role that nurses play within a treatment team, and the corresponding responsibility that this entails.

The court had to decide whether an ER physician, a registered psychiatric nurse ("RPN") and the health authority should be held liable for damages suffered by a patient who attempted suicide one week after his discharge from the emergency room.



The patient went to the emergency room with family members as a result of concern for his mental health. The protocols provided for an initial assessment by the ER physician. The family members stated that the patient was a skilled member of the previous week, he had taken drugs, said that he was being monitored by cameras, and stated that his employer wanted to kill him and use him as a human sacrifice. The RPN did not report this information to the ER

REVIEW GUIDE

Draft Guideline on the Prevention of Transmission of Bloodborne Viruses from Infected Healthcare Workers in Healthcare Settings

trending legal issues in 2017

MEDICAL CANNABIS

National Update

Nurses are increasingly likely to encounter patients who are authorized to use medical cannabis under the *Access to Cannabis for Medical Purposes Regulations* (ACMPR), as an exception to the prohibition contained in the *Controlled Drugs and Substances Act*. As of December 31, 2017, there were 269,502 client registrations with licensed producers of cannabis for medical purposes, and 13,829 registrations for personal and designated production (the vast majority of these were for personal medical purposes).¹ These numbers represent an increase of 7.5% in client registrations with licensed producers at the end of 2016² and an increase of 208% as of April 30, 2017.³

The federal government is planning to legalize cannabis and its use in Canada. Bill C-45, *An Act respecting cannabis and to amend the Controlled Drugs and Substances Act, the Criminal Code and other Acts*,⁴ was introduced in April 2017, and is expected to be in effect by the summer of 2018. Most provinces and territories have introduced legislation to set up frameworks for the distribution and control of recreational cannabis, and the federal government is consulting on the development of *cannabis regulations*.⁵

Regional Changes

Upon granting authority for nurse practitioners to prescribe controlled substances in April 2017, the College of Nurses of Ontario expressly authorized NPs to complete the medical documents to access medical cannabis. Most other nursing regulators have not granted this authorization. Several nursing regulators produced or updated guidelines for nurses regarding providing assistance in the administration or directly administering medical cannabis. As the language of the regulations under the *Controlled Drugs and Substances Act* could support different interpretations, there are variations within these guidelines that can hopefully be harmonized once Bill C-45 is adopted into law.

CNPS in Action:

The CNPS provided legal feedback and input into the current ACMPR regime and continues to participate in the development of the future framework through formal consultation on the *Proposed Approach to the Regulation of Cannabis* and

1 Government of Canada, Market Data, <https://www.canada.ca/en/health-canada/services/drugs-health-products/medical-use-marijuana/licensed-producers/market-data.html>

2 Macleans, "Medical marijuana prescription rate soaring in Canada," February 23, 2017. <http://www.macleans.ca/society/medical-marijuana-prescription-rate-soaring-in-canada/>

3 Government of Canada, Market Data, <https://www.canada.ca/en/health-canada/services/drugs-health-products/medical-use-marijuana/licensed-producers/market-data.html>

4 <http://www.parl.ca/LegisInfo/BillDetails.aspx?Language=E&billId=8886269>

5 Government of Canada, Government Notices, Notice of intent to develop regulations under the proposed Cannabis Act, <http://www.gazette.gc.ca/rp-pr/p1/2017/2017-11-25/html/notice-avis-eng.html#na3>, November 25, 2017



trending legal issues in 2017

through submissions to the Standing Senate Committee on Legal and Constitutional Affairs regarding Bill C-45 (the Cannabis Act). The CNPS continues to seek clarification on medical cannabis regulations in light of the impending legalization of recreational cannabis. It has advocated in particular for legislative or regulatory wording that would expressly authorize the direct administration of medical cannabis to patients by nurses and exempt from prosecution under the Act nurses who possess or administer cannabis for medical purposes in the course of their professional duties.



trending legal issues in 2017



RN PRESCRIBING

National Update

The role of the RN prescriber is evolving across Canada. In 2015, the Canadian Nurses Association published a *Framework for Registered Nurse Prescribing*, with input from the CNPS. At that time, the only jurisdiction in which RNs (who are not NPs) could diagnose and dispense medications was British Columbia, which has since adopted regulatory changes to enable RN prescribing in specific circumstances. (Related standards are currently in development.) Then, in 2016, certain RNs in Quebec and Saskatchewan obtained the authority to diagnose and prescribe. Work was soon initiated in a number of other jurisdictions to expand the RN scope of practice to include diagnosing and prescribing in certain practice areas.

trending legal issues in 2017



Regional Changes

On May 31, 2018, new regulations governing the practice of registered nurses and nurse practitioners came into force, creating a new category of licensure: Registered Nurse (Authorized Prescriber). Educational programs, competencies and practice expectations are in place, and Manitoba RNs are able to obtain approval to practise as an Authorized Prescriber of certain medications in travel health, reproductive health and diabetes health.

For several years, the College and Association of Registered Nurses of Alberta (CARNA) has been developing RN prescribing requirements and standards and has been working with the Alberta government on amendments to the *Registered Nurses Profession Regulation*. In Ontario, legislative changes were made in 2017 to expand the RN scope of practice to include prescribing certain drugs and communicating a diagnosis for the purpose of prescribing a drug. The College of Nurses of Ontario is developing regulations and practice requirements through consultation and feedback with stakeholders. Additionally, in Nova Scotia, CRNNS became part of a provincial working group established in 2017 to explore and consider RN prescribing and also began initial consultations with its members and others.

CNPS in Action

The CNPS has been engaged in this ongoing practice change, having participated in the national RN prescribing framework initiative, made submissions to government in recent years and addressed specific inquiries from stakeholders. To bring awareness to this issue in 2017, with particular emphasis on professional liability protection and legal risk management, the CNPS authored *Can RN Prescribing Lead to New Professional Liability Risks?* for publication in the *Canadian Nurse* magazine (September/October 2017) and an online article *RN Prescribing* for the CNPS website (September 2017). Additionally, the CNPS hosted a webinar on RN prescribing and risk management in November 2017 and presented risk-management strategies related to the prescription of medications – and RN prescribing, specifically – in a number of educational presentations.

trending legal issues in 2017

NURSING IN REMOTE COMMUNITIES

National Update

While there is no definite and accepted universal definition for what constitutes a “rural” or “remote” community, a seminal nursing report defined the practice (as it relates to nursing) as “a population living outside the main commuting zone of larger urban centers (urban centers numbering 10,000 or more).”⁶

Nurses practising in rural and remote communities face a variety of complex challenges. They provide care to a broad segment of the patient population presenting with a wide range of potentially complex medical conditions, yet they often work in isolation with limited support and resources. They rely on different authorizing mechanisms to deliver health-care services to respond to patient needs. They are expected to take into account the cultural needs of their patients. Notwithstanding the use of telepractice to facilitate assessments, consultations and referrals, many challenges remain.

Recruitment and retention of health professionals is often an issue in rural and remote areas. Ensuring continuity of care in remote communities can also create challenging practice-management issues.

Regional Changes

CRNBC made a number of updates to its decision support tools for nurses with a certified practice in Remote Nursing in 2017. As well, 2017 was the first full year of the Registered Nurse (Additional Authorized Practice) licensure designation in Saskatchewan, which provides prescribing authority to certain remote registered nurses.

CNPS in Action

The CNPS continues to provide legal advice, risk-management advice and practice-management strategies to beneficiaries and member organizations faced with the challenges of providing care in remote communities. In 2017, the CNPS piloted a webinar series on remote nursing and collaborated with nursing associations to deliver education to their members on this issue. The CNPS continues to build relationships and respond to requests to deliver risk-management presentations to agencies and beneficiaries in remote areas.



⁶ Judith C. Kulig et al, “Nursing Practice in Rural and Remote Canada”, Rural and Remote Nursing Practice: An analysis of documents, June 2003, page 1. <https://www.unbc.ca/sites/default/files/sections/rural-nursing/en/18-completereport.pdf>

trending legal issues in 2017

SOCIAL MEDIA

National Update

As social media, electronic communications and hand-held devices have become embedded in the fabric of our society, they remain largely unregulated. Nursing professionals (and health-care providers, generally) have yet to clearly determine how they can leverage their many advantages (convenience, ability to condense voluminous information in small devices, speed) while respecting legal and ethical requirements regarding confidentiality and the protection of health information.

In recognition of the increasing use of social media by nurses, the 2017 edition of the *CNA Code of Ethics for Registered Nurses* specifically indicated that it is an ethical responsibility for nurses to maintain the confidentiality and privacy of patients and colleagues when using social media.

Legal Challenges

Nurses in several jurisdictions continue to face complaints related to their use of social media, both in their professional and personal capacity.

In a widely-publicized case, the Saskatchewan Court of Queen's Bench determined that imposing limits on the use of social media for the purpose of upholding the professionalism standards of the nursing profession constituted a justifiable limit to a nurse's freedom of expression.⁷

CNPS in Action

The professional, ethical and legal obligations that arise out of the use of social media, and subsequent implications for the nursing profession, are still evolving. The CNPS continues to inform beneficiaries about new or updated guidelines from nursing regulators, new causes of action and case law which can guide the profession in this new frontier. Not surprisingly, CNPS presentations on privacy, social media and technology continue to be in high demand among beneficiaries.

The CNPS also authored an article on social media for publication in the May/June 2018 edition of *Canadian Nurse*.



⁷ Strom v. SRNA, 2018 SKQB 110



A PASSION FOR TECHNOLOGY AND TEACHING – RICHARD BOOTH

Richard Booth is a PhD and an assistant professor at the Arthur Labatt Family School of Nursing at London's Western University who is passionate about teaching, technology and nursing. His clinical research role allows him the flexibility to focus on emerging issues that are important to him and to the nursing profession. And right now, Richard wants to advocate for health informatics and how it is changing the future of nursing.

As a 17-year old, Richard realized that the Internet would be a "game changer" in whatever profession he chose, and he was interested in nursing. When he began his undergraduate studies in nursing at McMaster University in Hamilton, he realized that the internet was changing society. An early mentor said to him, "E-health is the word you want to think about, Richard. Make this your career." Since that time, Richard has been focusing his clinical research on health informatics and how it is changing the nursing profession and impacting the future role of nursing.

"Social media didn't really exist 10 years ago, and robots are at a consumer level now," said Richard.

"I have a few social bots at home and I'm testing one at Western currently. The fundamental question that we, as nurses, need to ask ourselves is, 'What do we want our nursing role to be in the coming years, in a health-care domain that is going to be automated and driven by artificial intelligence?' What kind of roles do we not need to do anymore, and which roles can we give to AI or bots? We've got to give these robots roles, because if we don't, someone else will impose these roles."

Richard's message is a cautionary tale, but one of possibilities for the future. "Nurses are a force to be reckoned with. We just need to become cognizant of where we are now and to use our dedication, judgement and knowledge skills to advocate for where we need to be" in terms of the adoption of new ideas and technology.



SHARING THE STORIES OF NURSE PRACTITIONERS – CLAUDIA MARIANO

While Claudia Mariano's face may not be familiar to every nurse practitioner (NP) across Canada, her name certainly is well known. Claudia is a primary health-care nurse practitioner from Pickering, Ontario, and the author of *No One Left Behind*, a book chronicling the stories and experiences of nurse practitioners. It is on the recommended reading list of nurse-practitioner programs in Ontario.

Claudia studied nursing at the University of Toronto in 1986. After completing her master's degree in nursing, she returned to the University of Toronto to attend its newly launched nurse-practitioner program. Upon graduating in 1999, Claudia realized that, even though NPs had been practising since the 1970s, most people did not know what they did or how they were different from registered nurses or physicians. It was then that Claudia decided to "write a little book of some kind" to highlight the patient experiences and stories of nurse practitioners to underscore their role and their impact.

Claudia sent out requests to her colleagues of the Nurse Practitioners' Association of Ontario (NPAO) and other provincial associations for their nursing stories. Within eight months, she had self-published her book in time for National Nursing Week 2015.

What becomes really clear from the book is that nurse practitioners practise where they are most needed by patients. "If there is a gap or an issue with access, nurses will find that gap and address it. We are dedicated to going where the need is and doing what needs to be done. I call nurse practitioners 'disruptive innovators.'"

With retirement beckoning, Claudia hopes to help future NP graduates navigate the health-care system. No doubt, Claudia will continue to influence new NPs for many years to come through her book *No One Left Behind* and the stories it tells. "It's really quite humbling to know that this book is still out there and, in some small way, is still having an impact on people," and no doubt the nursing profession.

risk-management education

EDUCATIONAL PRESENTATIONS

The CNPS provides risk-management educational sessions to nurses so that they can better understand their professional and legal obligations with the goal of providing safe care to patients.

The CNPS provides both in-person presentations and customized webcasts or teleconferences to meet the specific needs of its beneficiaries.

by the numbers

39

REGIONAL
PRESENTATIONS

18

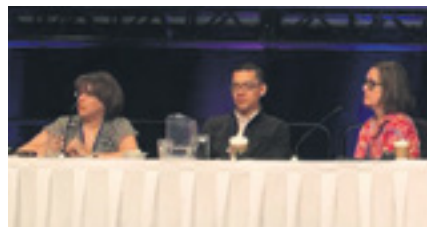
CNPS-HOSTED
WEBINARS

38

PRIVATE WEBINARS AND
TELECONFERENCES

2017 PRESENTATION TOPICS

- Communicating with the Police
- Diagnostic Reporting and Follow-up
- How CNPS Can Assist with College Complaints
- Learn about CNPS. More than Liability Protection
- Legal Risk Management for Nursing Students
- Nurse Practitioner Opioid Prescribing
- Nurse Practitioner/Physician Collaborative Practice
- Nurses in Independent Practice
- Protecting Your Patients' Privacy
- Public Health & Community Health Nursing and the Law
- RN Prescribing and Risk Management
- Serving as an Expert Witness
- Social Media and Technology
- The Nurse, the Chart and the Law



connecting across channels

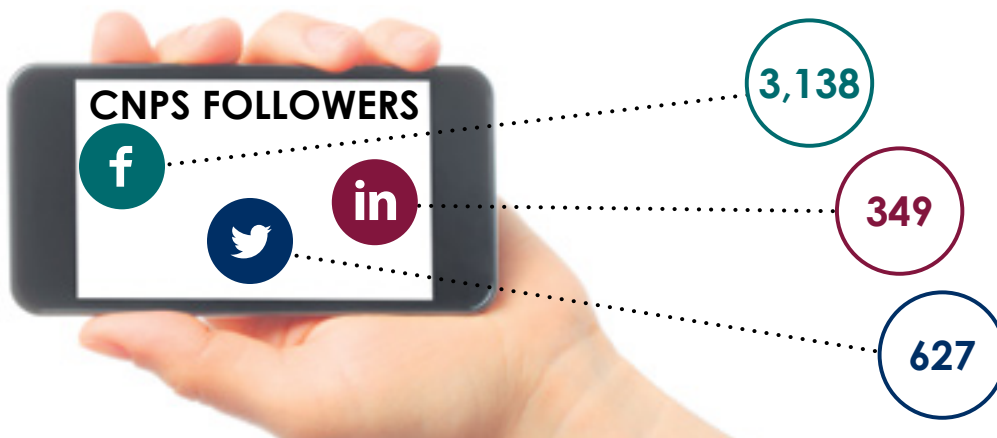
The CNPS connects with its beneficiaries and members of the broader health-care community through a number of channels. Our comprehensive website continues to be a popular destination for nurses and students seeking risk-management information to help them provide safer care. The CNPS continues to grow its presence on social media by engaging with nurses on Facebook, Twitter, and LinkedIn.

website engagement



- **Website sessions:**
54% increase compared to 2016
- **Page views:**
49% increase
- **Page views to learn more about CNPS Supplementary Protection:**
27% increase
- **Page views of the CNPS case studies and quizzes:**
8% increase
- **Page views of the CNPS infoLAWS:**
70% increase

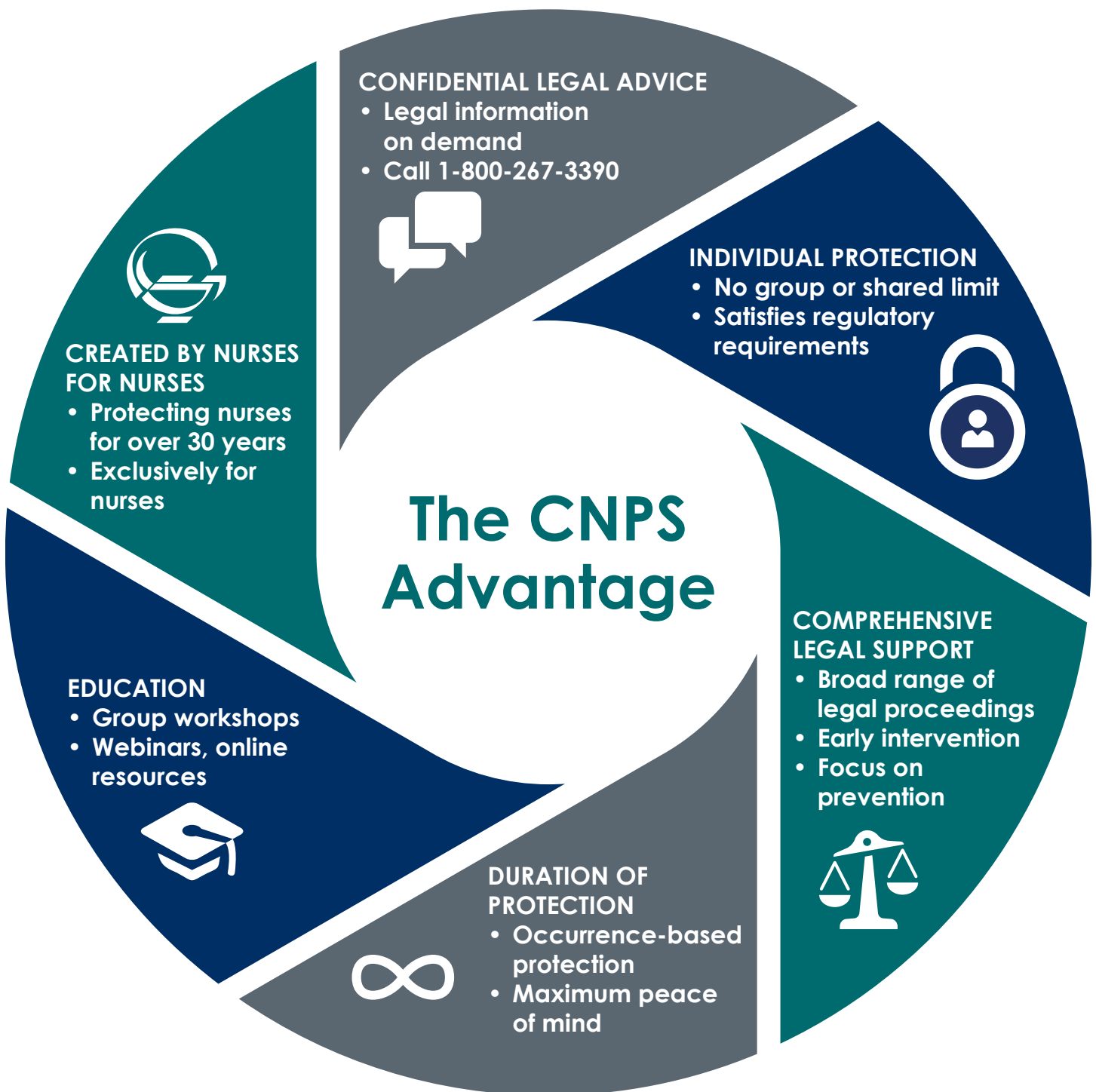
social media engagement



top 5 publications from cnps.ca in 2017

- 1) MAID: What Every Nurse Should Know
- 2) Medication Errors
- 3) Is There a Risk in Being a Good Samaritan?
- 4) Quality Documentation: Your Best Defence
- 5) Confidentiality of Health Information

CNPS at a glance



board of directors

The CNPS Board of Directors is comprised of directors appointed from each of CNPS' member jurisdictions and the Chief Executive Officer of the Canadian Nurses Protective Society.



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