

	DISCLOSURE OF GUILT TO AN OFFENCE POLICY
	Date Effective: June 4, 2020
	Revised:
	Next Review Due: June 2023

Background

The College of Registered Nurses of Prince Edward Island (“CRNPEI”) has a legislated mandate to serve and protect the public interest. On occasion, a registered nurse or a nurse practitioner or a graduate member might be charged with or found guilty of committing a criminal or statutory offence. For the purposes of this policy, a criminal offence (a ‘crime’) is any violation of the *Criminal Code* of Canada, a federal statute or law which applies everywhere in Canada. A statutory offence is an action which is illegal because a statute (federal or provincial) says that it is an offence, but it is not a true crime included in the *Criminal Code*. Where an offence is committed, the public interest requires the College to gather information in order to assess the need for steps to be taken to protect members of the public, including members of the College.

Crimes and statutory offences involve conduct which might happen anywhere, including places where nurses practice their profession. Whether a person has committed an offence is determined by the *Criminal Code* and by various statutes – even the *Regulated Health Professions Act* (“RHPA”) makes certain activities offences. Although offences under statutes cover a wide spectrum, the College is particularly interested in keeping people who have engaged in fraudulent, deceitful or dishonest behaviour, or violent conduct, out of the profession, or in placing restrictions on their practice to ensure that the public is protected.

An offence may be considered by the College at the time a person applies to be registered as a member of the College, or at the time a member applies to renew their registration. When the College becomes aware that an offence has been committed, or might have been committed, it must consider whether the circumstances of the event require CRNPEI to process a complaint which has been lodged, initiate a discipline complaint, or to place terms or conditions on a member’s registration or to suspend the registration.

Purpose

This policy is intended to provide guidance and to explain the process to be followed when a member reports a criminal or statutory charge or conviction. The RHPA requires a member of the College to notify the Council of CRNPEI without delay if they are found guilty of an offence. The RHPA does not require members to report being *charged* with an offence, but members sometimes report such a charge because the events which

gave rise to the charge might also result in a complaint being lodged against the member, or they are concerned that the circumstances might raise concerns about their ability to practice nursing.

Reporting a charge to the College is not required, but where it happens, the College will gather information in order to determine whether a professional discipline complaint has been, or should be, filed, and whether restrictions should be placed on the member's registration.

It is important to realize that many crimes and statutory offences involve behaviour or conduct which is not relevant to nursing practice, while others are only marginally related to the practice of the profession and will not result in any action by the College. In general, crimes involving fraud, theft, deception, intimidation, abdication of responsibility or violence on the part of a registered nurse, graduate, or nurse practitioner will result in action by the College.

Policy

1.0 Notice to CRNPEI

- 1.1 Any member of the College who is convicted of an offence in court must notify Council without delay. "Without delay" means "immediately". A member must not wait weeks or months to inform Council.
- 1.2 For the purposes of this policy, "offence" means any violation of the *Criminal Code* of Canada or any provincial statute that prescribes penalties for offences.
- 1.3 Notification to Council may be done in any of the following ways:
 - 1.3.1 telephone call to the CRNPEI Registrar at 902-368-3765;
 - 1.3.2 email addressed to Council Chair of CRNPEI at info@crnpei.ca;
 - 1.3.3 regular mail addressed to Council Chair of CRNPEI:
45 Paramount Dr., Charlottetown, PE C1E 0C6;
 - 1.3.4 fax addressed to Council Chair of CRNPEI at 902-628-1430.
- 1.4 Any member who chooses voluntarily to report an incident where a charge for a criminal or statutory offence has been laid against the member but has not yet been found guilty may report the charge to the Registrar of CRNPEI, as follows:
 - 1.4.1 telephone call to the CRNPEI Registrar at 902-368-3765;
 - 1.4.2 email addressed to the Registrar, at sjmshort@crnpei.ca;
 - 1.4.3 letter addressed to the Registrar of CRNPEI:
45 Paramount Dr., Charlottetown, PE C1E 0C6;

1.4.4 fax addressed to the Registrar of CRNPEI at 902-628-1430.

- 1.5 Members are not required to report being charged with an offence, but it may be in the public interest to do so.

2.0 Gathering Information

- 2.1 Where a member has reported a conviction (i.e. being found guilty of a crime or a statutory offence) to Council, Council may instruct the Registrar to gather the following documentation from the member:

2.1.1 a copy of the charging document – usually an *Information* or a Summary Offence ticket – describing the date of the offence(s) and the charge(s);

2.1.2 a description of the court's decision as contained in any of the following documents, describing the conviction(s) which have been entered and the penalty which has been imposed on the member:

- i) a record created by the court;
- ii) a document created by the police or relevant policing authority; or
- iii) a letter from the member's lawyer, provided that the letter confirms that all convictions and penalties related to the incident have been described in the letter.

2.1.3 a copy of any Agreed Statement of Facts that has been filed with the court;

2.1.4 a copy of any written statement that the member gave to the police or relevant policing authority during the investigation of the incident.

- 2.2 Where a member has been charged with an offence and decides voluntarily to report the charge to the Registrar, the member shall be asked to provide the following documentation to the Registrar:

2.2.1 a copy of the charging document – usually an *Information* or a Summary Offence ticket – describing the date of the offence(s) and the charge(s);

2.2.2 a copy of any written statement that the member gave to the police or relevant policing authority during the investigation of the incident.

- 2.3 In either case (reporting of a conviction or a charge), the Registrar shall review the documentation provided by the member and may request or seek further documentation or information. The member shall co-operate with the Registrar in this regard where the member has reported a conviction, but they may choose whether to co-operate where the member has reported a charge.
- 2.4 In reviewing the documentation and information gathered, the Registrar shall consider the following questions:
- 2.4.1 what happened in the incident that gave rise to the charge(s) or the conviction(s)?
 - 2.4.2 what is the nature of the unlawful conduct?
 - 2.4.3 is there sufficient information to enable a determination to be made with respect to whether the charge(s) or the offence(s) involved unlawful activity that was part of or related to the member's professional nursing practice?
 - 2.4.4 is the documentation and information provided verifiable and complete?
 - 2.4.5 is there any discrepancy between information obtained from the member and information obtained from other sources (e.g. police, court)?
 - 2.4.6 if so, does the discrepancy appear to be the result of misinformation or lack of disclosure by the member?
 - 2.4.7 did the unlawful conduct involve any aggravating circumstances such as:
 - i) the abuse of authority by the member;
 - ii) dishonest behaviour;
 - iii) the use of dangerous materials or weapons;
 - iv) violence on the part of the member; or
 - v) any risk to patient safety?
- 2.5 The Registrar shall prepare a brief summary of the information gathered, together with a recommendation as to whether Council should take any action and shall provide the summary and recommendation to Council within 30 days of receiving the documentation from the member, or as soon as possible in an emergency situation. The Registrar shall be prepared to provide the supporting documentation to Council, upon request.

3.0 Action

- 3.1 Where a member has notified Council of CRNPEI that the member has been found guilty of an offence, Council may refer the matter to the Registrar to gather

documentation and information outlined in clause 2.1 and to make a recommendation to Council as to whether terms or conditions should be placed on the member's registration or the registration should be suspended, and to decide whether to lodge a complaint for professional misconduct or incompetence under subsection 36(4) of the RHPA.

- 3.2 The Registrar shall gather the information and documentation and provide a recommendation to Council as required by clause 2.5 and Council shall consider the matter as required by subsection 25(3) of the RHPA and make a decision. In circumstances where Council does not require information or documentation from the Registrar, Council shall act as required by subsection 25(3) of the RHPA.
- 3.3 Where a member has voluntarily reported that the member has been charged with an offence, the Registrar shall obtain information from the member and from the police or the relevant policing authority to determine whether the member might pose a demonstrable risk of serious and imminent harm to any person, in which case the Registrar shall provide all of the information the Registrar has gathered to the Council for the purpose of subsection 53(1) of the RHPA.
- 3.4 Council shall consider the information provided to it and shall consider making a decision under subsection 53 (1) of the RHPA.
- 3.5 Where a member has voluntarily reported that the member has been charged with an offence, the Council shall ask the Registrar to review any information and documentation gathered as required by clause 2.2 above, and decide whether to lodge a complaint for professional misconduct or incompetence under subsection 36(4) of the RHPA. If the Registrar decides not to lodge a complaint at this time, the Registrar will consider the issue again if the member is found guilty of any charge.