



## 2019 PROFESSIONAL CONDUCT REVIEW ACTION PLAN AND UPDATES (March 1, 2020)

### Summary

The College and Association of Registered Nurses of Alberta (the College) is committed to improving its regulatory processes through transparency and accountability in an ever-changing, health-care landscape.

As such, in the summer of 2019, the College engaged Harry Cayton, the former chief executive of the U.K.'s Professional Standards Authority (PSA), to review the College's complaints processes and outcomes against its legislative requirements and the 2016 Standards of Good Regulation (as developed by the U.K. Professional Standards Authority for Health and Social Care) for complaints and discipline, including a comparison with best professional regulatory practice.

The review found that the College's Professional Conduct processes met six of the 10 Standards for complaints and discipline. A report outlining 14 recommendations for action and improvement—with a strong focus on increased transparency, website enhancements and internal process improvements—was presented by Harry Cayton to the College Council in late September 2019.

The Professional Conduct department took the report and began a Complaints Process Improvement Project to address the 14 recommendations. Progress on achieving this work is reported as follows.

### Recommendation 1

[The College] should improve the information available for potential complainants, particularly patients and families, by:

- Updating and simplifying the language on the website;
- Making it clear that verbal complaints will be assisted; and,
- Providing materials and interpretation in languages other than English and committing to cultural sensitivity.

### Outcome

[The College's] website will be clearer and more accessible to patients and families about the professional conduct process and for reporting unprofessional conduct by a regulated member.

### Action

**Complete** - Revise the Professional Conduct website content to better define the professional conduct process and update the complaint forms by June 2020.

Further revisions to the website content were made in March 2021 to reflect the continuing use of virtual investigations and hearings, and the use of new alternate dispute resolution tools.

**Complete** - Identify languages, in addition to English, to support better accessibility by Sept. 2020.

**In progress** - Develop process and forms for additional languages by Sept. 2021. The College is working with Alberta Health Services to use their translation services to develop its website

material in the identified additional languages, and to use their translation services to communicate with complaints.

## **Recommendation 2**

[The College] should consider its wider role in patient safety and be active in identifying potential risks that should be addressed by other bodies in the health system. It should communicate its concerns to them.

### **Outcome**

A formalized process exists in which regulators such as [the College], and health care organizations such as Alberta Health Services share emerging patient safety concerns.

### **Action**

**In progress** – As part of the 2020 Healthcare System Patient Complaints Management Review being conducted by the Health Quality Council of Alberta, the College recommended incorporating a process of sharing emerging concerns with health-system stakeholders modelled on the Emerging Concerns Protocol of the U.K.. The HQCA review is due to be completed by the end of December 2020.

## **Recommendation 3**

When a complaint has been received and assessed as warranting investigation it should be shared with the registrant and their perspective obtained before a decision to investigate is made

### **Outcome**

Registrants will be notified of a complaint and their perspective obtained earlier in the investigation progress.

### **Action**

**Complete** - The Professional Conduct department completed a redesign of its processes and workflow and implemented these changes starting May 2020.

## **Recommendation 4**

[The College] should develop a consistent approach to risk to be used throughout the complaints and discipline process. It should be explicitly applied and recorded at each decision point to ensure that risks of harm are accurately assessed and that conditions on practice are appropriately chosen and applied.

### **Outcome**

[The College] will develop a risk assessment and direction (RAD) tool to evaluate complaints at each decision step of the process to ensure that risk is consistently being evaluated and the complaint is actioned appropriately.

### **Action**

**Complete** – The Professional Conduct department implemented improvements to the Intake, Investigation, & Complaints Director (CD) Review processes beginning June 2020, and designed a new Inquiry process, refined the Complaint Resolution Agreement (CRA) process, added a new Disciplinary Resolution Agreement (DRA) process, and designed and implemented several key

enabling tools including a Risk Assessment & Direction (RAD) Framework and Tool incorporating a robust method of Case Status Details and Complaints Management Recommendations.

## Recommendation 5

When a decision is made to investigate a complaint, reasons should be recorded more clearly in the database and an indication of which practice standards might have been breached given.

### Outcome

[The College] will document the decision on whether a complaint warrants an investigation through an evidence-informed Risk and Direction Tool.

### Action

**Complete** - A standard process for intake, inquiry and disposition (dismissal, an investigation and hearing, or an expedited alternate resolution) was introduced through the development and implementation of the Risk and Direction tool with its Case Status Details and Complaint Director recommendation tools in February 2020.

## Recommendation 6

[The College] should improve the selection, induction and training for Complaints Review Committee (CRC) and Hearing Tribunal (HT) members. Training should take place on an annual basis, and there should be an annual appraisal of each member's performance. Chairs should be appointed and trained separately. The *Health Professions Act* (HPA) does not require chairs to be registrants; this is something [the College] has chosen to do and should be discontinued. Chairs should be appointed on the basis of their competence, not their profession.

### Outcome

[The College] follows an improved selection, induction and ongoing training scheme for CRC and HT members and chairs.

### Action

**Complete** - Implement an enhanced orientation and continuous development program for CRC and HT panel members by December 2019. New independent legal council were engaged in 2019 to advise the panels on procedural matters and to conduct annual orientation and training sessions. In addition, the College purchased part of the Law Society of Alberta's on-line Adjudication Training Program for use by CRC and HT members.

**In Progress** – A new appointments procedure using a competency matrix has been drafted and is awaiting Council consideration in mid-March 2021.

## Recommendation 7

[The College] should complete and implement its code of conduct for HT members and for lay persons supporting nurses in proceedings. It should respond differently when a nurse has legal representation to when they have not. This is important in negotiating consent agreements and in any contested hearings. HT members should understand the difference and act accordingly.

## **Outcome**

[The College] will realign the expected conduct of lay persons supporting registrants in proceedings and provide ongoing training and independent legal counsel to HT members.

## **Action**

**Complete** - Clarified professional conduct expectations for unrepresented registrants with the United Nurses of Alberta (UNA) by December 2019 and is working to update that relationship in March 2021. See action regarding HT training in Recommendation 6 above.

## **Recommendation 8**

[The College] has many appropriate policies and procedures relating to complaints and discipline, but it does not have a consistent approach to quality assuring their implementation, nor does it measure their outcome. It should implement a quality assurance program for all decision points in the complaints and discipline process, and it should track and measure the outcome to all sanctions applied to registrants and amend its approach if necessary.

## **Outcome**

Have a redesigned professional conduct process that integrates ongoing performance measures and a quality assurance process.

## **Action**

**In Progress** - Develop and implement a quality assurance program by May 2021.

**Completed** - Develop and Implement performance measures and tools (e.g. RAD tool and Activity Based Costing (ABC) model) to collect, analyse and report on the measures by May 2020.

The data from the tools' first year of use is being analysed and adjustments will be made by April 2021.

## **Recommendation 9**

Hearing Tribunals (HT) considering consent agreements should pay attention to any allegations that might have been made against a nurse but which have been withdrawn as part of the consent agreement process, so they can independently assess if the consent agreement adequately addresses the nurse's failings and the risks to public protection.

## **Outcome**

[The College] will have reviewed its process to clearly identify proposed and agreed allegations to help HTs assess the adequacy of the proposed consent agreement.

## **Action**

**Complete** - Independent legal counsel to the HT will advise, and ongoing training will be provided to, HT members on their role in considering consent agreements by January 2020

## Recommendation 10

[The College] should implement the powers available to it in the new bylaws as soon as possible and should appoint new members to the Hearing Tribunal (HT) panel list to ensure its independence and freedom from bias. It should publish all conditions on practice and the names of the registrants to whom those conditions apply. Tribunal decisions should be published and accessible on the public register on the website. This should include all consent agreements except those relating to incapacity. [The College] should commit to an open and transparent culture in everything it does.

### Outcome

[The College] demonstrates transparency and accountability measures expected of a modern regulator.

### Action

**Complete** - Implement the publishing of HT notes and decisions with the names of the registrants by Nov. 15, 2019.

**Complete** - Appoint additional HT members and enhance the orientation and training of all panel members by Nov. 2019.

## Recommendation 11

[The College] should completely overhaul its process for ensuring registrants' compliance with conditions on practice. It should dispense with compliance meetings of the HT and create an active process for monitoring compliance, including following up with employers and mentors. Action should be taken against registrants who, without exceptional reason, do not meet the terms of their agreements with [the College] within the time agreed. Monitoring of complaint resolution agreements (CRAs) should be included.

### Outcome

[The College] will end the holding of compliance hearings before a HT and will, through the Professional Conduct department, establish a process of compliance, monitoring and reporting.

### Action

**Complete** - End compliance hearings in favour of active compliance monitoring by the Professional Conduct department by Dec. 2019 for new requests for orders.

## Recommendation 12

[The College] should monitor the outcome and effectiveness of consent agreements and CRAs. It should take action to remove from practice, temporarily or otherwise, registrants who do not meet the terms of their agreement and those who have further complaints despite previous 'remediation'.

## **Outcome**

[The College] will establish a process to ensure that there is compliance with orders and sanctions of unprofessional conduct. Where there is non-compliance or recidivism, further action will be taken.

## **Action**

**Complete** - Establish and implement a compliance process for orders and sanctions that is consistently followed by March 2020.

**In progress** - Develop a quality assurance process for reviewing recidivism decisions by May 2021.

## **Recommendation 13**

[The College] should ensure the governance review that it is commissioning consider if being a nurses' association adversely influences the independence of its regulatory functions and its absolute commitment to patient safety and protecting the public interest.

## **Outcome**

[The College] will review the governance structure and evaluate whether the dual mandate is conflicting with a commitment to protecting the public.

## **Action**

**Complete** – the College Council conducted a review of regulatory governance models and its current governance structure with the assistance of an independent governance consultant with experience in strengthening governance practices. The recommendations for the governance review were presented to the College Council and approved on August 19, 2020. The College is in the process of implementing the governance reforms to become a single mandate regulator.

## **Recommendation 14**

[The College] should refresh, update and bring together its policies on data security, records retention and information governance. It should ensure that all staff and committee members are trained in data security and that information governance policies are consistently applied. As improvements to its information technologies come into effect, it should digitise remote working, eliminate or minimise the use of paper and move towards a clear desk policy.

## **Outcome**

[The College] will review and update policies related to data security, records and information. These policies will be modernized to consider remote workers and the move to reducing paper.

## **Action**

**In progress** - Updated data governance and data security practices to be implemented by March 2022.