Welcome to the inaugural issue of Practice Matters!

We know you are run off your feet at work trying to provide the best possible care to your patients/clients/residents under very stressful conditions. We know that because of that, sometimes you worry about your professional standards being compromised.

But here’s something we want you to know: Your union is here to help! And that’s why we have designed this publication: So you can see the provincial challenges we face and how we work to overcome them – together. And so you can be inspired at a Local level by your fellow members, who have significantly improved the care they are able to provide to their patients/clients/residents and their own working conditions by taking a stand when things just didn’t feel right in their workplaces and diligently filling out their workload forms.

As a companion to our membership publication Front Lines, Practice Matters will be chock full of headline news, tips and Local stories in the area of professional practice – information you need when you need it. And all in one concise publication!

Because no one knows more than ONA members that (professional) practice matters.

ONA Achieves Significant Victory in how CNO Treats Nurses

ONA has reached a milestone agreement with the College of Nurses of Ontario (CNO) that is “a huge step forward” in treating nurses recovering from addiction and other mental health issues with compassion and respect.

Under the deal, nurses in recovery will no longer be found “incapacitated” by the CNO if they are able to practice safely, and that derogatory word will not appear beside their name on the College’s public register, Find a Nurse.

“We are delighted with this outcome because it has important implications for the dignity of nurses in recovery from medical conditions, especially addictions,” said Shaun O’Brien, ONA counsel from Cavalluzzo Shilton McIntyre Cornish LLP, who worked on the case.

The CNO’s previous practice was to ask its Practise Committee to find nurses in recovery from addiction incapacitated, even if they were fit to practise with restrictions on their licence. Particularly concerning to ONA was that a finding of incapacity and a summary of the practice restrictions would subsequently be posted on Find a Nurse under the member’s name. Even after practice restrictions were lifted, the finding of incapacity and the expired conditions would remain on the website as a past finding.

“Not prepared to accept that process, ONA’s Legal Expense Assistance Plan (LEAP) Team sprang into action last year, launching two legal challenges with the CNO. The team argued the public label of ‘incapacitated’ and the posting of outdat-
ed findings stigmatized nurses and amounted to discrimination on the basis of disability,” said ONA First Vice-President Vicki McKenna.

After many months of negotiations, intense at times, we succeeded in achieving an agreement that will have significant implications for our members and all nurses in Ontario (see sidebar below).

“The CNO has acknowledged its obligations under the Human Rights Code,” added O’Brien. “It has eliminated the use of the stigmatizing label ‘incapacitated’ and has minimized the publication of personal health information. This is a huge step forward in treating all nurses in recovery with compassion, dignity and respect.”

When told of the agreement by the LEAP Team, affected members were elated, with one noting with great emotion that while “I may save lives literally, ONA has so equally, importantly, saved mine.”

What Does the CNO Agreement Really Mean for Members?

Plenty! Let’s break it down:

- Nurses who are unable to practise and are deemed incapacitated by the CNO’s Fitness to Practise Committee will not have the word “incapacitated” appear on its public register, Find a Nurse. Instead, the website will simply say that a nurse has voluntarily surrendered her or his licence.
- Nurses in recovery from addiction/mental health issues who are able to practise safely with certain practice restrictions will no longer be found “incapacitated” by the CNO. Instead, if the nurse is able to reach an agreement with the CNO about suitable restrictions, Find a Nurse will state that she or he voluntarily entered “an undertaking.” It will also list fewer practice restrictions, which will be eligible for removal two to three years earlier.
- All references to incapacity, past findings and practice restrictions for nurses whose practice restrictions have been completed have been removed from Find a Nurse.
- For nurses with current terms, conditions and limitations (TCLs) on their licence, once their agreements are varied to remove a particular TCL, Find a Nurse will no longer include the expired or varied one.

Medical Assistance in Dying: Where are We Now?

With Bill C-14, Medical Assistance in Dying (MAID), now in force in Canada, ONA members have understandably been asking us what it really means.

In February 2015, the Supreme Court of Canada ruled in Carter v. Canada that parts of the Criminal Code would need to change to comply with the Canadian Charter of Rights and Freedoms. The parts that prohibited assisted death under certain conditions would no longer be valid. The Supreme Court gave the federal government until June 6, 2016, to create a new law. In response, legislation was introduced that allows eligible adults, who have “grievous and irremediable” medical conditions meeting very specific criteria, to request MAID.

The law, which received royal assent on June 17, amended the Criminal Code to exempt medical practitioners and NPs from criminal liability for providing MAID, and exempt health-care professionals, including RNs, from criminal liability for assisting a medical practitioner or NP in providing MAID. However, there are many stringent conditions that must be met for health practitioners to receive the protections of the law.

Since Carter v. Canada, ONA has largely focuses our efforts on how we can assist leaders and front-line members through...

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this unknown territory, including providing practical advice, while advocating for employers and regulatory bodies to provide appropriate support and education on MAID (see sidebar for a list of what we’ve done so far).

“Our main priority is ensuring that members’ choices regarding MAID are respected and their rights, including conscience and privacy, are protected in any setting where MAID is made available,” said Litigation Manager Sharan Basran. “Members assisting nurse or medical practitioners must be given meaningful support in their daily practice.”

For that reason, ONA is lobbying for clear guidelines and supports in settings that allow nurses to indicate whether they do or do not wish to participate in MAID, and provide them with a real choice. Our position is that the burden should not rest with the individual nurse to arrange alternative care for patients – the manner in which College of Nurses of Ontario (CNO) standards and the Nursing Act are currently drafted – if she/he chooses not to participate in MAID. Rather, we believe this is the responsibility of the institutions, and a well-thought out process must be set up in advance.

“Employers must also put in place clear policies, guidelines, education and support for nurses who choose to assist physicians and NPs with MAID, including training in MAID, the law and professional standards; and role clarity on the interprofessional health-care team (physicians, NPs and RNs) in the MAID process, including who is responsible for each step,” said ONA First Vice-President Vicki McKenna.

Along with that, ONA believes well-developed resources should be available to provide ongoing support for members in their daily practice as it pertains to MAID.

But our lobbying extends beyond our employers. All regulatory bodies, including the CNO, have a key role to play to support, educate and inform their members about their responsibilities regarding this legislation.

ONA is working hard to make sure they do.
ONA’s hard work in advocating for an end to the three-write maximum of the controversial American National Council Licensure Examination (NCLEX) for entry to practice has paid off!

After meetings with and correspondence from ONA, last March, the Minister of Health and Long-Term Care committed to amending a provincial regulation under the *Nursing Act* that restricted the number of registration exam rewrites the College of Nurses of Ontario (CNO) may allow. While changes to the legislation have yet to be enacted, we have been assured that will happen this fall.

ONA believed the three-write exam limit was unfair and not consistent with other jurisdictions (not one single jurisdiction in the U.S. allows only three attempts to pass the NCLEX or requires that a candidate complete a second BScN degree before being allowed another attempt).

At its June Council meeting, attended by ONA First Vice-President Vicki McKenna, the CNO approved the proposed amendments to its registration regulation.

“The CNO says it now believes it is appropriate to allow an unlimited number of rewrites of the NCLEX because, among other reasons, the design of the exam makes it extremely unlikely that a student would see the same question again,” said Legal Expense Assistance Plan (LEAP) Manager Sheila Riddell. “This is a huge win, not only for ONA’s student affiliate members, but for all nursing students in the province, many of whom faced an uncertain future after they failed the exam three times despite very good marks in their nursing programs and extensive preparation.”

Speaking to delegates at our June Provincial Coordinators Meeting, Canadian Nursing Students’ Association Communications Director Caitlyn Patrick, a third-year nursing student, thanked ONA from the “bottom of our hearts” for our success around the NCLEX, which she noted had been a huge source of stress for students. “ONA has been a great supporter of nursing students, and this is just another example,” she said. “I don’t know what we’d do without you.”

These students will be entitled to re-write the exam soon after the changes come into place in the next month or two. When ONA informed grad nurses of the upcoming change, we were flooded with emails of gratitude.

“I want to thank you for being an advocate for nurses,” wrote one. “It inspires me that I can potentially return to a career I was so passionate about and have the support of amazing leaders like you.”

Stated another, “ONA has done a tremendous thing by advocating on behalf of students and graduates like me, and I would like to sincerely thank the union.”