

Discipline Hearings

Information

for Witnesses



COLLEGE OF NURSES
OF ONTARIO
ORDRE DES INFIRMIÈRES
ET INFIRMIERS DE L'ONTARIO

THE STANDARD OF CARE.

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Appearing as a witness at the College of Nurses of Ontario (CNO)

For most people, appearing as a witness at a discipline hearing is a new and sometimes unsettling prospect.

We attempt to make the hearing process as comfortable as possible for witnesses, and hope this package will provide you with useful information about what to expect.

Your participation at the hearing will help the CNO fulfill its mandate to regulate nursing to protect the public interest. We greatly appreciate your co-operation.

If you have any questions or particular needs, please do not hesitate to contact the Prosecutions Administrator. The administrator's card is attached for your convenience.

General Information

What is the College of Nurses of Ontario?

The College is the governing body for approximately 143,000 Registered Nurses (RNs) and Registered Practical Nurses (RPNs) in Ontario. The College's mission is to protect the public's right to quality nursing services by providing leadership to the nursing profession in self-regulation. Its purpose is to ensure that the people of Ontario receive safe, effective and ethical nursing care.

Why is there going to be a hearing?

When the College investigates a nurse's practice, the information gathered during the investigation

is reviewed by either the Complaints Committee or Executive Committee. If a committee believes there may be a serious problem with the nurse's practice, it may refer the matter to the College's Discipline Committee. The Discipline Committee then has the authority to hold a hearing into the concerns about the nurse's practice.

What is a hearing?

A hearing is a formal process, much like that in a court of law. A Panel of the Discipline Committee listens to evidence about a nurse's practice and makes a decision about whether the nurse has committed an act of professional misconduct or is incompetent. A panel is usually made up of five members of the Discipline Committee — three nurses and two members of the public.

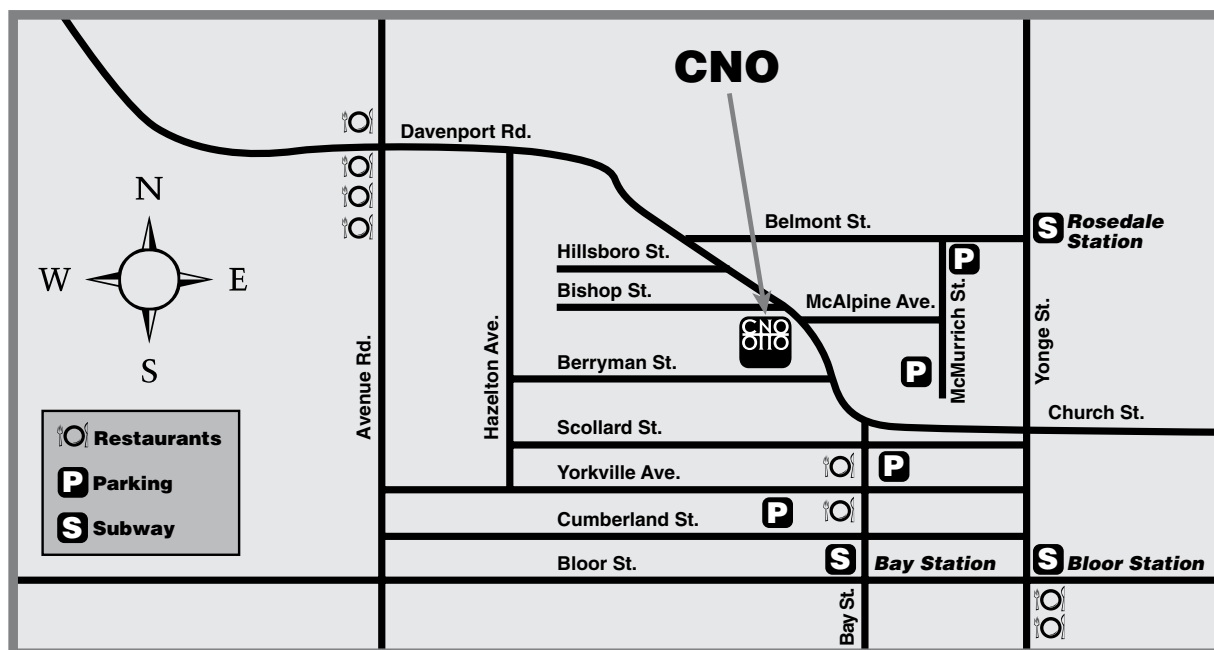
Discipline hearings at the College are generally open to the public and media. In some cases, however, a panel may order that all or part of a hearing be closed to the public or that there be a publication ban on the name of a person/persons involved in the hearing. This may be done to protect the safety or privacy of a client or witness involved in the hearing.

Where are hearings held?

Most hearings are held at the CNO offices in Toronto (see map below). In special circumstances, hearings may be held in other locations.

When will the hearing occur?

Hearings are scheduled by the College several months in advance. There may, however, be



subsequent changes to the hearing dates due to scheduling conflicts. The College will inform you of any changes as they occur.

If an emergency arises that makes it impossible for you to attend on the scheduled hearing day, please call the Prosecutions Administrator immediately. Telephone messages can be left at the College 24 hours a day.

Why am I being called to testify?

The purpose of the discipline hearing is to provide all the information that would help the discipline panel make a decision about the nurse's practice. Witnesses are called by the College because they have information that the College believes will assist the discipline panel.

There may be occasions when the Prosecutions Administrator needs to reach you quickly. Please make sure that the administrator has your current work and home phone numbers. As well, please let the administrator know the dates of holidays or other activities that could make it difficult to reach you.

Before the Hearing

How can I prepare for the hearing?

If the College has obtained information during an investigation, such as during an interview, or receives anecdotal notes that directly pertain to you, that information is enclosed with this package. Please review the enclosed material carefully.

- If you notice mistakes in the interview summary or other material, please call the Prosecutions Administrator as soon as possible.
- If you made notes about an incident, including diary notes, and those notes have not been included in the material sent to you, it is very important to tell the Prosecutions Administrator as soon as possible.
- The College's lawyer will help prepare you for the hearing. If you have any questions about the process, please contact the Prosecutions Administrator, or ask the College lawyer.
- Some people find it helpful to visit the College prior to the hearing to see the hearing room and meet College staff. If you would like to arrange such a visit, please call the Discipline Hearings Administrator.
- You are welcome to bring a friend, relative or other support person with you to the hearing.
- If you have any particular needs, such as transportation or the need for an interpreter, or if you have a health-related concern that might affect your ability to testify at a hearing, please notify the Prosecutions Administrator as soon as possible.

How do I get to the College?

The College is located in downtown Toronto and is easily accessible by car, subway, bus and train. It takes about an hour to reach the College from Pearson International Airport, and 25 minutes from Toronto Island Airport (downtown). Please see the map on page 3 for the College's location. Parking is available in the area if you are driving to the College, and parking lots are noted on the map.

Who will pay my expenses?

Accommodation: Hotel accommodation will be arranged for witnesses requiring an overnight stay. Please contact the Prosecutions Administrator to discuss your needs. The hotel will bill the College directly for your room and parking.

Travel: The College will reimburse you for travel expenses, including economy air, train and/or bus fare, car mileage (41 cents per km) and other travel-related expenses.

Attendance Allowance: You will be paid \$50 per day to cover your attendance at the College, and to pay for your meals and incidental expenses. This is in accordance with the amount of money to which a person participating in a hearing before the Ontario Superior Court of Justice is entitled.

Child Care: If you have child care expenses, or special child care needs as a result of attending a hearing at the College, please discuss the matter with the Prosecutions Administrator.

Loss of Wages and Other Expenses: The College does not normally reimburse witnesses for loss of wages; however, special circumstances will be considered. If you have concerns about this or any other expense, please contact the Prosecutions Administrator. Your expenses will be reimbursed approximately a month after the College receives your expense claim form.

Please make sure that you complete and submit your expense claim form to the Prosecutions Administrator. If your expense claim form is not completed before you leave the College, you can mail it to the Prosecutions Administrator.

What should I wear?

Discipline hearings are formal proceedings. The discipline panel and other participants will be wearing business attire.

Can I be summoned to attend the hearing?

A summons is a legal document that requires a person to attend a hearing. The legislation governing the College gives it the power to summon witnesses. A summons is generally issued by the College if a witness requires it for their employer or if a witness is reluctant to testify.

During the Hearing

What should I do when I arrive at the College?

Upon arrival at the College, please check in at the reception desk. The Customer Service Representative will sign you in and provide you with a visitor I.D. badge. The Prosecutions Administrator will be informed of your arrival and will accompany you to the witness waiting area.

You should plan to spend the entire day at the College. It is difficult to know in advance when you will be called to testify and how long your testimony will take. You may want to bring something to occupy your time while waiting. The College will supply tea, coffee, juice and cookies. Lunch will be provided if you are required to stay past noon.

General Information

- Please stay in the witness waiting area. If you will not be testifying for some time, the Discipline Hearings Administrator will tell you if you can leave the College.
- Audio-visual equipment, including video cameras, laptop computers and tape recorders are not allowed in the hearing room.
- A no-smoking policy is enforced within the building. There is an outside patio directly beside the witness lounge where you may smoke.
- The College has a no-scent policy. Please refrain from wearing perfumes or colognes.

What will happen when I testify?

General information

- During the course of the hearing, there will be scheduled breaks in the morning, afternoon and at lunch time. If you need a break during your testimony, let the Discipline Hearings Administrator know and she/he will arrange for a short break.
- If your testimony is interrupted by a break, or you are unable to finish your testimony by the end of the day, the panel chairperson will caution you not to discuss your testimony with others.
- There might be times during your testimony when the lawyers will need to argue a legal point before the panel. You will be excused from the hearing should this occur.
- Once your testimony is finished, you may observe the rest of the hearing. Let the College lawyer know if you wish to do so. In some circumstances, you may be asked not to observe the hearing if you need to testify further.

Start of testimony

- When you are called to testify, the Discipline Hearings Administrator will escort you into the hearing room and show you where to sit. You will be seated at a table facing the panel. The

Discipline Hearings Administrator and a court reporter will also be seated at your table. The panel chairperson will introduce the panel and other participants. The nurse who is the subject of the hearing will also be in the room. The diagram on page 7 shows the locations of people who are usually present in the hearing room.

- The chairperson will ask you to speak loudly, clearly and slowly when you answer questions so the court reporter can record your testimony accurately.

Swearing In

The chairperson will ask whether you wish to swear or affirm that your testimony will be truthful. As in a court proceeding, witnesses must promise to tell the truth during their testimony. This can be done in the following two ways:

1. A witness can swear on the Bible or another holy book or object.
2. A witness can affirm that he or she will tell the truth.

Note: if you would prefer to swear on a book or object other than the Bible, please bring it with you.

Examination-in-chief

- The College lawyer (also known as the prosecutor) will ask you a series of questions. The College lawyer will review these questions with you prior to your giving testimony. The purpose of the questions is to elicit the information you have that will be of assistance to the panel. The first questions will identify you and establish your connection to the case. For example, if you know about an incident because it happened in your workplace, you may be asked about your work history. The questioning will proceed to the specific information you have about the incident(s) at issue in the hearing.

Cross-examination

- Once the College lawyer is finished asking questions, the nurse's lawyer (also known as the defence counsel) will ask a series of questions in cross-examination. The questions asked during the cross-examination may be more directive and wide-ranging than those asked in the examination-in-chief. This is because it is the role of the nurse's lawyer to clarify information, test your memory and see if there are any contradictions in your testimony.

Follow-up questions

- After the cross-examination is completed, the College's lawyer may have some further questions to help clarify matters that arose during the cross-examination. The panel may also ask questions.

Using notes or documents during the hearing

- If you made notes about an incident, bring them with you to the hearing. You may need the notes when you testify. The College's lawyer will discuss the use of your notes with you.
- The Discipline Hearings Administrator will be sitting beside you while you testify. If you need to review client records or other documents, let the College lawyer know, and the administrator will help you locate the document during your testimony.

Following Your Testimony

- Occasionally a witness is recalled or asked to return to the College to answer further questions. If you are to be recalled, the Prosecutions Administrator will contact you to make the necessary arrangements.

After the Hearing

What happens after the hearing?

Following the hearing, the discipline panel will deliberate in private and determine, based on the evidence it heard, whether or not the nurse has committed an act of professional misconduct or is incompetent. The deliberation process can be quite lengthy as the panel must carefully review all of the evidence. If the panel finds that the nurse has committed an act of professional misconduct or is incompetent, the College will schedule additional hearing dates to hear submissions about penalty.

At the end of the hearing and the deliberation process, the panel will write its decision and the reasons for the decision. If you were a complainant, you will receive a copy of the decision and reasons.

How can I find out the result of the hearing?

Information about the outcome of the hearing is available from a number of sources at the College:

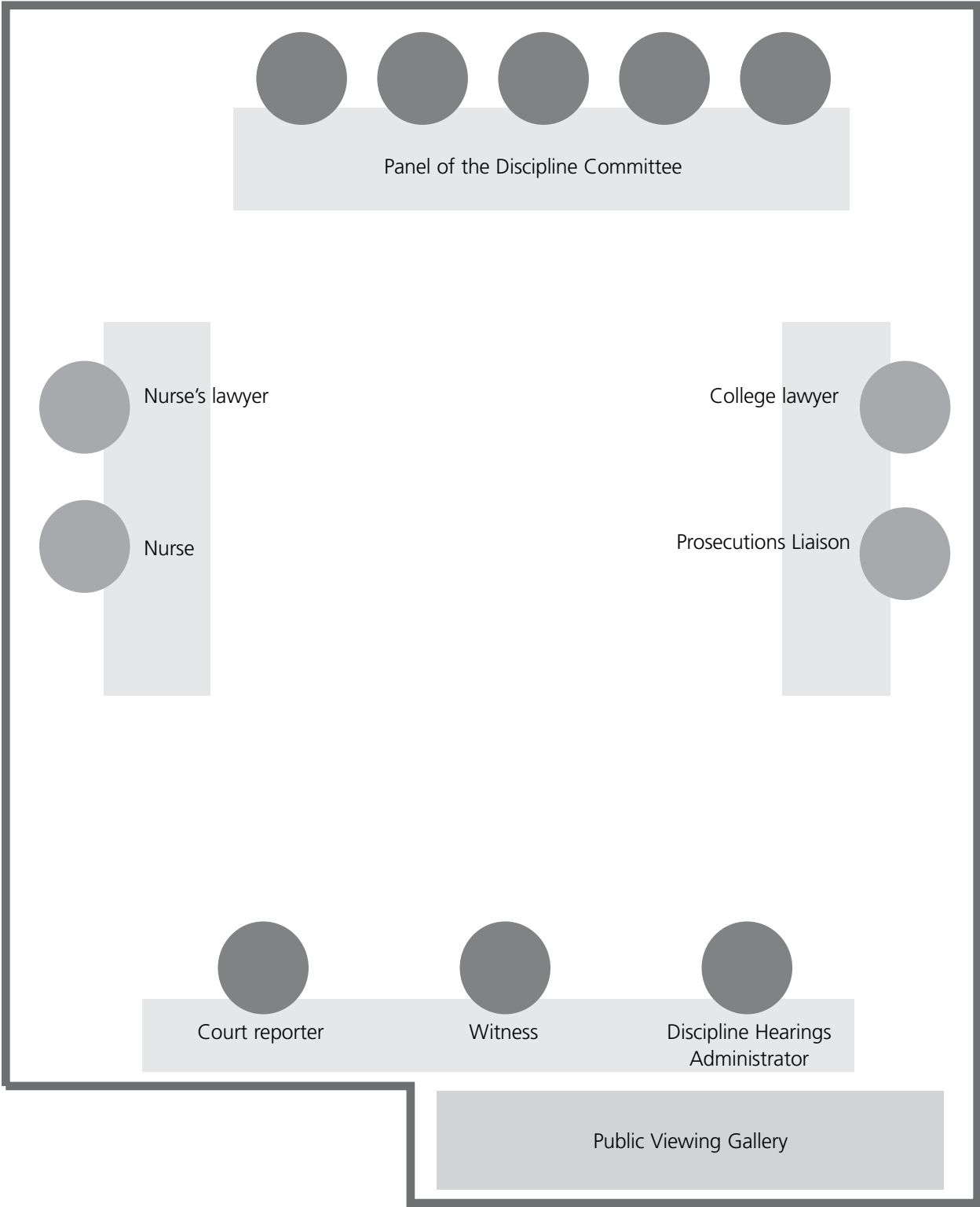
- the College's Public Register contains the results of hearings in cases where there has been a finding of professional misconduct or incompetence and certain penalties have been ordered;
- the College's membership magazine, *The Standard*, details the outcomes of discipline hearings. If you would like to receive the relevant copy of *The Standard* please let the Discipline Hearings Administrator know and she/he will arrange to have a copy sent to you; or
- the Communications Team at the College can be contacted for full-text versions of discipline decisions that have been summarized in *The Standard*.

What penalties can result from a hearing?

The panel can order that one or more of the following penalties be imposed:

- revocation of the nurse's certificate of registration;
- suspension of the nurse's certificate of registration;
- terms, limits or conditions on the nurse's certificate of registration;
- a fine; and/or
- requiring the nurse to appear before the panel to be reprimanded.

Layout of Hearing Room





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