

Discipline Hearings

Information

for Witnesses



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

THE STANDARD OF CARE.

Table of Contents

Appearing as a witness at the College of Nurses of Ontario (CNO)	3
General Information	3–4
What is the College of Nurses of Ontario?	
Why is there going to be a hearing?	
What is a hearing?	
Where are hearings held?	
When will the hearing occur?	
Why am I being called to testify?	
Before the Hearing	4
How can I prepare for the hearing?	
Where is the College?	
Who will pay my expenses?	
What should I wear?	
Can I be summoned to attend the hearing?	
During the Hearing	5
What should I do when I get to the College?	
What will happen when I testify?	
After the Hearing	6
What happens after the hearing?	
How can I find out the result of the hearing?	
What penalties can result from a hearing?	
Layout of Hearing Room	7

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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 in the public interest. We greatly appreciate your co-operation.

If you have any questions or concerns, please do not hesitate to contact the Prosecutions Clerk at the contact information on the attached business card.

General Information

What is the College of Nurses of Ontario?

The CNO is the governing body for approximately 160,000 Registered Nurses (RNs), Registered Practical Nurses (RPNs) and Nurse Practitioners (NPs) in Ontario. The College's mission is to regulate nursing in the public interest and its vision is to lead in regulatory excellence.

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 the Inquiries, Complaints and

Reports Committee (ICRC). If the ICRC believes a nurse has committed professional misconduct or is incompetent, it may refer the matter to the College's Discipline Committee. The Discipline Committee will then hold a hearing into the concerns about the nurse's practice

What is a hearing?

A hearing is a formal legal process. A panel of the Discipline Committee listens to evidence about a nurse's practice and makes a decision about whether the nurse has committed 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.

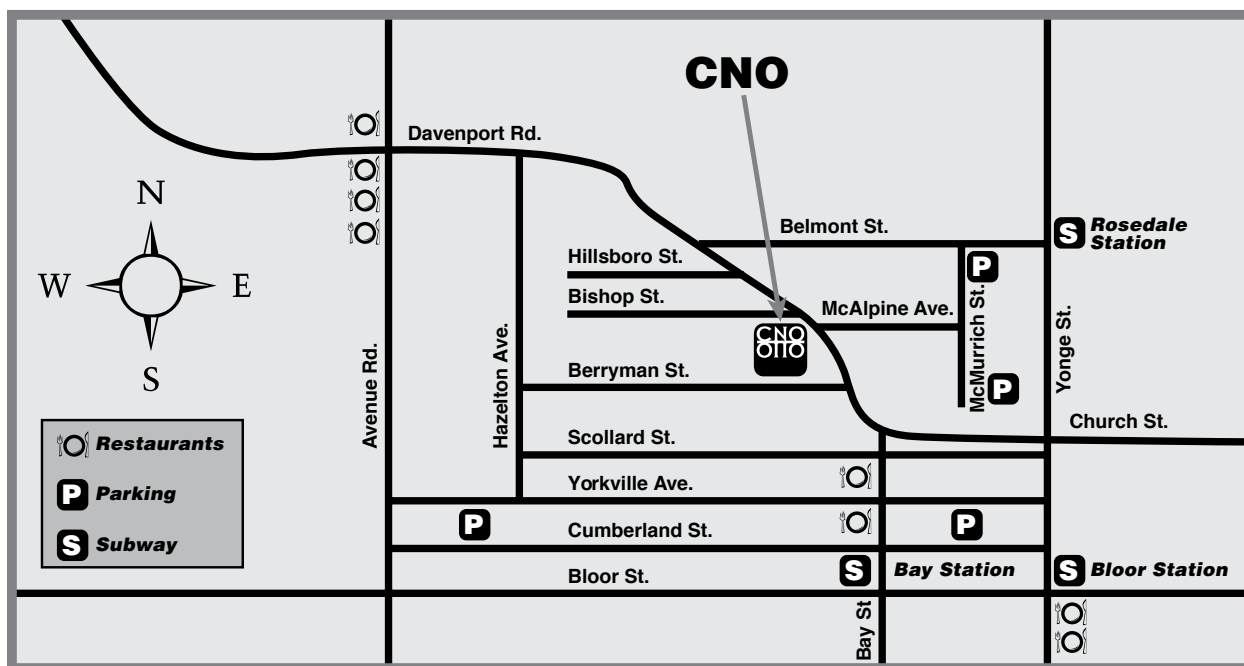
Discipline hearings at the College are generally open to the public and media. In some cases, however, a panel may order that all or part of a hearing be closed to the public or that there be a publication ban on the name of a person/persons involved in the hearing. This may be done to protect the safety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

When will the hearing occur?

In general, hearings are scheduled within nine months from the date the case is referred by the ICRC to the Discipline Committee. You will be notified about the hearing date as soon as possible. There may, however, be subsequent changes to the hearing dates due to scheduling conflicts. The



College will inform you of any changes.

If an emergency arises that makes it impossible for you to attend on the scheduled hearing day, please call the Prosecutions Clerk immediately.

Why am I being called to testify?

The purpose of the discipline hearing is to provide all the information that would help the Discipline Committee 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 panel.

There may be a need for the Prosecutions Clerk to reach you quickly. Please make sure the Clerk has all your contact information. As well, please let the Clerk 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 summaries or other material, please call the Prosecutions Clerk 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, please call the Prosecutions Clerk 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 Clerk, or ask the College's 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 a visit, please call the Prosecutions Clerk.
- You are welcome to bring a friend, relative or other support person with you to the hearing. The support person will sit in the public gallery unless the hearing is closed to the public.
- 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 Clerk as soon as possible.

How do I get to the College?

The College is located at 101 Davenport Road 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 three 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: The College will arrange and pay for hotel accommodation if you require an overnight stay. Please contact the Prosecutions Clerk to discuss your needs

Travel: The College will either make travel arrangements or reimburse you for travel expenses, including economy air, train and/or bus fare, car mileage (45 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 attendance fee for the Ontario Superior Court of Justice.

Loss of Wages and Other Expenses: The College does not reimburse witnesses for lost wages; however, special circumstances will be considered. If you have concerns about this or any other expense, please contact the Prosecutions Clerk.

Please make sure that you complete and submit your expense claim form to the Prosecutions Clerk. Your expenses will be reimbursed approximately one month after the College receives your expense claim form.

What should I wear?

Discipline hearings are formal legal proceedings. The Discipline Committee 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 *Statutory Powers Procedure Act* gives the Discipline Committee the power to summon witnesses. A summons is generally issued to the College's witnesses.

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 Clerk 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 Prosecutions Clerk 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.
- The College has a no-scent policy. Please refrain from wearing perfumes or colognes.

What will happen when I testify?

Start of Testimony

When you are called to testify, the Hearings Administrator will escort you into the hearing room and show you where to sit. The Hearings Administrator will be seated at your table. The panel chairperson will introduce him or herself. The nurse who is the subject of the hearing may also be in the room. Refer to the diagram of the hearing room on page seven.

Affirmation

The panel chairperson will ask you to affirm (a non-religious promise to tell the truth) that your testimony will be truthful. He or she will also ask you to speak loudly, clearly and slowly in order for the court reporter to record your testimony accurately.

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 before your 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) may ask you questions, which will be more direct and wide-ranging than those asked in the examination-in-chief. The role of the nurse's lawyer to clarify information, test your memory and see if there are any contradictions in your testimony.

Re-examination

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 Hearings Administrator will be sitting beside you while you testify. If you cannot locate an exhibit, record or document that is being referred to during your testimony, let the College's lawyer know, and the Administrator will help you locate it.

General Information

- There will be scheduled breaks in the morning, afternoon and at lunch time during the hearing. If you need a break during your testimony, let the 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 if this occurs.
- 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.

Following Your Testimony

Occasionally a witness is asked to return to the

College to answer further questions. If you are recalled, the Prosecutions Clerk will contact you to make the necessary arrangements.

After the Hearing

What happens after the hearing?

Following the hearing, the discipline panel will deliberate and determine, based on the evidence it heard, whether or not the nurse has committed professional misconduct and/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 professional misconduct and/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 are 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 the following sources:

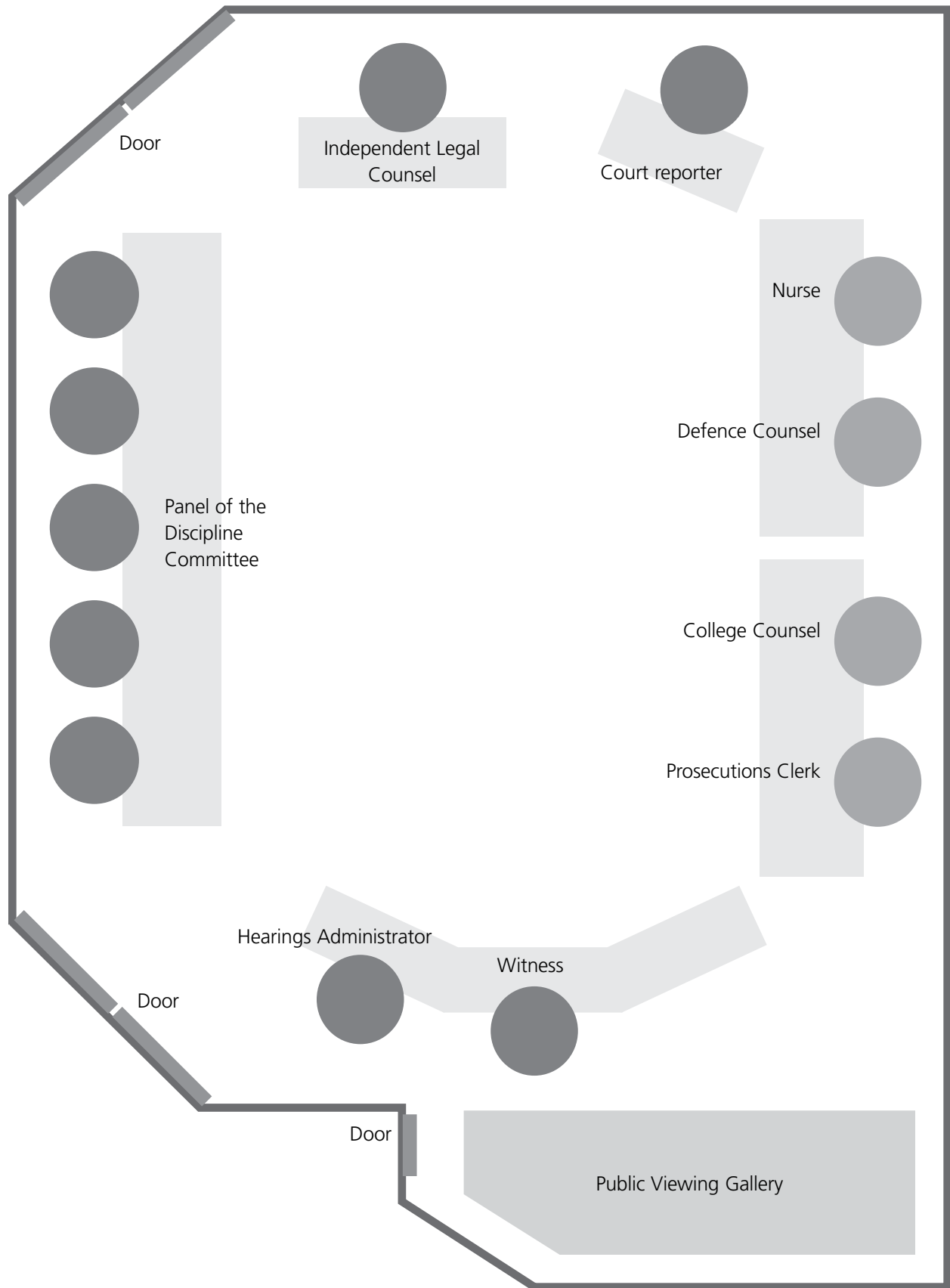
- the College's Public Register, Find A Nurse, contains the results of hearings in cases where there has been a finding of professional misconduct and/or incompetence and certain penalties have been ordered; and
- the College's online membership magazine, *The Standard*, details the outcomes of discipline hearings. It can be found online at www.cno.org/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, conditions or limitations 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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