The professional expertise of registered nurses and nurse practitioners, along with the valuable support they provide to their patients, inspire the CNPS to provide the liability protection and legal support they need to continue to deliver top-quality, professional care.

NURSES WHO INSPIRE

An infant survived a life-threatening seizure thanks to an intervention by Rich Schregardus, an emergency-room RN at Markham Stouffville Hospital. While off-duty, Mr. Schregardus spotted a group of people gathered next to a car that had pulled off the road. When he approached, he saw an infant on the ground seizing and immediately took control, eventually administering AR. By the time emergency crews arrived, the child was breathing on his own. Mr. Schregardus believes it was providence—when he was a child, a stranger intervened to remove gum that had stuck in his windpipe, blocking off his air supply.
Linda Jurincic, an RN with more than 30 years’ experience in a variety of settings, has cared for patients at Sunnybrook Hospital’s Odette Cancer Centre for the last seven years. “These women could be me, my sister or my mother,” she says. “For many, it is the most terrifying experience of their lives. I do my best to help them cope.” Ms. Jurincic’s tender, caring approach inspired patients and colleagues to nominate her for The Hospital News’ Nursing Heroes award. She won first place.

Premature babies born at Edmonton’s Royal Alexandra Hospital are significantly less likely to experience serious complications thanks to a practice championed by Heather Chinnery. A clinical nurse specialist at the Stollery Neonatal Intensive Care Unit, Ms. Chinnery led the effort to implement a practice common in Europe since the mid-2000s—delayed clamping of the umbilical cords of premature newborns. Today, it’s standard practice at the hospital and Ms. Chinnery has helped convince other Alberta hospitals to follow suit. “The key is regular follow-up,” she says. “People can be resistant to change, but once they understand the benefits, they typically get on board quickly.”
MISSION STATEMENT
The CNPS exists so that nurses are enabled to effectively manage their professional legal risks, and are appropriately assisted when in professional legal jeopardy.

WHO IS ELIGIBLE FOR CNPS ASSISTANCE?
CNPS services and assistance are automatically available to registered nurses and nurse practitioners as a benefit of membership in any of the following professional associations or colleges: CARNA, SRNA, CRNM, RNAO, NANB, CRNNS, ARNPEI, ARNNL, YRNA, and RNANT/NU. Requests for legal representation will be considered on a case by case basis by a committee of nurses to determine eligibility and appropriate level of assistance.
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AN INFORMED EVOLUTION

Canada’s registered nurses and nurse practitioners operate in a singularly dynamic legal and practice environment. New laws and court decisions, combined with novel technologies and changing models of care delivery, generate new litigation and new legal questions. The CNPS continues to evolve to ensure that its beneficiaries — more than 113,000 of Canada’s registered nurses and nurse practitioners — have the necessary legal and risk-management information to protect their patients and properly respond to changes in their practice environment.

To ensure it can continue to shape the CNPS’ evolution in this challenging landscape, the Board of Directors placed particular focus on strategic planning. Of particular importance was the establishment of a working group devoted to strategic planning: four members mandated by the Board to conduct the research and analysis essential to sound decision-making, monitor the implementation of the strategic plan and act as a sounding board for the CEO in reference to strategic issues. The working group enables the Board to make the most of the environmental scan that the CNPS conducts quarterly to identify emerging trends and issues. As part of its strategic work, the Board considered the impact of the implementation of mandatory professional liability protection, examined fee-management strategies and considered ways to make CNPS services available to registered nurses and nurse practitioners throughout Canada. The Board also supported the development of additional communication and educational initiatives, recognizing that the changing practice and legal environment makes it all the more important to communicate in a timely and effective way in light of new legal developments and their implications for the nursing profession.

Maintaining an adequate, sustainable and accessible legal assistance fund is essential to sustain an appropriate level of services. In 2013, the Board embarked on the third and final phase of the development of its fee-setting model. This involved revisions to the CNPS’ current budgeting approach, the review and consideration of complex actuarial forecasts, and leveraging expected investment returns to minimize fee increases. The resulting model seeks to ensure that the CNPS will have the financial resources to fund its operations and continue to provide the legal assistance and professional liability protection our beneficiaries need to effectively care for Canadians, while keeping fees at reasonable and stable levels.

Like the governing bodies of most other national not-for-profit organizations in Canada, the Board reviewed its bylaws to ensure compliance with the new Canada Not-For-profit Corporations Act, focusing specifically on the election process for Board members. The new process ensures continued provincial/territorial representation and the same model of equal input for each member in the Board composition as in the past. Changes to the bylaws also established a new Committee of the Board—the Nominating Committee—charged with overseeing the nomination process as well as the election of the CNPS president and vice-president. Final bylaw amendments will be implemented next year, leading to an application for continuation under the new Canada Not-For-profit Corporations Act in the fall of 2014.

All this took place as the CNPS moved, in the spring of 2013, to new offices, hired additional staff and introduced new services and protections. A dedicated boardroom equipped with enhanced technical and videoconferencing capacities enables the Board to receive input from external experts in real time, and conduct the affairs of the CNPS more effectively and economically.

The fact that the implementation of such significant changes occurred seamlessly is a testament to the inspired leadership of CEO Chantal Léonard, and the professionalism and dedication of CNPS staff and members of the Board. I am grateful for their commitment and level of expertise.

I am also grateful for the diversity of background and expertise that Board members bring to the governance process, which allows the Board to consider issues from a variety of roles and settings: practitioners, educators, administrators and researchers, in hospitals, clinics, private homes and beyond. This model ensures that the CNPS focuses on delivering the confidential, independent expert legal advice beneficiaries need, when they need it, as the nursing environment evolves.

Finally, I am grateful be able to serve, through the CNPS, a profession and colleagues who, through their knowledge and compassion, improve the lives of so many, every day.

Mary Ferguson-Paré
President, CNPS Board of Directors
During the 2013 membership year, the nursing and legal landscapes continued to reflect a health-care system in transition. The scope of practice for nurse practitioners in many jurisdictions expanded to include the ability to prescribe controlled substances, for instance. The use of mobile tools and technologies in practice environments continued to become much more prevalent. More nurses were required to provide their own professional liability protection due to changes in models of care or working environments. Across Canada, over 50 legislative and regulatory amendments were introduced or adopted. The accelerated pace of evolution was also apparent in the courtroom. In 2013, the Supreme Court of Canada and the British Columbia Court of Appeal issued decisions critically important to end-of-life care (another decision, as well as groundbreaking legislation, would soon follow in 2014), while the Supreme Court of Newfoundland and Labrador challenged conventional thinking about the confidentiality of quality-assurance information. A recent decision of the Ontario Court of Appeal recognizing a right to compensation for unauthorized access to personal information spawned a number of new civil actions, including class-action proceedings.

In response to these changes, the CNPS continued to evolve into a more effective and proactive organization. Having outgrown its previous office space, the CNPS moved to a larger facility equipped with enhanced technologies in April 2013. This enables CNPS staff to communicate in real time with member organizations and the Board to receive expert input during meetings.

The technology upgrade also enabled the CNPS to deliver educational sessions to our beneficiaries by webinar. These webinars were well received, registration was consistently full and a few were repeated in response to popular demand. The CNPS recognizes that it is also important to meet directly with registered nurses and nurse practitioners who work in a variety of settings, and to adapt the information to their specific needs. As of January 2013, in accordance with the member consultations of 2011, the CNPS fully subsidizes the education-related travel expenses of eligible nursing groups so that access to in-person workshops is not dependent on a beneficiary’s ability to pay.

While a focus on education is particularly important during this time of constant change, the CNPS also prioritizes the needs of individual nurses who seek advice and assistance. Beneficiaries can access prompt, confidential expert advice from lawyers with extensive practical experience in health law. The CNPS legal team also oversees the management of legal proceedings to ensure that beneficiaries granted assistance are afforded responsive, highly competent legal representation as well as due process in the conduct of legal proceedings. The CNPS recently extended this support to criminal proceedings.

I believe that members and beneficiaries fully appreciate the true value of the CNPS when we do more than simply communicate legal developments. We must also explain the significance of these developments for nurses at the point of care, identify and answer the associated legal, ethical and practical questions, and anticipate and mitigate their impacts on the health-care system. The CNPS follows the same proactive, analytical approach in managing claims. Because the assistance provided by the CNPS is occurrence-based and because today’s developments could give rise to future claims, we closely monitor claims trends, along with the circumstances that could affect these trends.

Much more must be done to support nurses so that they can readily access the risk-management and legal information they need to respond to emerging issues. In 2014, the CNPS will launch an e-newsletter, the Legal Pulse, and establish beneficiary-consultation groups in various practice areas. Collaborating with these consultation groups will ensure that the CNPS can continue to address current concerns in a timely, responsible and practical manner.

To be able to respond effectively to steadily increasing demand for its services, the CNPS anticipates that it will require additional human resources. Over the last five years, the CNPS has seen the numbers of requests for legal information and workshops increase by 50 and 100 percent, respectively. During the same period, the average number of visits to the CNPS website more than quadrupled, a strong indication of nurses’ interest in, and need for, legal information.

The concurrent and successful expansion of services, financial review and office relocation demanded a high level of engagement from the Board, member organizations and CNPS staff. I thank them all profusely for their dedication and insight. I also express warm regards to the nurses of Canada, who continue to inspire us to go the extra mile, because they go the extra mile.

I expect that we will continue to experience a rapid pace of change, as governments move to contain the rising costs of health care and courts strive to clarify associated issues of responsibility and liability. The CNPS will continue to evolve so that our beneficiaries have the risk-management information, legal support and professional liability protection they need to provide safe care to their patients.

Chantal L. Léonard
Chief Executive Officer
Nurse Susan Nelles explains a point to lead counsel Paul Lamek during the 1983–84 Commission of Inquiry into Certain Deaths at the Hospital for Sick Children and Related Matters.
EVOLUTION OF CRIMINAL LEGAL SUPPORT

In keeping with its mission to provide appropriate legal support to the nursing profession, the CNPS has expanded the assistance available to eligible nurses involved in criminal investigations. Since it was first established in 1988, the CNPS has reimbursed the defence costs of beneficiaries who successfully defended criminal charges arising from nursing practice. In 1998, the CNPS expanded its services to include legal assistance to beneficiaries involved in criminal investigations related to the provision of professional nursing services, prior to charges being laid. The 2013 membership year is the first full year in which CNPS services also include the defence of criminal charges arising from nursing practice.*

The decision was inspired in part by a series of recent cases in which nurses who had seemingly acted in accordance with their standards of practice faced criminal charges.

The CNPS wishes to protect its beneficiaries from the harrowing episode experienced by Susan Nelles. A registered nurse at Toronto’s Hospital for Sick Children, Ms. Nelles was wrongly charged in a series of infant deaths more than 30 years ago. Despite a lack of credible evidence, police charged her with murder—charges later thrown out during the preliminary inquiry. To mount a legal defence, however, the Nelles family had little choice but to pay out nearly $200,000 in legal fees. Ms. Nelles was completely exonerated and subsequent studies suggested that trace amounts of a toxin commonly found on medical equipment likely contributed to the deaths.

Ms. Nelles later took the brave and extraordinary step of suing for malicious prosecution, at a time when prosecutors were considered to be completely immune from liability for prosecutorial decisions. The Province of Ontario eventually provided compensation, although Ms. Nelles recouped only about half of the legal fees her family had spent. The Nelles case remains a landmark. The Supreme Court of Canada established that a prosecutor’s immunity is not absolute and that citizens retain a right of action against a prosecutor who used the justice system for an improper purpose.

Ms. Nelles recognizes that the expansion of CNPS services in criminal proceedings is an important development for nurses. “If I had access to the kind of protection available today,” Susan Nelles says, “my life would have been much better. I have no doubt that the stress contributed to my father’s fatal heart attack.”

Following her exoneration, Susan Nelles returned to work at the Hospital for Sick Children for five years before relocating to Belleville, Ontario. She served as director of the Belleville Dialysis Unit for Kingston General Hospital for more than a decade, and occasionally makes presentations to students in nursing and law about her experiences. In memory of her physician father and brother, she established scholarships at Queen’s University and the Quinte Healthcare Corporation. Her passion for helping people inspired her daughter to become a nurse.

* Additional conditions generally apply.
Visit the CNPS website or contact the CNPS for further information.

EARLY INTERVENTION ESSENTIAL

The CNPS encourages beneficiaries to get in touch immediately if contacted by police conducting an investigation. Early access to legal information and services is key to ensuring that fundamental rights are protected, that due process is followed and that beneficiaries can present their version of events and the evidence that supports it. For help outside regular business hours, consult the Need Urgent Legal Information page of the CNPS website.

Susan Pine (née Nelles)
EFFECTIVE COMMUNICATIONS
ACCURATE, RELEVANT AND ACCESSIBLE INFORMATION

The CNPS significantly improved its communications efforts during 2013-2014 to ensure that members and beneficiaries have the accurate, current information and guidance they each need to navigate the increasingly complex legal and healthcare environment. These efforts grew in both size and sophistication; along with the publication of new and updated infoLAWs, the CNPS also delivered webinars and customized presentations, added richer content to its website and developed an e-newsletter.

The CNPS follows a strategic approach to communications, continually gathering and analyzing relevant information, and disseminating content through the most appropriate medium. Throughout the year, CNPS staff regularly scan the legal and healthcare environments, taking note of relevant court decisions, legislative agendas and developments in healthcare policy. By contextualizing and interpreting this information, the CNPS identifies emerging trends and proactively develops and implements strategies to communicate key messages and mitigate potential risks. The advent and impact of new technologies was a key focus of CNPS publications and educational sessions.

The CNPS is committed to providing comprehensive, timely and state-of-the-art legal and risk management information to registered nurses and nurse practitioners of Canada so that they may understand how to meet their professional obligations and continue to provide safe patient care in a changing environment.

The CNPS uses a broad range of tools and media:

- **infoLAWs**: Overview of laws or contemporary risk-management considerations relating to various aspects of nursing practice. Last year, the CNPS published three new infoLAWs: Mobile Devices in the Workplace, Mobile Healthcare Apps and Legal Status of an Apology, and updated The Nurse as an Advocate.

- **Website news**: Information about noteworthy developments, such as the adoption of bylaw amendments for mandatory professional liability protection in Ontario and new regulatory amendments regarding the use of medical marihuana. Noteworthy court decisions are also profiled.

- **Educational sessions and webinar**: CNPS legal advisors delivered 51 educational sessions, including CNPS-hosted open webinars and customized presentations to member AGMs as well as provincial, national and international conferences. Improved technology for web-enabled presentations enables the CNPS to group several requests on the same topic. The number of requests for educational requests is expected to continue to grow.

- **The Legal Pulse**: The CNPS e-newsletter, available to all members and beneficiaries, was beta-tested in late 2013. It contains news and analysis of recent legal developments, lists upcoming webinars and new publications, and answers specific legal questions via the Ask A Lawyer column. The inaugural edition was published in February 2014.

- **CNPS Checklist**: Another recent innovation, checklists, combine in one document risk-management strategies relating to specific aspects of nursing practice. The CNPS Checklist: Patient Discharge from Hospital is posted on the beneficiary section of the website.

- **Joint statement**: The CNPS and the Canadian Medical Protective Association published a revised statement on collaborative practice between physicians and nurse practitioners. With a growing number of jurisdictions implementing collaborative models of health care, the revised statement clarifies many associated legal issues.
SUPPORTING MEMBERS AND BENEFICIARIES

In addition to disseminating risk-management strategies through various media, the CNPS responds to direct inquiries by individual registered nurses and nurse practitioners who belong to one of our member organizations. In 2013, the CNPS responded to more than 1,850 legal inquiries.

The CNPS also answered requests from members, beneficiaries and stakeholders for early risk-management input on new models of care delivery, proposed standards and recommended changes to draft legislation. These opportunities enable the CNPS, in the interest of nurses and their patients, to leverage past experience and legal expertise to identify, early in the implementation of new initiatives, circumstances that might increase the risk of patient harm, contravene existing legislation or other professional obligations, or impose an unfair burden on nurses. In 2013, the CNPS provided early risk management input with respect to a number of new initiatives, including registered nurse prescribing, the implementation of collaborative emergency centres and legal models for controlling access to personal health information in electronic health records. The CNPS continues to participate in the pan-Canadian effort to build a national framework for RN prescribing.

The CNPS is committed to maintaining adequate levels of professional liability protection as scopes of practice increase. In addition to ensuring adequate patient compensation and providing peace of mind to our members and beneficiaries, this also helps ensure that the adequacy of professional liability protection is not a barrier to change. When the Yukon Registered Nurses Association sought to formally introduce nurse practitioners as a new category of registered nurses, the CNPS helped to address questions raised by government authorities and medical groups.

Assisting nurses in legal jeopardy remains an essential part of the CNPS mandate. In 2013, the CNPS provided legal assistance to registered nurses and nurse practitioners involved in legal proceedings, including civil proceedings, criminal investigations and prosecutions, and provincial offenses arising from nursing practice. A number of proceedings stemmed from privacy concerns. The CNPS expects that privacy issues—particularly the extent of a patient’s right to seek financial compensation for unauthorized access to medical information—will be a major focus for the courts during the next few years.
Many of the year’s legal developments were not only directly relevant to nurses, but could also inspire fundamental changes to the current state of the law.

**END-OF-LIFE CARE**

Many courts and at least one provincial legislative assembly examined, from many angles, the notion of dying with dignity.

In October 2013, a decision by the Supreme Court of Canada provided a definitive answer to the longstanding question of whose consent is required to withdraw life support that the treatment team deems futile. The court ruled that in Ontario, the removal of life support represents a change in the plan of care, which requires the consent of the patient (or substitute-decision maker). If the substitute decision-maker does not consent, the matter must be referred to the Consent and Capacity Board for decision.

The British Columbia Court of Appeal also issued a relevant ruling in October 2013, upholding the *Criminal Code* prohibition of assisted suicide as constitutional. That decision overturns the judgment delivered a year earlier by the province’s Superior Court authorizing a resident suffering from ALS (amyotrophic lateral sclerosis) to obtain, under certain conditions, the assistance of her physician to end her life when she considered it unbearable. In January 2014, the Supreme Court of Canada agreed to hear an appeal of the Court of Appeal’s decision. Legal experts wonder if the Supreme Court of Canada is now prepared to revisit its 1993 decision in the case of Sue Rodriguez, another patient with ALS. In that decision, the Supreme Court denied a request to declare Section 241 of the *Criminal Code* unconstitutional so that Ms. Rodriguez could decide when to end her life with the assistance of her physician. Quebec’s legislative assembly debated end-of-life legislation during the summer and fall of 2013. The proposed legislation set out specific circumstances when a patient could secure “medical aid in dying,” but died on the order paper when a provincial election was called.
PRIVACY

In 2012, the Ontario Court of Appeal recognized the existence of a new cause of action for “intrusion upon seclusion” enabling individuals to seek financial compensation when their personal confidential information is accessed inappropriately. Decisions rendered elsewhere in Canada held that a breach of privacy does not give rise to a right to financial compensation unless expressly prescribed by law.

In the wake of the Ontario Court of Appeal’s decision, the courts have been asked to consider related issues, such as whether “intrusion upon seclusion” exists when personal health information already provides remedies for inappropriate access to information, whether it can provide a basis for class action proceedings, and whether an employer can be held liable for an “intrusion upon seclusion” committed by an employee.

QUALITY-ASSURANCE PROCESSES

To improve patient safety, medical authorities follow quality-assurance processes based on the outcomes of medical procedures. In most provinces and territories, the collection, storage and analysis of data about outcomes data is governed by legislation to protect personal information and promote open disclosure.

In November 2013, the Supreme Court of Newfoundland and Labrador determined that a health authority could be compelled by a regulatory body investigating a complaint to provide protected information. In doing so, the court departed from earlier decisions. The CNPS now provides legal advice to nurses asked to participate in quality-assurance processes.

As the healthcare system and our fundamental values evolve, the courts are likely to continue to grapple with new issues. The CNPS will keep its membership abreast of these developments and their implications, so that nurses can take into account all the relevant legal, clinical and ethical consideration as they strive to provide the best care to their patients.
For three decades, public health nurse Louise Price has been an agent of change in Habour Breton, a town of about 1,700 on the south coast of Newfoundland. Ms. Price has introduced and championed a long list of innovative, effective programs that promote healthy lifestyles. Her program for parents of newborns, for instance, quickly attracted 100 percent of eligible parents. And by holding some sessions at the local library, she encouraged many to borrow books for the first time. Ms. Price also launched successful campaigns to reduce consumption of pop and energy drinks, and to get youth and seniors doing activities together in an “intergenerational café.” In the photo below, Ms. Price (left) receives an award from ARNNL President Regina Coady.

Elsabeth Jensen, an Associate Professor and Graduate Program Director at York University’s School of Nursing, volunteered her considerable academic and leadership talents to evaluate a program that helps those with mental-health challenges maintain a nutritious diet. With the help of volunteers, Ms. Jensen assessed the impact of a community-gardening and nutrition-education program run by Can-Voice, an independent organization in London, Ontario for consumers and survivors of the mental-health system. Program participants learn to grow, harvest, store and prepare fresh food. Ms. Jensen’s evaluation team helped Can-Voice secure some of the funding it needs to operate a series of eight raised vegetable plots. When asked to explain what prompted her to undertake the project, Ms. Jensen explained: “What else would you do for a friend?”
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