The Complaints Process in Ontario: Analyzing the Experiences of Nurses and Complainants

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Addressing concerns about the conduct and competence of regulated professionals is one way regulators protect the public and build confidence in self-regulation. This article describes how the College of Nurses of Ontario (CNO) is using performance measurement techniques to assess and improve the effectiveness of its process for reviewing complaints made by the public about nurses' practice. Specifically, the article describes CNO surveys of nurses who have been subjects of complaints and members of the public who have filed complaints against nurses. These surveys measure respondents' satisfaction with the complaints process and their perceptions of the effectiveness of the process in remediating nurses and protecting the public. The nurses' survey responses show that a majority believe that participation in the complaints process contributes to their professional development, improves their understanding of how practice standards relate to their practice, and leads to practice improvements. Members of the public whose complaints were addressed through the CNO's alternative dispute resolution process are more satisfied than those whose complaints were addressed through the investigation process. They are also more likely to agree that the process protects the public.

Keywords: College of Nurses of Ontario, complaints, investigation, performance measurement

To maintain the public's confidence, a regulator must excel at its four main regulatory functions: entry to practice, standards, quality assurance, and enforcement (College of Nurses of Ontario [CNO], 2013). The enforcement function protects the public by assessing and addressing concerns about the conduct and competence of nurses. The College of Nurses of Ontario (CNO)—the governing body for registered nurses, registered practical nurses, and nurse practitioners in Ontario, Canada—has two processes for dealing with concerns about a nurse's conduct or competence: complaints and reports. The complaints process is for members of the public who wish to make a complaint about a nurse's conduct; the reports process is for employers, facility operators, or other health professionals to inform the CNO of incidents of sexual abuse, incompetence, or incapacity.

This article focuses on the complaints process and provides an overview of research that the CNO is conducting to measure nurses' and complainants' attitudes towards and experiences with the process.

Overview of the Complaints Process

The purpose of the complaints process is to protect the public and improve nursing practice, not to punish nurses. The process presents nurses with the opportunity to demonstrate accountability for their practice and provides complainants with an opportunity to work with the CNO to resolve their complaints (CNO, 2015). The CNO addresses complaints either through its alternative dispute resolution (ADR) process or its investigation process.

The ADR process allows the complainant, the nurse, and the CNO to work together in addressing the issues in the complaint. The resolution process concludes with the nurse agreeing to complete a number of activities. The nurse will agree to review the CNO practice standard documents the CNO deems relevant to the nursing issues raised in the complaint. The nurse will also agree to complete and submit a worksheet designed to help him or her reflect on how the practice standards relate to the complaint and determine how he or she can improve his or her practice. The nurse may also be required to meet with CNO staff members, specifically the manager of complaints and the investigator assigned to the case, to discuss his or her reflections.

The investigation process is launched if the issues in a complaint are not suitable for the resolution process; for example, allegations of sexual abuse must be investigated according to governing legislation. Also, the investigation process is used if the nurse or the complainant does not agree to participate in the resolution process (CNO, 2015). Investigations are neutral and objective, and they involve a CNO investigator interview-

ing witnesses and compiling documentation such as patient/client health records (CNO, 2012).

When the investigation is complete, the results are reviewed by a panel of the CNO's inquiries, complaints, and reports committee (ICRC). The ICRC decides whether the information gathered during the investigation supports the claims made in the complaint. If the information does not support the claims, the ICRC takes no action. However, if the information does support the claims, the ICRC considers the seriousness of the issues in the complaint and the nurse's conduct history to decide if remedial action is required to protect the public or meet the CNO's standards of nursing practice. The ICRC may issue advice to the nurse, require the nurse to appear before the ICRC to be reprimanded, or require the nurse to complete a specialized education and remediation program.

About 5% of investigations a year involve very serious matters, such as sexual, physical, or emotional abuse, and are referred to the CNO's discipline committee. If the complaint is referred to this committee, the CNO presents evidence before a panel, usually consisting of five members of the discipline committee (three nurses and two members of the public). Committee members are either elected or appointed by the Ontario Public Appointments Secretariat.

The panel hears evidence presented by both parties and makes a ruling. Depending on the severity of the case, the panel can do one or more of the following:

- Order the nurse to pay a fine to the Ontario government
- Order the nurse to appear in person for a verbal reprimand delivered by the panel
- Order the nurse to complete remedial education
- Place conditions on the nurse's practice
- Suspend the nurse from working for a set period of time
- Revoke the nurse's ability to practice nursing.

Evaluation of the Complaints Process

The use of surveys to obtain feedback about the enforcement processes of regulatory bodies does not appear to be widespread. A literature review and environmental scan were performed to identify evaluation strategies employed by professional regulators to assess their enforcement processes. Limited research has been published regarding the public's and nurses' experiences with enforcement processes.

Through its Commitment to Ongoing Regulatory Excellence (CORE) project, the National Council of State Boards of Nursing collects data periodically from nurses regarding the disciplinary functions of boards of nursing (BONs). The purpose of the project is to provide an ongoing performance measurement and benchmarking system for nursing regulators (National Council of State Boards of Nursing, 2011, Introduction). This project asks nurses one question about the effectiveness of BONs' disciplinary processes in protecting the public but does not explore the disciplinary processes in depth.

In 2009, the British Health Professions Council commissioned Ipsos MORI, a leading market research company in the United Kingdom and Ireland, to conduct research with complainants (Ipsos MORI, 2010). The research was qualitative and consisted of in-depth telephone interviews. The purpose of the research was to determine the complainants' expectations in terms of the role of the regulator, the complainants' initial expectations, and the complainants' opinions of case handling and the outcomes of their complaints. Some of the recommendations arising from this research were that complainants should be provided with information on potential outcomes and the likely length of time for each stage of the fitness-to-practice process. The researchers also recommended improvements to the information provided to complainants when they make their initial complaint to ensure that their expectations are more closely aligned with the process.

The CNO traditionally collected metrics regarding the number of complaints received and the time taken to resolve complaints. However, it did not have quantitative measures on nurses' or complainants' experiences with the process. Nor did the CNO know whether either group believed that the process achieved its objectives of remediating nurses and protecting the public. In 2012, the CNO sought to address this gap in its performance measurement of the complaints process by developing two customer experience surveys: one for members who are registered with the College of Nurses of Ontario who have been the subject of a complaint, and one for complainants. The purpose of these surveys was to allow for the establishment of benchmarks and ongoing monitoring of satisfaction with the complaints process. These data complement the operational metrics collected by the CNO measuring complaint volumes and process timelines to give a broader understanding of how the complaints process is performing.

As described by Poister, Aristigueta, and Hall (2014), performance management is "the collection and purposive use of quantitative performance information to support management decisions that advance the accomplishment of organizational (or program) strategic goals" (pp. 6–7). The performance measurement work is also tied into the CNO's efforts to increase transparency and accountability in its processes. By sharing results with complainants and nurses, the CNO enables them to make more informed decisions about whether to address complaints through the resolution process or the investigation process. Further, the results can be used to increase the public's confidence in the effectiveness of the complaints process by demonstrating that the program is meeting its objectives of remediating nurses.

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