



**BERMUDA NURSING COUNCIL
MINISTRY OF HEALTH**

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Reporting Unfitness to Practice: A Guide for Employers and Managers

The Bermuda Nursing Council (BNC) is the regulatory body for registered nurses and nursing associates in Bermuda. The primary aim of the BNC is to maintain a register of all registered nurses and nursing associates and to protect the public. This is done through the regulation of nursing practice by way of the Bermuda Nursing Act 1997 and Nursing Rules 2010. All reports/complaints made to the BNC will be investigated by the Nursing Profession Complaints Committee. Fitness to practice is a registrant's suitability to be on the register without restrictions.

This document will help you if you are an employer or manager considering whether to report a registrant to the BNC for unfitness to practice. It describes the different categories of unfitness to practice that you can report and tells you what evidence you should send to support your complaint.

What to report

Every day employers, managers, and supervisors deal with situations concerning the misconduct, lack of competence, or poor health of registrants. Most of these incidents are managed at a local level and do not give rise to wider concerns about public protection.

The BNC's role is to protect the public from registrants whose fitness to practice is impaired. In these circumstances the BNC can restrict or remove a practitioner's registration. Reporting a case of unfitness to practice to the BNC is only when you believe the conduct, practice, or health of a registrant is impaired to the extent that public protection may be compromised.

Fitness to practice may be impaired by:

- Misconduct
- Lack of competence
- A conviction or caution (including a finding of guilt by a court order)
- Physical or mental ill health
- A finding by any other health or social care regulator or licensing body that a registrant's fitness to practice is impaired

- A fraudulent or incorrect entry in the BNC's register

Misconduct

Misconduct is conduct which falls short of that which can reasonably be expected of a registrant.

The most common examples of misconduct include:

- Physical or verbal abuse
- Theft
- Deliberate failure to deliver adequate care
- Deliberate failure to keep proper records

Lack of competence

Lack of competence is a lack of knowledge, skill, or judgment of such a nature that the registrant is unfit to practice safely and effectively in any field in which the registrant claims to be qualified, or seeks to practice.

Examples of lack of competence include:

- Persistent lack of ability in correctly and/or appropriately calculating, administering and recording the administration or disposal of medicines
- Persistent lack of ability or improperly identifying care needs and, accordingly, planning and delivering appropriate care

Conviction or caution

The types of conviction or caution that could lead to a finding of unfitness to practice include:

- Theft
- Fraud or other dishonest activities
- Violence
- Sexual offences
- Accessing or downloading child pornography or other illegal material from the internet
- Illegally dealing or importing drugs

Health conditions

Health conditions that might lead to a finding that a registrant's fitness to practice is impaired include:

- Untreated alcohol or drug dependence
- Untreated serious mental illness

How to report a case to the BNC

All allegations of impairment of fitness to practice must:

- Identify the registrant concerned
- Clearly set out the complaint against the registrant
- Be supported by appropriate information and evidence

A check-list of the general information and evidence that is required to support all allegations, as well as the specific reporting requirements for the various categories of unfitness to practice is detailed below.

All allegations must include:

- The registrant's full name, BNC registration number (if known) and current or most recent address
- The registrant's job at the time of the allegations and key aspects of the post that may be relevant in considering the complaint
- Details of any previous action undertaken through disciplinary, capability, or health procedures.

Misconduct

Misconduct allegations must include:

- A clear account of the alleged incident
- A brief description of the context or circumstances of the incident (for example, the number and types of patients for whom the registrant was responsible, and who else was on duty at the time)
- Copies of witness statements and confirmation that the witnesses agree to give a statement to the Nursing Professional Complaints Committee (NPCC) and, if required, to give evidence in person to NPCC and if decided, the BNC Investigating Committee
- Copies of any relevant documents such as care plans and records, adverse incident forms, medicine administration records, financial records, and work schedules
- Copies of notes of any investigative or disciplinary meetings
- Details of any police involvement and the name and contact details of the officer in charge of the case

Conviction and caution

Cases based on a conviction or caution must include:

- The name of the court, date of appearance and details of the offences resulting in conviction
- The name and contact details of the officer in charge of the case (if known)

Lack of competence

Lack of competence allegations must include:

- Details of incidents which indicate a lack of competence (witness statements)
- Evidence that the registrant has been informed about the deficiencies in their practice (records of meetings and follow-up correspondence)
- Evidence that the registrant has been given the opportunity to improve their competence (objectives, action plans, appraisal records)
- Results of assessments following opportunities for improvement that indicate a continuing lack of competence (assessment records, witness statements)

Health Issues

Allegation about health issues must include:

- A clear account of any behaviour or incidents that show impairment due to ill health
- Details of the registrant's sickness record and copies of any medical reports
- Confirmation that witnesses agree to give a statement to the BNC's representatives and, if required, to give evidence in person to the NPCC and if necessary BNC Investigating Committee
- Copies of notes of any meetings where the registrant's health has been discussed.

What happens when you report a case?

Nursing Professional Complaints Committee (NPCC)

When you send an allegation to the BNC, including all of your supporting evidence, we refer the case to the NPCC. The Committee shall consist of three members as outlined by the Second Schedule on the Nursing Act 1997. The Committee shall send the registrant a copy of the allegations and supporting information and invite them to submit a written response for the NPCC to consider.

The panel may ask for more information – for example, it can ask lawyers to carry out further investigations or ask the registrant to undergo practice or medical assessments. It can also invite you to respond to particular points the registrant may raise in their response.

The NPCC has to decide whether there is 'a case to answer'. This means the NPCC must be reasonably satisfied both that the facts of an allegation are capable of being provided and that, if proved, those facts could lead to a finding that the registrant's fitness to practice is impaired.

If the NPCC finds there is 'no case to answer' it will close the case. If the NPCC finds there is a case to answer then the NPCC shall refer the complaint to the Council. The Council shall follow the process of investigation as outlined in section 6E "Enquiry into complaints by Council" of the Nursing Act 1997.

Hearings

As outlined in the Nursing Act 1997.

Outcomes

When the Council finds a registrant's fitness to practice is impaired, it will either decide not to take further action or it will recommend one of the following orders:

- Admonishment
 - A suspension order
 - Striking off of the register
 - Imposing conditions or limitations to the practice of the person
- (See Nursing Act 1997, Section 6E (5a-d).

In misconduct cases, a *striking off the register* order may be made immediately. In lack of competence and health cases, it may be made only after a specified time of continuous suspension or conditions or limitations of practice order.

A *suspension order* must specify the period of suspension, which cannot exceed one year in the first instance. A BNC panel must review the order before the expiry date. At that time it may replace, vary, or revoke the order.

A *condition or limitation of practice* order must specify of how long the conditions or limitations are to be imposed and this period cannot exceed three years. A BNC panel must review the order before the expiry date. At the time it may replace, vary, or revoke the order

An *admonishment* must specify how long the admonishment will show on the register and this period cannot be less than one year or more than five.

Adapted from the Nursing and Midwifery Council (U.K) (2010). Retrieved June 20, 2010 from: <http://www.nmc-uk.org/Employers-and-managers/Fitness-to-practise/> and the Kentucky Board of Nursing (USA) (2009). Retrieved June 20, 2010 from: <http://www.kbn.ky.gov/NR/rdonlyres/51401E6F-D531-42EE-BD8F-95C61C5C9CAB/0/discpbroch.pdf>

Bermuda Nursing Act 1197, 2010:38 (2010).