



The Bermuda Nursing and Midwifery Council (BNMC) is the regulatory body for nurses, midwives, nursing associates including Enrolled Nurses in Bermuda. Our primary aim is to maintain a register of all Nurses, Midwives and Nursing Associates and to protect the public. We do this through the regulation of nursing and midwifery practice by way the Bermuda Nursing and Midwifery Act 1997 and Nursing and Midwifery Rules 2010.

Fitness to practice is a registrant's suitability to be on the register without restrictions.

This guideline will help you if you are an employer or manager considering whether to report a registrant to the BNMC 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 person/s registered with Bermuda Nursing and Midwifery Council. Most of these incidents are managed at a local level and do not give rise to wider concerns about public protection.

The BNMC's role is to protect the public from person/s on the register (practitioner) whose fitness to practice is impaired and whose situation cannot be managed locally. In these circumstances the BNMC can restrict or remove a practitioner's registration. Reporting a case of unfitness to practice to the BNMC or Nursing and Midwifery Professions Complaints Committee (NMPCC) should be done if you believe the conduct, practice, or health of a practitioner 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 practitioner's fitness to practice is impaired
- A fraudulent or incorrect entry in the BNMC's register

MISCONDUCT

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

The most common examples of misconduct include:

- Physical or verbal abuse to client/patient or health care team member.
- Theft.
- Deliberate failure to deliver adequate care.
- Deliberate failure to keep proper records.
- Posting on social media or networking sites any information relating to patient/client.
- Breach of client/patient confidentiality or privacy.

LACK OF COMPETENCE

Lack of competence is a lack of knowledge, skill or judgment of such a nature that the practitioner is unfit to practice safely and effectively in any field in which the practitioner 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 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 of fitness to practice is impaired include:

- Alcohol or drug dependence.
- Untreated serious mental illness.

HOW TO REPORT A CASE TO THE BNMC OR NMPCC

All allegations of impairment of fitness to practice must:

- Identify the practitioner concerned.
- Clearly set out the complaint against the practitioner.
- 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.

Allegations must include:

- The practitioner's full name, current or most recent address, or email address if known.
- The practitioner's job title 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 practitioner 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 BNMC and NMPCC representatives and, if required, to give evidence in person to the above committee representatives.
- Copies of any relevant documents such as care plans and records, adverse incident forms, medicine administration records, financial records, work diaries and relevant social media site.
- 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 if any)
- Evidence that the practitioner has been informed about the deficiencies in their practice (records of meetings and follow-up correspondence)
- Evidence that the practitioner 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 practitioner's sickness record and copies of any medical reports.
- Confirmation that witnesses agree to give a written statement to Nursing and Midwifery Profession Complaints Committee (NMPCC) and, if required, to give evidence in person to NMPCC and BNMC.
- Copies of notes of any meetings where the registrant's health has been discussed.

WHAT HAPPENS WHEN YOU REPORT A CASE?

When you send an allegation to the BNMC or NMPCC, including all of your supporting evidence, BNMC will refer the case to the Nursing and Midwifery Professions Complaints committee (NMPCC). A statutory committee as outlined in the Nursing and Midwifery Act 1997. BNMC informs you that the allegation is received and has been forwarded to (NMPCC). The chairperson of NMPCC will contact you. NMPCC has to decide whether there is 'a case to answer'. This means the NMPCC 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 practitioner's fitness to practice is impaired.

If after conducting an investigation the NMPCC finds there is 'no case to answer' The case will be dismissed. If the NMPCC finds there is a case to answer then the NMPCC shall refer the complaint along with its findings to BNMC who shall follow the process of investigation as outlined in the Nursing and Midwifery Act 1997, section 6 E. Enquiry into complaints by Council.

HEARINGS

As outlined in the Nursing and Midwifery Act 1997.

OUTCOMES

When BNMC adjudicates a case and finds a practitioner's fitness to practice is incompetent / impaired, depending on the risk to patient or client, the committee will either decide not to take further action or will recommend one of the following orders:

- A conditions of practice order
- A caution order
- A suspension order
- A striking off order

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

A caution order must specify how long the caution will show on the register.

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

In misconduct cases, a striking off order may be made.

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 (U.S.A)(2009), Retrieved June 20, 2010 from <http://www.kbn.ky.gov/NR/rdonlyres/51401E6F-D531-42EE-Bd8F-95c1C5C9CAB/0discpbroch.pdf> Bermuda Nursing and Midwifery Act 1997.