

Employment Issue or Complaint?

Guidelines for Employers



ANBLPN

Association of New Brunswick Licensed
Practical Nurses

AIAANB

L'Association des Infirmier(ère)s Auxiliaires
Autorisé(e)s du Nouveau-Brunswick

About ANBLPN

The Association of New Brunswick Licensed Practical Nurses (ANBLPN), is the regulatory authority for licensed practical nurses (LPNs) in New Brunswick. The Association's mandate is to protect the public by promoting the provision of safe, competent, ethical and compassionate nursing services. The Association sets, monitors and enforces standards for entry into the profession, practical nurse education, registration and professional conduct. The Association creates *Standards of Practice*, establishes a *Code of Ethics*, develops and implements a *Continuing Competence Program* and publishes policies and interpretive documents to support the practice of LPNs in New Brunswick.

For more information, please visit the Association's website at www.anblpn.ca or call toll-free in New Brunswick at 1-800-942-0222.

Acknowledgment

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Introduction

This document has been developed to guide employers¹ in the process of supporting LPNs with professional practice issues (PPIs). Support of an individual with a PPI can come in many forms. The depth and breadth of support will depend on the nature of the PPI. For instance, LPNs with a minor practice concern, may be successfully supported with a coaching conversation, mentorship, simple just-in-time remediation or correction and minimal follow up. Other PPIs are complex and multi-faceted. Support for LPNs with this type of PPI is best provided with a comprehensive development plan².

Professional Practice Issue

LPNs practice in a variety of practice settings and may experience a PPI at any point in their career. PPIs are not limited to an LPN's clinical practice. LPNs practicing in administration, education, research or non-traditional roles may experience a PPI as it relates to their practice context.

A PPI is any situation, action or behaviour which actually or potentially disrupts or prevents the delivery of safe, competent, compassionate or ethical nursing services. A PPI is also any situation, action or behaviour that encourages or perpetuates the delivery of care which is not consistent with best practice guidelines, *standards of practice*, *code of ethics* or employer policy³.

The standards of practice are foundational to *self-regulated* professionals such as LPNs. They represent safe and competent practice and the criteria against which members of the public, clients, employers, colleagues and LPNs themselves, measure the practice of all LPNs. LPNs are obligated to practice in a manner consistent with the standards. Employers are obligated to ensure sufficient supports are available in the practice setting so the LPN (and others) can meet their standards as well as the code of ethics and employment obligations.

Professional Practice Issues and Just Culture

A *Just Culture* is one which recognizes the actions of individuals are not isolated and occur within systems. Each PPI should be approached using a Just Culture lens and viewed in context of the LPN, the environment or system and the client. Employers should consider mitigating factors contributing to the presence of a PPI. This does not negate the LPN's individual accountability for their practice, but rather provides an opportunity to look at the PPI from a broader systems perspective.

The Role of ANBLPN

While practice issues are being managed by the employer, ANBLPN can serve as a consultant to the LPN and/or the employer. As the regulator, the Association may suggest resources for an employer to include in the development plan to address a practice issue. The Association may also provide support to the LPN.

¹ In this document, the term 'employer' is a catch-all term, meant to be inclusive of the team members responsible for the practice environments where LPNs practice and for LPN's performance. This may include a manager, supervisor, charge nurse, educator, mentor or others designated by the organization. ANBLPN supports but is not considered part of the employer's team.

² In this document 'development plan' means a formalized documented process designed to support LPNs in addressing a PPI so they may continue to provide safe, competent, ethical and compassionate nursing services. Terminology varies from employer to employer.

³ Excessive use of sick or absent time (unless related to a fitness to practice issue), is an employment issue and best managed by the employer.

while the plan is being implemented. However, the Association does not develop, implement or evaluate a development plan for or on behalf of any employer⁴, nor does it advocate on behalf of the LPN.

The Role of the LPN

LPNs are accountable for their own practice at all times. As accountable self-regulated professionals, LPNs are obligated to take the steps necessary to improve their practice once they become aware of an issue. Additionally, LPNs are accountable to take action (*Duty to Report*) if they know or suspect the practice of a colleague (of any designation) is unsafe or unethical. Taking the necessary steps to ensure that they and others provide safe care, is part of meeting their Standards of Practice and Code of Ethics.

The Role of the Employer

Professional practice issues can reach beyond the LPN involved and affect the delivery of safe client care, teamwork and the overall morale of the workplace. Regardless of the issue, every PPI deserves the attention of the employer. Once aware of a PPI, the employer is accountable to ensure public safety by implementing a development plan to address the issue.

The Nature of the Practice Issue

Before the plan to address the practice issue is created, it is important to understand the exact nature of the issue. This will require reviewing the practice and the context in which it occurs, having conversations with others, and having a discussion with the LPN involved. Once the details are understood, realistic goals can be set and the correct interventions can be put in place to help the LPN improve their practice and provide safe care.

Sometimes the real issue masquerades as a practice issue, which is why it is so important to fully understand the problem. Without a full understanding of the issue the plan to address it will not be successful.

Consider the following example. An LPN recently hired in long term care has made several drug miscalculations resulting in errors. Initially, the employer felt the LPN required additional support performing calculations and arranged for this to be provided by the educator. However, when the errors continued the employer discovered the LPN struggling to assign tasks to the continuing care assistants. As a result, her workflow was improperly managed, and she was being constantly interrupted when administering medications and these may have been the real reasons she was making errors.

⁴Occasionally, employers have required LPNs to contact a Professional Practice Consultant to 'self-disclose' they have made an error in the clinical setting. Unless the practice issue puts the public at immediate and great risk, the Association is unable to take action beyond helping the LPN understanding their Standards of Practice, referring them to website resources or referring them back to the employer for ongoing support. This information, though helpful, is not sufficient to fully remediate a practice issue. The employer is responsible for the development plan as the Association has no authority to implement a development plan on behalf of the employer.

The Development Plan

There is no one way to create a development plan for an LPN with practice issues. Plans can come in a variety of formats and be presented in a variety of ways. The Association suggests the most effective development plans are created in collaboration with the LPN and have the following elements:

- A defined start and end (or anticipated end) date;
- A clear explanation of the PPI(s);
- Identification of specific standards of practice or elements of the code of ethics which the practice issues may violate;
- A description of the impact, or potential impact on safety (client, team, organizational or public);
- A clear explanation of the expected practice change;
- A list of organizational support and resources to be provided to the LPN;
- A list of learning activities;
- A description of how practice change will be measured; and,
- An evaluation plan with timelines.

These elements are simply a guide and employers should rely on whatever tools are supported by their organizational policy. Regardless of the tool, the goal is to create a plan which supports practice change so the LPN may continue to provide safe, competent, ethical and compassionate care to clients.

Evaluating the Outcomes

The evaluation of the development plan is one of the most critical aspects of the process. Resolution of a practice issue or assessing the depth of practice change is not possible without a comprehensive evaluation of the outcomes.

Notifying ANBLPN of a Professional Practice Issue

There is no automatic requirement for the employer to notify ANBLPN if they are required to implement a development plan for an LPN⁵ (See Appendix A: *Employment Issue or Complaint?*).

There are some occasions when the employer should consider contacting the Association about an LPN with a PPI. These include when an LPN:

- is unwilling to or unable to successfully make and/or sustain the changes to their practice to resolve the issue⁶;
- has chosen to resign from the workplace rather than engage in a development plan *or* before the results of the development plan can be fully assessed, or;
- has been terminated from their employment.

The employer holds a legal duty to notify ANBLPN in writing because the public is at risk if the LPN with the unresolved practice issue(s) engages in practice with another employer.

⁵ Notification is in context of the practice issue(s). If the issue is significant, is a violation of the *criminal Code of Canada* or results (or is likely to result) in serious client harm or public risk, call the Association for support and direction.

⁶ Employers are obligated to provide reasonable support to the LPN, meaning, occasionally, development plans require modification to support successful implementation. Contacting the Association is only required if the LPN fails to sustain change *after* reasonable adjustment to the plan has been made.

Initiating the Professional Conduct Process

More serious PPIs, where there has been a significant negative client outcome or involve known willful bad intent, patterns of poor practice not responsive to a development plan or criminal activity, may need to be reported to the Association to be managed through the *Professional Conduct Process*. Employers are accountable to manage serious PPIs within their employment policies **prior** to submitting a letter of complaint to initiate the professional conduct process.

Letter of Complaint

The Association is not authorized to act on anonymous complaints. A signed letter of complaint addressed to the Executive Director/Registrar (ED/R) is required to initiate the process. Minimally, the letter of complaint should contain the following information:

- Full name and, if possible, registration number of the LPN
- A detailed description of the PPI including:
 - Examples of specific incidents and with dates
 - The impact on clients (do not use client names in the letter), the team or organization
 - Examples of similar behaviour previously addressed⁷
- An outline of action taken by the employer to address the practice issue and the LPN's responses to those actions

Once received, the letter of complaint is reviewed by the ED/R (or designate) to determine the appropriate process to manage the complaint. The *LPN Act* and *Regulations* authorize the ED/R to:

- Resolve the complaint informally⁸;
- Refer the matter to the Complaints Committee; or
- Refer the matter to the Discipline Committee.

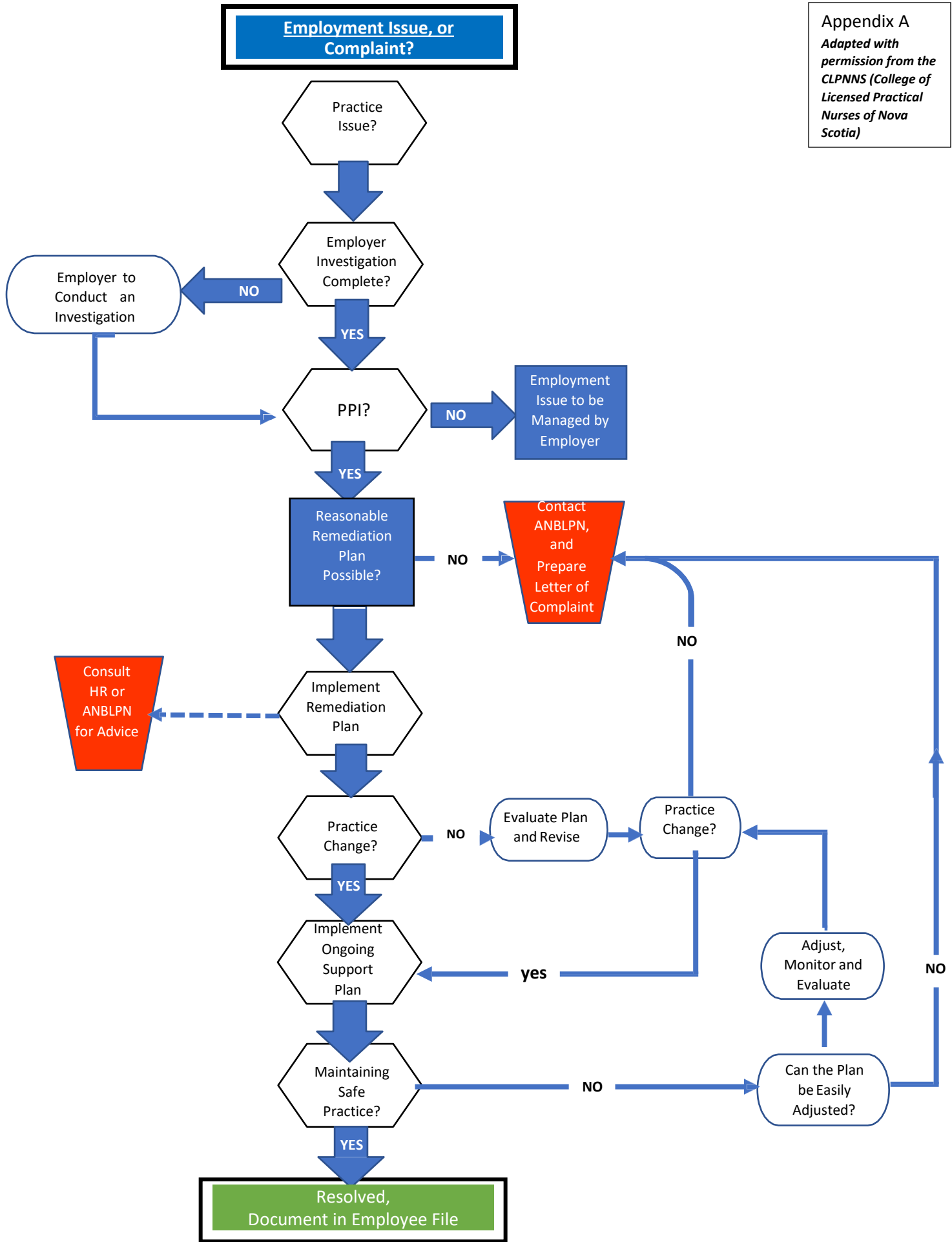
The process selected is based on the analysis of the information in the letter and the nature of the complaint and its associated risk to public safety. If the issue is referred to the Professional Conduct or Fitness to Practice Committee, an investigator is assigned to investigate the issue, compile and submit a report to the appropriate committee to review.

Conclusion

Supporting an LPN to change their practice so they may continue to provide safe, competent, ethical and compassionate nursing services is one of the most critical and challenging aspects of an employer's responsibility. However, if done with a process and intention, employers and LPNs can continue to meet their obligations to clients and the public.

⁷ Examples of similar behaviour help establish a pattern, however, if the behaviors were not previously addressed by the employer, it may not be possible to consider them as part of the current letter of complaint.

⁸ Informal resolution is a process for dealing with practice issues which do not require the formality of the professional conduct process. It is used only when it is in the best interest of the respondent, complainant, public and the Association.



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