Professional Accountability:
The Regulator’s Response to Incapacity

Is this what we are taught today?

And it leads to this
And then to this

And to this

And if there is an indication of...
Addiction

- A primary, chronic, neurobiologic disease, with genetic, psychosocial, and environmental factors influencing its development and manifestations. It is characterized by behaviors that include one or more of the following:

Addiction behaviors:

- Impaired control over drug use
- Compulsive use
- Continued use despite harm
- Craving

Reward Pathway

Addiction is a brain disease

Frontal Cortex

Wow!!!

Opiates
Alcohol
Cocaine
Amphetamines
Marijuana
Another definition of the disease from Father Vernon Johnson

- “Alcoholism, chemical addiction, is a disease, the very nature of which renders the victim incapable of recognizing the severity of the symptoms, the progression of the disease or of accepting any ordinary offers of help.”

Risk as a healthcare professional?

- Don’t know of anyone yet whose reason for becoming a dentist or nurse or … was drug access.

DSM IV: Diagnosis of Addiction
(3 out of 7)

1. Tolerance
2. Withdrawal
   *Loss of Control:*
   3. Used more and longer than planned
   4. Unsuccessful attempts to quit or control use
   5. Excessive time spent obtaining, using, or recovering from use
   6. Important activities given up
   7. Continued use despite adverse consequences
How do you spell it?

- D - don’t
- E - even
- N - know
- I - I
- A - am
- L - lying

Stuart Gitlow

“Alcoholism is like pregnancy; you are or you are not. No middle ground.”

But I can’t be one!!!!!!!!!
If...then three courses of action = prognosis

- Sober up
- Get locked up
- Get covered up - this means DIE!

Do they have to reach this level?

4 L’s

- Liver
- Lover
- Livelihood
- Law
Then what happens?

To whom do I turn for help?

Do you call the professional’s licensing Board?

- Board balances regulation with compassion
- Is it a bad person in need of punishment or an ill person in need of care?

But or However...

The licensing Boards have something to say about this too! Their #1 job is protection of the public.
Professions “ruled” by Laws and Regulations

There are laws with administrative regulations to spell out what may be the consequences for violations. You need to know these!

But...What if I...?

• What can or will happen to you if you violate any of these laws?
• Dental Law Enforcement Committee triage of complaint

KRS 313.100 paragraph 2

• The Office of the Board shall require an acceptable plan of correction and may use any one (1) or more of the following sanctions when disciplining a dentist, dental hygienist, dental specialist, or dental assistant or any entity regulated by the board:
Consequences

- Private admonishment
- Public reprimand
- Fines
- Revocation of licensure or registration

Consequences

- Suspension of licensure or registration until a time certain
- Suspension until a certain act or acts are performed
- Limitation of practice permanently

Consequences

- Limitation of a practice until a time certain
- Limitation of a practice until a certain act or acts are performed
- Retaking a portion of the clinical examination
Consequences

- Probation for a specified time and conditions of probation or
- Costs of the disciplinary action as defined by administrative regulation

And...very seriously...

- If it is found the person who is licensed or registered by the board has been convicted of, pled guilty to, or entered into an Alford plea to a Class A, B, or C felony offense, or has completed a diversion program for a Class A, B, or C felony offense, the license or registration shall be REVOKED.

What do we do with them then?

- Assessment unless they admit
- Treatment of some type
- Monitoring agreement
- Help them get ready for return to “life”
Yes...Rehab does work!

And now the addict returns
- Home
- Work

What do we mean -the addict returns?
- Where has she been?
- Did she go to a “formal” treatment program?
- Has she been without a license - and if so - for how long?
Let’s talk about home first

- Was the spouse or significant other involved in the decision to seek help?
- Did this person get involved during the family part of any formal treatment?
- Did this person take advantage of 12-Step programs e.g. Al-Anon or Nar-Anon?

Is there resentment because of

- Lack of income for an extended period
- No help with children
- No help with upkeep of home
- Need for explaining where she/he is

What to avoid

- Former playmates
What to avoid

- Former play places

What to avoid

- Former play things

What to avoid

- “Triggers” for using in the home or at work
Return to practice - I’ll say this again:

- Protection of public safety - #1 priority for us and for Boards

Fear and anxiety

- Where have you been!?!?
- What do I do about anonymity with:
  - Co-workers
  - Patients/clients

Contracts

- For a specific length of time - usually 5 years
- Shared with employer - if pertinent
- Approved practice site or type
- DEA lost or restricted???
- CAPTASA, U of Utah, ADA Wellness
Other things

- Meeting documentation forms
- Medication use lists
- Monthly self-report form
- Urine Drug Screens

She may have:

- Modification of practice type
- Practice monitoring by peers/others
- Protocols for required mood-altering drugs for a legitimate medical problem
- Consequences should she return to substance use

A required prescription

[Image of a prescription with handwritten notes:]

- Trust God
- Clean House
- Help others
“The alcoholic is like a tornado roaring through the lives of others.” page 82

Page 82 also says: “Hearts are broken.”
Our goal is: Recovery

We would like to return to this:
• Successful practice
And not this:

BC legislation: Health Professions Act (HPA)

Under the Health Professions Act, a health care professional is required to be:

1. Competent
2. Fit
3. Ethical

CRNBC’s Regulatory Philosophy

CRNBC’s philosophy of relational or right touch regulation is based on the following principles:

1. Just Culture
2. Right-touch Regulation
3. Collaborative Self-regulation
4. Principle-based Approach
What is Right Touch Regulation?

Public Protection that:
1. Identifies problems before risk occurs
2. Quantifies risk when present
3. Focuses on desired outcome of public protection by remediation when possible
4. Use ‘disciplined’ focused regulation only when necessary

Complaint Received: what next?

1. Nature of complaint identified:
   - Competence
   - Fitness
   - Misconduct
2. Public risk quantified:
   - Removal from practice
   - Conditions on practice
   - Potential referral to Early Intervention Program (currently CRNBC only)

Right Touch Regulation in Action

Most formal complaints are resolved using CRNBC's Consensual Complaint Resolution Process (CCR)

Other resolutions are achieved through CRNBC's Early Intervention Program - Health
Consent Agreement for incapacity based upon expert medical recommendations

- Abstinence
- Random biological drug testing
- 12-step based recovery activities
- Transparency between CRNBC & relevant parties:
  - Monitor
  - Employer representative (disability manager)
  - Physicians
- Quarterly reports from:
  - Monitor
  - Employer representative (disability manager)

Consequences of a Breach

- Breach = non-compliance with any Undertaking in Consent Agreement
- Inquiry Committee confirms Breach
  - Registrant converted to non-practicing status
  - Cycles back through the CCR process with BCNU
    - ?? Treatment
    - Addendum or new Agreement when IME confirms fitness

Early Intervention Program - Health

- Meets statutory reporting requirements;
- Improves public protection;
- Reduces barriers for reporting to CRNBC
- Promotes registrant health; and
- Ensures registrants are practising nursing only when fit to do so
Criteria for consideration to EIPH Program

• No practice concerns or third party approves referral;
• Comprehensive Independent Medical Assessment
• Confirmation of treatment completed;
• Enrollment in a CRNBC recognized monitoring program;
• Registrant enters into EIPH Contract with CRNBC;
• No movement to other jurisdictions.

Benefit to the public

• Program non-compliance results in referral back to the Inquiry Committee for possible referral into the formal complaint process
• EIPH ensures nurses practice when they are well, and are removed from practice when unwell;

EIPH Benefits to RN

• CRNBC supports, closing treatment gaps, and promotes health;
• No notification on the nurse’s CRNBC record unless non-compliant with the EIPH program
B.C. Nurses’ Union

The BCNU, founded in 1981, represents about 40,000 nurses and allied healthcare employees. Included are Registered Nurses, Registered Psychiatric Nurses, Licensed Graduate Nurses, Licensed Practical Nurses and Employed Student Nurses.

Mission Statement

The BCNU protects and advances the health, social and economic well being of our members and our communities.

Members are protected when they are in their best health and providing the best services.

What is the LEAP program?

• Licensing, Education, Advocacy and Practice program.

• As a result of the 1992 Convention resolution, a dues levy was initiated and the LEAP trust fund was established. That fund remains today and covers all costs except staffing.

• Members receive assistance with registration, practice, mental health, addiction, and other issues. The program provides funding for independent medical assessments, competency assessments, educational courses and represents members throughout the HPA complaint resolution process.

• The majority of our files involve complaints before the 3 regulatory colleges: CRNBC, CRPNBC, & CLPNBC.

LEAP: What services are provided?

• Education and support regarding the Health Professions Act & self-regulation;

• Representation and advocacy throughout the investigation, conduct review meetings and other processes;

• Negotiating complaint resolution agreements;

• Funding costs associated with attending related meetings and hearings;

• Referrals for independent medical assessments and payment of associated fees and travel costs;
Services - continued...

- Expenditures associated with chemical dependency treatment programs and follow-up monitoring and;
- Educational expenses for nursing skills assessments or courses mandated during one of the college’s processes and;
- Liaising with employers, labour relations, employee health and other stakeholders as required.

What does Collaboration look like?

- In BC, a health care regulator (“College”) must be notified of a registrant’s health condition if the public could be put at risk should the registrant continue to practice their profession.
- LEAP has historically assisted members whether the Colleges were involved or not, and LEAP continues to do so for other regulated (or unregulated) health professionals without EIPH.
- BCNU and CRNBC collaborated with addictions specialists, disability managers, and employer representatives to discuss what would happen when a registered nurse with a diagnosed health condition is reported to CRNBC.

Case sample #1

Anne reported into the CRNBC EIPH program. She said that since being injured in a car accident two years ago she was prescribed several opioids for pain control. Six months ago her doctor refused to renew her opioid prescription. She was working on a surgical unit with ready access to Dilaudid. She began to take Dilaudid “wastage” from her nursing unit.

CRNBC EIPH also received a call from the manager who formally reported Anne because she thought Anne was “stealing narcotics”.

Was the manager’s concern resolved in Early Intervention Program Health?  

YES  NO
Case # 2

Fred’s manager was concerned that Fred had been “stealing” narcotics from the workplace. A pharmacy audit and employer investigation confirmed the concern. The employer’s investigation identified that Fred had increased sick time; unexplained absences and unprofessional communication. Colleagues reported that on some shifts he appeared “out of it”.

When confronted by the employer, Fred was adamant that he had not been stealing narcotics and insisted that he had no substance abuse issues. He complained that his colleagues were bullying him.

Was this resolved through the Early Intervention Program Health?

YES

NO

Case # 3

A manager called CRNBC with a “duty to report” Sue, who had been removed from her nursing position on the ambulatory care unit. For the past year the manager had observed that Sue would complete tasks required of a registered nurse but increasingly could or would not verbally explain the rationale for the patient care that she provided. Sue preferred to communicate in writing.

One day Sue came to work and was unable to speak at all. She had difficulty writing her thoughts down. The manager reported Sue to CRNBC.

Was this resolved through the Early Intervention Program Health?

YES

NO

LEAP Video

• What does LEAP support look like....
Questions?

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