

## what constitutes unprofessional conduct?

Unprofessional conduct is defined in the Health Professions Act (HPA) as meaning any or all of the following:

- 1) displaying a lack of knowledge or a lack of skill or judgement in the provision of professional services;
- 2) contravention of the HPA, the Code of Ethics, or Standards of Practice;
- 3) contravention of another enactment that applies to the profession;
- 4) representing or holding out that a person was a regulated member and in good standing while the person's registration or practice permit was suspended or cancelled;
- 5) representing or holding out that a person's registration or practice permit is not subject to conditions when it is or misrepresenting the conditions;
- 6) failure or refusal to comply with the requirements of the continuing competence program or with the competence committee, or with a person conducting a practice visit;
- 7) failure or refusal
  - i) to comply with an agreement that is part of a ratified settlement
  - ii) to comply with a request of or cooperate with an investigator
  - iii) to undergo an examination to assess capacity to practice under section 118 of the HPA
  - iv) to comply with a notice to attend or a notice to produce under Part 4 of the HPA (Professional Conduct)
- 8) contravening an order under Part 4 of the HPA conditions imposed on a practice permit, or a direction under section 118 (Assessing Capacity)
- 9) carrying on the practice of the profession with a person who is contravening an order under part 4 of the HPA or conditions imposed on a practice permit or a direction under section 118(4);
- 10) conduct that harms the integrity of the profession.

Unprofessional conduct encompasses any conduct which demonstrates a lack of skill or an ethical concern. Any conduct which fails to meet the standard of professional services which might reasonably be expected of the ordinary, competent practitioner in the profession can be considered to be demonstrating a lack of skill. Similarly, a lack of skill exists where a member, in carrying out their professional duties, fails to exercise the degree of care and skill ordinarily exercised by other members of the profession in a similar setting. This includes incompetence or neglect. The standard that must be met is the minimum threshold level of skill necessary to practice. It is not a lofty goal or a standard that practitioners should aspire to.

Unprofessional conduct where there is an ethical concern can include incompetence or neglect but also deals with transgressions of a much more serious nature, or where the infringing conduct was deliberate or intentional. Ethical concerns include whether the impugned conduct is harmful to the public or the profession and whether it is disgraceful or dishonourable.

In deciding if conduct amounts to unprofessional conduct, members of the profession are uniquely and best qualified to establish the objective standards of professional conduct and to determine whether the conduct of a fellow member has fallen below the requisite standard. Even if these standards are unwritten, they are nonetheless real.