Common Question and Answers for the Board

Please note these responses will be subject to change as we get MOL orders or not, litigate, the Government creates new Directives or makes changes to Legislation.
Needless to say members should be referred back to the Bargaining Unit President so that advice and direction can be sought from the servicing LRO.

Hospital not providing proper PPE

Also refer to section specific to Directive #5 (page 3).

In a recent joint statement of ONA, the Chief Medical Officer of Health, the Ministry of Health and the Ministry of Labour, Training and Skills Development, new measures were announced that enables nurses to use the precautionary principle to prevent exposure to and transmission of COVID-19, something that ONA has been advocating for from the start.

With these new measures, a nurse can determine – based on their professional and clinical judgement – that they require access to protective equipment, such as an N95 respirator to care for a suspected, presumed or positive COVID-19 patient. Further, the employer cannot unreasonably deny access to it. In addition, a point-of-care risk assessment will be performed before every patient interaction to ensure hospital front-line registered nurses have the specific PPE that they need.

Where a request for PPE (N95 or better) the individual under the OHSA has the right to refuse, even though this right for health care professionals may be limited. Where disputes cannot be resolved with the supervisor the JHSC needs to be involved and the MOL may need to investigate and make a recommendation.

Reusing Masks

Our position is that you have the right to determine in your professional judgment when you need to replace your N95 or surgical mask. None of the manufacturers recommend reuse of their PPE unless it is specifically designed to be reusable. Although there is no real standard on the exact length of time for using N95s, attached is a document from NIOSH re respirator reuse that may be helpful. Note the document says that "Discard N95 respirators following close contact with any patient co-infected with an infectious disease requiring contact precautions."

Pregnant or Immunosuppressed workers

ONA is taking the position that pregnant or immunosuppressed workers should ask to be assigned to or accommodated in no risk/low risk areas. If there is no work in no risk/low risk areas, then workers could be placed on administrative leave. We say the employer should pay them and if not, then we will file grievances. They should apply for EI to mitigate their losses. It would be good to have something from your doctor which supports the request to not have to work with confirmed or suspected COVID-19 patients.

Choosing a single employer – loss of hours

We are currently in discussions with the Ontario Hospital Association. Our position is that hours should be made up at the employer that the member decides is the primary employer. This will also impact our members working in LTC/Home Care who may work for multiple employers.

Critical Care Premium

We have heard from a number of Critical Care Nurses regarding the issue of additional payment. During the period of this crisis we are focusing on the safety of the ONA membership. We currently going to interest arbitration for the Hospital Collective Agreement so we will be unable to address this now but we will look at this issue for future rounds of Hospital negotiations.

We encourage you to complete the Have A Say Questionnaire that is made available prior to each round of negotiations. I do understand your question is about a permanent premium. Yes we (and the OHA) are prohibited from putting forward any new proposals at this stage of the process. The term of an awarded contract is one year unless the parties agree otherwise.
We have been in discussions with the government on the supply issue and trying to get the needed PPE into the hands of our members.

Right to Refuse Unsafe Work

Your right to refuse unsafe work is a limited right under the OHSA. However even during Coronavirus (COVID-19) you do have a right to refuse work in situations such as when the employer has not provided you a fit-tested N95 respirator when in your professional assessment of the patient and situation you deem it necessary. Think of a firefighter whose right to refuse is also limited but can refuse if the employer does not provide him or her with the needed apparatus to protect them while fighting the fire. If you believe your work or task will endanger your health and safety and you exercise your right to refuse unsafe work you must then report it to your supervisor and stop doing that work or task for it to be a legitimate work refusal that will trigger the actions required by your supervisor or your employer and others. By law the employer must investigate the refusal at this stage in the presence of you and a Joint Health and Safety Committee (JHSC) worker member or someone selected by your Union. If the employer orders you to continue to work remind them of their obligation to investigate and to follow the process set out for the employer under the OHSA and immediately call your ONA JHSC worker rep and your bargaining unit president. If it cannot be resolved after the investigation and you continue to have reasonable grounds to refuse the unsafe work the Ministry of Labour must be called. If you are even thinking of a work refusal please talk to your ONA Bargaining unit president now to learn more about this process and to protect you from the College. The Member might also want to review the CNO *Refusing Assignments and Discontinuing Nursing Services*,

Recall from Pregnancy/Parental Leave

We are hoping that no employer would try to recall someone from pregnancy or parental leave. If they do we will fight it on the grounds that the employer must accommodate for family status under the Human Rights Code. Also you can not be expected to leave a child unattended.

LTC - No RN in Building

The Legislation has been amended to allow for no RN to be physically available in the building if the inability to staff is related to the pandemic. An RN still has to be available for consultation. This change is not intended to address chronic shortages, so if that is the case, please ensure that your Bargaining Unit President is aware so that the absence can be disputed.

LTC – residents returning to home

When residents are admitted or returning to a facility, they should be screened and swabbed if they have been in contact with anyone with COVID-19 symptoms or have had travel. It would be a best practice to cohort or isolate these returning or new residents for 14 days prior to moving them into contact with other residents.

Pay when no work

We are taking the position that the Employer should be keeping staff with no work whole. We do encourage you to apply for EI and/or the Federal benefit if your Employer is not keeping you whole and to ensure that your Bargaining Unit President is aware so that grievances can be filed on your behalf.

Of note, with the new Emergency Redeployment orders, we expect that Employers will find work for all Registered staff. If you are reassigned to available work, you are entitled to orientation to ensure you are able to care for or perform the work you are expected to do.

Question & Answer specific to Directive #5

Why has the union reached this agreement with the Chief Medical Officer of Health (CMOH), Ministry of Health (MOH), Ministry of Labour, Training and Skills Development (MLTSD)?

ONA has been lobbying the Government for weeks about ensuring our front-line members have access to the appropriate Personal Protective Equipment (PPE) and utilizing the precautionary principle to prevent exposure and transmission of COVID-19. On the one side, we heard the Government saying that there were no supply issues and on the other, we were hearing from you that PPE was being rationed and/or locked up by employers.

A similar agreement was achieved by UNA in Alberta with their Government last week.

Does this mean that every nurse gets a N95 mask?

No. This agreement allows nurses to conduct a point of care risk assessment (PCRA) using their professional and clinical judgement to determine the level of PPE they need to care for the patient.

We have a responsibility to ensure that we are using PPE appropriately (not excessively) to ensure that those caring for suspected, presumed or confirmed COVID-19 patients shall have access to the level of PPE they require.

What is a point of care risk assessment (PCRA)?

A sample of a PCRA Tool follows. This tool enables the care provider to determine the risks associated with caring for the patient, the activity to be carried out, and the environment. The risk level determines the level of PPE to be accessed.

COVID-19 Point of Care Risk Assessment (PCRA)

POC Risk Factors	Risk description for COVID-19	Decision
Patient	Is the patient unable to follow instructions? (e.g., infants/young children, patients not capable of self-care/hand hygiene, cognitively impaired, have poor-compliance with respiratory hygiene)	Consider the need to replace Surgical/ procedure mask with N95* respirator
	Is patient displaying or verbalizing symptoms of increasing risk? (e.g., excretions/ secretions cannot be contained - respiratory secretions, frequent cough/sneeze)	
Activity	Will you be performing an activity that may induce significant respiratory secretions that cannot be contained? (e.g., cough inducing procedure)	Consider the need to replace Surgical/ procedure mask with N95* respirator
	Will AGMPs be performed, frequent or probable? Is the patient's condition changing? (e.g. manual **or** high frequency oscillatory **or** non-invasive ventilation, open endotracheal or airway suctioning, CPR, bronchoscopy, sputum induction, tracheostomy care, nebulized therapy/aerosolized medication administration,	**MUST** replace surgical procedure mask with N95* Respirator

POC Risk Factors	Risk description for COVID-19	Decision
	high flow heated oxygen therapy devices and autopsy)	
Environment	Will care be provided outside of a regular patient room and patient is not able to wear a surgical/procedure mask?(e.g., hallway, public areas, outpatient unit, non-traditional/ leased environment)	Consider the need to replace Surgical/ procedure mask with N95* respirator

What happens if my Manager disagrees with my assessment?

If you have determined that you need the PPE, including a N95 mask, ONA suggests you continue have a conversation with your supervisor.

What is the dispute resolution process?

The supervisor and employee should review whether there are additional health and safety measures that should be implemented. This discussion should not just be limited to access to a N95 respirator, are there other options that might work. If there are other options, then the employer and employee should implement these first. If after this assessment the nurse determines, based on their professional and clinical judgement, that a N95 respirator is the appropriate health and safety measure, then the employer must not unreasonably deny access to this PPE.

You can also call your Bargaining Unit President at any time.

As a last resort, you can exercise your rights under the *Occupational Health and Safety Act.*

Under the *Occupational Health and Safety Act (OHSA),* you have the right to refuse unsafe work; however, as a nurse or registered health professional that right is more limited than that of industrial and community health workers.

Our advice is that if you believe your work or task will endanger your health and safety and you exercise your individual right to refuse unsafe work, you must report the issue to your supervisor. You must then stop doing the work or task for it to be a legitimate work refusal thus triggering the actions required by your supervisor or your employer and others.

By law, the employer must investigate the refusal at this stage in the presence of you and a Joint Health and Safety Committee (JHSC) worker member or someone selected by your Union. If the employer orders you to continue to work, remind them of their obligation to investigate and to follow the process set out for the employer under the OHSA then immediately call your ONA JHSC worker rep and your Bargaining Unit President.

If the issue cannot be resolved after the investigation and you continue to have reasonable grounds to refuse the unsafe work, the Ministry of Labour must be called. If you are considering a work refusal, please talk to your ONA Bargaining Unit President to learn more about this process and to protect your regulatory college standards.

What are the possible "safety control measures" to mitigate the transmission of infection?

Safety control measure could include:

- Ensuring that all suspected, presumed and positive patients are localized in the same units (ICU and or COVID patient care units) and ensuring that the same cohort of staff are providing the care. This would ensure that those health care providers have access to the higher level of PPE and staff on other units would not need those valuable resources.

- Controlling movement of patients around the hospital e.g. patients do not leave their unit to go outside to smoke or go to Tim Hortons for a coffee.
- Plexi-glass screens in screening areas.
- Employers also need to look at other solutions to protect workers, etc.

I have not been mask fit tested for some time, is the employer required to do that now regardless of the area I work in?

Yes, the employer must ensure that all care providers are mask fit tested (within the last 2 years and after significant weight loss or weight gain).

In addition, employers must ensure that all health care providers receive training in donning, doffing and disposal of PPE.

Employers must also ensure that they have a comprehensive pandemic plan in place including freeing up hospital beds for a potential surge in the number of cases.

How do we know that employers will have a sufficient supply of PPE?

The Government is requiring all hospital CEOs to report their inventory of PPE to the Procurement Branch of the Ministry of Health. This will help to ensure that there is an adequate supply for those that need it. We have been advised that hospitals that need PPE will have access; all they have to do is place the orders through the Procurement Branch. We have been advised that a greater numbers of supplies will be flowing over the coming weeks.

This does not mean there is an endless supply, thus the focus on conservation where it is possible. This means wearing the same mask for as long as possible unless it is wet or soiled. This may also prevent contact exposure while removing the mask.

Questions and answers specific to CNO Professional Practice Standards

If I am assigned a COVID positive patient and my employer has not provided me with PPE that I feel keeps me safe from infection, can I refuse the assignment? What would the CNO do to me if I resigned my position on the spot?

When your professional obligation to a patient conflicts with your personal obligations, you have an accountability to demonstrate leadership and work out the best possible solution while still making decisions in the patient's best interest. Refusing assignments or choosing to discontinue care is an ethical dilemma without one clear answer. CNO encourages all nurses to review the *Refusing Assignments and Discontinuing Nursing Services practice guideline*, because it contains information about resolving this dilemma and also how to prevent such a situation from occurring in the first place.

CNO's practice guideline, *Refusing Assignments and Discontinuing Nursing Services,* states:

- the safety and well-being of the patient is of primary concern
- nurses are accountable for their own actions and decisions and do not act solely on the direction of others
- nurses have the right to refuse assignments that they believe will subject them or their patients to an unacceptable level of risk

Abandonment occurs when a nurse has accepted an assignment and discontinues care without:

- the patient requesting the discontinuation;
- arranging a suitable alternative or replacement service; or

- allowing a reasonable opportunity for alternative or replacement services

During an outbreak, however, many nurses assume a level of responsibility and risk they may not have considered when they initially chose nursing. Nurses working directly with clients with highly infectious diseases may find themselves assuming a high level of risk. In these cases, they may need to determine for themselves if the risk is too high.

Ultimately, you do have the right to refuse assignments that you believe will subject you or your patients to an unacceptable level of risk. But you *also* have a professional accountability to advocate for practice settings that minimize risk to both you and your patients. Advocating for quality practice settings is one of the many ways nurses are leaders in patient care.

If you do decide to withdraw from care you **must**:

- Negotiate a mutually acceptable withdrawal from care plan with your employer (or the client if you are self-employed).
- Provide your employer a reasonable amount of time to find a suitable replacement or make alternative arrangements. What is reasonable will vary from situation to situation; however, you are obligated to work with your employer.
- Ensure care is transferred to a care provider willing and professionally able to provide safe care.
- Document the entire situation for your own records and contact your Bargaining Unit President immediately. Using the Professional Responsibility Workload Report Form (PRWRF) is an excellent tool for this

Refusing Assignments and Discontinuing Nursing Services - https://www.cno.org/globalassets/docs/prac/41070_refusing.pdf

My employer wants to reassign me to the ICU. I have been a Labour and Delivery nurse for 15 years. Can I refuse to go to the ICU? Am I violating CNO standards?

Nurses are expected to demonstrate leadership and accountability when weighing their professional obligations, and to make decisions in the best interest of the public. Nurses are accountable for maintaining competence and **refraining** from performing activities for which they are not competent. Nurses are ethically responsible to make all reasonable efforts to ensure that client safety and well-being are maintained. Nurses are also accountable to meet the standards of practice of the profession and fulfil the terms of an agreement for professional services.

In this situation, all nurses have **some** transferrable skills however, nurses should only perform those functions for which they are competent.

Refusing Assignments and Discontinuing Nursing Services - https://www.cno.org/globalassets/docs/prac/41070_refusing.pdf

What if I am re-assigned half-way through my shift?

Is per the CNO's Practice Standard: *Professional Standards*, nurses are accountable for facilitating, advocating and promoting the best possible care for clients. Nurses are also expected to take action if client safety and well-being are compromised.
If you are being re-assigned and you have already initiated care for your client, it is important to ensure that care transition occurs and that you clearly communicate aspects of your client's care through transfer of accountability - or by providing "report."

It is also important that documentation is completed for the care that has been provided. CNO's Practice Standard: *Documentation* indicates that nurses must ensure their documentation presents an accurate, clear and comprehensive picture of the client's needs, the nurse's interventions and the client's outcomes.

CNO's Practice Standard: *Professional Standards* -
https://www.cno.org/globalassets/docs/prac/41006_profstds.pdf

CNO's Practice Standard: *Documentation* -
https://www.cno.org/globalassets/docs/prac/41001_documentation.pdf

Is it acceptable for a nurse to document for another nurse? For example: one nurse is garbed in PPE and in the patient's room rendering care. Another nurse is outside the room documenting what the nurse in the room tells them to. Is this a violation of our professional standards?

CNO's Practice Standard: *Documentation* outlines nurses' accountability to "ensure that documentation is completed by the individual who performed the action, or observed the event." The exception to this rule is when there is a designated recorder, who must sign and indicate the circumstances (for example, Code Blue situation.)

CNO's Practice Standard: *Documentation* -
https://www.cno.org/globalassets/docs/prac/41001_documentation.pdf

Our employer is saying that the Ministry of Labour has directed them to report us to the CNO for patient abandonment if we call in sick. Is this really patient abandonment?

The Nursing Act describes acts of professional misconduct, for the purposes of the Health Professions Procedural Code that includes:

Discontinuing professional services that are needed unless,
- i. the client requests the discontinuation,
- ii. alternative or replacement services are arranged, or
- iii. the client is given a reasonable opportunity to arrange alternative or replacement services.

However, nurses are expected to use professional judgment to determine whether illness or fatigue might interfere with their performance and, if so, to refrain from practicing. Attending work when you are ill may also create unnecessary risk to patients/residents/clients. Nurses are accountable to provide safe, quality and ethical patient care, at all times and therefore, must determine if they are safe to practice.

Using good judgement in considering your decision to report ill for any shift, and considering the above guidelines, is unlikely to be considered patient abandonment.
Refusing Assignments and Discontinuing Nursing Services -
https://www.cno.org/globalassets/docs/prac/41070_refusing.pdf

What is my manager's responsibility in pandemic? Can they direct me to do something that puts me in danger?

CNO's Practice Standard: *Professional Standards* indicate that managers, who are governed by the Regulated Health Professions Act, can demonstrate their accountability by "advocating for a quality practice setting that supports nurses' ability to provide safe, effective and ethical care." All managers are accountable to access and share up-to-date, evidence based information and guidelines with staff. Each nurse is accountable for their own actions and do not act solely on the direction of others.
Ultimately, you do have the right to refuse assignments that you believe will subject you to an unacceptable level of risk. However, as a nurse, you are also accountable to advocate for practice settings that minimize risk to both you and your patients. Nurses demonstrate leadership in patient care by advocating for quality practice settings.

CNO's Practice Standard: *Professional Standards* - *https://www.cno.org/globalassets/docs/prac/41006_profstds.pdf*

What does the College of Nurses expect of me in my role as a Public Health Nurse providing COVID19 screening and monitoring by phone? I am concerned my practice environment is not stable, information is changing rapidly and our telephone team is struggling to be responsive in providing safe, quality care.

As Nursing Tele-practitioners, the CNO expects the same standards of care to guide your quality of practice as direct care practitioners. As such, if you feel you do not have the resources, technology or most up to date information in COVID19 directives – you must advise your Employer that this impairs your ability to provide safe patient care. Advocate for your Employer to provide the supports you need in the workplace. This demonstrates good judgement and ethics in recognizing the level of your knowledge base and the need to have a practice setting that promotes safe, quality care.

Given the rapid changes in the environment with COVID 19 and the instability of your work directives; by advocating for guides and protocols you are being accountable. Documenting these concerns and collaborating with the Employer for development of policies, algorithms, current evidence based information and decision making tools demonstrates leadership.

The CNO *Telepractice* guideline can be found at https://www.cno.org/globalassets/docs/prac/41041_telephone.pdf