

# COLLABORATION

THE CANADIAN NURSES PROTECTIVE SOCIETY

2014 ANNUAL REPORT



Canadian Nurses  
Protective Society

THE PROFESSIONAL EXPERTISE OF REGISTERED NURSES AND NURSE PRACTITIONERS, ALONG WITH THE VALUABLE SUPPORT THEY PROVIDE TO THEIR PATIENTS, INSPIRE THE CNPS TO PROVIDE THE LIABILITY PROTECTION AND LEGAL SUPPORT THEY NEED TO CONTINUE TO DELIVER TOP-QUALITY, PROFESSIONAL CARE.

## NURSES WHO INSPIRE

The outcomes of cardiac patients at Mackenzie Health in Richmond Hill, Ontario continue to improve thanks in part to the efforts of nurse practitioner **Qunyu Li**.

The arrival of Ms. Li enabled the hospital to open a Heart Function Clinic in February 2014. Under the leadership of Ms. Li—the first Cardiology NP in the hospital's history—the Clinic follows a collaborative approach with physicians, specialists and other members of the healthcare team, and ensures that patients fully understand treatments and prognoses. This approach has yielded a significant reduction in the percentage of cardiac patients re-admitted to hospital within 30 days due to heart failure—just three percent compared to the national average of just under nine percent.





With registered nurses and nurse practitioners playing ever-larger roles in Canada's healthcare system, the efforts of educators such as **Debbie Fraser** are increasingly important. A force in nursing education for 30 years, Ms. Fraser currently serves as associate professor and director of the nurse practitioner program at Athabasca University, where she oversees Canada's first online NP program. Ms. Fraser has also taught at the University of Manitoba and University of Toronto, and works in the neonatal intensive-care unit at Winnipeg's St Boniface Hospital. In 2014, the Canadian Nurses Association awarded her the Order of Merit for Nursing Education.



Chemotherapy is much easier for patients in rural southwestern Ontario thanks to **Marcia Langhorn**, a nurse and educator with South West Regional Cancer Program. Travelling long distances for treatment often places an extra emotional and financial burden on cancer patients and their families during an already challenging time. Ms. Langhorn helped establish satellite units, where patients can access chemotherapy closer to home—today, there are five units scattered across the region. To ensure that staff at the units deliver safe, quality care, Ms. Langhorn designs, delivers and updates training programs.



## MISSION STATEMENT

The CNPS exists so that nurses are enabled to effectively manage their professional legal risks, and are appropriately assisted when in professional legal jeopardy.

## WHO IS ELIGIBLE FOR CNPS ASSISTANCE?

CNPS services and assistance are automatically available to registered nurses and nurse practitioners as a benefit of membership in any of the following professional associations or colleges: CARNA, SRNA, CRNM, RNAO, NANB, CRNNS, ARNPEI, ARNNL, YRNA, and RNANT/NU, or through individual access to CNPS services. Requests for legal representation will be considered on a case by case basis by a committee of nurses to determine eligibility and appropriate level of assistance.



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## MESSAGE FROM THE PRESIDENT

### COLLABORATIVE GOVERNANCE

Health care in Canada is increasingly and necessarily a collaborative endeavour, not only between patients and the professionals who provide care, but also between the many government, regulatory and administrative bodies involved. More and more Canadian nurses work in collaborative practice environments, where they are typically able to make larger contributions to the health of patients. But this work also exposes them to additional legal risks. CNPS is capable of anticipating and mitigating these and other risks because we are increasingly collaborative.

In fact, collaboration is central to our governance structure; CNPS is led by a Board comprised of representatives of the jurisdictions the organization serves. Board members work together to identify and analyze emerging trends, and to render decisions about CNPS policies, programs and advocacy efforts. Under the CNPS governance model, Board members act in the interest of the membership as a whole and ensure that the perspectives of nurses from the various provinces and territories are heard. Regional developments and trends are always openly and fully discussed at Board meetings. This improves the CNPS' ability to be proactive.

A case in point is the protection of personal information about patients that nurses manage every day. As governments move to achieve the appropriate legal balance between caring for patients and safeguarding personal information, CNPS continues to provide relevant expert advice and guidance to nurses and stakeholders.

As my tenure on the Board draws to a close, I look back with pride on CNPS' many recent accomplishments. During the last four years, we have become a much more mature and effective organization. CNPS legal services have been restructured and modernized; a new funding model promotes sustainability; and strong leadership continues to power the organization's evolution. These accomplishments are due to the support and expertise of Board members and CNPS staff. I offer them my heartfelt thanks.

I also look forward with excitement: as I write this, the Board has just welcomed a new member, the College of Registered Nurses of British Columbia, to the CNPS fold, bringing us closer to our ultimate goal of making CNPS support and services accessible to every nurse in Canada. Broad collaboration holds much promise for Canada's healthcare system and CNPS stands ready to contribute.

A handwritten signature in black ink that reads "Mary Ferguson-Paré". The signature is fluid and cursive, written on a light-colored background.

Mary Ferguson-Paré  
President, CNPS Board of Directors





## EFFECTIVE COLLABORATION

Collaboration is a fundamental tenet of the CNPS. It describes how our team delivers services to nurses—constantly sharing knowledge to better understand the needs of our beneficiaries and working together to respond effectively.

We work closely with our member organizations, to support initiatives that will help nurses deliver safe care to their patients and reduce legal risk for nurses. Our member organizations regularly invite CNPS to deliver our risk management message to beneficiaries. They also provide opportunities to provide input at the conceptual stage of new initiatives, such as discharge initiatives, to help structure them in the safest way for patients and to avoid unwanted legal risks for nurses.

We recently had a productive exchange with the executive directors of all member organizations to align our business practices with current standards to provide a high quality service experience for our beneficiaries.

At the national level, the CNPS identified the need to better reconcile privacy obligations with the effective delivery of healthcare. A member organization initiated a meeting between the CNPS and a health authority to respond to this pressing matter and work on a practical solution.

The CNPS leverages opportunities to fulfill its mandate of comprehensive legal support for Canadian nurses through engagement with other national organizations such as the Canadian Nurses Association, various nursing interest groups, colleagues from medical organizations and other healthcare disciplines, and discussions with government leaders.

Inclusion is another important component of collaboration. In 2014, the CNPS Board of Directors decided to make CNPS services accessible to all registered nurses and nurse practitioners. This led to the development of individual CNPS access for nurses who currently do not have professional

liability protection through an existing CNPS member. Soon after, the Association of Registered Nurses of British Columbia (ARNBC) facilitated discussions between the College of Registered Nurses of British Columbia (CRNBC) and CNPS. Subsequently, CRNBC chose to join CNPS as a new member, providing the registered nurses and nurse practitioners of B.C. the same legal support services that are available to nurses in other jurisdictions. Collaboration first inspired the creation of CNPS, and it continues to transform and evolve the organization today.

*“When minds meet, they don’t just exchange facts: they transform, reshape them, draw different implications from them, engage in new trains of thought.”*

Theodore Zeldin,  
English Historian and Philosopher

A stylized, handwritten signature in black ink, appearing to read 'CL' followed by a long horizontal stroke.

Chantal L. Léonard  
Chief Executive Officer

The background of the page is a composite image. The upper portion features a blue-tinted view of a computer screen displaying various financial charts, including candlestick and line graphs. A hand holding a black pen is visible on the right side, pointing towards the charts. The lower portion of the page is a light, out-of-focus image of a gavel, symbolizing law or regulation. A dark blue rectangular box is positioned in the upper left, containing the title text.

## RISK MANAGEMENT ACTIVITIES



## PROACTIVE, STRATEGIC, EFFECTIVE

Anticipating, mitigating and managing legal risks are core functions of the CNPS. To assist our beneficiaries, the CNPS keeps abreast of nursing and legal developments, analyzes their impacts and importance, intervenes to recommend risk mitigation strategies, and effectively communicates this information to our beneficiaries.

In 2014, as the Canadian healthcare system turns to collaborative care as a means of providing comprehensive, optimal, sustainable health care, the CNPS focused its risk management efforts on how to best support nurses in collaborative practice, whether delivering acute care in a hospital, as part of the treatment team, or providing primary care in expanded or new practice models. This was the theme of various conferences and webinars, and the focus of an increasing number of requests from beneficiaries.

The underlying analysis of risk considerations and management in the area of collaborative care also informed CNPS contributions to several broader initiatives in 2014. When a province proposed significant changes to regulations related to discharge privileges, the CNPS was involved in providing support to the member organization. These changes would authorize nurse practitioners to discharge patients from hospitals, and authorize registered nurses to release patients from collaborative care emergency centres.

Multiple components of this risk management strategy were brought to the forefront in 2014. For instance, the CNPS responded to a request from a member organization to provide legal and risk management input with respect to new prescribing standards for nurse practitioners. The CNPS also contributed to the *Framework for Registered Nurse Prescribing in Canada*, alongside provincial and federal health authorities and stakeholders. The CNPS continues to provide risk management input to members and stakeholders, upon request, with respect to draft guidelines and position statements.

Listening to, and learning from, our beneficiaries is critical to the CNPS mandate and helps build the organization's ability to manage risk proactively. The CNPS collects and analyzes data from all requests for assistance; this information is then used to inform risk management strategies and educational content. Similarly, the CNPS gathers and applies information gathered informally during seminars, presentations and other exchanges with beneficiaries and representatives of member organizations.

## NOTABLE AREAS OF CNPS ENGAGEMENT



### END-OF-LIFE CARE

In October 2014, the Supreme Court of Canada heard an appeal in *Carter v. Canada (Attorney General)*, a case involving two British Columbia women who challenged the constitutionality of section 241 of the Criminal Code, which makes assisted suicide a criminal offence. The case had been widely anticipated, as many lower courts and at least one provincial legislative assembly examined, from many angles, the notion of dying with dignity. More than 20 years ago, the Supreme Court of Canada had upheld the ban on assisted suicide in *Rodriguez v. British Columbia (Attorney General)*.

In February 2015, the Supreme Court issued a unanimous decision striking down the absolute ban on assisted-suicide, giving Canadian adults who are mentally competent “with a grievous and irremediable medical condition (including an illness, disease or disability) that causes enduring suffering that is intolerable to the individual in the circumstances of his or her condition”<sup>1</sup> the ability to seek a physician’s assistance in dying. The court suspended its ruling for 12 months, with the decision taking effect in 2016, giving the government enough time to amend its laws. The CNPS provided early input on the implications of that decision, through a *Canadian Nurse* article, webinars, and consultations. We will continue to monitor the issues and the impacts that the ruling will have on nurses providing end-of-life care.



### COSMETIC PROCEDURES

The growing consumer demand for cosmetic procedures, such as Botox injections, generates greater interest for nurses. CNPS is receiving an increasing number of requests from nurses contemplating work in this area with queries about professional liability protection, setting up independent practices and other related legal issues.

Cosmetic procedures may or may not be regulated, depending on the level of risk that they pose; nurses must be cognizant of any regulatory requirement. Performing procedures outside a nurse’s scope of practice can result in significant professional and legal consequences, including disciplinary action and negligence claims. Several regulatory bodies have prepared position statements and guidelines with respect to cosmetic procedures, which vary from one jurisdiction to another. In some jurisdictions, nurses must complete specific training to be authorized to perform injections of substances such as Botox. In other jurisdictions, prescribing cosmetic procedures are outside the scope of practice for nurse practitioners. Nurses must understand these regulatory requirements as well as the applicable standard of reasonable and prudent care.

In response to this emerging trend, the CNPS is building resources for nurses and monitoring the developments in this area.

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1 *Carter v. Canada (Attorney General)*, 2015 SCC 5 (Feb. 6, 2015)

## PRIVACY OF PERSONAL HEALTH INFORMATION

Protecting the privacy of a patient's personal health information is particularly complex due to the confluence of several factors, including the growing use of digital records, personal devices and mobile apps in health care, complex legislative schemes and the need for healthcare workers to quickly and continually access accurate, current information about individual patients.

Although laws to protect the privacy of health information have been in place for several years—since 2004 in Ontario, for instance—several recent cases have been featured prominently in the popular media, significantly raising the profile of the issue. Although the law imposes on custodians (i.e. generally healthcare organizations) the ultimate duty of managing access to personal health information, recent cases demonstrate that much of the responsibility can nonetheless fall on individual healthcare providers. In many cases, hospitals claim that they cannot be held responsible for breaches committed by employees, even if the breaches relate to the provision of health care. The burden on employees can be significant, particularly in cases that become class actions. At least one province has pledged to introduce legislation to impose additional sanctions in the case of privacy breaches.

The CNPS continues to support its members and beneficiaries with resources on how to deliver high-quality care while respecting privacy laws, and works with health authorities and stakeholders to ensure that policies strike a proper balance between the protection of personal information and the delivery of care.

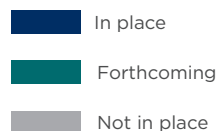
## MANDATORY LIABILITY PROTECTION

The College of Nurses of Ontario adopted a by-law amendment in March of 2014 requiring all nurses to maintain professional liability protection. Nurses in Ontario have professional liability protection with CNPS as an individual beneficiary or as a benefit of their membership with RNAO. Liability protection may also be available through a policy of insurance obtained by their employer, or through an individually named policy.

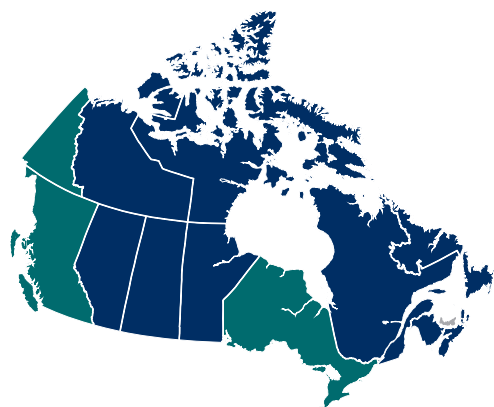
The new by-law requires that nurses maintain professional liability protection to indemnify them for “all errors and omissions that may occur while practicing nursing in Ontario.” Some employers, however, do not provide liability protection for activities beyond a nurse's scope of employment. Nurses who work for multiple employers or who on a contract or agency basis should ensure that they have adequate professional liability protection.

## A CHANGING PRACTICE ENVIRONMENT

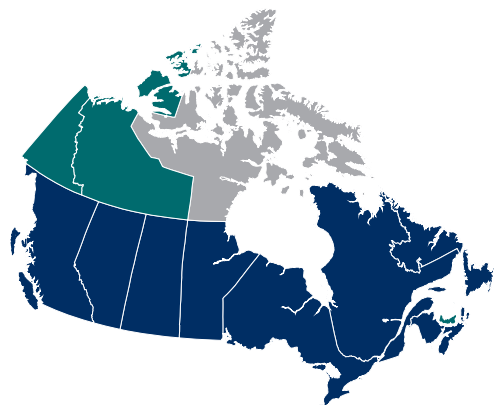
Two of the many healthcare and legal trends that directly increase the professional legal risks faced by nurses and nurse practitioners



1. Nurse practitioners prescribing narcotics



2. Provincial/territorial legislation on the protection of personal information related to health







## RISK MANAGEMENT COMMUNICATIONS

Phil Patterson, Criminal Lawyer and  
Ann Tapp, CNPS Legal Advisor

## RELEVANT, CURRENT, INFORMED

Current, accurate and relevant communications are the cornerstone of the legal support provided to CNPS member organizations and its beneficiaries. The CNPS recognizes that effective communications requires a studied, multi-phased and necessarily collaborative approach. To this end, the CNPS continually identifies, tracks and analyzes current and emerging trends and issues, then develops and delivers relevant information in the most appropriate format. Focused, ongoing research is the foundation of CNPS communications; we regularly scan the legal and healthcare environments, and note relevant court decisions, legislative agendas and developments in healthcare policy.

The CNPS produced and disseminated a wealth of new content in 2014. This included three infoLAWs: *Communicating with the Police*; *Legal Risks of E-mail—Privacy Concerns*; and *Legal Risks of E-mail—Practical Considerations*. The CNPS also published a new checklist for nurse practitioners ordering diagnostic tests.

Effective communications also requires using the medium best suited to the nature of the material and the primary audience. The CNPS relies on a variety of media, including written materials and live presentations. Educational sessions and workshops enable the CNPS to properly communicate complex and nuanced information. In 2014, the CNPS delivered a total of 62 educational sessions, including 10 CNPS-hosted webinars. Two of these webinars, on the issues of cosmetic nursing and medical marijuana, targeted executives and practice advisors of CNPS member organizations.

To make it easier for members and beneficiaries to readily access relevant content, the CNPS introduced an e-newsletter and continued to expand its website. *The Legal Pulse*, a regular e-newsletter launched in February 2014, features expert articles on current issues such as collaborative care, privacy, end-of-life care, social media and relevant case law. By year's end, *The Legal Pulse* had more than 1,700 subscribers. As well, the quality of content available on the CNPS website continues to attract more interest: the numbers of sessions and page views increased by 23 and 18 percent, respectively, over the previous year. Member organizations frequently request infoLAWs and articles to be included in their publications and e-newsletters.

## 2014 WEBINAR TOPICS

- Electronic health records
- Diagnostic tests: ordering and follow-up
- Medical marijuana
- Communicating with the police
- Legal risk reduction in patient handover
- Mobile devices and apps
- Legal issues for new graduates
- New technology and social media
- Legal issues for perioperative nurses
- The nurse, the chart and the law

## PRACTICE ADVISOR WORKSHOP

A major highlight of the year was a two-day workshop for practice advisors of CNPS member organizations. The workshop addressed a number of current issues such as criminal law, end-of-life care, new technology, cosmetic procedures, collaborative practice models and the protection of personal information. Participants particularly enjoyed Susan Pine's (née Nelles) presentation. She had been falsely accused by police of being involved in the deaths of infants at the Toronto's Hospital for Sick Children in the 1980s and was exonerated.



Susan Pine (née Nelles)





## CNPS SERVICES



## TARGETED, RESPONSIVE, PROGRESSIVE

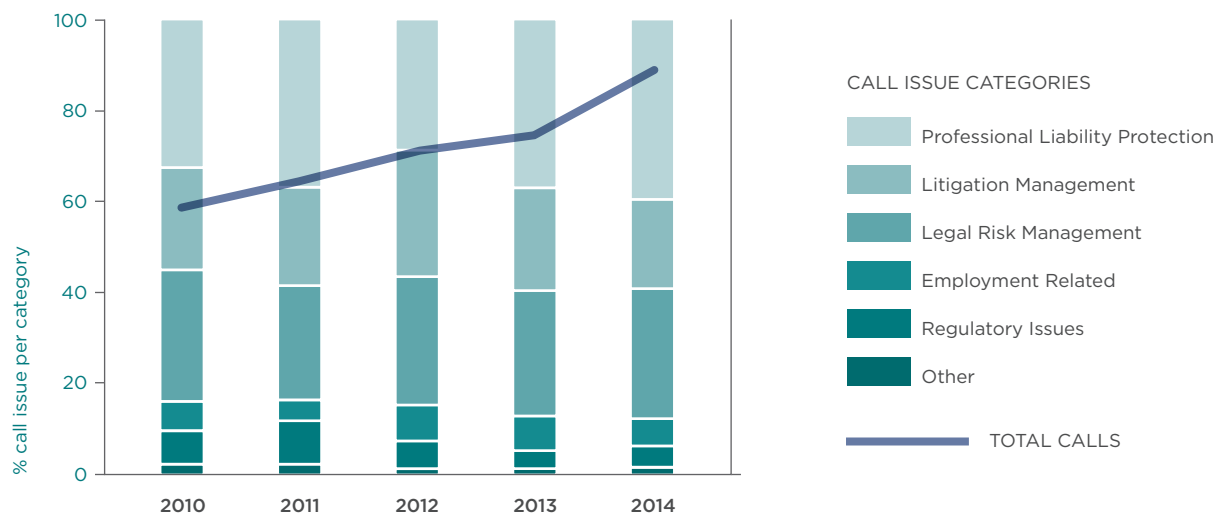
The CNPS continually adjusts its support and services so that nurses can practice to the full extent of their education and expertise without exposing themselves to undue professional risks. In 2014, the CNPS put in place a foundation to expand its service offering by introducing an individual beneficiary option. The individual option, available to nurses as of January 2015, is designed for nurses who are not members of a CNPS member organization.

Another important improvement involved CNPS Plus—a business insurance plan designed specifically for nurses own professional corporations or nursing practices, or who operate independent clinics that provide nursing services. Nurses can now acquire business insurance through CNPS Plus as a complement to CNPS professional liability protection, without having to purchase other commercial liability insurance. This will allow CNPS beneficiaries to obtain business insurance at a reduced cost. Another feature of CNPS Plus is that CNPS adjusted the minimum available limits of professional liability insurance upwards to \$5 million, given the increase in damages awards which make the professional liability insurance limits of \$1 million and \$2 million insufficient to reasonably cover the nursing liability risk in the current environment. Nurses who obtain any form of liability insurance from the CNPS Plus program remain responsible to ensure they have the appropriate type and levels of business insurance.

Along with assisting beneficiaries with civil statutory actions and criminal investigations, CNPS is responding quickly and effectively to requests for legal advice and support. The number and complexity of these requests continue to increase. The accompanying chart reflects the main changes underway in practice models and the legal environment. The CNPS has long recognized the need to provide timely, targeted legal services, and in response, has scaled its resources and communications efforts in 2014.

## TRENDS IN DEMAND FOR CNPS SERVICES

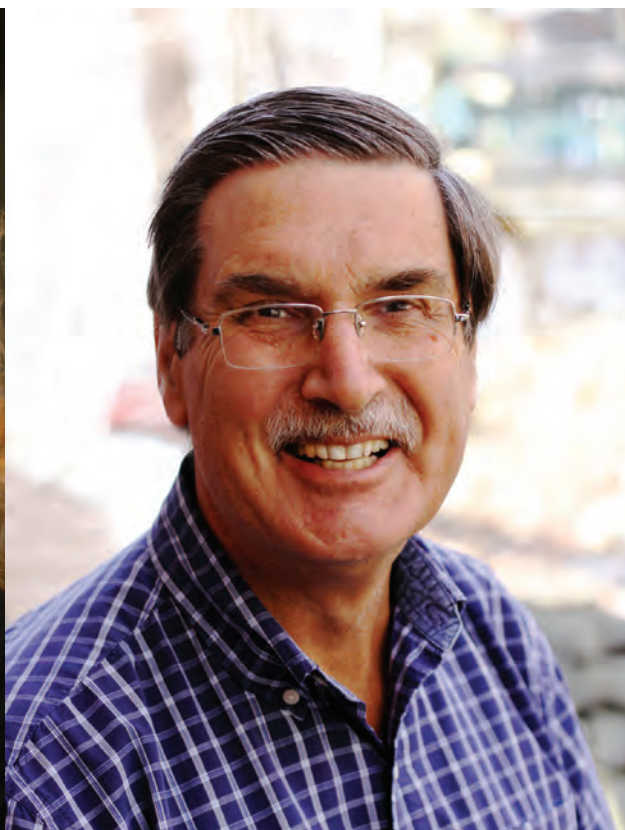
The volume of requests for assistance, along with their complexity, continued to increase in 2014. Compared with the previous year, the CNPS received 19 percent more requests.



# NURSES WHO INSPIRE

The latest accomplishment in **Carole Houston's** remarkable career is the development of InstruMentor™, a website that helps students learn to identify surgical instruments. After more than three decades of clinical practice—including 10 years as a perioperative nurse—Ms. Houston joined the faculty of Saskatchewan Polytechnic's School of Nursing five years ago. She quickly recognized the need for a modern, handy guide to surgical instruments for perioperative nursing students. Originally planned as a mobile app, InstruMentor™ is a mobile-accessible website featuring three-dimensional images and audio with proper pronunciations. Some students at other schools—including the University of Saskatchewan's College of Medicine—also use InstruMentor™.

A decades-long career, often working with disadvantaged and vulnerable populations in both northern and southern communities, inspired nurse practitioner **Keith Cockersell** to help close the gap in health services targeting men. Mr. Cockersell developed and regularly delivers a “well man” workshop for primary-care providers. In his own collaborative practice at the North End Community Health Centre in Halifax, Mr. Cockersell's focused, age-specific approach to primary and preventative care has convinced many men to take the specific steps needed to improve and maintain their health. This and other work recently earned him the Excellence in Clinical Practice Award from the College of Registered Nurses of Nova Scotia.



## BOARD OF DIRECTORS



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Ontario (President)



Claire Mills,  
Alberta (Vice-President)



Robert Nevin  
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and Nunavut



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New Brunswick



Mary Ellen Gurnham  
Nova Scotia



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Jackie MacLaren  
Yukon



Anne Sutherland Boal  
Executive Director,  
Canadian Nurses  
Association



Chantal L. Léonard  
Chief Executive Officer,  
Canadian Nurses  
Protective Society

## NEW MEMBERS AS OF OCTOBER 1, 2014



Brianne Timpson  
Northwest Territories  
and Nunavut



Monique Cormier-  
Daigle  
New Brunswick



Marilyn Barrett  
Prince Edward Island



Denise Durfy Sheppard  
Newfoundland  
and Labrador



## NOTES

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Canadian Nurses  
Protective Society

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