

Can I Please Take My Hat Off?



Exploring the
Parameters of Off-
Duty Conduct



NCSBN

National Council of State Boards of Nursing

U.S. Swimmers' Disputed Robbery Claim Fuels Tension in Brazil



RIO 2016

Speedo, three other brands drop Lochte

After a week of intense media attention and anger in Brazil, the financial repercussions are swift for Olympic swimmer

KATIE ROGERS

The fallout from Ryan Lochte's story about being robbed at gunpoint in Rio — a tale the Brazilian police said was not true — continued Monday after four companies said they would end business partnerships with the American swimmer.

After a week of intense international media attention and anger in Brazil, the financial repercussions were swift for Lochte as Speedo USA, the luxury retailer Ralph Lauren and the mattress company Airweave all announced that they would part ways with the 12-time Olympic medalist. And Syneron Candela, a company that sells hair-removal devices, told Reuters its relationship with the swimmer ended Sunday.

Speedo USA said in a message posted to Twitter that it would instead donate a \$50,000 portion of Lochte's fee to a charity to help Brazilian children.

"While we have enjoyed a winning relationship with Ryan for over a decade and he has been an important member of the Speedo team, we cannot



Ryan Lochte, seen competing in Rio on Aug. 11, has lost four sponsors following an incident at a gas station during the Games. MICHAEL SOHN/AP

condone behaviour that is counter to the values this brand has long stood for," the company said in its statement.

On Monday, Kim Angelastro, a spokeswoman for Syneron Candela, wrote in an e-mail, "We hold our employees to high standards, and we expect the same of our business partners." Lochte was a spokesman for its

Gentle Hair Removal brand.

Through a spokeswoman, Ralph Lauren said Monday that Lochte's endorsement agreement with the clothing company had been only for the 2016 Olympics, and that his contract would not be renewed.

Airweave said on Twitter that "after careful consideration, we have made the decision to end

our partnership with Ryan Lochte."

The decisions to cut ties with Lochte, 32, were the first major signs of the financial fallout for the Olympic swimmer, who for the past week has been at the centre of an international firestorm after the Brazilian police said he and three other American athletes, Jimmy Feigen, Jack Conger and Gunnar Bentz, had fabricated the story of being robbed after a late-night party in Rio.

Authorities said that the swimmers had instead drunkenly vandalized a gas station bathroom, paying a security guard about \$50 (U.S.) for the damage before leaving. Lochte originally said that the car they were travelling in had been stopped by armed men, who held a gun to his head. But his story later changed.

A Brazilian judge ordered the swimmers to remain in Rio de Janeiro, but Lochte had already left the country. After Conger and Bentz were pulled from their flight to the United States, they told police that the confrontation began when Lochte

pulled a poster off a gas station wall.

Feigen, 26, later donated \$10,800 to a charity in Rio that teaches martial arts to poor children.

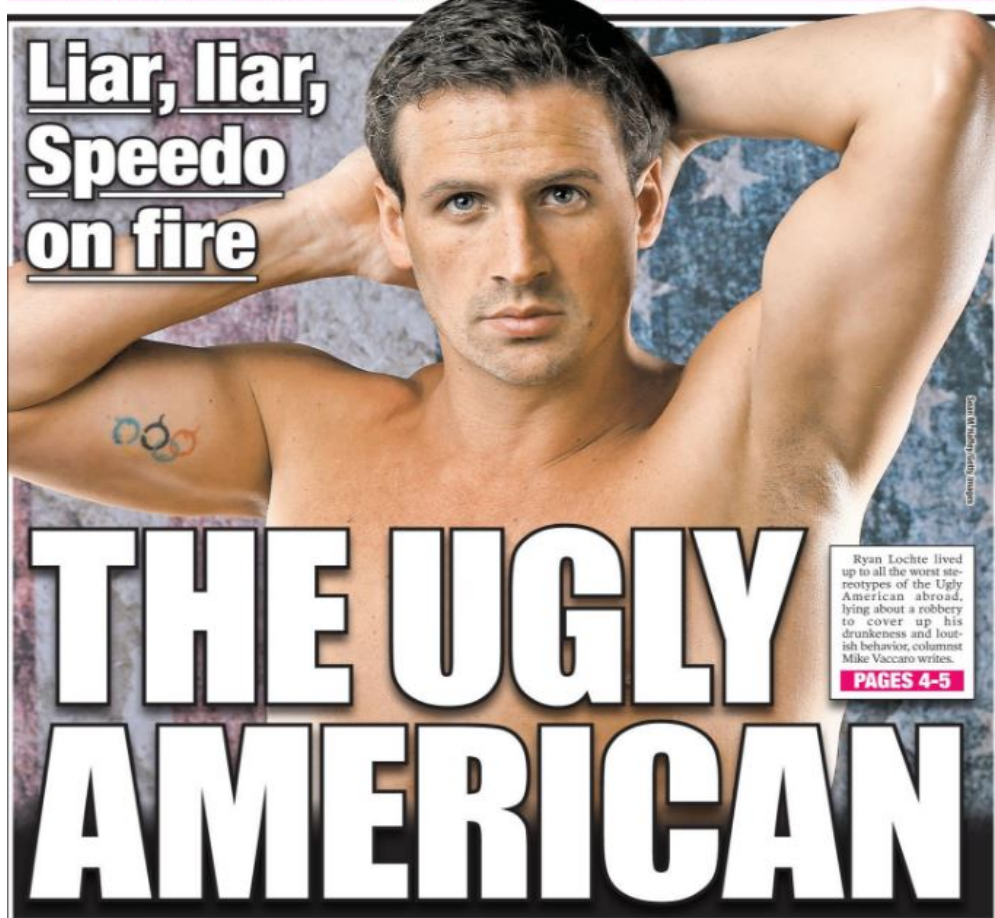
Lochte first issued an apology on social media — "I should have been much more responsible for how I handled myself," he wrote — then told Matt Lauer in an interview on NBC that he had been intoxicated and that he had "overexaggerated that story."

He has maintained that he had been held at gunpoint.

"All we know is that there was a gun pointed in our direction, and we were demanded to give money," Lochte said.

Lochte, whose boyish — and sometimes oafish — personality had made him a commercial success in Olympics past, had headed into Rio with fewer sponsors than he'd had at the London Games, according to a report by CNN Money. Lochte took home a gold medal in the 4x200-metre freestyle relay in Rio.

New York Times News Service



**Liar, liar,
Speedo
on fire**

THE UGLY AMERICAN

Ryan Lochte lived up to all the worst stereotypes of the Ugly American abroad, lying about a robbery to cover up his drunkenness and loutish behavior, columnist Mike Vaccaro writes.

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Scott Korman/Photo.com

Session Outline

- Definition: what is off-duty conduct?
- Principles for governing off-duty conduct
- Where to draw the line
- Case studies
- Why regulate off-duty conduct?

Definition

- Self-explanatory: conduct while off-duty
- Conduct outside of one's profession
- Private/personal life
- Proverbial “hat” off

Conduct Unbecoming

- Conduct on the part of a certified professional that is contrary to the public interests, or which harms the standing of the profession in the eyes of the public

- Catch-all phrase
- Broad term - covers conduct in the course of the profession or off duty

Doctors in the UK

- Conduct derogatory to the reputation of the profession*
 - Personal misuse/abuse of alcohol or drugs
 - Dishonest behaviour
 - Indecent or violent behaviour

*The General Medical Council refers to this standard for assessing personal behaviour of doctors in the UK



Registered Nurses in Nova Scotia

- Member's personal or private capacity that tends to bring discredit upon the nursing profession*
- Conduct unbecoming is “carved out” specifically to deal with off-duty conduct

Registered Nurses Regulations made under s. 8 of the *Registered Nurses Act* S.N.S. 2006, section 2(2)

Registered Nurses in Ontario

- Even where “conduct unbecoming” is not included as “professional misconduct,” if the off duty conduct is relevant to the professional’s “suitability to practice”, it may be professional misconduct

- In Ontario, a nurse convicted of a theft that happened outside the workplace was found to have committed professional misconduct
- Theft found to be relevant to the “trust of the public” and thus “suitability to practice”



Alabama State Board of Nursing

- Includes as a disciplinary offence
“any...conduct detrimental to the public’s health, safety or welfare.”

Pennsylvania State Board of Nursing

- Includes as a disciplinary offence conduct where the licensee “has acted in such a manner as to present an immediate and clear danger to the public health or safety.”

The American Bar Association's Lawyers' Manual on Professional Conduct

- Conduct that is prejudicial to the administration of justice



Principles

- Brings the profession into disrepute
- Prejudicial to the interests of the public
- There is a nexus between the off-duty conduct and ability to practise profession

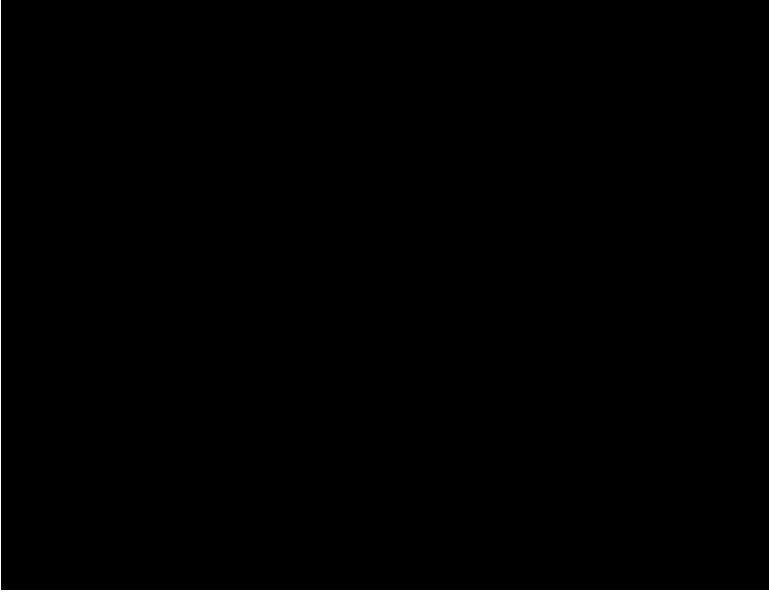
Where to draw the line?

No Action

Inquiry

Discipline

The Board of Physicians of Springfield



Case Study

- High school teacher hires a local female teenager (16 y.o.) to babysit his 3 children
- The teenager was a neighbour and not a student at the teacher's school
- Teacher began sending flirtatious text messages to the teenager
- The teenager's mother discovered the texts and reported it to the teacher's employer

Conduct unbecoming?

1) Yes

2) No

3) It depends

Penalty?

- 1) Reprimand
- 2) Suspension
- 3) Revocation

Case Study

- A nurse has sexually deviant thoughts about teenage girls
- Seeks regular counseling
- Journals his thoughts as part of therapy
- Separated from his wife; he has access visits to their 13-year old daughter every other weekend

If the contents of his journal came to the regulator's attention, should the college refer this to discipline?

1)Yes

2)No

3)It depends

Case Study

- A doctor leaves bullets on the driveway of his ex-spouse.
- The doctor is charged with Uttering Death Threats.
- The charge is withdrawn when the doctor agrees to a restraining order.



Conduct Unbecoming?

1) Yes

2) No

3) It depends

B.C. doctor accused of leaving bullet shells on ex-partner's driveway still seeing patients:

Provincial regulator says charges against Dr. Patrick Nesbitt 'unrelated to practice of medicine'

The perils of technology and social media



Case Study

Nurse posts the following on Facebook after her grandfather dies in a nursing home...

“My grandfather spent a week in palliative care before he died and after hearing about his and my family’s experience there, it is evident that not everyone is ‘up to speed’ on how to approach end of life care or how to help maintain an aging senior’s dignity.”

“I challenge the people involved in decision making with that facility to please get all your staff a refresher on this topic and more. Don’t get me wrong, ‘some’ people have provided excellent care so I thank you so very much for your efforts, but to those who made Grandpa’s last years less than desirable, please do better next time.”

As an RN and avid health care advocate myself, I just HAVE to speak up! Whatever reasons/excuses people give for not giving quality care, I Do Not Care. It. Just. Needs. To. Be. Fixed. And NOW!”

“Why do you do your job?” “Do you actually care about the people you WORK FOR/Care For?” “Or is it JUST A JOB, WITH A PAYCHEQUE?” . . . If so maybe it’s time to take a step back. Either way I just want people like my grandfather (and everyone else in that facility) to be treated well, ALWAYS!”

How should this matter proceed?

- 1) Resolve without a discipline hearing
- 2) Reprimand (and a fine)
- 3) Suspension
- 4) Revocation

- Penalty: Reprimand, \$1000 fine, \$25,000 costs and Reflective Essay
- Use of Nursing title gave credibility to concerns.
- Nurse elevated the matter through social media platforms instead of using proper organizational channels.



A preposterous injustice:
Grieving nurse slapped with a
\$26,000 fine

[ANDRÉ PICARD](#)

The Globe and Mail

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Journal of Pediatrics - November 2016

“Rude” parents led to deterioration of diagnostic skills, procedural skills and team communication.

Actor parent: “I knew we should have gone to a better hospital where they don’t practice third world medicine.”

Why regulate off-duty conduct?

- Public protection
- Risk management
 - Risk to the public
 - Risk to the regulator
 - Risk to the individual

Qualification & suitability

- Reputation and good character
- Reformation / rehabilitation
- Consideration of past conduct

CAN I PLEASE GET MY HAT??



MemesHappen

THANK YOU

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