



College of
Midwives
of Ontario

Ordre des
sages-femmes
de l'Ontario

Guideline for Reporting Sexual Abuse

Revised September 2023

Reporting Sexual Abuse

Reporting Requirements

If a midwife believes that a regulated health professional has sexually abused a client,¹ the midwife is required to report the abuse to that professional's regulatory college. This is a requirement under the *Regulated Health Professions Act* (RHPA) and applies to all regulated health professionals, including those who own corporations where a health profession is practised (e.g., a midwifery practice). The obligation arises if a midwife has "reasonable grounds, obtained in the course of practising the profession, to believe" that another regulated health professional has sexually abused a client.²

"Reasonable grounds" requires more than mere suspicion of sexual abuse. For example, specific information from a client or reliable source, as opposed to rumour, would constitute reasonable grounds for believing sexual abuse has occurred and triggers the requirement to report.

If the client does not disclose the name of the alleged offender, the midwife has no reporting duty.³ However, the College recommends that the midwife encourage the client to personally report the incident or situation to the relevant regulatory health college. It is also recommended that midwives carefully document any instance where the name of an alleged offender was requested of a client, but not provided.

A midwife is not required to make a report if they learned of the possible sexual abuse in some way other than in the course of practising midwifery. For example, if a midwife learns of the suspected sexual abuse through a social situation, the obligation to report does not arise.

Definition of Sexual Abuse

The RHPA defines sexual abuse broadly to include:

- sexual intercourse or other forms of physical sexual relations between the member and the client,
- touching, of a sexual nature, of the client by the member, or
- behaviour or remarks of a sexual nature by the member towards the client.⁴

Sexual abuse does not include touching, behaviour or remarks of a clinical nature appropriate to the service provided.⁵ As a result, any clinical procedures appropriately provided in the course of health care are permitted.

While other sexual conduct might amount to professional misconduct (such as sexual harassment of a colleague), midwives are only required to report sexual abuse by a regulated health professional of a client.

¹ For the purposes of this document "client" refers to a client or patient of a regulated health professional.

² *RHPA*, s. 85.1(1).

³ *Ibid*, s. 85.1(2).

⁴ *Health Professions Procedural Code, Schedule 2 to RHPA*, s. 1(3).

⁵ *Ibid*, s. 1(4).

Reporting Rationale

Mandatory reporting is a critical element of the RHPA's objective to eradicate sexual abuse. If colleges are not aware of sexual abuse by their registrants, they cannot take effective actions to address the misconduct and prevent future abuse.

Preserving Client Confidentiality

The RHPA aims to protect client consent and confidentiality. Midwives can only disclose the name of the client who was the subject of the abuse if the client provides his or her written consent.⁶ If a client does not consent to their name being disclosed, midwives must submit the report without the client's name. The College recommends that midwives include the fact of attempting to obtain consent and it being refused by the client in their report.

If a midwife's own client discloses that they have been sexually abused by another health professional, the midwife must use her best efforts to inform the client of the midwife's reporting obligations before making the report.⁷

How to Make a Report

Midwives are required to make a mandatory report of sexual abuse to the Registrar of the college that regulates the health professional who is alleged to have committed the abuse.⁸ For example, if a client discloses to a midwife that the client was sexually abused by a physician, the midwife should report to the Registrar of the College of Physicians and Surgeons of Ontario. If a client discloses that they were sexually abused by another midwife, the report should be made to the Registrar of the College of Midwives of Ontario.

The report must include:

- the name of the midwife making the report;
- the name of the health professional who is the subject of the report (if the midwife does not know the health professional's name, the midwife is not required to make a report);
- an explanation of the alleged sexual abuse; and
- if the report relates to particular client, the name of the client, but only if the midwife has the client's written consent.⁹

Reporting Timeline

The report must be made within 30 days. However, if the midwife believes that the health professional will continue to sexually abuse the client or will sexually abuse other clients, the midwife must make the report immediately.¹⁰

⁶ *Supra*, note 1, s. 85.3(4).

⁷ *Ibid*, s. 85.1(3).

⁸ *Ibid*, s. 85.3(1).

⁹ *Ibid*, s. 85.3(3).

¹⁰ *Ibid*, s. 85.3(2).

Immunity for Reporting

The RHPA provides that a midwife cannot be sued for making a report as long as it was done in good faith.¹¹

Consequences for Failing to Report

Failing to report sexual abuse is a provincial offence, whereby a midwife is liable upon conviction to a fine up to a maximum of \$50,000.¹²

Failure to make a report may be considered professional misconduct. When the College becomes aware of a failure to report, the Registrar will consider the information to determine the appropriate course of action. This may include education about mandatory reporting obligations or the beginning of a Registrar's investigation into allegations of professional misconduct. Each case is treated seriously and on a case-by-case basis.

A corporation (e.g., a midwifery practice that has been incorporated under the Business Corporations Act) that fails to report sexual abuse is liable upon conviction to a fine up to a maximum of \$200,000.¹³

Additional Resources

More information about mandatory reporting, can be found in the College's Guide on Mandatory Reporting and Permissive Reporting, and the Mandatory Reporting Reference Tool for Midwives.

For more information about mandatory reporting requirements involving sexual abuse of a client, you can contact the College by e-mail at conduct@cmo.on.ca or by telephone at 416.640.2252.

¹¹ *Ibid*, s. 85.6.

¹² *Ibid*, s. 93(2).

¹³ *Ibid*, s. 93(3).



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