



College of
Midwives
of Ontario

Ordre des
sages-femmes
de l'Ontario

Professional Misconduct Guide

Revised July 1, 2024

conduct@cmo.on.ca

416-640-2252

Professional Misconduct Guide

Introduction

The College of Midwives of Ontario (the College) is responsible for regulating midwifery in the public interest under the authority of the *Regulated Health Professions Act, 1991* (RHPA)¹ and the *Midwifery Act, 1991*.² The Professional Misconduct Regulation³, derived from these Acts, defines what constitutes professional misconduct for registered midwives in Ontario.

The College establishes and enforces professional standards to ensure that midwives provide safe, effective, and ethical care. Professional misconduct encompasses any behaviour, action, or omission by a midwife that breaches these established standards of practice and ethical guidelines, thereby compromising client safety, care quality, and professional integrity. This includes a breach of legal, ethical, and midwifery-specific standards.

This guide is designed to help midwives better understand the provisions under the Professional Misconduct Regulation. While it is not an exhaustive list of all professional misconduct scenarios, it aims to provide clarity on the specific acts. Midwives are expected to use their judgment in assessing what would constitute professional misconduct in their professional practice.

The Inquiries, Complaints, and Reports Committee (ICRC) reviews complaints and reports (Registrar Investigations) about midwives and decides if any regulatory action is required in the public interest. The ICRC assesses whether the allegations of a complaint or report raise concerns of professional misconduct, and if they were to be proven true, are serious enough to warrant a formal discipline hearing. Only a panel of the Discipline Committee can make findings of professional misconduct.

If the ICRC has concerns and does not refer specified allegations to the Discipline Committee for a hearing, the ICRC decides if other remedial actions, such as providing advice or requiring the midwife to engage in remedial activities, are appropriate.

The Professional Misconduct Regulation uses the term “member” to refer to a registrant of the College of Midwives of Ontario. Throughout this document, the terms member, midwife, and registrant are used interchangeably.

Definitions of Professional Misconduct

Each provision of the Professional Misconduct Regulation is listed below, accompanied by an explanation of the specific act that may constitute professional misconduct. The examples provided below are not exhaustive, but are meant to assist midwives in understanding the kinds of conduct that may constitute professional misconduct.

¹ S.O. 1991, c. 18.

² S.O. 1991, c. 31.

³ *Ibid.*, O. Reg. 388/09.

1. Contravening by act or omission, a term, condition, or limitation imposed on the member's certificate of registration.

All certificates of registration issued by the College come with specific conditions outlined in the Registration Regulation. Additional terms, conditions, and limitations (TCLs) can be added to a midwife's certificate by one of the College's statutory committees. The Registration Committee, with the consent of the registrant, might impose a restriction on a certificate to align with the midwife scope of practice. A panel of the Discipline Committee may order that a midwife complete remedial activities as part of a penalty order. Midwives may agree also to TCLs through a voluntary undertaking.

Terms, conditions, and limitations are imposed to ensure public safety and notations made on the College's public register ensure the public is aware of the TCLs a midwife must comply with. Violating any imposed TCLs on a certificate of registration is considered professional misconduct.

2. Contravening, by act or omission, a standard of practice of the profession or a published standard of the College, or failing to maintain a standard of practice of the profession or a published standard of the College.

College standards set minimum expectations that must be met by any midwife in any setting or role. Standards guide the professional knowledge, skills, and judgment needed to practise midwifery safely. Published standards of practice are approved by the Council of the College and are posted on the College's website.⁴ Standards of practice of the profession may be written or unwritten. They reflect a shared understanding of the profession based on what would be reasonably expected of the ordinary competent midwife in their field of practice. If a standard of practice is not addressed in College documents, the standard of practice can be drawn from community standard, clinical experience, clinical research, and midwifery literature.

3. Doing anything to a client for therapeutic, preventative, palliative, diagnostic, cosmetic, or other health related purpose except,

- i. with the informed consent of the client or the client's authorized representative, or
- ii. as required or authorized by law.

Providing treatment to a client without informed consent may amount to professional misconduct. Under the *Health Care Consent Act, 1996*⁵ all midwives are legally required to obtain informed consent from their clients regarding any treatment provided, including for the purposes identified in this provision, unless an exception applies.

An example of a therapeutic purpose could be providing iron supplements to a client with low hemoglobin level. An example of a preventative purpose could be applying warm compresses to a client's perineum during labour. An example of a palliative purpose could be creating a more comforting environment for a newborn baby at the end of life. An example of a diagnostic purpose could be ordering an ultrasound for a client. These things can only be done with consent, or if an exception to obtaining consent applies (such as certain emergency situations).

⁴ Available online: <https://cmo.on.ca/standards-and-resources/standards-of-practice/>

⁵ S.O., 1996, Chapter 2.

The issue of consent is also referred to in the Professional Standards for Midwives, which requires that treatment is only provided with the client's informed and voluntary consent unless otherwise permitted by law. The College also provides guidance on this topic in its Guide to the Health Care Consent Act⁶.

4. Abusing a client or a client's authorized representative, verbally, physically, psychologically, or emotionally.

Abusive conduct includes acts or omissions that cause or could cause physical or emotional harm to a client. This may involve physical, non-physical, verbal, or non-verbal behaviour toward a client, and may include neglect.

Midwives must avoid any actions or remarks that are demeaning, discriminatory, coercive, threatening, or humiliating. Examples of such behaviour include, but are not limited to, using hurtful, sarcastic, and authoritarian words; passing negative judgment on a client's choice for treatment; harassing, intimidating, threatening, or teasing a client, and/or disrespecting a client's culture, sexual orientation, or family dynamics. Depending on the severity, such conduct could be considered verbal, psychological, or emotional abuse.

Physical abuse involves an action that violates the physical integrity of a client. This may include hitting, slapping, shaking, or using excessive force. It may also include touching a client without informed consent.

This paragraph does not expressly refer to sexual abuse, which is defined by the RHPA⁷ to be professional misconduct. Sexual abuse is strictly prohibited.

It is important to understand that abusive conduct does not require proof of the intent to cause harm. Even if the midwife did not intend to cause harm, the behaviour may still be considered misconduct when all of the circumstances are considered.

5. Practising the profession while the member's ability to do so is impaired or adversely affected by any condition or dysfunction which the member knows or ought to know impairs or adversely affects the member's ability to practise the profession safely.

Any condition or dysfunction that impairs the judgment and abilities of a midwife can jeopardize the safety of clients and the public.

Midwives should regularly assess themselves to ensure that they are capable of providing safe and competent care to their clients and should seek help if suffering from substance abuse, illness, or another condition.

If a midwife's judgment or ability is impaired, they have the responsibility to withdraw from providing client care.

⁶ <https://cmo.on.ca/wp-content/uploads/2018/10/Guide-to-the-Health-Care-Consent-Act-final.pdf>

⁷ *Health Professions Procedural Code*, Schedule 2 to RHPA, s.1(5) and section 51(1)(b.1). For further information on preventing sexual abuse, see the College's "[Sexual Abuse Prevention Policy](#)".

6. Prescribing, dispensing, or selling a drug or substance for an improper purpose. Midwives' authority to prescribe and administer drugs and substances is set out in the *Midwifery Act, 1991*. Midwives are only authorized to prescribe and administer the drugs listed in the Designated Drugs and Substances Regulation in the course of engaging in the practice of midwifery. Prescribing or administering drugs or substances other than in the course of providing midwifery care to clients (e.g., to friends, family, or for their own use) would amount to professional misconduct.

Midwives are not authorized to dispense or sell drugs or substances on their own authority.

A midwife must not prescribe, dispense, or sell a drug or substance to anyone to obtain a personal advantage, whether financial or otherwise.

7. Discontinuing professional services that are needed unless the discontinuance would reasonably be regarded by members as appropriate having regard to,

- i. the member's reasons for discontinuing the services,
- ii. the condition of the client,
- iii. the availability of alternative services, and
- iv. the opportunity given to the client to arrange alternative services before the discontinuation.

Discontinuing professional services that are needed constitutes professional misconduct unless such discontinuation is reasonably regarded as appropriate by considering the following factors: the midwife's reasons for discontinuing services, the client's condition, the availability of alternative services, and the opportunity given to the client to arrange alternative services before discontinuation.

The College provides additional guidance on this subject in its Guideline on Ending the Midwife-Client Relationship⁸.

8. Where a member closes the member's practice, failing to take reasonable steps to give appropriate notice of the closure to each client. If a midwife who is a practice owner closes the midwifery practice within a community, it is an expectation that the midwife will give notice of closure to each client for whom the midwife has primary responsibility, within a reasonable amount of time.

This provision does not address when an individual midwife ceases to practice or when an individual midwife ceases to practice with a midwifery practice and care is still being provided to clients by the practice. It is the shared responsibility of the practice owners and the individual midwife to ensure that this information is communicated to clients.

Midwives must be aware of who is the custodian of the midwifery record, and the rules and accountabilities with respect to the use, management, and storage of the midwifery record. In the event that client records must be accessed for a review of the care provided, midwives must be aware of how to access all client records, past and present. There should never be a gap in knowledge for the client of the location of their personal health records.

⁸ <https://cmo.on.ca/wp-content/uploads/2021/02/Guideline-on-Ending-the-Midwife-Client-Relationship-2021-1.pdf>

The College provides additional guidance on this subject in its Guideline on Ending the Midwife-Client Relationship⁹.

9. Acting in a conflict of interest while acting in a professional capacity.

A conflict of interest means a situation that arises when a midwife, entrusted with acting in the best interests of a client, also has professional, personal, financial, or other interests, or relationships with third parties which may undermine the midwife's professional judgment and affect their care of the client.

Personal interests can be monetary or may provide other benefits to the midwife or others the midwife has a relationship with, such as relatives or friends.

The following are examples of acting in a conflict of interest:

- Soliciting business from clients for a relative's baby store, without disclosing the nature of the relationship with the store owner, providing alternate options and reassuring the client that choosing another store would not affect their care
- Lending money to or borrowing money from clients
- Influencing a client's choice regarding place of birth due to personal bias and/or interest as opposed to providing an informed choice conversation regarding birthplace options

If a conflict of interest arises, the midwife must act in accordance with the Professional Standards for Midwives.

10. Giving information about a client to a person other than the client or the client's authorized representative except with the consent of the client or the client's authorized representative or as required or authorized by law.

Midwives have the obligation to preserve client confidentiality, which includes all client information (i.e., any information that identifies the client), including personal health information. Disclosure of client information can only occur with consent of the client or the client's authorized representative, or when exceptions apply under the *Personal Health Information Protection Act, 2004* (PHIPA). For example, breaching client confidentiality can amount to professional misconduct.

The College provides guidance on PHIPA in its Guide on Compliance with Personal Health Information Protection Act¹⁰.

11. Recommending or providing services or treatment that the member knows or ought to know is inappropriate, ineffective, unnecessary, or deleterious.

Midwives must act in the best interests of a client. This involves using evidence and one's clinical judgment to ensure that all care provided is safe and appropriate.

⁹ Available online: <https://cmo.on.ca/standards-and-resources/guides-and-publications/>

¹⁰ Available online: <https://cmo.on.ca/standards-and-resources/guides-and-publications/>

It would be considered professional misconduct for a midwife to recommend treatments with no known benefit, such as home remedies for the treatment of serious medical conditions.

12. Providing or attempting to provide services or treatment that the member knows or ought to know is beyond the member's knowledge, skills, or judgment. It would be considered professional misconduct for a midwife to perform a procedure or recommend a treatment without obtaining the appropriate knowledge and skills to do so. Providing or attempting to provide services or treatment outside of a midwife's knowledge, skills, or judgment puts the client's health and safety at risk.

13. Inappropriately using a term, title or designation in respect of the member's practice.

Clients must be able to identify registered midwives and distinguish them from other regulated health care practitioners, such as nurses; or non-regulated care providers, such as doulas. The use of consistent, appropriate, and clear titles helps the public know who they are dealing with and prevents confusion.

Only midwives can use the term "midwife" or any variation of that title, such as "registered midwife" or "RM"¹¹.

If a midwife has another professional designation, they must be mindful when using a title associated with that designation with midwifery clients. For instance, midwives cannot use the title "Doctor" in a clinical setting, even if they have earned a doctoral degree, such as a Ph.D. However, they are free to use that title in other settings where there are no clients (e.g., socially or while teaching).

In addition, while holding dual titles, midwives must ensure that they are registered at both colleges (e.g., if a midwife calls themselves a naturopath, that midwife must be registered with both the College of Midwives of Ontario and the College of Naturopaths of Ontario).

Furthermore, midwives cannot use a misleading title or designation, such as referring to an educational degree that they do not have.

14. Practising the profession or offering to provide professional services using a name other than the member's name as set out in the register.

A client is entitled to know the name of the midwife that provides the client with health care services. This identification allows the client to hold the midwife accountable for the midwife's professional conduct. It also allows clients and members of the public to verify the registration status of a midwife. Moreover, the College needs to be able to identify a midwife if a complaint or report is made to the College.

¹¹ An exemption to this is that Indigenous persons who provide traditional midwifery services may use the title "Aboriginal midwife" or a variation, abbreviation, or an equivalent in another language.

Consequently, a midwife must use the name that is set out in the College's public register when practising the profession. If the midwife changes their name, they must notify the College and their clients of this at the earliest opportunity.

15. Providing false or misleading information or documents to the College.
A midwife must not provide false or misleading information or documents to the College. For example, a midwife may not submit falsified documents or misleading information in response to a College investigation or as part of a remedial outcome ordered by the ICRC, or any other College process that requires the midwife to submit documents (e.g., class change through Registration, or a Quality Assurance learning plan).

16. Providing false or misleading information to any person with respect to the member's professional qualifications.
Midwives must be truthful about their professional qualifications and abilities. Midwives must not provide false or misleading information to any other person, such as clients or hospital personnel, with respect to their professional qualifications. This includes how midwives represent their qualifications through professional marketing (e.g., on websites, social media, pamphlets, while networking, etc.).

17. Falsifying a record relating to the member's practice.
Midwives have the responsibility to ensure that the recording of their actions is accurate, and in accordance with the College's Record Keeping Standard.¹² Inaccurate or falsified documentation can jeopardize the client's health. Falsifying a record demonstrates a lack of integrity and undermines the reputation of the profession.

In addition, falsifying records impedes the College's ability to examine the midwife's practice in the event of a complaint or report as it relies on availability of documentation that accurately reflects the clinical situation and the midwife's actions.

18. Failing, without reasonable cause, to provide a report or certificate relating to an examination or treatment performed by the member to a client or the client's authorized representative within a reasonable time after the client or the client's authorized representative has requested such report or certificate.
Clients are entitled to receive necessary information in a timely manner. Reports or certificates may be required for employment/insurance matters, or even legal proceedings. Delays or refusals to provide such reports in a timely manner could seriously disadvantage the client.

19. Signing or issuing, in the member's professional capacity, a document that the member knows, or ought to know, contains a false or misleading statement; or signing a blank form.
A document that is signed by a midwife in their professional capacity must, to the midwife's best knowledge, contain accurate information as others rely on its accuracy. Signing or issuing a document that knowingly has false or misleading information is dishonest and undermines the public's trust in the midwifery profession.

¹² Available online: <https://cmo.on.ca/standards-and-resources/standards-of-practice/>

For example, a midwife should not sign a record or a letter that contains a misrepresentation of events that occurred during the course of providing care to a client. In addition, a midwife should not sign a blank form, for this can facilitate acts of fraud.

20. Failing to keep records in accordance with the standards of the profession. The College's Professional Standards for Midwives and Record Keeping Standard set out the expectations of midwives for documentation and record keeping. Midwives must comply with those standards.

Documentation and record keeping concerns are commonly reviewed by the ICRC. Losing client records, not keeping records for a client, or not having accurate records are examples of conduct that may amount to professional misconduct.

21. Failing, without reasonable cause, to provide access to or to transfer a client's record to another member when requested to do so by the client or the client's authorized representative.

Failing to provide or transfer a client's records without reasonable cause is considered professional misconduct because it violates clients' rights, disrupts continuity of care, breaches professional standards, undermines transparency, and can contravene legal requirements.

Under PHIPA,¹³ a client has the general right to access their personal health information, which includes the results of examinations or treatment, such as an ultrasound report, within a reasonable amount of time. PHIPA mandates that midwives must respond to clients' requests for personal health information within 30 days and if a midwife is unable to respond, they must provide a reason for the delay to the client.¹⁴

Not providing records may affect continuity of care by disrupting the client's treatment and potentially causing harm when they seek continued or specialized care from another professional. Denying access may be seen as an attempt to hide errors, which undermines trust in the profession.

22. Breaching an agreement with a client relating to professional services for the client.

Clients have a reasonable expectation that the terms of agreements with midwives for professional services will be honoured. If a midwife agrees to provide certain care to a client, failing to provide that care may amount to professional misconduct. For example, if a midwife agrees to provide a full course of care, including providing postpartum care to the newborn, failing to provide that postpartum care could be professional misconduct unless care was appropriately terminated or transferred.

23. Submitting an account or charge for services that the member knows, or ought to know, is false or misleading.

¹³ S.O. 2004, c. 3, Sched. A.

¹⁴ *Ibid.*, s. 55(3) and s. 55(4)(a).

Midwives must submit an account or charge for services to the Ministry of Health's transfer payment agency (TPA) that is appropriate to the course of care that has been provided to a particular client.

It would not be appropriate for a midwife to bill the TPA for a client who did not meet the definition of midwifery care contained within the funding agreement for midwives. It would also be inappropriate to charge a fee to a non-resident for services that were not rendered.

24. Permitting, counselling or assisting in the submission of a false or misleading account or charge to a client.

Midwives must treat their clients in an ethical manner and cannot take financial advantage of them. Midwives should not permit, counsel, or assist any of their colleagues to do the same.

25. Charging a fee that is regarded by members as excessive in relation to the service provided.

Midwives should ensure that all fees that are charged to clients are reasonable in relation to the service being provided. It is unacceptable to charge excessively in relation to the service provided.

For instance, if a midwife chooses to charge fees for photocopying records, any associated administrative fee should be reasonable.

26. Failing to inform the client or the client's authorized representative of the fee to be charged for services before the commencement of the services.

If there are any services offered by a midwife to a client which have a fee associated with them that is not covered by the government, a midwife has the responsibility to advise the client or their authorized representative of the fee prior to the service being provided.

For example, if a midwife provides a client with a birthing tub at a fee, the client should be advised of the fee prior to the midwife obtaining the birthing tub for the client's use.

In addition, midwives should be aware that some clients may be uninsured and have to pay for other health care services that are not funded by the government, including some lab tests, physician consultations, and hospital stays. Midwives should always advise their clients of these fees in advance or assist their clients in obtaining this information.

27. Failing to itemize an account for fees for professional services provided if requested to do so by the client, the client's authorized representative, or the person or agency who is to pay, in whole or in part, for the services.

Clients are entitled to be fully informed of the particular components of any fees charged to them. In some cases, expenses may be covered by a client's insurance company and an itemization of fees would be required for insurance reimbursement.

28. Selling or assigning a debt owed to the member for professional services. (This does not prohibit the use of credit cards to pay for professional services).
Selling or assigning a debt means turning the account over to a third party for collection. A midwife who does this would not be able to control the methods by which fees are collected. Allowing the selling or assigning of debts conflicts with a midwife's commitment to the well-being of a client. Therefore, midwives must collect debts from a client directly. Midwives can, however, accept credit card payments for any services rendered.

29. Conferring, requesting, or receiving a benefit in relation to the referral of a client. A midwife has a duty to refer clients to others where it is in the best interests of the client. A conflict of interest exists if a midwife refers a client to a certain practitioner for the purpose of receiving a benefit.

For example, if a midwife receives a financial benefit for making a referral to a particular practitioner and the midwife decides to refer the client to that practitioner as opposed to the practitioner that would be best for the client's needs, a conflict of interest exists.

30. Charging a fee or accepting payment from a client or the client's authorized representative respecting services which have been paid for by the Ministry of Health.

Midwifery services are free for all residents of Ontario, regardless of whether they are insured by the Ontario Health Insurance Plan (OHIP). As a result, midwives cannot charge the client for the course of care that is provided to them. If a client attempts to provide payment for such services, a midwife should decline and explain why.

31. Charging for midwifery services on a fee for service arrangement.

Midwives are not permitted to charge midwifery services on a fee for service arrangement for self-paying clients (non-residents).

Fee-for-service is a payment model where services are unbundled and paid for separately. The health care provider receives a fee for each specific service such as an office visit, test, procedure, or other health care service. It can give an incentive to provide more treatments than necessary because payment is dependent on the quantity of care, rather than quality of care.

The intent of this clause is to prevent midwives from charging clients directly for discrete services which could lead clients to feel conflicted about whether to take a test due to financial implications.

32. Charging a block fee without specifying,

- i. the services covered by the fee,
- ii. the amount of the fee,
- iii. the arrangements for paying the fee,
- iv. the rights and obligations of the midwife and the client if the relationship between them is terminated before all the services are provided.

A block fee is a flat fee charged for a predetermined set of uninsured services. Uninsured services are typically administrative services in relation to the client's care that take a midwife's time and resources. Examples include sick notes for work, copying and

transferring medical records, and prescription refills over the phone. However, for non-residents of Ontario, this may include clinical midwifery services.

If a client uses many uninsured services, a midwife can offer a block fee to the client. Offering a block fee can enable services to be provided in a more convenient and/or economical manner.

For example, a midwife may charge a block fee to a client for prescription refills over the phone. If so, a midwife must clearly specify what is covered by the fee (e.g., prescription refills over the phone until the end of client care), the fee amount, arrangements for paying the fee (e.g., the payment method and payment due date) and the rights and obligations of the midwife and client if the relationship is terminated before all the services are provided (e.g., is any portion of the block fee refundable in such an event).

Midwives are reminded that any fees charged must be reasonable, as described in paragraph #25.

33. Charging a fee, in addition to a block fee described in paragraph 32, for an undertaking to be available to provide services to the client. A midwife cannot charge a fee in addition to a block fee, to be available to provide services to a client. For example, a midwife cannot charge a block fee for midwifery services to a non-resident of Ontario and charge a separate fee to be on call for the client's birth.

34. Contravening, by act or omission, the Act, the *Regulated Health Professions Act, 1991* or the regulations under either of those acts. The Professional Misconduct Regulation does not comprise an exhaustive list of the types of conduct that are unacceptable. If a midwife contravenes any legislative provision that regulates the practice of midwifery, that is also considered professional misconduct.

Midwives must be aware of their obligations under legislation that govern their practice.

For example, prescribing a drug that a midwife is not authorized to prescribe under the Designated Drugs and Substances regulation may constitute professional misconduct. Failing to make a mandatory report to the College as set out in the RHPA could also constitute professional misconduct.

35. Contravening, by act or omission, a federal, provincial, or territorial law, a municipal by-law, or a by-law or rule of a hospital within the meaning of the *Public Hospitals Act* or any other health care facility where a member provides professional services if,

- i. the purpose of the law, by-law, or rule is to protect the public health and,
- ii. the contravention is relevant to the member's suitability to practise.

In addition to College standards, midwives must adhere to any legislation, by-laws, or rules that affect their professional practice.

For example, hospitals often have by-laws that include requirements for applications submitted in consideration of hospital privileges. A midwife may be asked to disclose

information about their conduct, such as information regarding any civil suit where the midwife is or was named as a defendant and there was a finding of negligence or battery. The midwife would be obligated to provide this information. Failure to do so would constitute professional misconduct.

36. Failing to comply with an order or direction of a Committee of the College or a panel of a Committee of the College.

The Committees of the College make decisions in the public interest about a midwife's practice to ensure safe practice. Failing to comply with the orders of any panels of the College's committees demonstrates a midwife's disregard for the College's role in regulating midwifery for the protection of the public and constitutes professional misconduct.

37. Failing to carry out or abide by an undertaking given to the College or breaching an agreement with the College.

Midwives may enter into an undertaking or agreement with the College in certain circumstances.

An undertaking is a promise from a midwife that they will carry out certain activities or meet specified conditions as requested by a College committee or the Registrar. For example, a midwife may undertake to restrict their practise pending the outcome of an investigation, as ordered by the ICRC.

An agreement is a written or unwritten contract between a midwife and the College. For example, a midwife may enter into an agreement with the Fitness to Practise Committee that limits their ability to access or administer certain drugs.

A midwife has a professional obligation to be accountable to the College and the public. Failure to comply with an undertaking or agreement with the College demonstrates a disregard for the College's regulatory role and constitutes professional misconduct.

38. Failing to appropriately reply in writing to a written inquiry from the College within the time specified by the College, or within 30 days after the date of the College's written inquiry if no time is specified.

The College generally provides a timeframe in which responses are requested in its written communications. This provision sets out that if no timeframe is provided, a midwife must respond within 30 days of the communication. Timely responses ensure the College is able to address any issue in a timely manner, and timely responses indicates that a midwife respects the College's role in regulating the profession in the public interest. A midwife can request an extension to respond to College inquiries if there are circumstances to warrant an extension.

39. Failing to take reasonable steps to ensure that any information provided by or on behalf of the member to the College is accurate.

The College is required to collect certain information from midwives in order to protect the public interest. Midwives must ensure that any information provided to the College is complete and accurate. This includes information that is provided at the time of application to become a member of the College and on an ongoing basis after becoming a registrant,

including as part of the quality assurance process, and when submitting mandatory reports.

40. Publishing or publicly making a statement the member knows, or ought to know, is false or misleading.

A statement issued by a midwife in their professional capacity may be relied upon by others who place their trust in their integrity, even if it does not relate to the professional practice of midwifery. Being a party to false or misleading information and publishing or publicly making a false or misleading statement is dishonest and breaches the public's trust in the profession.

Midwives should exercise caution when reviewing any information that they plan to make public to ensure that it is accurate and not misleading.

A midwife that has had their privileges suspended at a particular hospital, for example, should not advertise on their website that they can provide services at that hospital.

41. Influencing a client or the client's authorized representative to change the client's will or other testamentary instrument.

A midwife should not use the authority, influence, or trust that is derived from the midwife-client relationship to influence the client or the client's authorized representative to make changes to a client's will or related documents.

A midwife should also be aware of crossing boundaries with clients. A client's estate matters are not in relation to the care being provided by the midwife and should not be discussed. Midwives are expected to maintain appropriate boundaries to ensure that the care that is provided to clients is ethical and in the client's best interests.

42. Practising the profession while the member's certificate of registration has been suspended.

Midwives must demonstrate respect for the College's authority to regulate in the public interest. If the College suspends a midwife's certificate of registration, a midwife may not practise midwifery. Continuing to practise without being legally permitted to do so puts the public at risk and constitutes professional misconduct.

43. Failing to appropriately supervise a person whom the member has a professional duty to supervise.

This provision is applicable to any situation in which a midwife is professionally responsible for supervising another. This includes supervision of midwives with a formal supervision plan with the College, as well as other instances where the midwife is professionally responsible for supervision.

The Professional Standards for Midwives requires midwives to appropriately supervise students and peers by role modelling integrity and leadership; facilitating learning and providing opportunities for knowledge consolidation; and providing honest and objective assessments of competence. The act of professional misconduct could involve failing to meet these supervisory responsibilities.

44. Making a claim respecting a drug, substance, remedy, treatment, device, or procedure other than a claim that can be supported as reasonable professional opinion.

Making an unsupported claim about drugs, substances, remedies, treatments, devices, or procedures constitutes professional misconduct because it jeopardizes patient safety, undermines the integrity of the health care profession, and breaches ethical and regulatory standards. The Professional Standards for Midwives requires midwives to offer treatments based on the current and accepted evidence, and the resources available.

45. Failing to make reasonable attempts to collaborate with a client's other relevant providers respecting the care of the client if the collaboration is necessary for the client's health, unless the client or the client's authorized representative refuses to consent to the collaboration.

Failing to make reasonable attempts to collaborate with a client's other relevant health care providers when necessary for the client's health is an act of professional misconduct because it undermines continuity of care and breaches the professional standards of leadership and collaboration. When midwives fail to collaborate, they disrupt this continuity, potentially leading to fragmented care and adverse health outcomes.

46. Failing to advise a client, a client's authorized representative, or a member of the public, when requested, of their right to file a complaint with the College.

The Professional Standards for Midwives require midwives to support clients in understanding their right to file complaints. Circumventing a client's wish to file a complaint with the College compromises the integrity of the profession and denies clients the opportunity to seek resolution and improvements in care.

47. Engaging in conduct that would reasonably be regarded by members as conduct unbecoming a member of the profession.

This provision captures conduct that is not specifically stated in the other paragraphs, but for which there would be a general consensus in the profession that such conduct or behaviour would be unbecoming of a midwife.

"Conduct unbecoming a member of the profession" includes conduct in a midwife's private life that brings discredit to the profession or causes the public to lose confidence in the profession. This particular wording is consistently used in the professional misconduct regulations of other health regulatory colleges.

Examples of conduct that may be considered unbecoming include engaging in fraud outside of work, possessing child pornography, or making derogatory or prejudiced remarks on social media.

48. Engaging in conduct or performing an act or omission relevant to the practice of the profession that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable, or unprofessional.

This provision applies to a midwife's conduct while practising midwifery, that is not covered by another specific definition of professional misconduct, but for which there would be a general consensus in the profession that such conduct or behaviour would be disgraceful, dishonourable, or unprofessional.

For example, while there may not be a specific provision that states that a midwife cannot abuse a client's family member during a visit, it is reasonable to assume that other members of the profession would regard such conduct as disgraceful, dishonourable, or unprofessional.

Conclusion

Professional misconduct involves a range of behaviours or conduct that violate the rules set out in the *Midwifery Act, 1991*, the RHPA, College by-laws, or the standards set forth by the College and midwifery profession and are viewed as posing a risk to the public.

Determining what conduct constitutes professional misconduct allows the College to safeguard the public interest while upholding the integrity of the midwifery profession.

At some point in their career, a midwife may be subject to a complaint or College investigation. The College understands that this process can be stressful for all involved. College procedures are set out in legislation and designed to ensure procedural fairness, allowing midwives the opportunity to respond to allegations and provide their perspective. Not all lapses in judgment or failures to meet the standard result in findings of professional misconduct by the Discipline Committee, and the ICRC may decide on a remedial action to address any concerns that a midwife may have engaged in professional misconduct. The ICRC carefully considers the complexity and context of each case to determine if the alleged conduct raises concerns of professional misconduct. If referred, the Discipline Committee decides after a hearing whether the conduct constitutes professional misconduct.

Midwives are expected to familiarize themselves with the relevant legislation, standards, and guidelines that govern their practice to ensure they deliver safe and ethical care. By adhering to their professional obligations, midwives can maintain the trust and confidence placed in them by their clients and the public.

The College provides advisory services for midwives and members of the public who have questions about College standards, and the legislation and regulations that govern midwifery practice in Ontario, and can be reached at practiceadvice@cmo.on.ca.

For inquiries regarding professional misconduct and mandatory reporting, please contact our Professional Conduct staff at conduct@cmo.on.ca. Additionally, for advice specific to their own situation, midwives can reach out to the Association of Ontario Midwives or consider obtaining legal advice for further assistance.



College of
Midwives
of Ontario

Ordre des
sages-femmes
de l'Ontario