



Under Review: ~~No~~ **YES**
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Duty to Report a Colleague

The **Standards of Practice** of the College of Physicians & Surgeons of Alberta ("the College") are the **minimum** standards of professional behavior and ethical conduct expected of all regulated members registered in Alberta. Standards of Practice are enforceable under the *Health Professions Act* and will be referenced in the management of complaints and in discipline hearings. The College of Physicians & Surgeons of Alberta also provides **Advice to the Profession** to support the implementation of the Standards of Practice.

(1) —

Reporting Requirements

(1) A regulated member **must** report ~~another regulated member~~ the following circumstances to the College ~~when the first regulated member believes, on complaints director of the relevant college as soon as they have~~ reasonable grounds, ~~that the conduct of the other regulated member places patients at risk or is considered unprofessional conduct under the *Health Professions Act*.~~ to believe a regulated member of any college's¹:

(2) — Knowledge of conduct that should be reported in clause (1) includes but is not limited to situations in which a regulated member:

~~(a) makes sexual advances to or enters into a sexual relationship with a patient;~~

(a) ~~(b) suffers from~~ is engaging in behaviour that constitutes sexual abuse or sexual misconduct with a patient (as defined under the *Health Professions Act* (HPA)²);

¹ Please refer to Section 127.2(1) on page 102 of the *Health Professions Act* (HPA).

² Please refer to Section 1(1) (nn.1), (nn.2) and (nn.3) on page 12 of the HPA.

Terms used in the Standards of Practice:

- "Regulated member" means any person who is registered or who is required to be registered as a member of this College. The College regulates physicians, surgeons and osteopaths.
- "Must" refers to a mandatory requirement.
- "May" means that the physician may exercise reasonable discretion.
- "Patient" includes, where applicable, the patient's legal guardian or substitute decision maker.

~~(b)~~ presently has a physical, cognitive, mental and/or emotional³ condition⁴ that ~~is negatively impacting the work⁵ impacts,~~ or is reasonably likely to negatively impact⁶, their work⁷ in the workfuture;

~~(b)(c)~~ is charged with or convicted of the regulated member a criminal offence;

~~(d)~~ ~~(e)~~ repeatedly or consistently fails demonstrating a repeated inability to provide patients with what is reasonably considered competent care;

~~(e)~~ is demonstrating an unwillingness or inability to address ~~his or her~~ behaviour that interferes with the delivery of patient care to patients, or negatively impacts the ability of other regulated ~~member~~ members, learners or healthcare workers to provide patient care to patients; or

~~(d)~~ is not competent in the care of patients.

~~(e)~~ ~~(3)~~ is behaving in a manner outside of providing patient care that could reasonably be considered unprofessional conduct under the HPA⁸.

(2) When a patient discloses information ~~leading a regulated member to believe on reasonable grounds that another leads a regulated member has to reasonably believe a colleague~~ committed a sexual boundary violation ~~with the² against a~~ patient, the ~~first~~ regulated member **must**:

(a) ~~(a)~~ provide the patient with information about on how to file a complaint with the College;

~~(b)~~ offer to file a third person complaint with the patient's permission, if the patient does not wish to file a complaint personally; or

~~(b)~~ ~~(c)~~ at a minimum, document the sexual boundary violation indicating that the patient does not wish to report to the College when the patient does not give permission to proceed with a third party complaint; however, the name in the patient's record; and

~~(c)~~ advise the patient of the regulated member may be member's duty to report the incident to the College.

(3) Notwithstanding subclause 2(c), the name of a regulated member who is reasonably believed to have engaged in sexual abuse or sexual misconduct with a patient must be reported to the College per the HPA⁹ and can be done without providing the name of the patient.

³ Per Recommendation 5 on page 4 of the Health Law Institute's "Physicians with Health Conditions: Law and Policy Reform to Protect the Public and Physician-Patients."

⁴ As in the definition in Self-Reporting to the College, Conditions would include, but not be limited to, the following:

- (a) blood borne viral infections
- (b) conditions affecting primary senses: vision, hearing etc.
- (c) neurological conditions affecting cognition, motor or sensory function, seizure disorder
- (d) psychiatric conditions
- (e) substance use disorder
- (f) physical disability
- ~~(a)~~(g) metabolic conditions

⁵ As in the definition in Self-Reporting to the College.

⁶ "Negative impact" is defined as harm to patients or others as a result of the practice of medicine. The practice of medicine includes research, education and administration, in addition to the practice associated with patients. (Per Recommendation 3 on page 3 of the Health Law Institute's "Physicians with Health Conditions: Law and Policy Reform to Protect the Public and Physician-Patients.")

⁷ The practice of medicine includes not only patient care, but all activities, such as working with other health care workers, teaching, research and administrative work done in the context of medical practice.

⁸ Please refer to Section 1(1)(pp) on page 12 of the *Health Professions Act (HPA)*.

⁹ Please refer to Section 127.2(1) on page 102 of the *HPA*.

Terms used in the Standards of Practice:

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- "May" means that the physician may exercise reasonable discretion.
- "Patient" includes, where applicable, the patient's legal guardian or substitute decision maker.

~~(4) — The Notwithstanding clause 1(a), if information pertaining to sexual abuse of or sexual misconduct toward a patient by a regulated member — patient **must** be advised of their duty to self-report and must be supported of any college is obtained in their reporting the course of providing professional services to the College.~~

~~(4) (5) — The treating regulated member **must** advise of the other college, the regulated member of the College is **not required, but is permitted**, to report this matter to the complaints director of the college in the interest of confidentiality in the physician-patient of their intent relationship per the HPA.~~

Duty of Treating Physicians and Physicians Working in the Context of a Physician Health Program to Report a Physician to the College.

~~(1) — A physician acting as the treating physician of a physician patient, or a physician who is a non-treating physician working within a provincial health program, **must** report a physician to the College when the physician patient suffers from any medical condition where it is reasonably foreseeable⁴⁰ that patients of the physician patient or others within the context of his/her medical practice⁴¹, could be seriously harmed⁴² (whether physically or psychologically) as a result of the medical condition.~~

~~(2) — The treating physician~~

~~(4)(5) A regulated member treating another physician, or a regulated member working within a provincial Physician Health Program in a non-treating capacity (e.g., the AMA's Physician and Family Support Program), **must** make all reasonable efforts to understand the nature and scope of the physician-patient's practice and ~~seek information~~, with the consent of the physician-patient, ~~about~~ seek information regarding the impact of ~~the~~ any medical condition on ~~the~~ their practice.~~

~~(3) — If the treating physician is unable to ascertain that their own threshold to report has been met, the treating physician **must** consult with the College to discuss the circumstances. It is not necessary to provide names.~~

⁴⁰ Reasonably foreseeable: The determination of what is reasonably foreseeable is based on what a reasonable physician would do given the same set of circumstances and requires a judgment call on the part of the physician. The following factors should be considered:

- ~~(a) — whether the physician's condition is being appropriately managed and harm would only be anticipated if such management was not maintained.~~
- ~~(b) — whether there is sufficient information available to make a judgment about the physician-patient's management of their health condition.~~
- ~~(c) — whether there is sufficient information to suggest that appropriate management will only occur with monitoring or oversight mechanisms in place.~~
- ~~(d) — whether the harm anticipated, if it materializes, would be irreversible; and/or whether the harm anticipated, if it materializes, would cause more than minimal pain (physical or psychological) or other injury.~~

⁴¹ The practice of medicine includes not only patient care but all activities, such as working with other health care workers, teaching, research and administrative work done in the context of medical practice.

⁴² Serious harm is defined as that which is either irreversible or would result in more than minor pain or injury — (whether psychological or physical).

Terms used in the Standards of Practice:

- **"Regulated member"** means any person who is registered or who is required to be registered as a member of this College. The College regulates physicians, surgeons and osteopaths.
- **"Must"** refers to a mandatory requirement.
- **"May"** means that the physician may exercise reasonable discretion.
- **"Patient"** includes, where applicable, the patient's legal guardian or substitute decision maker.

- ~~(4)~~ The physician-patient **must** be advised of their duty to self-report and must be supported in their reporting to the College.
- ~~(6)~~ ~~(5)~~ The treating physician **must** report to the College when the physician-patient presently has a physical, cognitive mental and/or emotional¹³ condition⁴ where it is reasonably foreseeable¹³ that patients, or others within the context of the physician-patient's medical practice⁷, could be harmed¹⁴ (physically or psychologically) as a result of the medical condition.
- ~~(7)~~ If information pertaining to sexual abuse of or sexual misconduct toward a patient by the physician-patient is obtained in the course of providing professional services to the physician-patient, the regulated member is **not required, but is permitted**, to report this matter to the College in the interest of confidentiality in the physician-patient relationship per the HPA¹⁵.
- ~~(5)~~~~(8)~~ Notwithstanding clause (7), the treating physician **must** advise the physician-patient of their intent/duty to self-report to the College and document this advice in the physician-patient's record.
- ~~(9)~~ If the regulated member is unsure if they should report a colleague or physician-patient, they **must** seek appropriate advice (e.g., the Canadian Medical Protective Association (CMPA) or the College).

¹³ The determination of what is "reasonably foreseeable" requires a judgment call from the physician, based on what a reasonable physician would do given the same set of circumstances. Consider the following factors:

- (a) whether the physician's condition is appropriately managed and harm is only anticipated if such management was not maintained.
- (b) whether there is sufficient information available to make a judgment about the physician-patient's management of their health condition.
- (c) whether there is sufficient information to suggest that appropriate management will only occur with monitoring or oversight mechanisms in place.
- (d) whether the harm anticipated, if it materializes, would be irreversible and whether the harm anticipated, if it materializes, would cause more than minimal pain (physical or psychological) or other injury.

(Per Recommendation 6 on page 4 of the Health Law Institute's "Physicians with Health Conditions: Law and Policy Reform to Protect the Public and Physician-Patients.")

¹⁴ "Serious harm" is defined as that which is either irreversible or would result in more than minor pain or injury (psychological or physical).

¹⁵ Please refer to Section 127.2(2) on page 102 of the HPA.

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