



College of Physicians and Surgeons of British Columbia

Legislative Guidance

Duty to Report

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Related topic(s): [Duty to Report Criminal Charges or Convictions under the Criminal Records Review Act](#)

Legislative Guidance provides physicians with assistance in navigating legislation applicable to the medical profession. The information provided in this document is meant to be used as a helpful resource, and should be read in conjunction with the legislation it refers to.

Registrants may seek advice on these issues by contacting the College and asking to speak with a member of the registrar staff, or by seeking medical legal advice from the CMPA.

PREAMBLE

Many statutes have mandatory reporting provisions that are applicable to physicians. While not exhaustive, the legislation referenced below is provided as a general guide to registrants with respect to their mandatory reporting obligations. Registrants are expected to be aware of and comply with their legal, professional and ethical reporting obligations and are encouraged to seek the guidance of legal counsel or the Canadian Medical Protective Association (CMPA) to review their reporting requirements. Registrants may also contact a member of registrar staff at the College to discuss professional and ethical obligations.

GUIDANCE

The Canadian Medical Association (CMA) *Code of Ethics*

Registrants' legal, ethical and professional reporting obligations relate to the following principles set out in the *CMA Code of Ethics*:

Fundamental Responsibilities

4. Consider the well-being of society in matters affecting health.

Responsibilities to the Patient

14. Take all reasonable steps to prevent harm to patients; should harm occur, disclose it to the patient.
35. Disclose your patients' personal health information to third parties only with their consent, or as provided for by law, such as when the maintenance of confidentiality would result in a significant risk of substantial harm to others or, in the case of incompetent patients, to the patients themselves. In such cases take all reasonable steps to inform the patients that the usual requirements for confidentiality will be breached.

Responsibilities to the Profession

48. Avoid impugning the reputation of colleagues for personal motives; however, report to the appropriate authority any unprofessional conduct by colleagues.

Provincial Legislation

1. *Health Professions Act [RSBC 1996] c.183 sections 32.2–32.5*

Definition for sections 32.2 and 32.3

- 32.1 In sections 32.2 and 32.3, "**other person**" means a person who is a registrant in one of the colleges and is believed to be
 - (a) not competent to practise the designated health profession, or
 - (b) suffering from a physical or mental ailment, an emotional disturbance or an addiction to alcohol or drugs that impairs his or her ability to practise the designated health profession.

Duty to report registrant

32.2 (1) A registrant must report in writing to the registrar of an other person's college if the registrant, on reasonable and probable grounds, believes that the continued practise of a designated health profession by the other person might constitute a danger to the public.

(2) If a person

(a) terminates the employment of an other person,

(b) revokes, suspends or imposes restrictions on the privileges of an other person, or

(c) dissolves a partnership or association with an other person

based on a belief described in subsection (1), the person must report this in writing to the registrar of the other person's college.

(3) If a person intended to act as described in subsection (2) (a), (b) or (c) but the other person resigned, relinquished their privileges or dissolved the partnership or association before the person acted, the person must report this in writing to the registrar of that other person's college.

Duty to report respecting hospitalized registrant

32.3 (1) If an other person is a registrant in a college prescribed by the minister for the purposes of this section and because of admission to a hospital or a private hospital as defined in the Hospital Act, for psychiatric care or treatment, or for treatment for addiction to alcohol or drugs the other person is unable to practise, the chief administrative officer of the hospital, or someone acting in that capacity, and the medical practitioner who has the care of the other person must promptly report the admission in writing to the registrar of the other person's college.

(2) The medical practitioner who has care of the other person must, no later than the date of that other person's discharge from the hospital, provide the registrar of the other person's college with a written report of the diagnosis, particulars of treatment, prognosis and an opinion as to whether the other person is fit to continue to practise the other person's health profession.

Duty to report sexual misconduct

32.4 (1) If a registrant has reasonable and probable grounds to believe that another registrant has engaged in sexual misconduct, the registrant must report the circumstances in writing to the registrar of the other registrant's college.

(2) Despite subsection (1), if a registrant's belief concerning sexual misconduct is based on information given in writing, or stated, by the registrant's patient, the registrant must obtain, before making the report, the consent of

(a) the patient, or

(b) a parent, guardian or committee of the patient, if the patient is not competent to consent to treatment.

(3) On receiving a report under subsection (1), the registrar must act under section 32

(2) as though the registrar had received a complaint under section 32 (1).

Immunity

32.5 No action for damages lies or may be brought against a person for making a report in good faith as required under section 32.2, 32.3 or 32.4.

2. *Child, Family and Community Service Act* [RSBC 1996] c.46, sections 13 and 14(1)

When protection is needed

13 (1) A child needs protection in the following circumstances:

- (a) if the child has been, or is likely to be, physically harmed by the child's parent;
- (b) if the child has been, or is likely to be, sexually abused or exploited by the child's parent;
- (c) if the child has been, or is likely to be, physically harmed, sexually abused or sexually exploited by another person and if the child's parent is unwilling or unable to protect the child;
- (d) if the child has been, or is likely to be, physically harmed because of neglect by the child's parent;
- (e) if the child is emotionally harmed by the parent's conduct;
- (f) if the child is deprived of necessary health care;
- (g) if the child's development is likely to be seriously impaired by a treatable condition and the child's parent refuses to provide or consent to treatment;
- (h) if the child's parent is unable or unwilling to care for the child and has not made adequate provision for the child's care;
- (i) if the child is or has been absent from home in circumstances that endanger the child's safety or well-being;
- (j) if the child's parent is dead and adequate provision has not been made for the child's care;
- (k) if the child has been abandoned and adequate provision has not been made for the child's care;
- (l) if the child is in the care of a director or another person by agreement and the child's parent is unwilling or unable to resume care when the agreement is no longer in force.

(1.1) For the purpose of subsection (1) (b) and (c) and Section 14 (1) (a) but without limiting the meaning of "sexually abused" or "sexually exploited", a child has been or is likely to be sexually abused or sexually exploited if the child has been, or is likely to be,

- (a) encouraged or helped to engage in prostitution, or
- (b) coerced or inveigled into engaging in prostitution.

(2) For the purpose of subsection (1) (e), a child is emotionally harmed if the child demonstrates severe

- (a) anxiety,
- (b) depression,
- (c) withdrawal, or
- (d) self-destructive or aggressive behaviour.

Duty to report need for protection

- 14 (1) A person who has reason to believe that a child needs protection under Section 13 must promptly report the matter to a director or a person designated by a director.
- (2) Subsection (1) applies even if the information on which the belief is based
- (a) is privileged, except as a result of a solicitor-client relationship, or
 - (b) is confidential and its disclosure is prohibited under another Act.
- (3) A person who contravenes subsection (1) commits an offence.

3. Coroners Act [SBC 2007] c.15, section 2

Deaths that must be reported by anyone

- 2 (1) A person must immediately report to a coroner or peace officer the facts and circumstances relating to the death of an adult or child who the person has reason to believe has died
- (a) as a result of violence, accident, negligence, misconduct or malpractice,
 - (b) as a result of a self-inflicted illness or injury,
 - (c) suddenly and unexpectedly, when the person was apparently in good health and not under the care of a medical practitioner,
 - (d) from disease, sickness or unknown cause, for which the person was not treated by a medical practitioner,
 - (e) during pregnancy, or following pregnancy in circumstances that might reasonably be attributable to pregnancy,
 - (f) if the chief coroner reasonably believes it is in the public interest that a class of deaths be reported and issues a notice in accordance with the regulations, in the circumstances set out in the notice, or
 - (g) in any prescribed circumstances.
- (2) If a child died in circumstances other than those described in subsection (1), a person who, by regulation, must report child deaths, must immediately report to the chief coroner, in the form required by the chief coroner,
- (a) the facts and circumstances relating to the child's death, and
 - (b) any other information required by the chief coroner.

4. Criminal Injury Compensation Act [RSBC 1996] c.85, section 19

Reports of physicians

- 19 (1) If an application for compensation is made to the board, every physician or qualified practitioner attending or consulting about the injury or alleged injury to a victim must
- (a) furnish reports about the injury in a form as required by the regulations or by the board,
 - (b) furnish the first report to the board within 3 days after it is requested by the board,
 - (c) furnish a final report within 3 days after the victim is, in the opinion of the physician or qualified practitioner, able to resume work and, if treatment is being continued after resumption of work, furnish further adequate reports, and
 - (d) if the physician is a specialist whose opinion is requested by the attending physician, the victim, or the board, or if the physician continues to treat the victim after being consulted as a specialist, furnish the first report to the board within 3 days after completion of consultation but, if the specialist is regularly treating the victim, the specialist must submit reports as required in paragraphs (a) to (c).
- (2) Every physician or qualified practitioner who is authorized by this Act to treat an injured victim is subject to similar duties and responsibilities, and any aid furnished by that person is subject to the direction, supervision and control of the board.

5. *Public Health Act* [SBC 2008] c.28, section 28

Mandatory reporting of infection or exposure

- 10 (1) This section applies to a health professional, a person responsible for administering a hospital or laboratory, and a prescribed person who, in carrying out his or her duties, becomes aware that a person or thing
- (a) is an infected person or infected thing, or
 - (b) has died or may have died as a result of being an infected person or infected thing.
- (2) If an infectious agent or a hazardous agent is prescribed for the purposes of this section, a person to whom this section applies must promptly report the following information, to the extent of his or her knowledge, to a prescribed person:
- (a) the identity and contact information, if known, of a person who
 - (i) is or was an infected person, or
 - (ii) has custody or control of an infected person or infected thing;
 - (b) if the information described in paragraph (a) is unavailable, or no one has custody or control of the infected person or infected thing,
 - (i) the last known location of the infected person or infected thing, and
 - (ii) information that would assist in identifying the infected person or infected thing;
 - (c) the nature of the infectious agent or hazardous agent, including

- (i) any signs or symptoms,
 - (ii) any diagnostic examination or other examination that was done or preventive measures that were taken, and
 - (iii) the results of any diagnostic examination or other examination that was done or preventive measures that were taken;
 - (d) any prescribed information;
 - (e) any other relevant information requested by the person to whom the report is made.
- (3) If an infectious agent or a hazardous agent is prescribed for the purposes of this section, a person to whom this section applies must
- (a) make records and take samples as prescribed, and
 - (b) take other prescribed actions.

Mandatory reporting of health hazards

- 11 If a prescribed person becomes aware that a prescribed health hazard exists or may exist, the person must promptly report the following information, to the extent of his or her knowledge, to a prescribed person:
- (a) the nature of the health hazard, including its location and cause or source;
 - (b) the identity of persons involved in causing or responding to the health hazard;
 - (c) the persons who may be adversely affected by the health hazard;
 - (d) prescribed information;
 - (e) any other relevant information requested by the person to whom the report is made.

Mandatory reporting for other public health purposes

- 12 If a matter affecting health promotion or health protection is prescribed for the purposes of this section, a health professional, a person responsible for administering a hospital or laboratory, and a prescribed person must
- (a) promptly report, to the extent of his or her knowledge, to a prescribed person,
 - (i) prescribed information, and
 - (ii) other relevant information requested by the person to whom the report is made,
 - (b) make records and take samples as prescribed, and
 - (c) take other prescribed actions.

6. Insurance (Vehicle) Act [RSBC 1996] c.231, section 28

Medical reports

28 If any of the following persons attends to, diagnoses, treats or is consulted by a person injured in a motor vehicle accident in British Columbia, he or she must, whenever the corporation requests, provide the corporation, as soon as reasonably practicable, with a report of the injuries and their diagnosis and treatment and a prognosis, in the form the corporation prescribes:

- (a) a medical practitioner;
- (b) a chiropractor as defined in the Chiropractors Act;
- (c) a person authorized to practise dentistry under the Dentists Act;
- (d) a person entitled to practise physiotherapy under the Health Professions Act;
- (e) an employee of a hospital as defined in the *Hospital Act*.

7. Motor Vehicle Act [RSBC 1996] c.318, section 230

Report of health professional

- 230 (1) This section applies to every legally qualified and registered psychologist, optometrist and medical practitioner who has a patient 16 years of age or older who
- (a) in the opinion of the psychologist, optometrist or medical practitioner has a medical condition that makes it dangerous to the patient or to the public for the patient to drive a motor vehicle, and
 - (b) continues to drive a motor vehicle after being warned of the danger by the psychologist, optometrist or medical practitioner.
- (2) Every psychologist, optometrist and medical practitioner referred to in subsection (1) must report to the superintendent the name, address and medical condition of a patient referred to in subsection (1).
- (3) No action for damages lies or may be brought against a psychologist, an optometrist or a medical practitioner for making a report under this section, unless the psychologist, optometrist or medical practitioner made the report falsely and maliciously.

8. Hospital Insurance Act [RSBC 1996] c.204, section 23

Physician's report

- 23 (1) The minister must secure reports the minister thinks necessary from the attending physician in a specific case and may make payment to physicians for the reports.
- (2) A physician commits an offence if he or she, having received notice by registered mail from the minister of information required by the physician, fails to comply with the notice.
- (3) A physician who fails to make a report required under this Act, unless excused by the minister, commits an offence.

(4) A person who commits an offence under subsection (2) or (3) is liable on conviction to a fine of not more than \$50.

9. *Vital Statistics Act* [RSBC 1996] c.479, section 18

Medical certificate

- 18 (1) A medical certificate must be prepared in accordance with subsection (2) in any of the following circumstances:
- (a) if a medical practitioner
 - (i) attended the deceased during the deceased's last illness,
 - (ii) is able to certify the medical cause of death with reasonable accuracy, and
 - (iii) has no reason to believe that the deceased died under circumstances which require an investigation or inquest under the *Coroners Act*;
 - (b) if the death was natural and a medical practitioner
 - (i) is able to certify the medical cause of death with reasonable accuracy, and
 - (ii) has received the consent of a coroner to complete and sign the medical certificate;
 - (c) if a coroner conducts an inquiry or inquest into the death under the *Coroners Act*.
- (2) Within 48 hours after the death, the medical practitioner or the coroner, as applicable, must
- (a) complete and sign a medical certificate in the form required by the chief executive officer stating in it the cause of death according to the international classification, and
 - (b) make the certificate available to the funeral director.
- (4) If a cause of death cannot be determined within 48 hours after the death and
- (a) an autopsy is performed, or
 - (b) an inquiry or inquest is commenced under the *Coroners Act*,
- and the medical practitioner who performs the autopsy or the coroner who commences an inquiry or inquest under the *Coroners Act*, as the case may be, considers that the body is no longer required for the purposes of the autopsy, inquiry or inquest, the medical practitioner or the coroner, as the case may be, may, despite subsection (1), issue and must make available to the funeral director an interim medical certificate in the form required by the chief executive officer.
- (5) After the conclusion of the autopsy, inquiry or inquest referred to in subsection (4),

- (a) the medical practitioner who performed the autopsy, or the coroner, must complete and sign the medical certificate referred to in subsection (2) and deliver it to the chief executive officer, and
- (b) the coroner must deliver a copy of any report prepared under Section 20 (4) (b) or 25 (2) of the *Coroners Act* to the chief executive officer.

10. *Workers Compensation Act* [RSBC 1996] c.492, sections 56(1), (4) and (5)

Duty of physician or practitioner

- 56 (1) It is the duty of every physician or qualified practitioner attending or consulted on a case of injury to a worker, or alleged case of injury to a worker, in an industry within the scope of this Part
- (a) to furnish the reports in respect of the injury in the form required by the regulations or by the Board, but the first report containing all information requested in it must be furnished to the Board within 3 days after the date of his or her first attendance on the worker;
 - (b) to furnish a report within 3 days after the worker is, in the opinion of the physician or qualified practitioner, able to resume work and, if treatment is being continued after resumption of work, to furnish further adequate reports;
 - (c) if the physician is a specialist whose opinion is requested by the attending physician, the worker or the Board, or if the physician continues to treat the worker after being consulted as a specialist, to furnish his or her first report to the Board within 3 days after completion of consultation; but if the specialist is regularly treating the worker, the specialist must submit reports as required in paragraphs (a) and (b); and
 - (d) to give all reasonable and necessary information, advice and assistance to the injured worker and the worker's dependants in making application for compensation, and in furnishing in connection with it the required certificates and proofs, without charge to the worker.
- (4) A physician, qualified practitioner or other person authorized to render health care under this Part must confine his or her treatment to injuries to the parts of the body he or she is authorized to treat under the statute under which he or she is permitted to practise, and the giving of any unauthorized treatment is an offence against this Part.
- (5) A physician, qualified practitioner or other person who fails to submit prompt, adequate and accurate reports and accounts as required by this Act or the Board commits an offence against this Part, and his or her right to be selected by a worker to render health care may be cancelled by the Board, or he or she may be suspended for a period to be determined by the Board. When the right of a person to render health care is so cancelled or suspended, the Board must notify the person of the cancellation or suspension, and must likewise inform the governing body named in the Act under which the person is authorized to treat human ailments, and the person whose right to render health care is cancelled or suspended must also notify injured workers who seek treatment from the person of the cancellation or suspension.

11. Gunshot and Stab Wound Disclosure Act [SBC 2010] c.7, sections 2, 3, 4 and 5*Mandatory disclosure*

- 2 (1) A health care facility or emergency medical assistant who treats a person for a gunshot or stab wound must disclose the following information to the local police authority:
- (a) the injured person's name, if known;
 - (b) the fact that the injured person is being treated or has been treated for a gunshot or stab wound;
 - (c) in the case of a health care facility, the name and location of the health care facility;
 - (d) in the case of an emergency medical assistant, the location where the treatment occurs;
 - (e) any other information required by the regulations.
- (2) Subsection (1) does not apply to an emergency medical assistant who delivers the injured person to a health care facility.

Manner and timing of disclosure

- 3 Subject to the regulations, the disclosure required by section 2 must be made
- (a) orally, and;
 - (b) as soon as it is reasonably practicable to do so without interfering with the injured person's treatment or disrupting the regular activities of the health care facility or the emergency medical assistant.

Other obligations not affected

- 4 Nothing in this Act prevents a health care facility or an emergency medical assistant from disclosing to a local police authority information that the health care facility or emergency medical assistant is otherwise by law permitted or authorized to disclose.

Personal liability protection

- 5 (1) Subject to subsection (2), no legal proceeding for damages lies or may be commenced or maintained against
- (a) a health care facility,
 - (b) a director, officer or employee of a health care facility,
 - (c) an emergency medical assistant, or
 - (d) any other person acting under the authority of this Act
- because of anything done or omitted in the performance or intended performance of any duty under this Act.
- (2) Subsection (1) does not apply to a person referred to in that subsection in relation to anything done or omitted by that person in bad faith.

Federal Legislation

1. *Canada Shipping Act [SC 2001] c.26, section 90*

Minister to be provided with information

90. (1) If a physician or an optometrist believes on reasonable grounds that the holder of a certificate issued under this Part has a medical or optometric condition that is likely to constitute a hazard to maritime safety, the physician or optometrist shall inform the Minister without delay of that opinion and the reasons for it.

(4) No legal, disciplinary or other proceedings lie against a physician or optometrist for anything they do in good faith in compliance with this section.

2. *Federal Aeronautics Act [RSC 1985] c.A-2, sections 6.5(1) and 6.5(4)*

Minister to be provided with information

6.5 (1) Where a physician or an optometrist believes on reasonable grounds that a patient is a flight crew member, an air traffic controller or other holder of a Canadian aviation document that imposes standards of medical or optometric fitness, the physician or optometrist shall, if in his opinion the patient has a medical or optometric condition that is likely to constitute a hazard to aviation safety, inform a medical adviser designated by the Minister forthwith of that opinion and the reasons therefore.

No proceedings shall lie

6.5 (4) No legal, disciplinary or other proceedings lie against a physician or optometrist for anything done by him in good faith in compliance with this section.

3. *Railway Safety Act [RSC 1985] c.32 (4th Supp.), section 35*

Medical examination

35. (1) A person who holds a position that is declared by regulations made under paragraph 18(1)(b) or by any rule in force under section 19 or 20 to be a position critical to safe railway operations, referred to in this section as a “designated position”, shall undergo a medical examination organized by the railway company concerned, including audio-metric and optometric examination, at intervals determined by the regulations made under subparagraph 18(1)(c)(iii) or by any rule in force under section 19 or 20.

Physician or optometrist to disclose potentially hazardous conditions

(2) If a physician or an optometrist believes, on reasonable grounds, that a patient is a person described in subsection (1), the physician or optometrist shall, if in their opinion the patient has a condition that is likely to pose a threat to safe railway operations,

(a) by notice sent without delay to a physician or optometrist specified by the railway company, inform the specified physician or optometrist of that opinion and the reasons for it, after the physician or optometrist has taken reasonable steps to first inform the patient, and

(b) without delay send a copy of that notice to the patient, and the patient is deemed to have consented to the disclosure required by paragraph (a).