

Duty to Report

Effective: December 29, 2022

INTRODUCTION

The College of Licensed Practical Nurses and Health Care Aides of Alberta (CLHA) has the authority under the *Health Professions Act* (HPA) to carry out its activities and govern Licensed Practical Nurses (LPNs)* in a manner that protects and serves the public interest.

The *Standards of Practice for Licensed Practical Nurses in Canada* and the *Code of Ethics for Licensed Practical Nurses* outline an LPN's duty to report information to promote client safety. This interpretive document outlines an LPN's legal obligations to report information to appropriate authorities.

Please be aware that this document is not a substitute for legal advice.

PURPOSE

The purpose is to provide an overview of the duty to report specific types of information, either by themselves or as part of the healthcare team. An LPN's legal duty to report may be required by legislation, professional expectations, or employer requirements.

INTERPRETATION

As a healthcare provider, an LPN has a legal duty to report certain kinds of information. The following sub-sections identify types of information that must be reported and reference the applicable governing legislation.

Reporting Breaches of Health Information

The *Health Information Act* (HIA) governs the collection, use, and disclosure of health information. LPNs are affiliates under section 1(1)(a) of the HIA. An affiliate must notify the responsible custodian as soon as practicable when they become aware of "any loss of individually identifying health information or any unauthorized access to or disclosure of individually identifying health information".ⁱ A list of custodians can be found in section 1(1)(f) of the HIA and section 2(2) of the *Health Information Regulation*. The term 'as soon as practicable' means when the affiliate becomes aware of a breach and has sufficient means and information to notify the custodian.ⁱⁱ

*In this document, "LPN(s)" has the same meaning as "regulated member(s)" in the *Health Professions Act*.

Reporting Communicable and Notifiable Diseases

The HPA and the *Public Health Act* (PHA) outline the obligation of healthcare providers to report to the Medical Officer of Health under the following situations:

- awareness of a communicable disease infection; or
- reasonable suspicion of a health condition dangerous to public health.ⁱⁱⁱ

Communicable disease is defined as "an illness in humans that is caused by an organism or micro-organism or its toxic products and is transmitted directly or indirectly from an infected person or animal or the environment".^{iv} A complete list of communicable diseases that require reporting can be found in Schedule 1 of the *Communicable Diseases Regulation*. Examples include measles, salmonella, and pandemic influenza.

If an LPN suspects that a client has a communicable disease, they must consult with a physician to determine whether the client is infected or not as required by section 20 of the HPA.

The *Occupational Health and Safety Act* also requires healthcare providers to report notifiable diseases to the Director of Medical Services.^v

Reporting Information about Immunizations

The *Immunization Regulation* outlines several reporting obligations for LPNs.^{vi}

- All healthcare practitioners who conduct assessments and/or provide immunization to clients must make a report to the Chief Medical Officer (CMO) about the assessment and/or the provision of the immunization.
- All healthcare practitioners who receive a written record about a client's past unreported immunization must ensure that the unreported immunization is submitted to the CMO.
- All healthcare practitioners who become aware of an adverse event following an immunization (AEFI) must report the event to the AHS Central AEFI Reporting Line at 1-855-444-2324 (1-855-444-CDCI).

Please refer to CLHA's interpretive document: *Immunization Regulation Duties* for more information.

Reporting Abuse

The *Protection for Persons in Care Act* (PPCA) requires the reporting of abuse of adult clients who receive publicly funded care or support services. The PPCA defines abuse broadly. Under section 1(2) of the PPCA, a client receiving care is considered abused if a service provider's action or lack of action:

- a) causes serious bodily harm;

- b) causes serious emotional harm;
- c) results in the administration, withholding, or prescribing of medication for an inappropriate use, resulting in serious bodily harm;
- d) subjects an individual to non-consensual sexual contact, activity, or behaviour;
- e) involves misappropriating or improperly or illegally converting a significant amount of money or other valuable possessions; or
- f) results in failing to provide adequate nutrition, adequate medical attention, or another necessity of life without a valid consent, resulting in serious bodily harm.^{vii}

Despite the list provided, a service provider's action or lack of action is not considered abuse if:

- the service provider carries out their duties in accordance with the professional standards or practices;
- the care provided was reasonably necessary given the situation;
- the action or lack of action was associated with the client's refusal of care;
- decisions made by a client, or on behalf of a client;
- decisions made by a review panel under the *Mental Health Act* (MHA);
- decisions made by a person described in section 28(1) of the MHA; or
- actions taken under the *Emergency Medical Aid Act*.^{viii}

Under the *Protection for Persons in Care Act*, anyone who suspects abuse of an adult client in a healthcare facility must make a report to the appropriate authority.^{ix}

Depending on the persons involved, a report to the appropriate authority could be to any or all of the following:

- the Protection for Persons in Care Information and Reporting Line by email at health.ppc@gov.ab.ca or by phone at 1-888-357-9339 (within Alberta) or 780-422-1155 (outside of Alberta);
- the police if the client is in immediate danger or if the abuse involves criminal activity;
- the Mental Health Client Advocate at 780-422-1812 if the client is detained under the MHA or is under a Community Treatment Order;
- the professional regulatory body if the abuse involves a healthcare professional. ^x

This obligation to report abuse is similar to the types of required reportable incidents outlined in the *Continuing Care Health Service Standards*.^{xi} A reportable incident is defined as an unexpected or normally avoidable outcome that negatively affects a client's health or quality of life while receiving healthcare.^{xii} In continuing care facilities, the operator is responsible for establishing and following-up with policies and procedures about reportable incidents to Alberta Health. An operator is defined as a legal entity that receives public funding for the provision of healthcare directly to clients.^{xiii}

An LPN who suspects abuse should follow employer requirements for reporting. They may find it helpful to discuss their concerns with the healthcare team, manager, and/or the Professional Practice Team at the CLHA.

The *Child, Youth and Family Enhancement Act* requires that "any person who has reasonable and probable grounds to believe that a child is in need of intervention shall forthwith report the matter to a director or a police officer".^{xiv} While providing nursing care, an LPN may become aware of a situation that needs intervention.

If a child is suspected to be in danger from abuse, neglect, emotional injury, or abandonment, the situation must be reported to the local Child and Family Services Office. If a child is in immediate danger, a report should be made to the police.

The HPA requires that healthcare providers report:

- findings of unprofessional conduct by another regulated body in any jurisdiction to the Registrar;
- findings of professional negligence to the Registrar;
- charges or convictions of an offence under the *Criminal Code*; and
- any regulated healthcare provider's conduct related to sexual abuse, sexual misconduct, and female genital mutilation to the Complaints Director of that regulated profession.

Reporting Deaths

The *Fatality Inquiries Act* (FIA) requires anyone who has knowledge or reason to believe that someone has died under situations outlined in section 10 of the FIA to make a report to the medical examiner or an investigator. Although an LPN may not be the person in charge of contacting these authorities in their employment setting, an LPN may encounter some of these situations as part of a healthcare team. Please also adhere to employer requirements if you encounter the following situations:

- deaths that occur unexplainedly;
- deaths that occur unexpectedly when the deceased was in apparent good health;
- deaths that occur as a result of violence, accident, or suicide;
- maternal deaths that occur during or following pregnancy and that might reasonably be related to pregnancy;
- deaths that may have occurred as a result of improper or negligent treatment by any person;
- deaths that occur during an operative procedure, within 10 days after an operative procedure, while under anesthesia, or any time after anesthesia and that may reasonably be attributed to that anesthesia; or
- deaths that are a result of poisoning.^{xv}

A comprehensive list can be found in section 10 of the FIA.

Reporting Gunshots and Stab Wounds

Under section 3(1) of the *Gunshot and Stab Wound Mandatory Disclosure Act*, a healthcare facility is required to disclose information related to an injured person's gunshot or stab wound to the local police. A "healthcare facility" means a facility that provides healthcare services. For example, this could include a hospital, an urgent care centre, or a physician's clinic.

An LPN should follow employer requirements when addressing this reporting obligation. Typically, the most responsible person (e.g., charge nurse) makes this report to the local police.

Reporting Incapability of Others

Section 60 of the *Traffic Safety Act* protects healthcare providers from legal liability if they make a report to the Registrar of Motor Vehicle Services with concerns about a client's ability to operate a vehicle safely.^{xvi} The decision to report is optional.

If an LPN is aware of a medical history or condition that may impair an individual's ability to drive, the LPN is encouraged to discuss with their healthcare team to decide whether a report should be made.

Reporting Fitness to Practice

In accordance with the HPA, standards of practice, and code of ethics, LPNs are responsible for maintaining their own physical, mental, and emotional fitness to practice.^{xvii} An LPN has a legal, professional, and ethical duty to report fitness to practice concerns. Please see *Fitness to Practice and HPA Definition of "Incapacitated"* interpretive document and the *Professional Responsibility and Accountability* policy for more information.

Reporting for Other Reasons

There could be situations where a piece of legislation does not outline a reporting obligation, but there may still be a professional or ethical reason to make a report to an appropriate authority.

In accordance with the code of ethics, LPNs must always:

- act promptly and appropriately in response to harmful conditions and situations, including disclosing safety issues to appropriate authorities; and
- report to appropriate authorities and take other action in a timely manner to ensure a client's safety and quality of care when unethical or incompetent care is suspected.

Typically, a situation that is considered high risk and poses immediate danger to an individual should be reported. An LPN may need to balance consequences of making a report against a potential breach of privacy. If time allows, an LPN may find it helpful to discuss these types of situations with their healthcare team, manager, or the Professional Practice Team at the CLHA.

CONCLUSION

As healthcare providers, LPNs have legal, professional, and ethical obligations to report certain information to an appropriate authority. The LPN may not be the designated responsible healthcare provider to make the report but should be aware of potential circumstances where they have a duty to report as part of the healthcare team.

Documents are updated frequently. For the most current version and access to related documents and resources, please visit the Knowledge Hub on clha.com.

If after reading this document you have questions, please contact the CLHA's Professional Practice Team via practice@clha.com or 780-484-8886 or 1-800-661-5877 (toll free in Alberta).

Table of Phone Numbers

AHS Central AEFI Reporting Line	1-855-444-2324
Protection for Persons in Care Information and Reporting Line	
Email:	health.ppc@gov.ab.ca
Phone (within Alberta):	1-888-357-9339
Phone (outside of Alberta):	1-780-422-1155
Mental Health Client Advocate	1-780-422-1812

REFERENCES

- ⁱ *Health Information Act*, RSA 2000, c H-5, s 60.1(1); *Health Information Regulation*, Alta Reg 70/2001, s 8.2(1).
- ⁱⁱ Government of Alberta, *Health Information Act Guidelines and Practices Manual: Chapter 14 Duty to Notify* (2018), 8.
- ⁱⁱⁱ *Health Professions Act*, RSA 2000, c H-7, s 1.1(1); *Public Health Act (PHA)*, RSA 2000, c P-37, s 22(1).
- ^{iv} PHA, s 1(f).
- ^v *Occupational Health and Safety Act*, SA 2022, c O-2.2, s 30.
- ^{vi} *Immunization Regulation*, AR 182/2018.
- ^{vii} *Protection for Persons in Care Act (PPCA)*, SA 2009, c P-29.1, s 1(2).
- ^{viii} PPCA, s 1(3); Government of Alberta, *A Guide to Understanding the Protection for Persons in Care Act*, 2018, 8,
- ^{ix} PPCA, s 7(1).
- ^x *A Guide to Understanding the Protection for Persons in Care Act*, 2018, 9.
- ^{xi} Government of Alberta, *Continuing Care Health Service Standards*, 2018, p 38.
- ^{xii} CCHS, p 38.
- ^{xiii} CCHS, p 38.
- ^{xiv} *Child, Youth, and Family Enhancement Act*, RSA 2000, c C-12, s 4(1).
- ^{xv} *Fatality Inquiries Act*, RSA 2000, c F-0, s 10(2).
- ^{xvi} *Traffic Safety Act*, RSA 2000, c T-6, s 60.
- ^{xvii} CCPNR Standards of Practice, 7; Code of Ethics, 8.