

Duty to Report

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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** its Health Care Aides (HCAs)* in a manner that protects and serves the public interest.

The Standards of Practice for Health Care Aides of Alberta and the Code of Ethics for Health Care Aides in Alberta establish the minimum expectations for an HCA's duty to report information to promote client safety.¹ This interpretive document helps clarify an HCA's legal **obligations** to report information to appropriate authorities by providing explanations and relevant background information.

Terms found in the definitions section are **bolded** where they appear for the first time in this document.

PURPOSE

The purpose of this document is to provide an overview of an HCA's duty to report specific types of information. An HCA's duty to report may be required by legislation, professional expectations, or employer requirements.

This document is not a substitute for legal advice.

INTERPRETATION

As a health professional, an HCA has a legal duty to report certain information. The following sub-sections identify types of information that must be reported. This list does not cover every example, and it is an HCA's responsibility to determine when they have a duty to report.

Reporting Breaches of Health Information

HCAs must notify their employer as soon as possible when they become aware of any loss, unauthorized access to, or **disclosure** of identifying **health information**. For more information, refer to section 60.1 of the *Health Information Act* (HIA). For information about

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

whether an employer or a **supervising health professional** is a “custodian” under the HIA, refer to section 1(1)(f) of the HIA and section 2(2) of the Health Information Regulation.

Reporting Communicable and Notifiable Diseases

HCAAs must report symptoms or awareness of any communicable disease or dangerous health condition to their supervisor. Examples of communicable diseases include human immunodeficiency viruses (HIV), hepatitis A, B, and C, measles, salmonella, and blood-borne illnesses.²

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. 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) exposes an individual to **non-consensual** sexual contact, activity, or behaviour,
- e) involves stealing 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.

Under the PPCA, anyone who suspects abuse of a client in a **healthcare facility** must make a report to the appropriate authority.³

Depending on the people 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 Patient Advocate line at 780-422-1812 if the client is detained under the *Mental Health Act* (MHA) or is under a Community Treatment Order,
- the professional regulatory body if the abuse involves a healthcare professional.⁴

This duty to report abuse is similar to the types of reportable incidents outlined in the *Continuing Care Health Service Standards*.⁵ In continuing care facilities, the **operator** is **responsible** for establishing and following up on policies and procedures regarding reportable incidents to Alberta Health.

An HCA who suspects abuse should follow employer reporting requirements. The HCA 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 anyone with good reason to believe that a child needs intervention shall report the matter to their employer or a police officer as soon as possible.⁶ While providing client care, an HCA 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.

Reporting Deaths

The *Fatality Inquiries Act* (FIA) requires anyone who knows or has reason to believe that someone has died under situations outlined in section 10 of the FIA to report them to the medical examiner or an investigator. Although an HCA may not be in charge of contacting these authorities in their employment setting, an HCA may encounter some of these situations as part of a healthcare team.

HCAs should follow employer requirements if they encounter the following situations:

- deaths that occur without explanation,
- deaths that occur unexpectedly when the deceased was in apparent good health,
- deaths that occur because of violence, accident, or suicide,
- deaths that may have occurred because of improper or negligent treatment by any person, or
- deaths that are a result of poisoning.

A complete 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. An HCA should inform their supervisor if they notice any unusual wounds on a client.

Reporting Fitness to Practice

HCAs are responsible for maintaining their physical, mental, and emotional **fitness to practice**.⁷ An HCA has a legal, professional, and ethical duty to report fitness to practice concerns. Please see the *HCA Fitness to Practice* interpretive document and the HCA *Professional Responsibility and Accountability* policy for more information.

Reporting for Other Reasons

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

Under the *Code of Ethics for Health Care Aides in Alberta*, HCAs must always:

- respond to and report unsafe conditions and harmful behaviour, and
- identify and reduce risks to client safety and report these risks to the supervisor.

A situation that is considered high risk and poses immediate danger to an individual should be reported to a supervisor. An HCA may find it helpful to discuss these situations with their healthcare team, manager, or the CLHA's Professional Practice Team.

The HPA requires HCAs to report any of the following to the Complaints Director of the appropriate regulatory college:

- the HCA has been found guilty of **unprofessional conduct** by another regulated body in any **jurisdiction**,
- the HCA has been found professionally **negligent**,
- the HCA has been charged or convicted of an **offence** under the *Criminal Code*, or
- the HCA becomes aware of any regulated healthcare provider's unprofessional conduct related to **sexual abuse, sexual misconduct, and female genital mutilation**

CONCLUSION

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

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

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

DEFINITIONS

Adequate: of a quality that is good or acceptable.

Authority: refers to the power or right to give orders, make decisions, and enforce obedience. It can also mean the appropriate person to give orders or make decisions. This could include supervisors, managers, employers, charge nurses, or educators.

Disclose: to make personal health information available to others or to release it to another person.

Female genital mutilation: as defined in the HPA, an HCA procures female genital mutilation when the HCA performs, participates, or helps with the excision, infibulation, or mutilation, in whole or in part, of the labia majora, labia minora, clitoral hood, or clitoris of a person, except where valid consent is given, and

- a) a surgical or other procedure is performed by a regulated member under the HPA for the benefit of the physical health of the person or for the purpose of that person having normal reproductive functions or normal sexual appearance or function; or
- b) the person is at least 18 years old, and there is no resulting bodily harm.

Fitness to practice: having the physical, mental, and emotional health required to provide safe, competent, and ethical client care.

Govern: to lead, control, or manage an organization or group, often by creating rules and making decisions that guide their actions.

Health information: is defined in the Health Information Act and the Health Information Regulation. Broadly speaking, it includes diagnostic, treatment, and care information as well as “registration information”, which includes demographic information, contact and billing information, information about where someone is located or lives, and information about someone’s eligibility for health services.

Healthcare facility: a facility that provides healthcare services. For example, this could include a hospital, an urgent care centre, or a physician’s clinic.

Jurisdiction: “the limits or territory within which authority may be exercised.”⁸

Negligent: failure to exercise the care that a reasonably prudent person would exercise in like circumstances.⁹

Non-consensual: not agreed to by one or more of the people involved.

Obligation/duty: something that you must do because of a law, rule, promise, etc. or because it is morally right.

Offence: when someone feels hurt or upset about something done to them by someone else.

Operator: is defined as a legal entity that receives public funding for the provision of healthcare directly to clients.¹⁰

Responsible: duty to provide for the needs of a client following professional and legal standards.

Service provider: a nursing home, approved hospital, lodge, facility, hostel, treatment or shelter facility, the operator of a supportive living accommodation, and more as outlined in the PPCA.¹¹

Sexual abuse: as defined in the HPA, an HCA engages in sexual abuse when the HCA threatens to, attempts to, or engages in conduct towards a client that is of a sexual nature and includes any of the following actions:

- a) sexual intercourse between the HCA and the client;
- b) genital to genital, genital to anal, oral to genital, or oral to anal contact between the HCA and the client;
- c) masturbation of the HCA by, or in the presence of, the client;
- d) masturbation of the client by the HCA;
- e) encouraging the client to masturbate in the presence of the HCA; or
- f) touching of a sexual nature of the client's genitals, anus, breasts, or buttocks by the HCA.

Sexual misconduct: as defined in the HPA, an HCA commits sexual misconduct when the HCA takes any action or repeated actions of unacceptable conduct, unacceptable behaviour, or says something of a sexual nature towards a client that the HCA knows or should reasonably know would cause offence or humiliation to the client or impacts the client's health and well-being.

Supervising health professional: a regulated health professional (other than an HCA) who assigns a task to the HCA and is responsible for providing supervision to the HCA for that task.

Unprofessional conduct: according to the HPA, unprofessional conduct includes actions and behaviours that reflect poorly on the HCA profession. Unprofessional conduct includes displaying a lack of knowledge, skill or judgment to provide professional services, not following the HCA standards of practice and code of ethics, or any other behaviour that is defined as unprofessional conduct under section 1(1) of the HPA.

Withholding: to refuse to give something or to keep back something.¹²

REFERENCES

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- ⁸ Jurisdiction Definition & Meaning - Merriam-Webster
- ⁹ Negligence Definition & Meaning - Merriam-Webster
- ¹⁰ CCHS, p 38.
- ¹¹ A guide to understanding the Protection for Persons in Care Act, 2018 (alberta.ca)
- ¹² Withhold Definition & Meaning - Cambridge Dictionary