ADVICE TO THE PROFESSION

Duty to Report a Colleague/Self

The College of Physicians & Surgeons of Alberta (CPSA) provides advice to the profession to support regulated members in implementing the CPSA ***Standards of Practice*****.** This advice does not define a standard of practice, nor should it be interpreted as legal advice.

Advice to the Profession documents are dynamic and may be edited or updated for clarity at any time. Please refer back to these articles regularly to ensure you are aware of the most recent advice. Major changes will be communicated to our members; however, minor edits may only be noted within the documents.

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CPSA perspective

While the "reporting" aspect of the standard has remained in place for a number of years, and reflects societal expectations around physicians to behave responsibly, CPSA views the requirements of the *Duty to Report a Colleague* and *Duty to Report Self* standards as opportunities to start a dialogue about a

concern rather than to act automatically and stop a physician from practising. Whether you are bringing forward a concern about a colleague or yourself, it is important to note that it does not automatically result in a practice restriction, loss of practice permit or a complaint. Depending on the individual circumstances of each concern, an issue could be referred to the Continuing Competence, Health & Practice Conditions Monitoring, Physician Prescribing Practices or Professional Conduct department at CPSA.

Like the rest of the population, physicians are human and, inevitably, can also get sick. When this happens, it's important their illness doesn't affect the physician's ability to practise, so as to impact patient safety. Physicians need to be able to practise medicine without putting Albertans at undue or unnecessary risk.

In terms of reporting a health condition, physicians may be reluctant to seek help when they are unwell for a number of reasons. Primarily, they may worry that if they obtain treatment, their health status will be disclosed to their workplace or CPSA. Such unintended disclosure can be detrimental to a physician's reputation and privacy, particularly in small communities or in a university or hospital setting. It may also hinder their ability to practise in the future and earn a living. These concerns can drive some physicians to not disclose if they're no longer fit to work.

We're here to provide guidance, and having a conversation early on can often resolve a situation before it worsens.

The Notification of Concern form is for CPSA member use only, as they are required to follow this standard of practice. Concerns from others must be submitted as a complaint.

How to report

REPORTING A PHYSICIAN

If you have concerns about a physician colleague or would like guidance for a personal matter, you can complete the Notification of Concern form on our website. The information you submit remains confidential while determining the appropriate department or program to assist with your concern. CPSA staff will contact you to discuss the concern and answer questions about the process. This may be done initially without naming the individual involved, although the final advice may be that disclosure of the identity of the physician is advisable.

REPORTING ANOTHER REGULATED HEALTH PROFESSIONAL

The longstanding expectation to report another regulated health professional has been enshrined in the CMA's *Code of Ethics & Professionalism*; inclusion in CPSA's *Duty to Report a Colleague* standard further solidifies this responsibility and expectation. Feedback from some of our partner professional organizations also indicated a desire to be notified if a physician has a concern about one of their members.

Duty to Report a Colleague/Self

Not all regulatory authorities require their members to report themselves or others; the best way to determine if there is a process is to contact the applicable regulatory body directly.

CPSA and CMPA are also available for guidance on matters of this nature.

REPORTING YOURSELF

Physicians are human too, and sometimes it can be hard to reach out and ask for help. Admitting you may have an issue and addressing it is challenging; however, it's important to notify CPSA when you are experiencing a concern so we can work together to find a solution. Having a conversation early on can resolve a situation before it worsens. Even simply notifying CPSA that in the event of a health concern, you are taking your treating physician's recommendations is beneficial.

Once again, CPSA and CMPA are available for guidance in determining if you should self-report.

What to report

Every physician has a responsibility to ensure patients receive safe and competent care. As such, they need to be able to recognize in themselves, and in colleagues, when the ability to provide care might be compromised.

Minor medical issues, such as a cold or the flu, are not included. The litmus test for what to report is the potential for the concern to impact the regulated health professional's ability to provide safe and competent patient care.

In addition to the items listed in the *Duty to Report a Colleague* and *Duty to Report Self* standards, below are examples of situations that could put patients at risk:

- Appearing to be under the influence of alcohol or drugs at work
- Falsifying patient records
- Continued poor documentation/charting of patient interactions
- Occupationally relevant mental or physical health concerns
- Prescribing medication in an inappropriate manner
- Pattern of unsafe care or poor judgment
- Ongoing disrespect of patients' dignity (e.g., inappropriate comments or examination procedures)
- Signs of cognitive decline or impairment
- Accepting—or giving—gifts of a substantial nature

The *Duty to Report a Colleague* standard is **not** an avenue for airing grievances; trivial or malicious reports may be considered unprofessional conduct and may be subject to formal complaints.

CPSA and CMPA are available for guidance in determining if your concern should be brought forward.

REASONABLE GROUNDS

It can be challenging to determine if a concern should be brought forward to CPSA. "Reasonable grounds" is the threshold at which credibly based probability replaces suspicion. Having reasonable grounds to notify a regulatory college of a concern means having a reasonable belief based on reliable information to believe it is probable an issue will occur (foreseeability); a reasonable belief is a state of mind formed when all known considerations, including matters of opinion, are objectively assessed.

Generally, direct knowledge (not just a suspicion) of the incident or behaviour that led to a concern is needed. This is most likely to occur when you directly observe the incident or behaviour. Speculation, rumours, gossip or innuendo are not enough to form a reasonable belief.

Reports may also come from a reliable source or sources about conduct they directly experienced or observed. In this case, you should encourage the person with the most direct knowledge of the incident or behaviour to make a notification themselves.

Your professional background, level of insight, experience and expertise will help you form a reasonable belief. Notifications should be based on personal knowledge of reasonably trustworthy facts or circumstances that would justify a person of reasonable caution, acting in good faith, to believe that the concern and a risk to the public exists[1]. This can be a difficult judgment. When in doubt, it is also worth considering contacting the CMPA or a similar agency for advice.

When to report

Notifications of concern should be made in a timely manner—or immediately if patient safety is at risk or if the regulated health professional's ability to practise is compromised[2].

Let CPSA know about concerns as soon as possible; we are flexible and notifying us may allow the regulated health professional (or yourself) to access relevant resources quickly.

It's also important to remember it's never too late to report a concern. Issues can be raised at any time, whether it happened in the past, is happening currently or you believe it is likely to occur.

[1] From the Australian Health Practitioner Regulation Agency's Guidelines: Mandatory Notifications about Registered Health Practitioners (March 2020).
[2] From CMPA's "Do you need to report another health professional?" (December 2010)

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What to expect

If you submit notification of a concern, CPSA will endeavour to keep your concern confidential during the notification stage of the process.

There may be circumstances in which the regulated health professional who is the subject of the concern is able to determine who filed the notification based on situational information (e.g., a small team where only one member has voiced the concern to the regulated health professional). While this may understandably result in discomfort, patient safety remains paramount, and the relevant regulatory body should be notified as soon as possible.

If you are the subject of a notification of concern, CPSA will endeavour to manage the concern equitably and fairly given the circumstances. Decisions on fitness to practise are assisted by the treating (or an assessing) practitioner's advice.

"WHISTLE-BLOWER" PROTECTION

Anyone notifying a regulatory body about a concern is protected by absolute privilege: there is no legal claim for defamation against the person making the notification when their report is made on reasonable grounds and in good faith, without malice. CPSA has successfully prosecuted members for retaliating against a complainant or witness in an investigation and would do so again should similar circumstances arise in the future.

What if I don't report?

Physicians have a professional and ethical obligation to report situations that put patient safety or the regulation of the health profession at risk. Failure to uphold this obligation may result in disciplinary measures.

Resources

CPSA team members are available to speak with physicians who have questions or concerns. Please contact 1-800-561-3899 or support@cpsa.ca.

RELATED STANDARDS OF PRACTICE

- *Duty to Report a Colleague*
- *Duty to Report Self*
- *Boundary Violations: Personal*
- *Boundary Violations: Sexual*
- *Code of Ethics & Professionalism*

Duty to Report a Colleague/Self

COMPANION RESOURCES

- Advice to the Profession:
  - Boundary Violations: Personal
  - Boundary Violations: Sexual
- Advice to Albertans:
  - Personal & Sexual Boundary Violations
- Physician and Family Support Program (AMA)
- Physician Wellness (CMPA)
- Physician Health Monitoring Program (CPSA)

Review Date	Revision/Change
July 2024	Updating program name; clarifying notification process

APPENDIX A: QUESTIONS TO CONSIDER

Here are some questions to ask yourself if you're unsure you have reasonable grounds to notify CPSA of a concern:

- Do you believe the physician's suspected condition, or consequent behaviour and conduct, is affecting their practice, even if it hasn't necessarily affected any patients yet?
- Do you believe the physician has a health problem which, without effective intervention, may affect their practice?
- To your knowledge, have any prior interventions failed?
- Is the condition a recurring one, and could this affect their ability to practise if they had no support?
- Should any other organization(s) know about the physician's health problem and its potential to impact on their practice?
- Is the physician's behaviour or conduct a one-off incident, or is there a pattern emerging?
- Is there a risk to the physician? How big is that risk, and how serious would the consequences be for the physician?

It's important to consider the physician's own awareness too, particularly if they seem unaware their condition may affect their ability to practise. As well, consider whether this might be a newly diagnosed condition which they are still learning to integrate into their everyday life and practice:

- Is the condition likely to be short-lived and/or respond quickly to treatment? Will the physician fully recover?
- Can any risks to patients be managed during treatment and recovery (e.g., with sick leave or modified hours)?
- Is the behaviour or conduct possibly due to a personality disorder or dysfunction?
- Does the physician accept they have a condition that needs to be managed and is willing to discuss it?
- Does the physician have a good understanding of their condition and its potential impact on their practice?
- Are you concerned about the physician's readiness to accept or comply with any treatment that may be required?
- Does the physician have good support in place?

The physician's level of insight will be a critical factor, irrespective of whether they have a chronic, relapsing or progressive illness.

**From the Medical Council of New Zealand's Health Concerns about a Doctor*