

Dietetic Duty to Report Q&A

Updated April 23, 2024

The duty to report is the legal and professional obligation of all regulated health professionals in BC to report *any* other regulated health professional for concerns of malpractice or misconduct. The *Health Professions Act (HPA)* establishes this legal duty under [section 32](#) to protect the public from possible unsafe practices or sexual misconduct. Concerns must be submitted in writing to the other professional's Registrar at their respective regulatory College.

The duty to report is also tied to Dietetic [Code of Ethics](#) which requires registrants to act in a fair, ethical, and legal manner, including compliance with the *HPA*. Under Standard 1 of the Code of Ethics, dietitians must “provide services in the best interest of clients”.

Q1: I have concerns about malpractice or misconduct, but I am not sure if it is covered by the duty to report. What is considered incompetent or impaired practice or unethical conduct?

This question was adapted with thanks from the BC College of Nurses and Midwives, below are some considerations before making a report.

- Is the regulated health professional failing to provide safe, competent and ethical care?
- Does the behaviour fail to meet the standards of practice or code of ethics?
- Has there been a pattern of questionable behaviour?
- Is the regulated health professional unable, or unwilling, to recognize and correct this behaviour?
- Have clients been harmed by this behaviour?
- Are clients likely to be harmed in future?

If you answered ‘yes’ to any of the questions above, reach out to the other health professional's regulatory College. If you are still unsure of whether to report, see Question 19 for more support.

A range of complaints are covered by the duty to report including, but not limited to the following examples:

- **Physical/ mental ailment or substance use disorders impairing practice** (e.g., observing a colleague treating clients while under the influence of alcohol)
- **Sexual misconduct, including consensual or non-consensual sexual intercourse, touching, behaviour or remarks of a sexual nature** (e.g., you witness a client receiving sexually explicit remarks from another regulated health professional)

Medical practitioners also have the duty to report registrant hospitalization for psychiatric or substance use treatment. However, this is not the responsibility of dietitians (i.e., as a dietitian, you do not need to report a regulated health professional admitted to the acute psychiatric unit where you work.)

Any complaints deemed by College to be [trivial, frivolous, vexatious](#) (see para 47 for interpretation) or made in bad faith per the *Health Professions Act (HPA)* will not be investigated.

Q2: Does the duty to report require dietitians to report other regulated health professionals or should dietitians only report other dietitians?

The duty to report covers all health professions governed by the *Health Professions Act (HPA)* and the complainant does not have to be from the same College as the health professional in question. In other words, a dietitian should report another health professional and vice-versa. There are currently 25 health professions governed by the *HPA* which are regulated by 15 health Colleges.

According to section [32.2\(1\)](#) of the *HPA*, when a registrant has reasonable and probable grounds to believe that another health professional is placing clients at risk of harm, this registrant has the duty to report the health professional in question to the College they are registered with. A list of health profession regulatory Colleges in BC is available on the [Government of BC website](#). While the general framework for managing complaints is the same for all Colleges that are regulated under the *HPA*, the execution of the complaint and investigation process may vary.

Q3: Why is important to report? What happens if I do not report?

All regulated health professionals governed by the *Health Professions Act (HPA)* must legally abide by the duty to report. Health professionals should always have the best interest of the patient at heart. Reporting and preventing risk of harm to the public is an integral part of being a health care provider. As part of the Dietetic [Code of Ethics](#), dietitians are also ethically required to comply with the *HPA* and subsequently, the duty to report. Failing to execute this duty may jeopardize public safety. It may also place liability on and potentially lead to a complaint about the professionals who failed to report a safety matter to their respective regulatory College.

Q4: I am not a dietitian, but another regulated health professional who needs to report a dietitian. What do I need to do?

The process for reporting is the same as for CHCPBC Registrants. Please refer to Q5.

Q5: What is the reporting and investigations process like at the College?

There are two options for reporting dietitians to the College:

Option 1: Fill out and submit a [concerns and complaints form online](#).

Option 2: Call 604.742.6395 or toll-free at 1.888.742.6395.

College staff will accept your verbal complaint and assist with preparing a written submission to the Deputy Registrar/Registrar. A copy of the written complaint will be sent to you for the opportunity to review and modify it prior to submission.

Information about College's reporting and investigation process (for the public and registrants) is available on the [Concerns and Complaints webpage](#). The complainant and registrant will be notified in writing about the progress of the investigation and outcome, including reasons for the decision made.

Q6: I am not the only person who has concerns. Do we all need to report? Can we submit one joint report?

In a situation of multiple registrants having identical concerns regarding the same health professional, one joint report can be submitted. It is important to note that the complainant should be a direct observer/interacted with the registrant being reported.

If you have reasonable evidence to believe that someone has already submitted a complaint for the same matter and you do not have additional insights to provide, you do not need to submit an additional complaint. However, if you are unsure whether a formal complaint has been submitted, it is best to submit one yourself to ensure the matter is brought to the attention of the regulatory body.

When multiple parties are involved in a case, it is important to continue to fulfill your professional and ethical obligations. The circumstances and identities of clients, registrants, and other individuals involved in events that may require investigation should not be shared with outside parties (except for the College). Even within the parties involved, discussion of the case must be minimized to maintain the integrity of the investigation and to preserve the confidentiality of the registrant concerned by the complaint.

Q7: I am concerned about my colleagues finding out that I reported another health professional. Can I make an anonymous report?

As a reminder, the purpose of the duty to report is to protect the public, and it is a legal and ethical obligation for regulated health professionals in B.C. However, we recognize that reporting colleagues can be difficult, particularly when there are power imbalances or general concerns for retaliation.

While the College strives to preserve the anonymity of parties involved in a complaint if requested, it is not always possible to do so. Investigations by the College need to be conducted with procedural fairness. To do so, the dietitian concerned by the complaint will be given an opportunity to respond to the allegations. In some instances, it will be clear to the dietitian who made the complaint by reading the allegations. For example, there may be situations where a health professional includes the dietitian they are complaining about in their correspondence to the College.

Another example is when the complaint comes from a dietitian's current or former client, where knowing each other's identity allows each party to respond to each other through the College during the investigation process. The names will also be known to the College and Inquiry Committee.

The College can also attempt to protect complainants' and witnesses' identities upon explicit request for anonymity and relay the anonymity request to the Inquiry Committee. However, there may be cases in which a dietitian's legal counsel compels the College to reveal the name of the complainant and therefore anonymity cannot be guaranteed.

Q8: Is there legal protection if I report a concern?

According to section [32\(5\)](#) of the *Health Professions Act (HPA)*, "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\(4\)](#)." Therefore, a registrant cannot be sued for reporting another professional as long as the reports are made on reasonable and probable grounds.

Q9: Is there whistleblower protection in BC?

Under the current [Public Interest Disclosure Act \(PIDA\)](#), current and former BC public sector employees can report issues of wrongdoing to their supervisor, a designated officer or the Ombudsperson. PIDA also prohibits people from retaliating against employees who speak up about potential wrongdoing within the public sector only.

Consult the [Office of the Ombudsperson website](#) for a list of organizations covered under PIDA. With this being said, this whistleblowing law is not under the authority of the College. Individual Health Authorities may also have additional whistleblower protection/policies.

Additionally, under the [B.C. Humans Rights Code](#), there is protection from retaliation. This means that a supervisor/manager may not seek legal action against anyone (i.e., a health professional or member of the public) who speaks up about potential wrongdoing in either the public or private sectors. More information is available on the [BC Human Rights Tribunal website](#).

Q10: I already made a complaint to the registrant’s employer, supervisor, or health authority. Do I still need to submit a complaint to the College?

It depends. Depending on the level of risk involved in the matter and whether the employer, supervisor, or Health Authority is in the process of addressing the issue, the issue may be resolved without having to involve the College. If it is not known that the employer, supervisor, or Health authority is addressing the issue or if it isn’t addressed properly, it is best to report concerns to the registrant’s regulatory college.

Q11: The health professional was terminated or resigned. Do I still need to report?

Yes, the duty to report remains even if the health professional you are concerned about is terminated or resigns prior to the reporting. This helps ensure that concerns are documented and dealt with by their regulatory body appropriately. Colleges are also obligated to share information on former registrants with other regulatory bodies in Canada.

Q12: I am reporting another health professional for sexual misconduct. Are there any special considerations when submitting this complaint?

Allegations of sexual misconduct are considered serious and of high risk of harm to the public. Therefore, restrictions may be imposed on the practice of the registrant until the investigation is completed (e.g., not being able to see a client alone). Additional considerations include:

- If the report is based on information received by a client, you must have their explicit consent before reporting.
- Consider whether a direct witness or victim is able to submit a report. Cases are often strengthened by information from a direct source rather than a third-party practitioner.

Q12: As a complainant, what can I expect from the process?

After a complaint is submitted, the Deputy Registrar/Registrar may contact you for clarification. The Deputy Registrar/Registrar will then forward the letter of complaint to the Inquiry Committee with an assessment of the complaint and recommendation for investigation.

The Inquiry Committee may appoint an inspector to investigate, and you may have to meet with them to answer clarification questions about the complaint. The inspector will summarize your complaint information, the registrant’s response, your follow-up response to the registrant’s, if relevant, and any other information in a report addressed to the Inquiry Committee. The report will provide a factual risk analysis of any issues found for the Inquiry Committee to consider, using the College Standards of Practice and Code of Ethics.

The Inquiry Committee's decision will include consideration of legal requirements for dietetic practice, any relevant practice standards, policies and guidelines, risks to the public, severity of the issues and fairness to each party of the complaint.

Once a decision is made, the complainant and registrant reporting will be notified of the Inquiry Committee's decision and reasons. Decisions focus on remediating practice in a proportionate manner to protect the public. If you are not satisfied with the adequacy of the process or the reasonableness of the decision made, you may appeal to the Health Professions Review Board.

Q13: What can happen to the dietitian following the investigation? Is there anything that the College cannot do?

Below are examples of outcomes determined by the Inquiry Committee, which vary significantly based on the information of the investigation and risk of harm to the public:

- No further action, if the inquiry committee is of the view that the matter is trivial, frivolous, vexatious (see Q1 for case law interpretation of those terms) or made in bad faith or that the conduct or competence to which the matter relates is satisfactory
- An undertaking "to not repeat" a certain error or behavior in breach of the profession's legislation
- Recommendations to adjust/modify/enhance the practice
- Required readings and/or courses to remediate a gap in practice
- Additional training and assessment
- Reprimand
- Impose a fine
- Temporary or permanent restriction on practice (e.g., removal of certain Restricted Activities, no direct client care without supervision)
- Refer the case to a discipline hearing, which may result in license suspension or cancellation

While the College regulates the practice of dietetics under provincial law, the College *cannot* do the following:

- Direct the dietetic care of an individual client,
- Direct a change in institutional policy and procedures,
- Arrange for the transfer of care to a different registrant,
- Compel a registrant to apologize, or
- Provide or insist on financial compensation (e.g., for any harms, treatment refunds)

Q14: How long does the investigation process take?

In alignment with the *Health Professions Act* (HPA) section 50(55), the College may take up to 120 days to investigate a concern. Extensions to 255 days or more may be granted with the consent of all parties involved, including the Health Professions Review Board if past 210 days. The timing of each complaint will vary, as it is dependent on the type of complaint, the number of documents to review and the availability of the informants. The complainant and registrant will be notified in writing about the progress of the investigation, the outcome of the investigation and the reasons for the decision.

Q15: What happens if someone reports me to the College?

When someone submits a report, the Deputy Registrar/Registrar will review it, request more information if needed, then submit it to the Inquiry Committee. The committee will then appoint a trained inspector to investigate according to a plan approved by the committee. You will also be notified of the formal complaint and be given the opportunity to respond in writing and include any supporting documentation. If relevant, the complainant may receive your response and write a follow-up response of their own.

You and the complainant will receive written notices on the progress of the investigation and the outcome. Decisions will be saved permanently in your CHCPBC record. A case outcome report will be posted on the CHCPBC website and will remain anonymous under the *Health Professions Act (HPA)*. This means that details such as your name, workplace, clients, etc. will not be made public, unless the complaint involves a “serious matter” as defined in the HPA.

If the matter is serious, such as fraud, sexual misconduct, or restrictions on practice due to unsafe care, then public notification will occur and the information about the case will be published on the CHCPBC website. This notification would include your name, issues found and reasons for restrictions on your practice. Serious matters may be escalated to the Discipline Committee and require a disciplinary hearing. In cases of high risk of harm to the public, the Inquiry Committee has the authority to restrict a registrant’s practice until the inspection is complete.

Concerns regarding health-related matters are treated confidentially in a separate stream from the College’s regular complaints and discipline process. Upon receipt of expert medical advice, a registrant may be asked to voluntarily withdraw from practice until such time as they have been determined fit to practice.

Q16: Can I withdraw my complaint?

This depends on the College to which the report was made. At the College, complaints may be withdrawn, however, the College is legally obligated to investigate if the Inquiry Committee sees unaddressed risks such as safety breaches. This is to ensure that the College meets its

mandate of public protection. In a case where someone withdraws their complaint, but issues remain, the Inquiry Committee can investigate the concerns as an “own motion” complaint.

Q17: I still don't know whether I should report. Where can I go for more information?

The following sections of the *Health Professions Act (HPA)* relate to the duty to report:

- [Section 32.1](#) Definition for sections 32(2) and 32(3),
- [Section 32.2](#) Duty to report registrant,
- [Section 32.3](#) Duty to report respecting hospitalized registrant,
- [Section 32.4](#) Duty to report sexual misconduct,
- [Section 32.5](#) Immunity.

Additional resources specific to Dietetics include:

- Standards of Practice
- Code of Ethics
- Indigenous Cultural Safety, Humility, and Anti-racism Practice Standard
- Standards of Record Keeping
- Marketing Standards
- Professional Boundaries in Therapeutic Relationship Program

Q18: Will the duty to report change when the Health Professions Act (HPA) is replaced with the Health Professions and Occupations Act (HPOA)?

The *Health Professions and Occupations Act (HPOA)* is the first reform of the *Health Professions Act (HPA)* in 30 years. It received Royal Assent in November 2022 but has not yet been implemented. As of now, the *HPA* is still the statute that health regulatory Colleges operate from.

Specifically for duty to report, under the *HPOA* all healthcare providers are still expected to report to the College for concerns of incompetent care, a suspected risk to the public, sexual misconduct, sexual abuse, or discrimination. This is unchanged from the *HPA*.

However, the new *HPOA* places greater emphasis on eliminating discrimination in the healthcare system, strengthening responses to discrimination that occurs, and promoting anti-discrimination measures for safer health care. Transparency will also be enhanced under the *HPOA* and the threshold to publish complaint decisions will be modified to any complaint leading to disciplinary actions. Anonymity will also be provided more easily through a structured process for people who have experienced discrimination, sexual abuse, or sexual misconduct when requested.

Please see the [Health Professions and Occupations Act Q&A](#) for more information, as well as the [Health Professions and Occupations Act](#).

Q19: Can the College investigate a registrant if there hasn't been a reported complaint or concern?

Under section 33 (4) (e) of the Health Professions Act, the inquiry committee may, on its own motion, investigate a registrant regarding a physical or mental ailment, an emotional disturbance or an addiction to alcohol or drugs that impairs a registrant's ability to practice their designated health profession.

The College may become aware of incompetent or impaired practice, or unethical conduct, through a number of informal channels, including, but not limited to, discussions with registrants regarding their own fitness to practice* or other concerns about their ability to practice competently, comments received from clients or employers, or a registrant's inability to meet renewal requirements, including the continuing competence program.

*A fitness to practice issue may not require disclosure to the College if it is being addressed by the registrant through their employer and personal healthcare network and mitigates any risk to the public.