



COLLEGE OF
LICENSED PRACTICAL NURSES
OF ALBERTA



Interpretive Document

Duty to Report

Revised: January 8, 2020



This document is linked to legislation:

[Health Professions Act](#)
[Health Information Act](#)
[Public Health Act](#)
[Communicable Diseases Regulation](#)
[Occupational Health and Safety Regulation](#)
[Immunization Regulation](#)
[Protection for Persons in Care Act](#)
[Child, Youth and Family Enhancement Act](#)
[Occupational Health and Safety Act](#)
[Fatality Inquiries Act](#)
[Gunshot and Stab Wound Mandatory Disclosure Act](#)
[Traffic Safety Act](#)

This document is linked to other documents that direct expectations of professional behaviour or requirements for practice:

[Standards of Practice](#)
[Standards of Practice on Boundary Violations](#)
[Code of Ethics](#)
[Professional Responsibility and Accountability](#)

This document is linked to related supportive documents:

[Privacy Legislation in Alberta](#)
[Confidentiality](#)
[Immunization Regulation Duties](#)

REVISIONS and UPDATES

Editorial Update January 2020

Interpretive Document: *The legislative mandate of the College of Licensed Practical Nurses of Alberta (CLPNA) is to serve and protect the public by ensuring its members deliver safe, competent and ethical nursing care. An Interpretive Document provides an explanation of legislation that affects practical nursing and how to practice in compliance with the law. These explanatory documents are meant to clarify an LPN's understanding of obligations and issues arising from various pieces of legislation.*

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INTRODUCTION The *Standards of Practice for Licensed Practical Nurses in Canada* and the *Code of Ethics for Licensed Practical Nurses in Canada* outline the responsibility of Licensed Practical Nurses (LPNs) to protect a client's privacy and the confidentiality of client information.¹ This document outlines an LPN's legal obligations to report otherwise confidential information to appropriate authorities.

PURPOSE It can be difficult to interpret legislation and understand when confidential information is authorized to be reported. The purpose of this document is to provide an overview of the legislation and other obligations that may impose a duty on an LPN to report information, either by themselves or as part of the healthcare team. Additionally, depending on employer policy, the LPN may not be the person in charge of making the report to the appropriate authorities in their healthcare team.

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, as affiliates under the HIA, 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".² The term 'as soon as practicable' means when the affiliate becomes aware of a breach and has sufficient means and information to properly execute the notice.³ A complete list of health professions that are custodians can be found in section 2(2) of the HIA Regulation.

Reporting Communicable and Notifiable Diseases

The *Health Professions Act* (HPA) and the *Public Health Act* (PHA) outline the obligation of healthcare

providers to report awareness of a communicable disease infection or reasonable suspicion of a health condition dangerous to public health to the Medical Officer of Health.⁴ 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".⁵ 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 s. 20 of the PHA.

The *Occupational Health and Safety Act* also requires healthcare providers to report notifiable diseases to the Director of Medical Services.⁶ A complete list of notifiable diseases can be found in s. 6 of the *Occupational Health and Safety Regulation*.

The *Immunization Regulation* outlines several reporting obligations for LPNs.⁷

As of December 17, 2018:

- 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).

As of January 1, 2021:

- 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 a report about the unreported immunization is submitted to the CMO.



LPNs can refer to the CLPNA document on Immunization Regulation Duties for more information.

Reporting Abuse

The *Protection for Persons in Care Act* defines abuse broadly. A client receiving care is considered abused if a service provider's action or lack of action:

- causes serious bodily harm,
- causes serious emotional harm,
- results in the administration, withholding or prescribing of medication for an inappropriate use, resulting in serious bodily harm,
- subjects an individual to non-consensual sexual contact, activity or behaviour,
- involves misappropriating or improperly or illegally converting a significant amount of money or other valuable possessions, or
- results in failing to provide adequate nutrition, adequate medical attention or another necessity of life without a valid consent, resulting in serious bodily harm.⁸

Notwithstanding the list noted above, 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, or
- the action or lack of action was associated with the client's refusal of care.⁹

Under the Protection for Persons in Care Act, anyone who suspects abuse of an adult client in a healthcare facility is required to make a report to the appropriate authority.¹⁰

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

1. the Protection for Persons in Care Information and Reporting Line at 1-888-357-9339 (within Alberta) or 780-422-1155 (outside of Alberta),
2. the police if the client is in immediate danger or if the abuse involves criminal activity,
3. the Mental Health Patient Advocate at 780-422-1812 if the client is detained under the *Mental Health Act* or is under a Community Treatment Order, or
4. the professional regulatory body if the abuse involves a healthcare professional.¹¹

This obligation to report abuse is similar to the types of required reportable incidents outlined in the Continuing Care Health Service Standards.¹² A reportable incident is defined as "an unexpected or normally avoidable outcome that negatively affects a client's health or quality of life in the course of healthcare".¹³ In continuing care facilities, the manager or operator is responsible for establishing and following-up with policies and procedure about reportable incidents to Alberta Health.

LPNs who suspect abuse should follow facility policies for reporting. They may find it helpful to discuss their concerns with the healthcare team, manager, and/or the Practice Team at the CLPNA.

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".¹⁴ While providing nursing care, LPNs may become aware of a situation that needs intervention.

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

Bill 21: An Act to Protect the Patients updates the HPA to include a number of new requirements related to the management and reporting of sexual abuse and sexual misconduct of healthcare providers.¹⁵ It will come into full effect on April 1, 2019 and certain



requirements are already in effect. Some of the new reporting requirements include:

- self-reporting of unprofessional conduct by another regulated body in any jurisdiction to the Registrar,
- self-reporting of any findings of professional negligence to the Registrar,
- self-reporting of charges or convictions of an offence under the *Criminal Code*, and
- reporting of any regulated healthcare provider's conduct related to sexual abuse or sexual misconduct 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 s. 10 of the FIA to make a report to the medical examiner or the police. 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. These situations include:

- 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, and
- 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.¹⁶

Reporting Gunshots and Stab Wounds

A healthcare facility is required under section 3(1) of the *Gunshot and Stab Wound Mandatory Disclosure*

to disclose information related to the injured person's gunshot or stab wound to the local police. A "healthcare facility" is defined broadly and means a facility that provides healthcare services.

LPNs should follow employer policy when addressing this reporting obligation. Typically, the most responsible person (e.g. charge nurse) is designated to make this report to the local police.¹⁷

Reporting Incapability

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.¹⁸ 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 and, if so, by whom.

In accordance with the *Standards of Practice* and *Code of Ethics*, LPNs are responsible for maintaining their own fitness to practice, which means maintaining their **capability** to meet the responsibilities of their role.¹⁹ Although LPNs are expected to manage their own fitness to practice, some illness or medical conditions can affect an individual's capacity to self-identify that their fitness to practice might be impaired. In these situations, concerns related to an LPN's fitness to practice may be raised by other colleagues to the manager and/or the CLPNA. In these situations, it is important for the LPN to assess their capability to deliver safe nursing care and to manage the concern accordingly. More information can be found in the CLPNA's document on "Professional Responsibility and Accountability".

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.
- 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. LPNs may need to balance consequences of making a report against a potential breach of privacy. If time allows, LPNs may find it helpful to discuss these types of situations with their healthcare team, manager, or the Practice Team at the CLPNA.

CONCLUSION As healthcare providers, LPNs have professional, ethical, and legal obligations to protect the privacy and confidentiality of personal information and also have legal obligations to release information in some circumstances. LPNs may also have additional ethical obligations to make a report to an appropriate authority, especially in situations involving immediate danger.

If after reading this document you have questions about your legal duties to report, please contact the Practice Team at the CLPNA via practice@clpna.com, 780-484-8886 or 1-800-661-5877 (toll free in Alberta).

Please be aware that this document is not a substitute for legal advice in any specific situation.



REFERENCES

- ¹ Canadian Council for Practical Nurse Regulators (CCPNR), *Standards of Practice for Licensed Practical Nurses in Canada*, 2013, 6-7. https://www.clpna.com/wp-content/uploads/2013/02/doc_CCPNR_CLPNA_Standards_of_Practice.pdf; CCPNR, *Code of Ethics for Licensed Practical Nurses in Canada*, 5, https://www.clpna.com/wp-content/uploads/2013/02/doc_CCPNR_CLPNA_Code_of_Ethics.pdf.
- ² *Health Information Act*, RSA 2000, c H-5, s 60.1(1); *Health Information Regulation*, Alta Reg 70/2001, s 8.2(1).
- ³ Government of Alberta, *Health Information Act Guidelines and Practices Manual: Chapter 14 Duty to Notify* (2018), 8, <https://open.alberta.ca/dataset/50877846-0fba-4dbb-a99f-eeb651533bc4/resource/ef3b89a9-e50b-4b47-86b6-35ab0c7d1ae3/download/hia-guidelines-practices-manual-chapter14.pdf>.
- ⁴ *Health Professions Act*, RSA 2000, c H-7, s 1.1(1); *Public Health Act*, RSA 2000, c P-37, s 22(1)
- ⁵ PHA, s 1(f).
- ⁶ *Occupational Health and Safety Act*, SA 2017, c O-2.1, s 47.
- ⁷ *Immunization Regulation*, AR 182/2018, http://www.qp.alberta.ca/documents/Regs/2018_182.pdf.
- ⁸ *Protection for Persons in Care Act*, SA 2009, c P-29.1, s 1(2).
- ⁹ PPCA, s 1(3).
- ¹⁰ PPCA, s 7(1).
- ¹¹ Government of Alberta, *A Guide to Understanding the Protection for Persons in Care Act*, 2018, 9, <https://open.alberta.ca/dataset/fbe324d8-e85f-4258-b7e5-ae7514b185d5/resource/68359e7d-8969-4f3e-9f32-e17093871a17/download/ppc-understand-ppca-2018.pdf>.
- ¹² Government of Alberta, *Continuing Care Health Service Standards Information Guide*, 2016, 53, <https://open.alberta.ca/dataset/8fd7f61d-7c16-435e-8181-de9a38d761d5/resource/d0055ab3-3ec8-4d55-952f-fedeff446cba/download/continuing-care-standards-guide-2016.pdf>.
- ¹³ Ibid.
- ¹⁴ *Child, Youth, and Family Enhancement Act*, RSA 200, c C-12, s 4(1).
- ¹⁵ Alberta, The Legislative Assembly of Alberta, *Bill 21: An Act to Protect Patients*, Fourth Session, 29th Legislature, 67 Elizabeth II (2018), https://www.assembly.ab.ca/ISYS/LADDAR_files/docs/bills/bill/legislature_29/session_4/20180308_bill-021.pdf.
- ¹⁶ *Fatality Inquiries Act*, RSA 2000, c F-0, s 10(2).
- ¹⁷ Alberta Health Services, "Gunshot & Stab Wound Reporting," <https://www.albertahealthservices.ca/info/Page3959.aspx>.
- ¹⁸ *Traffic Safety Act*, RSA 2000, c T-6, s 60.
- ¹⁹ *Standards of Practice*, 4; *Code of Ethics*, 8.