



Standard of Practice

Duty to Report Self, Colleagues, or Patients

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Standards of Practice of Medicine set out the requirements related to specific aspects for the quality of the practice of medicine. Standards of Practice of Medicine provide more detailed information than contained in the *Regulated Health Professions Act, Regulations, and Bylaws*. All members must comply with Standards of Practice of Medicine, per section 86 of the *Regulated Health Professions Act*.

This Standard of Practice of Medicine is made under the authority of section 82 of the *Regulated Health Professions Act* and section 15 of the CPSM Standards of Practice Regulation.

PREAMBLE

Self-regulation is a privilege of the medical profession which comes with responsibilities, including the duty to report. This duty protects the trust relationship between the profession and society by showing physicians to be transparent, accountable, acting in the public interest, and most importantly protecting patient safety.

A report to CPSM as part of this Standard is a notification for the purposes of next steps. CPSM's approach to matters of physician health are viewed through a treatment and/or rehabilitation lens aimed at supporting wellness. Members experience short term and chronic health conditions and the role of CPSM and the Physician Health Program may fluctuate over time reflective of their health condition and wellness. Members with health conditions are managed independently of the discipline process whenever possible. The personal health information of members will be treated with the utmost sensitivity and confidence and that access to that information will be on a limited need-to-know basis in accordance with the CPSM Privacy Policy and PHIA.

Any reporting and use of the information by CPSM must also be in compliance with the Personal Health Information Act which permits disclosure for the purposes of CPSM. That Act also stipulates that every use and disclosure must be limited to the minimum amount of information necessary to accomplish the purpose for which it is to be used or disclosed and only to the extent the recipient needs to know the information.

Part 1. Duty to Report Self

- 1.1. Members who may have a diminished ability to provide safe and competent medical care have an ethical responsibility to report to CPSM and restrict or withdraw from practice. CPSM recognizes the reporting of illness as linked to a continuum of impairment whereby CPSM in its regulatory role to protect the public must determine if a member's illness is impacting their ability to provide safe care. CPSM exercises reasonable judgement when considering the impact of an illness on the ability to practice medicine safely and does so in a respectful and dignified manner. Where required, the Physician Health Program will engage with members who self-report in a collaborative and supportive health monitoring process.
- 1.2. A member must notify CPSM promptly of any health condition that may reasonably affect their practice of medicine including:
 - 1.2.1. a physical or mental condition or disorder, including any substance abuse disorder or addiction, that may impair their ability to engage in the practice of medicine in a safe and effective manner, and that makes it desirable in the public interest that they not engage in the practice of medicine. *CPSM General Regulation* s. 4.4 and 4.10
 - 1.2.2. if they are or will be performing a procedure that involves a risk of transmission of a bloodborne pathogen. *CPSM General Regulation* s. 4.4 and 4.10
- 1.3. A member must notify CPSM of the following personal circumstances promptly once they become aware of:
 - 1.3.1. being the subject of a review or finding of conduct unbecoming, professional misconduct, incompetence, or incapacity or lack of fitness to practise a health profession in Manitoba or elsewhere. *CPSM General Regulation* s. 4.4 and 4.10
 - 1.3.2. their authority to practise medicine or any other health profession being suspended, restricted, or revoked in Manitoba or elsewhere. *CPSM General Regulation* s. 4.4 and 4.10
 - 1.3.3. being the subject of a denial to practice a health profession or occupation in Manitoba or elsewhere. *CPSM General Regulation* s. 4.4 and 4.10
 - 1.3.4. any breach of practice restrictions, conditions, limitations, or an undertaking imposed by CPSM or any other authority.
 - 1.3.5. any voluntary or involuntary loss or restriction of diagnostic or treatment privileges granted by an administrative authority in a hospital, health authority, or university or discipline, or any resignation in lieu of further administrative action, except where the loss or restriction is the result of the closure or transfer of services provided by the member.

- 1.3.6. being charged or convicted or pleading guilty to a criminal offence or an offence under any narcotic or controlled substances legislation in any jurisdiction. *CPSM General Regulation* s. 4.4 and 4.10
 - 1.3.7. being the subject of a claim, settled a claim, or a judgment against them in civil court respecting their professional practice or professional activities. *CPSM General Regulation* s. 4.4 and 4.10
 - 1.3.8. a violation of sexual boundaries with a patient as defined in the [Standard of Practice Sexual Boundaries with Patients, Former Patients & Interdependent Persons](#).
- 1.4. If a member finds themselves in a situation that is not explicitly covered above, but there is reason to believe their circumstances impacts their ability to practice medicine safely and competently, in the interest of public safety they must report this to CPSM.
 - 1.5. The duty to self-report is required notwithstanding any non-disclosure or other agreement regarding confidentiality signed by an institution or organization and the member.

Part 2. Duty to Report a Colleague – CPSM and Other Regulated Health Professionals

- 2.1. The *Regulated Health Professions Act* requires:

“Duty of members to report

138(1) A member who reasonably believes that another member of the same regulated health profession

- (a) is unfit to practise, incompetent or unethical; or
- (b) suffers from a mental or physical disorder or illness that may affect his or her fitness to practise, and continues to practise despite having been counselled not to;

must disclose that belief to the registrar, along with the name of the other member and particulars of the suspected disorder, illness, lack of fitness to practise, incompetency or unethical behaviour.

Exemption from liability for disclosure

138(2) A member who discloses information under subsection (1) is not subject to any liability as a result, unless it is established that the disclosure was made maliciously.”

- 2.2. A member must notify CPSM promptly once they become aware of and reasonably believe that another CPSM member:
 - 2.2.1. has any of the personal circumstances listed under Part I.
 - 2.2.2. has an unwillingness or inability to address behaviour that interferes with patient care or negatively impacts the ability of other members or healthcare workers to provide patient care.

- 2.2.3. behaves in a manner outside of providing patient care that could reasonably be considered unprofessional conduct under the *Regulated Health Professions Act*, Regulations, Bylaws, and Standards of Practice.
- 2.3. If there is not imminent patient safety concern and circumstances are appropriate, a member may discuss the concern directly with the other member, assist the member in accessing support, and/or develop a plan to notify CPSM together. If circumstances are not appropriate or if this approach is unsuccessful or incomplete, the member must report to CPSM.
- 2.4. The duty to report a CPSM member or member of another regulated health profession arises whether the member is a patient or a colleague.
- 2.5. The duty to report a CPSM member applies to all members, whether physicians, clinical assistants, physician assistants, residents, or students.
- 2.6. If the member finds themselves in a situation that is not explicitly covered above, but there is reason to believe that the circumstances they are aware of regarding another CPSM member impacts on that member's ability to practice medicine safely and competently, in the interest of public safety they must report this to CPSM.
- 2.7. The duty to report a CPSM member is required notwithstanding any non-disclosure agreement signed by an institution or organization and the colleague.
- 2.8. It is professional misconduct to impose repercussions upon or disadvantage any member for making a report in good faith under this Part.
- 2.9. When a patient discloses information leading a member to believe on reasonable grounds that another CPSM member has committed a sexual boundary violation with a patient, the member who receives the disclosure must:
- 2.9.1. provide the patient with information about how to file a complaint with CPSM
 - 2.9.2. if the patient does not wish to file a complaint personally, offer to file a third person complaint on behalf of the patient;
 - 2.9.3. in the absence of confirmation that the patient has filed a complaint, document the sexual boundary violation indicating that the patient does not wish to report to CPSM and report the member to CPSM.
 - 2.9.4. assess and record in the patient's record whether disclosure of the patient's personal information regarding the sexual boundary violation could cause serious imminent mental, physical or emotional harm to the patient.
- 2.10. A member who reasonably believes that a member of a different regulated health profession is suffering from a physical or mental condition or disorder or a nature or to an extent that the other member is unfit to continue to practise should be restricted must inform the registrar of the other member's college about that belief and the reasons for it.

Part 3. Duty to Report the Medical Condition or Knowledge of Patient Information

- 3.1. Members must comply with any duty to report the medical condition or knowledge of patient information as prescribed by Provincial and Federal Legislation (see Contextual Information and Resources for list of legislation).
- 3.2. Honesty and compassion are virtues fundamental to the patient-physician relationship. To ensure a trusting physician-patient relationship, members should communicate with their patients about their reporting duties and breach of confidentiality except in rare instances when notifying the patient is not appropriate, such as where the member is concerned about the safety of the patient or another person.



Contextual Information and Resources

Duty to Report Self, Colleagues, or Patient

The Contextual Information and Resources are provided to support members in implementing this Standard of Practice. The Contextual Information and Resources do not define this Standard of Practice, nor should it be interpreted as legal advice. It is not compulsory, unlike a Standard of Practice. The Contextual Information and Resources are dynamic and may be edited or updated for clarity, new developments, or new resources at any time.

Code of Ethics and Professionalism

CPSM has adopted the **Canadian Medical Association Code of Ethics and Professionalism**. Members' legal, ethical and professional reporting obligations relate to the following principles set out in the CMA Code of Ethics and Professionalism:

Commitment to the Well-being of the Patient

Take all reasonable steps to prevent or minimize harm to the patient; disclose to the patient if there is a risk of harm or if harm has occurred.

Physicians and the Practice of Medicine

18. Fulfill your duty of confidentiality to the patient by keeping identifiable patient information confidential; collecting, using, and disclosing only as much health information as necessary to benefit the patient; and sharing information only to benefit the patient and within the patient's circle of care. Exceptions include situations where the informed consent of the patient has been obtained for disclosure or as provided for by law.

Physicians and Colleagues

33. Take responsibility for promoting civility, and confronting incivility, within and beyond the profession. Avoid impugning the reputation of colleagues for personal motives; however, report to the appropriate authority any unprofessional conduct by colleagues.

Physicians and Society

39. Support the profession's responsibility to act in matters relating to public and population health, health education, environmental determinants of health, legislation affecting public and population health, and judicial testimony.

Self Regulation and the Duty to Report

As a self-regulating profession, members have a legal and professional responsibility to report both themselves and colleagues (any CPSM registered member) when the circumstances outlined in the Standard have been met. This ensures the profession continues to regulate in the public interest and demonstrates that patient safety is paramount.

Reporting a Colleague

Even if others can or will make a report, it is each member's responsibility to report circumstances of which they are aware. While many members may believe it is more socially appropriate to take concerns directly to the individual involved (rather than reporting them to CPSM), in medicine the overarching obligation to patient safety creates a higher duty to report. Every member must act in ways that are transparent, accountable, and most importantly in the public interest - this protects the trust relationship between medicine and society.

CPSM recognizes it can be difficult to report a colleague. If there is no imminent patient safety concern it may in some circumstances be acceptable to ask your colleague to start the process by self-reporting their circumstances to CPSM. To fulfill the duty to report, this must still be followed up by a timely report to CPSM.

Concerns about possible repercussions are commonly identified as a reason why members are worried about reporting colleagues. A member who reports a colleague in good faith is protected from liability. Imposing repercussions or disadvantaging someone who reports in good faith is professional misconduct.

Other specific employment and workplace issues should be addressed through appropriate institutional and departmental processes, such as provided in medical staff bylaws.

Some members may request anonymity when they make a report. Depending upon the nature of the circumstances and the availability of other sources of information, CPSM may attempt to protect the identity of the member making the report. However, there are circumstances where, as part of the review, the identity of the member making the report may be disclosed or may become apparent.

As a treating member of another CPSM member or another regulated health professional it may be difficult to decide when a report should be made to the Registrar. The primary duty of any member is to act in the best interest of their patient, and to preserve the trust that exists in that physician-patient relationship. However, if a member becomes aware that another member or regulated health professional has a condition that may impair their ability to practice safely and competently - *even if that member is their patient* - they must report it to the Registrar in compliance with their obligations to protect the public.

Physician Health Program

CPSM recognizes that while members must report health conditions with the potential to influence the ability to practice medicine safely, the timing and nature of a member's disclosure may be influenced by fear and stigma. In the interest of patient safety, the experience of reporting a health condition to CPSM must feel safe to members and be non-punitive. CPSM will be judicious and balanced in responding to any health information disclosed under the reporting requirements. As a primary function, the CPSM Physician Health Program balances the regulatory mandate to protect the public with supporting and empowering members experiencing both acute and chronic health concerns to optimize their wellness. CPSM supports all members including physician assistants, clinical assistants, residents and medical students through the Physician Health Program. Monitoring and optimizing the health and well-being of members is critical to ensuring safe and quality patient care.

The CPSM Physician Health Program is a confidential and collegial program that aspires to treat members with respect and dignity while acknowledging the human experience of illness. When voluntary or involuntary reports about a member's health are received, the Physician Health Program encourages members to seek out and engage in appropriate therapy and/or treatment for their condition. The ability to practice safely is of primary concern and in most cases involvement with the Physician Health Program is minimal and does not impact a member's practice. A monitoring plan may or may not be required and each member's situation is reviewed individually and tailored to optimize outcomes for both patient safety and the member. In situations where an illness is severe, insight is limited, or there is a demonstrated risk to patient safety, the primary focus becomes restoring the member's health and a measured and reasonable plan is put in place to support the member in achieving wellness while not practicing medicine. Involvement with the Physician Health Program is non-punitive and is focused on rehabilitation and maintenance of or return to practice so long as the member is safe to do so. Early reporting of illness can ensure a longstanding and supportive relationship with CPSM and streamline processes in the case of an acute exacerbation and/or health crisis.

A number of health conditions may present the potential for an impact on patient safety including any condition that could impair a member's physical function, cognition, judgment and/or insight. The principle behind creating a safe and open reporting process is to encourage reporting of medical conditions prior to evidence of patient harm. It is a common misconception that reporting is only required for mental health conditions. A surgeon with Parkinson's disease, a psychiatrist undergoing chemotherapy for breast cancer, a family doctor with substance abuse disorder, and an internist who has had a stroke are all examples of members whose illness could impair their ability to perform safely and are therefore important conditions to disclose to CPSM's Physician Health Program. Where there is confusion about whether a condition is reportable members should contact the Physician Health Program for more information.

For residents and students with health issues, the Physician Health Program works with the University to ensure the member's ability to learn and practice medicine safely.

Mandatory Reporting of the Medical Condition of a Patient or Knowledge About a Patient

There are circumstances where members are required or permitted to report particular events or clinical conditions to the appropriate government or regulatory agency. When the law requires members to provide a report, that requirement overcomes the confidentiality provisions in privacy legislation.

“A trustee may disclose personal health information without the consent of the individual the information is about if the disclosure is authorized or required by an enactment of Manitoba or Canada.” PHIA, s. 22.

Some members may have ethical concerns pertaining to reporting of confidential patient information. However, by making reports which the law requires members to make, members are complying with their legal obligations. Similarly, if a member believes there is a risk of harm to another person then that overcomes the confidentiality provisions in privacy legislation.

“A trustee may disclose personal health information without the consent of the individual the information is about if the disclosure is to any person, if the trustee reasonably believes that the disclosure is necessary to prevent or lessen

- (i) a risk of harm to the health or safety of a minor, or
- (ii) a risk of serious harm to the health or safety of the individual the information is about or another individual, or to public health or public safety;” PHIA, s. 22.

Many statutes have mandatory reporting provisions of patient’s medical conditions or knowledge of certain facts requiring public protection. While not exhaustive, the legislation referred to below is provided as a general guide to members with respect to their mandatory reporting obligations.

Provincial Manitoba Legislation

1. Personal Health Information Act

There are numerous provisions throughout [PHIA](#) requiring or permitting disclosure.

2. Child in Need of Protection, Child Pornography

[Child and Family Services Act](#)

[Critical Incident Reporting, s. 8.15](#)

[General Duty to Report, s. 8.16](#)

Child in Need of Protection, s. [18\(1\)](#) and [17\(2\)](#)

Child Pornography, s. [18\(1.0.1\)](#)

Failure to Report, s. [18.2](#), [18.3](#)

https://www.gov.mb.ca/fs/childfam/child_protection.html

3. Deaths in Certain Circumstances

[Fatality Inquiries Act, s. 6 and 7.1](#) (NB section 6 requires the reporting of deaths in s. 7.1)

4. Reportable and Communicable Diseases

[Public Health Act, s. 39 – 42](#)

Schedules to Public Health Act with [reportable or communicable diseases](#)

5. Safe Operation of a Motor Vehicle (to MPIC)

[Highway Traffic Act, s. 157](#)

<https://www.mpi.mb.ca/Pages/health-care-professionals.aspx>

6. Reports on Injuries, Diagnosis, and Treatment to MPIC and WCB

[Manitoba Public Insurance Corporation Act, s. 51](#)

[Workers Compensation Act, s. 20](#)

7. Still Births and Deaths

Vital Statistics Act, [s. 9](#), [14](#),

8. Gunshot and Stab Wounds

[Gunshot and Stab Wounds Mandatory Reporting Act](#)

9. Risk of Harm to Minor or Risk of Serious Harm to Safety of Patient or Other Person and Disclosure without Consent

[Mental Health Act, s. 36](#)

10. Abuse of Persons in Care

[Protection for Persons in Care Act, s. 3](#)

<https://www.gov.mb.ca/health/protection/#:~:text=The%20general%20public%20can%20report,%2D788%2D6366%20in%20Winnipeg> .

11. Abuse of Vulnerable Persons

[Vulnerable Persons Living with a Mental Disability Act, s. 21](#)

https://www.gov.mb.ca/fs/pwd/vpact_protection.html

12. Reports Regarding Mental Health

[Mental Health Act, s. 27](#) and other sections

Federal Canadian Legislation

- 1. Aviation Safety - Flight Crew Member, Air Traffic Controller, or Holder of an Aviation Document**
[Aeronautics Act, s. 6.5](#)
- 2. Railway Safety**
[Railway Safety Act, s. 35](#)
[Canadian Railway Medical Rules Handbook](#)
- 3. Maritime Safety**
[Canada Shipping Act, s. 90](#)
- 4. Medical Assistance in Dying Reporting Requirements**
[Criminal Code, s. 241](#)
[Regulations for the Monitoring of Medical Assistance in Dying](#)
- 5. Vanessa’s Law – Serious Adverse Drug Reactions and Medical Device Incidents**
[Protecting Canadians from Unsafe Drugs Act](#)
- 6. Lost or Stolen Controlled Substances from a Physician’s Office**
[Narcotic Control Regulations, s. 55\(g\)](#)
Benzodiazepines and Other Targeted Substances Regulation, [s. 72\(1\)](#) and [61\(2\)](#)



Duty to Report

Frequently Asked Questions

What type of health conditions are reportable?

Anything that may impact the ability to practice medicine – including but not limited to substance abuse disorder, cognitive decline whether due to age or other causes, neurological disorders even in the initial stages, cancer, depression, mental health illnesses, and chronic pain. CPSM takes a confidential, supportive, and rehabilitative approach to members who are experiencing both acute and chronic illness.

Why should I have to report criminal charges against me?

The Code of Ethics includes the following virtues exemplified by the ethical physician: honesty, integrity, and prudence. These virtues may be incongruous with the criminal charges and/or convictions.

Criminal charges or the finding of guilt may indicate that you have health issues not being addressed. For instance, a Driving Under the Influence charge may be indicative of a substance abuse disorder; or a domestic assault may indicate significant stress that requires addressing to continue to practice medicine. A charge of sexual assault may indicate patients could be at risk and unsafe in your practice.

I have been sued in court – what do I have to disclose to CPSM?

If the matter relates to the practice of medicine (sued for negligent medical care) including professional practice management (sued for non-payment of leased medical equipment), then you must disclose that to CPSM. If the matter is unrelated to medical care (for instance, being sued by a building contractor for your failure to pay for their shoddy construction of your residence) then no need to advise.

I took over the care of a patient and upon reviewing the chart and interviewing the patient, I believe the previous doctor did not meet the standard of care and failed to provide good medical care. What should I do?

While it might be tempting to address this one-on-one with the other physician, it is important that CPSM is made aware quickly in the interest of patient safety. While it might be that the physician missed something in that one patient, it might also be indicative of poor care provided to other patients by that physician. CPSM will investigate and determine whether the medical care met the required standard of care. It is the mandated role of CPSM to determine if the standard of care has been met, but it can only do so if such cases are reported and thereby brought to its attention.

I occasionally provide medical treatment to physicians. One of my physician patients is depressed. Should this be reported to CPSM?

Health issues that have the potential to impair a physician's functional ability, cognition, judgment or insight are reportable. It is advised that you have a conversation with your physician patient about the importance of self-reporting an illness to the CPSM that could result in a potential risk to patient safety and remind them the Physician Health Program takes a compassionate, non-punitive and reasonable approach to all health reporting.

As a treating physician you are not required to report your patient with depression unless in your clinical opinion, it impairs their ability to practice medicine safely. Stigma is a major barrier for physicians to get timely mental health care, however patient safety is paramount. In addition to the CPSM Physician Health Program, please ensure that the medical learner or physician is aware of the Student Services at Bannatyne Campus and MD Care program, that provide specialized mental health services (if required).

Where you have concerns that your physician patient's illness is inadequately treated, where your physician patient is experiencing difficulty concentrating or staying focused at work or if their illness is of a moderate to severe intensity such that there is impairment to cognition, judgment or insight, then advise your patient that they must self-report and that you are also required to report their health issue to CPSM. Follow-up promptly to ensure they have self-reported. You are still required to report. The Physician Health Program will in turn assist that member in placing a focused effort on their own health and well-being in order to protect patient safety and support the physician with their personal rehabilitation and recovery.

I have diagnosed a patient who is a dentist with Parkinsons, should this be reported?

Honesty and compassion are virtues fundamental to the patient-physician relationship. To ensure a trusting relationship, members must communicate with their patients about their reporting duties and breach of confidentiality. Have a conversation with your patient first and provide them with an opportunity to disclose this quickly to their regulator. Follow up promptly with the patient to ensure they have done so. You are still required to report the medical condition to the dental regulator. This is to ensure patient safety. The dental regulator, not you, will investigate and make a determination if this dentist is safe to practice.

I have diagnosed a patient who is a hobby pilot with imperfect eye-sight and a slowly deteriorating eye condition. Should this be reported?

Again, honesty and compassion are virtues fundamental to the patient-physician relationship. To ensure a trusting relationship, members must communicate with their patients about their reporting duties and breach of confidentiality. Have a conversation with your patient first and provide them with an opportunity to disclose this quickly to Transport Canada. Follow up promptly with the patient to ensure they have done so. You are still required to report the medical condition to Transport Canada. Transport Canada, not you, will investigate and determine whether this patient is safe to fly.