



January 1994

## **REGULATION MADE UNDER THE MIDWIFERY ACT, 1991**

### **PROFESSIONAL MISCONDUCT**

1. The following are acts of professional misconduct for the purposes of clause 51(1)(c) of the Health Professions Procedural Code.

#### **The practice of the profession and the care of, and relationship with, clients**

1. Contravening a term, condition or limitation imposed on the member's certificate of registration.
2. Contravening a standard of practice of the profession.
3. Doing anything to a client for a therapeutic, preventative, palliative, diagnostic, cosmetic or other health-related purpose in a situation in which consent is required by law, without such consent.
4. Delegating a controlled act in contravention of the Act, the Regulated Health Professions Act, 1991, or the regulations under either of those Acts.
5. Abusing a client, physically or verbally, or taking unfair advantage of the position of confidence and authority in relation to a client which the midwife has as a professional.
6. Practising the profession while under the influence of any substance or while suffering from illness or other dysfunction which the member knows or ought to know impairs the member's ability to practise.
7. Prescribing, dispensing or selling drugs for an improper purpose.
8. Discontinuing professional services that are needed unless,
  - i. the client requests the discontinuation,

- ii. alternative services acceptable to the client are arranged,
  - iii. there is no longer a relationship of trust and confidence between the midwife and the client and the client is given a reasonable opportunity to arrange alternative services, or
  - iv. the client requests services inconsistent with the standards of practice of the profession and the midwife has adhered to the standard of practice for discontinuing care in such circumstances.
9. Discontinuing professional services provided to a community or clientele without reasonable cause, unless adequate notice has been given or adequate alternative arrangements for services have been made.
  10. Failing without reasonable cause to provide to a client continuity of care as defined in College practice guidelines.
  11. Failing without reasonable cause to provide services to a client during labour and birth in the client's chosen birthplace.
  12. Practising the profession while the member is in a conflict of interest.
  13. Giving information about a client to a person other than the client or his or her authorized representative except with the consent of the client or his or her authorized representative or as required or allowed by law.
  14. Breaching an agreement with a client relating to professional services for the client or fees for such services.
  15. Inappropriately using a term, title or designation in respect of the member's practice.
  16. Using a name other than the member's name as set out in the register, in the course of providing or offering to provide services within the scope of practice of the profession.

#### **Record keeping and reports**

17. Failing to keep records as required by the regulations.
18. Falsifying a record relating to the member's practice.

19. Failing, without reasonable cause, to provide a report or certificate relating to an examination or treatment performed by the member, within a reasonable time to the client or his or her authorized representative after a client or his or her authorized representative has requested such a report or certificate.
20. Signing or issuing, in the member's professional capacity, a document that the member knows contains a false or misleading statement.

### **Business practices**

21. Submitting an account or charge for services that the member knows is false or misleading.
22. Charging a fee that is excessive in relation to the services charged for.
23. Failing to inform the client of the fee to be charged for services before the commencement of the services.
24. Charging a fee or accepting payment from a client in respect of a service for which the member has been paid by the Ministry of Health.
25. Charging for midwifery services on a fee for service arrangement.
26. Charging a block fee without specifying,
  - i. the services covered by the fee,
  - ii. the amount of the fee,
  - iii. the arrangements for paying the fee,
  - iv. the rights and obligation of the midwife and the client if the relationship between them is terminated before all the services are provided.
27. Charging a fee, in addition to a block fee described in paragraph 26, for an undertaking to be available to provide services to the client.
28. Failing to itemize an account for professional services, if requested to do

so by the client or the person or agency who is to pay, in whole or in part, for the services.

### **Miscellaneous Matters**

29. Contravening the Act, the Regulated Health Professions Act, 1991 or the regulations under either of those Acts.
  30. Contravening a federal, provincial, or territorial law, or a municipal by-law so as to prejudice the interests of a client.
  31. Influencing a client to change his or her will or other testamentary instrument.
  32. Engaging in conduct or performing an act, in the course of practising the profession that, having regard to all circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.
- 2. This Regulation comes into force on the day section 2 of the Act comes into force.**