

# Sexual Abuse Prevention Policy

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## Purpose

This policy sets out the College's definition of the beginning and end of a midwife-client relationship and assists midwives in complying with the provisions of the Regulated Health Professions Act, 1991 (RHPA) that address sexual abuse.

## Scope

This policy applies to all midwives registered with the College.

## Definitions

“Direct Interaction” is:

- the first in-person meeting between a midwife and client, even if the client does not ultimately retain the midwife for midwifery services; or
- the first instance of communication in relation to clinical care being provided by a midwife to a client

In the preceding definition:

- “Clinical Care” is care provided to a client by a midwife within the scope of midwifery practice or outside the scope under delegation
- “Communication” refers to dialogue or authorization for an assessment that takes place in-person, electronically, through mail or through a mobile device between a midwife and client

A “minor” health care service consists of episodic or short-term care provided for a condition that is not serious, complex or urgent in nature

“Reasonable steps” are those steps that correspond to the level of risk at hand, which includes the health condition of the spouse or sexual partner and the surrounding circumstances

“Reasonable opportunity” involves a consideration of the amount of time that is available to transfer care, given the level of risk at hand, including the health condition of the spouse or sexual partner and the surrounding circumstances

“Sexual abuse” of a client by a midwife is:

- Sexual intercourse or other forms of physical sexual relations between the midwife and the client,
- Touching, of a sexual nature, of the client by the midwife, or

- Behaviour or remarks of a sexual nature by the midwife towards the client.<sup>1</sup>

“Sexual nature” does not include touching, behaviour or remarks of a clinical nature appropriate to the service provided.<sup>2</sup>

## Policy Statement

### **The Beginning and Termination of a Midwife-Client Relationship**

A midwife–client relationship begins when there is a direct interaction between a midwife and an individual at the earliest occurrence of the following events:

- the midwife has, in respect of a health care service provided by the midwife to the individual, charged or received payment from the individual or a third party on behalf of the individual
- the midwife has contributed to a health record or file for that individual
- the individual has consented to the health care service recommended by the midwife
- the midwife prescribed a drug for which a prescription is needed to the individual<sup>3</sup>

A midwife–client relationship ends at the latest occurrence of the preceding events.

### **Sexual Relationship Prohibited During the Midwife-Client Relationship**

A midwife must not become sexually involved with a client. Sexual involvement with a client is considered to be sexual abuse under the RHPA, regardless of whether the midwife believes there is consent from the client.

Pursuant to the RHPA, a midwife cannot provide midwifery care to their spouse.<sup>4</sup> As such, a midwife–client relationship cannot exist between a midwife and their spouse.

A midwife can only provide care to a sexual partner, and not be considered as sexual abuse, if all of the following conditions are satisfied:

- There is, at the time the midwife provides the health care services, a sexual relationship between the individual and the midwife
- The midwife provided the health care service to the individual in emergency circumstances or in circumstances where the service was minor in nature
- The midwife has taken reasonable steps to transfer the care of the individual to another midwife or regulated health professional and there is no reasonable opportunity to transfer care to another regulated midwife or regulated health professional<sup>5</sup>

In these circumstances, the sexual partner to whom care is being provided is not considered to be a client of the midwife.<sup>6</sup>

<sup>1</sup> s. 1(3), Health Professions Procedural Code, Schedule 2 of the Regulated Health Professions Act, 1991, S.O., 1991, c. 18.

<sup>2</sup> *Ibid.*, s. 1(4).

<sup>3</sup> *Patient Criteria Under Subsection 1(6) of the Health Professions Procedural Code*, O.Reg. 260/18, s. 1.1.

<sup>4</sup> *Supra* note 1, s. 1(5) and (6).

<sup>5</sup> *Supra* note 3, s. 1.2.

<sup>6</sup> *Ibid.*

### **Sexual Relationship Following Termination of the Midwife-Client Relationship**

Pursuant to the RHPA, a former client is deemed to remain a client for the purposes of the sexual abuse provisions for a period of one year from when the former client would otherwise cease to be a client.<sup>7</sup>

As a result, if one year has passed since the latest occurrence of events that could occur in a midwife-client relationship as listed above, the former client will no longer be considered a client and a sexual relationship with the former client after that year has passed would not be prohibited.

### **References (legislative and other)**

1. Health Professions Procedural Code, Schedule 2, to the Regulated Health Professions Act
2. Regulated Health Professions Act, 1991, S.O. 1991, c. 18

Approved by: Council

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<sup>7</sup> *Supra* note 3, s. 1(6).