

Standard:	Conduct Deserving of Sanction
Approved By:	CMNL
Date Approved:	May 2018
Date to be Reviewed:	
Effective Date:	September 2016



## **CONDUCT DESERVING OF SANCTION for Midwives Practicing in Newfoundland and Labrador**

### **Introduction**

Midwives are legislated under the Newfoundland and Labrador Health Professions Act (NLHPA, 2010), hereafter referred to as *the Act*. The Newfoundland and Labrador Council of Health Professionals (NLCHP) is responsible for accepting and investigating written complaints under Part V, sections 35-56 of the Health Professions Act. Midwives must be aware of the right of clients to make a complaint or allegation, the process for investigating the complaint and the resources available to them in responding to the complaint. The person against whom a complaint is made is referred to as *the respondent*. The full process for investigation of an allegation is laid out in the Policy Manual of the NLCHP (2013). When appropriate, the Registrar will attempt to settle a complaint by Alternate Dispute Resolution (ADR). If not, the complaint/allegation will be referred to the Complaints Authorization Committee which determines whether the allegation should be referred to the Quality Assurance Committee, or to the Disciplinary Panel and the Adjudication Tribunal process. Midwives are represented on all committees and panels related to the disciplinary process.

A midwife may appeal the conclusions and penalties, if any, of the Disciplinary Panel, or Adjudication Tribunal. In cases referred to the Disciplinary Panel, or Adjudication Tribunal, she/he may be represented by legal counsel.

**Good standing:** A registrant of the NLCHP is considered to be of good standing with the professional regulatory body when:

- a. The registrant's registration is not suspended, restricted or surrendered in accordance with the Act,
- b. The registrant is not currently the subject of a finding of conduct deserving of sanction in accordance with the Act,
- c. The registrant's registration to practice is not under reprimand, restriction, limit or other condition established under the Act.

### **Conduct Deserving of Sanction**

The following are general definitions of conduct deserving of sanction. These relate to all health professions regulated by the NLCHP. However, professional judgments are based on the documents and guidelines specific to the midwifery profession and found in the documents of both the NLCHP and the College of Midwives of Newfoundland and Labrador (CMNL).

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- a. **Professional Misconduct:** Conduct by a midwife while directly engaged in her/his practice of work, which contravenes the Code of Ethics of the College of Midwives of Newfoundland and Labrador, or that which contravenes regulations or by-laws of the midwifery profession established under the Act. For example: failing to meet the practice standards of the midwifery profession, failing to obtain consent, failing to maintain confidentiality, failing to maintain documentation and proper records, engaging in a sexual relationship with a client, or a client's partner, engaging in verbal, physical, psychological, or sexually abusive behavior towards a client, bullying between professionals, or professional misrepresentation.
  
- b. **Unprofessional Conduct:** Conduct by a midwife that occurs while directly or indirectly engaged in midwifery practice that may be detrimental to the best interests of clients or the public, or may harm the standing of other midwives or the midwifery profession. For example: a conviction under the Criminal Code of Canada and/or conduct/behavior resulting from impairment<sup>1</sup>.
  
- c. **Professional Incompetence:** Conduct that displays a lack of knowledge, skill or professional competency in midwifery practice. It is that which displays a disregard for clients or is detrimental to the best interests of the clients. For example: failure to maintain professional competency requirements, failure to seek consultation and undertake transfer of care when appropriate for a woman and/or baby, acts of negligence such as leaving a woman in active labour without the care of an appropriate registered professional, failure to meet with and assess a new mother and baby according to the *Standards for Midwifery Practice* or engaging in practice outside one's knowledge or skill level.
  
- d. **Conduct Unbecoming of a Health Professional:** Conduct by a midwife outside her/his midwifery practice, such that it harms or tends to harm the standing of other midwives or brings the midwifery profession into disrepute. For example: conviction under the Criminal Code of Canada or engaging in conduct/behavior that is regarded by the profession as disgraceful, dishonorable or unprofessional.
  
- e. **Incapacity or Unfitness to Practice as a Midwife:** A midwife who is impaired<sup>1</sup> such that the midwife is unable or unfit to carry out her/his professional responsibilities.
  
- f. **Acting in Breach of the Act, the Regulations or By-laws:** Conduct by a midwife that is in breach of the Act, the regulations or the by-laws of the NLCHP and/or acting in breach of the College of Midwives of Newfoundland and Labrador defined *Code of Ethics*,

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*Standards for Midwifery Practice, Competencies for Midwifery Practice* or CMNL or NLCHP *By-laws*.

<sup>1</sup> ***Impaired or impairment:*** A condition or circumstance which compromises professional judgment and work effectiveness. Impairment is often a result of complex stressors related to emotional health, mental health, personal relationships, family relationships, physical health, financial difficulties, legal difficulties, substance abuse, employment stressors and burnout. (Reamer 2009). *The Social Work Ethics Casebook: Cases and Commentary* pp. 87-88, 121-122. Washington, DC: NASW (Press).

This guideline has been adapted from the Professional Review of Section V of the Health Professions Act: Policy Manual (NLCHP, 2013). [[www.nlchp.ca](http://www.nlchp.ca)].