

Therapeutic Relationships

Establishing and Maintaining Professional Boundaries

A resource guide for physical therapists

College of Physical Therapists of Alberta

Appendix E

Mandatory Reporting of Abuse

Mandatory Reporting of Abuse

Physical therapists are legally obligated to make mandatory reports related to the following matters:

- abuse of adults in publicly-funded care facilities or programs;¹⁷
- child abuse;¹⁹ and
- emotional injury, neglect or abandonment of children by parents.¹⁹

There are other situations (e.g., sexual harassment, adult abuse, elder abuse) where there is no legal obligation to report abuse. In such cases, physical therapists may refer patients for further advice or assistance.

The following points should be considered when abuse has been disclosed or identified.

- Is there a law that applies to this situation?
- What are the grounds necessary to support making the report?
- How do I make a report?
- What happens if I fail to make a report?
- What about my responsibility to maintain patient confidentiality?
- What is my personal liability?

Reporting Abuse of Adults in Publicly-Funded Facilities or Programs

The Protection of Persons in Care Act (PPCA)¹⁷ requires that abuse of adults receiving services that are publicly-funded (e.g., nursing homes, lodges, group homes, hospitals) be reported and duly investigated. When physical therapists have reason to believe that a client, resident or patient of a publicly-funded care service or facility has been or is intentionally being abused, the matter must be reported to one of three organizations: the Protection of Persons in Care office, the police service (for matters that are criminal in nature or immediately affect the well-being of the person) or a committee or other organization authorized by another enactment to investigate abuse (i.e., a health profession's regulatory college). In order for the allegation to be investigated by the Protection of Persons in Care office, the following factors must be considered:

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- The resident, patient or client must experience one or more of the following:
 - ⇒ bodily harm;
 - ⇒ emotional harm, e.g., threats, humiliation, harassment, coercion, restriction from appropriate social contact;
 - ⇒ medication administered or prescribed for an inappropriate purpose;
 - ⇒ misappropriation of valuables or possessions, improper or illegal conversion of money or other valuables;
 - ⇒ inadequate nutrition, medical attention; or
 - ⇒ subjection to non-consensual sexual contact, activity or behaviour.
- The action must be intentional.
- The resident, patient or client must be receiving or have received services from a government-funded agency at the time the abuse occurred.²

How do I make a report?

Reports to the Protection of Persons in Care office can be made by telephone (1-888-357-9339), fax (780-415-8611) or mail. A reporting form can be downloaded from the Protection of Persons in Care section of the Alberta Government's website: www.seniors.gov.ab.ca.

Information that is routinely collected includes: a description of the incident; name and contact information of the reporter; name and contact information of the alleged victim; the care facility; dates of the incident; type of abuse; other organizations to which the matter has been reported; name of alleged abuser; and name and contact information of witnesses. Anonymous reports are not accepted.²

The Protection of Persons in Care office reviews all reports to ensure they fall under its authority, then conducts an investigation of the alleged abuse and generates a final *Report of Decision* with recommendations for action. A copy of the final decisions report is provided to the complainant physical therapist.

Every attempt is made to keep the name of the person filing the report confidential, including those conducting the investigation and in all *Reports of Decision*. The PPCA has enacted safeguards to protect the names of reporters, making it an offence to take any action against those reporting abuse provided they had reasonable grounds to believe the abuse occurred. Individuals who take action against people who report abuse can be fined up to \$5,000. Care facilities can be fined up to \$25,000.

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What happens if I fail to make a report required by the PPCA?

Physical therapists who fail to make a report of suspected or known abuse of an adult who is receiving publicly-funded services can be fined up to \$2,000. Making a report to the organization overseeing the provision of services is not considered sufficient to meet the requirements of the legislation; the report of abuse must be made to one of the three organizations named in the PPCA.

Reporting Child Abuse, Neglect, Emotional Injury or Abandonment

Abuse of children is a criminal offence and physical therapists are expected to report suspicions of abuse or actual cases of abuse to the appropriate authorities. Federal legislation, the *Criminal Code of Canada*, and provincial legislation, the *Child, Youth and Family Enhancement Act (CYFEA)*,¹⁹ are applied in cases of abuse of children. Situations where the child is believed to be in need of protective services or suspicions of abuse or exploitation, fall under federal legislation. Further to the Criminal Code's definitions of abuse, the CYFEA covers neglect caused by the child's parent or guardian.

A physical therapist's legal obligation to report child abuse is not fulfilled unless the matter is reported. Reports can be made through the *Child Abuse Hotline*. Based on the information provided, the matter will be referred to the police and/or local Child and Family Services Authority or a First Nations Child and Family Services Agency. The duty to report is an ongoing obligation. This means that one is obligated to report regardless of whether another individual has already made a report on similar grounds.

What are the grounds for suspecting a child is in need of intervention?

The CYFEA and Criminal Code consider the following situations as grounds for reporting that a child may be in need of intervention.

Neglect The failure through action or omission by the guardian to provide the necessities of life, including medical care necessary for the health and well-being of the child or adequate care and supervision of the child.

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Emotional Injury The impairment of the child's mental or emotional functioning or development that is attributed to rejection; deprivation of affection and/or cognitive stimulation; exposure to domestic violence or severe domestic disharmony; inappropriate criticism, threats, humiliation, accusations or expectations; the mental or emotional condition of the guardian of the children; or chronic alcohol or drug abuse by anyone living in the child's home.

Physical Abuse An intentional and observable injury to a child.

Sexual Abuse The inappropriate exposure of subjection to sexual contact, exploitation or behaviour including prostitution-related activities.

More information on the indicators of neglect and abuse may be obtained from the Government of Alberta's Children's Services website or from a local Children Family Services office.¹

How do I make a report?

Information for the 24-hour Child Abuse Hotline (1-800-387-5437) is located on the Government of Alberta's Children and Family Services website www.child.gov.ab.ca and the emergency pages of the telephone book.

Every attempt is made to keep the name and personal information of a physical therapist reporting a child in need of intervention under the CYFEA and *Criminal Code of Canada* confidential. Under the CYFEA, the reporter's identity is considered privileged and cannot be released without consent or by ministerial directive. However, there may be circumstances where the information is disclosed, as in situations where the matter is referred to court and where rules for disclosure of evidence are in effect.

What happens if I fail to make a report?

The CYFEA contains mandatory reporting clauses and requires "any person who has reasonable and probable grounds to believe the survival, security of development of the child is endangered because of identified criteria such as physical or sexual abuse, neglect, emotional injury or abandonment to report the matter."¹⁹

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Failure of a health professional to file a report may have consequences. Under the CYFEA, failure to report can result in a fine of up to \$2,000 and in cases where there is default of this payment, a term in prison of up to six months. Furthermore, CYFEA representatives have the authority to report to a health professional's regulatory body, the health worker's failure to report the abuse.

What about my responsibility to maintain patient confidentiality?

A physical therapist may be concerned that the provision of information required by mandatory reports will violate patient confidentiality. Under the *Criminal Code of Canada* and the *Child, Youth and Family Enhancement Act*, the obligation to report overrides any restrictions such as the prevailing privacy legislation that would normally prohibit the disclosure of information.

Many facilities and regional health authorities have developed their own internal reporting mechanisms and physical therapists should familiarize themselves with their specific work environment's reporting policies and procedures.

It has been recommended that when a child has disclosed that he or she is being abused, the child's own words be recorded as well as a summary of the physical therapist's interactions with the child and subsequent actions related to reporting the physical therapist's suspicions.¹ This means that the duty to report takes precedence over any confidentiality provisions.