

COLLEGE OF PHYSICAL THERAPISTS OF BRITISH COLUMBIA

ADVISORY STATEMENT

Number 7

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REPORTING ABUSE

The purpose of this Advisory Statement is to draw to the attention of registrants their legal obligation to report abuse or suspected abuse of a child or youth. Its additional purpose is to provide information about reporting the deliberate abuse of adults.

DUTY TO REPORT ABUSE OR SUSPECTED ABUSE OF A CHILD OR YOUTH

A physical therapist who has reason to believe that a person under the age of 19 years needs protection, that is, the child or youth has been or is likely to be abused or neglected, has a legal duty to report the matter under the *Child, Family and Community Service Act*, R.S.B.C. 1996, c.46.
http://www.qp.gov.bc.ca/statreg/stat/C/96046_01.htm

The Child, Family and Community Service Act, Section 14 provides:

- (1) A person who has reason to believe that a child needs protection under section 13 must promptly report the matter to a director or a person designated by a director.
- (2) Subsection (1) applies even if the information on which the belief is based
 - (a) is privileged, except as a result of a solicitor-client relationship, or
 - (b) is confidential and its disclosure is prohibited under another Act.
- (3) A person who contravenes subsection (1) commits an offence.
- (4) A person who knowingly reports to a director, or a person designed by a director, false information that a child needs protection commits an offence.
- (5) No action for damages may be brought against a person for reporting information under this section unless the person knowingly reported false information.
- (6) A person who commits an offence under this section is liable to a fine of up to \$10,000 or to imprisonment for up to 6 months, or to both.
- (7) The limitation period governing the commencement of a proceeding under the *Offence Act* does not apply to a proceeding relating to an offence under this section.

When protection is needed

Section 13 of the *Child, Family and Community Service Act* provides:

- (1) A child needs protection in the following circumstances:

- (a) if the child has been, or is likely to be, physically harmed by the child's parent;
- (b) if the child has been, or is likely to be, sexually abused or exploited by the child's parent;
- (c) if the child has been, or is likely to be, physically harmed, sexually abused or sexually exploited by another person and if the child's parent is unwilling or unable to protect the child;
- (d) if the child has been, or is likely to be, physically harmed because of neglect by the child's parent;
- (e) if the child is emotionally harmed by the parent's conduct;
- (f) if the child is deprived of necessary health care;
- (g) if the child's development is likely to be seriously impaired by a treatable condition and the child's parent refuses to provide or consent to treatment;
- (h) if the child's parent is unable or unwilling to care for the child and has not made adequate provision for the child's care;
- (i) if the child is or has been absent from home in circumstances that endanger the child's safety or well-being;
- (j) if the child's parent is dead and adequate provision has not been made for the child's care;
- (k) if the child has been abandoned and adequate provision has not been made for the child's care;
- (l) if the child is in the care of a director or another person by agreement and the child's parent is unwilling or unable to resume care when the agreement is no longer in force.

(1.1) For the purpose of subsection (1) (b) and (c) and section 14 (1) (a) but without limiting the meaning of "sexually abused" or "sexually exploited", a child has been or is likely to be sexually abused or sexually exploited if the child has been or is likely to be,

- (a) encouraged or helped to engage in prostitution, or
- (b) coerced or inveigled into engaging in prostitution.

(2) For the purpose of subsection (1) (e), a child is emotionally harmed if the child demonstrates severe

- (a) anxiety,
- (b) depression,
- (c) withdrawal, or
- (d) self-destructive or aggressive behaviour.

How to report a child or youth in need of protection

You may report to a child protection social worker at either a Ministry of Children and Family Development office, or at a First Nations child welfare agency that provides child protection services.

Monday to Friday, 8:30 a.m. to 4:30 p.m., call your local Ministry of Children and Family Development district office (listed in the blue pages of the phone book).

Monday to Friday, 4:30 p.m. to 8:30 a.m. and all day Saturday, Sunday and on statutory holidays, call the Helpline for Children. Dial 310-1234 (no area code needed).

For emergencies outside office hours (8:30 a.m. – 4:30 p.m., Monday to Friday):

Vancouver, North Shore Richmond, call 604-660-4927.

Lower Mainland, Burnaby, Delta, Maple Ridge, Langley, call 604-660-8180.

For the rest of the province, call toll-free 1-800-663-9122.

What to report

If a child is in immediate danger police should be called to intervene and a child protection social worker should be contacted to determine whether the child is in need of protection.

If there is no immediate danger, you need not have details or proof prior to reporting. However, you will be asked for as much information about the concern as you can provide. This will include your name and phone number (although you may call anonymously if you prefer), your relationship to the child, any immediate concerns about the child's safety, the location of the child, the child's age, information on the situation including all physical and behavioural indicators observed, information about the family, parents and alleged offenders, the nature of the child's disabilities, if any, the name of a key support person, other child(ren) who may be affected, information about other persons or agencies closely involved with the child and/or family, and any other relevant information concerning the child and/or family such as language and culture.

REPORTING ABUSE OF AN ADULT

There is no legal requirement on citizens at large to report adult abuse in British Columbia.

There is, however, a legal duty upon a "designated agency" (regional health board) to report to the police if it has reason to believe that a criminal offence has been committed against an adult about whom a report has been made under section 46 of the *Adult Guardianship Act*.

As a concerned citizen you may wish to report that you have information that an adult patient of yours is being deliberately mistreated if that patient is unable to seek help on their own.

The *Adult Guardianship Act* contains provisions regarding the reporting of the abuse of an adult where the adult cannot seek help on their own because of a physical disability, restraint, or an illness, disease or other condition (such as a dementia, or stroke) that affects their ability to make decisions about the abuse or neglect.

The *Adult Guardianship Act* defines **abuse** as the deliberate mistreatment of an adult that causes the adult

- (a) physical, mental or emotional harm, or
- (b) damage to or loss of assets,

And includes intimidation, humiliation, physical assault, sexual assault, overmedication, withholding needed medication, censoring mail, invasion or denial of privacy or denial of access to visitors.

If a report is made, it can be made anonymously and no action for damages may be brought against a person for making a report or for assisting in an investigation, unless the person made the report falsely and maliciously.

Section 46(1) of the *Adult Guardianship Act* provides:

Reporting abuse or neglect

- 46** (1) Anyone who has information indicating that an adult
- (a) is abused or neglected, and
 - (b) is unable, for any of the reasons mentioned in section 44, to seek support and assistance, may report the circumstances to a designated agency.
- (2) A person must not disclose or be compelled to disclose the identity of a person who makes a report under this section,

(Underlining added)

Under this Part of the *Adult Guardianship Act* a designated agency means each regional health board in the Province of British Columbia.

How to report

If the adult is not able to seek assistance on their own, a report can be made to one of the five Regional Health Authorities and/or Community Living BC listed on the Public Guardian and Trustee of British Columbia's website:

www.trustee.bc.ca/pdfs/STA/abuseneglect.htm
<http://www.trustee.bc.ca/pdfs/STA/abuseneglect.htm>

You can also:

Talk to the adult if you feel comfortable doing so to find out if they need assistance and if there's someone you can contact for them.

Phone the Designated Agency for your community if you have any doubt about whether the adult can seek help on his or her own.

Under Part 3 of the *Adult Guardianship Act*, designated agencies must look into reports of adult abuse or neglect they receive.

Phone VictimLINK 1.800.563.0808 (toll-free), 24 hours-a-day, seven days-a-week support and referral service.

Phone the BC Coalition to Eliminate Abuse of Seniors (BCCEAS) during regular weekday hours at 1.866.437.1940 (toll-free) to get information about who else can help.

For information on the Public Guardian and Trustee's role in helping an adult get support and receiving reports of possible financial abuse or neglect, visit the Services to Adults Assessment and Investigations www.trustee.bc.ca/services/adult/assessments_investigations.html