



External Mandatory Reporting Obligations Guideline

Pharmacists have mandatory reporting duties beyond those created under the *Pharmaceutical Act*. This guideline outlines three specific mandatory reporting obligations; children in need of protection, residents of care facilities, and intimate partner violence.

Child in Need of Protection

Section 18 of the *Child and Family Services Act* (“CFSA”) requires anyone, including a pharmacist, who has a reasonable belief that a child might be in need of protection to forthwith report that information to the parent or guardian of the child or, where the parent or guardian may not be able to address the concern, to a child protection agency. A child is in need of protection when their life, health or emotional well-being is endangered, and includes neglect or abuse of the child. There is also an obligation to report suspected child pornography to authorities.

Questions or reporting of a child in need of protection are to be directed to The Child and Youth Services Division - Child and Family Services (CFS) by phone (204) 944-4200 (Winnipeg) or 1(866) 345-9241 (toll free). Further information about Child and Youth Services can be found [here](#).

Residents in Care Facilities

The *Protection for Persons in Care Act* (“PPCA”) helps safeguard adults receiving care in personal care homes, hospitals, or other specified health facilities. Section 3 of the PPCA requires that a pharmacist (and others) who has a reasonable basis to believe that a patient is, or is likely to be, abused or neglected shall promptly report the information to the Protection for Persons in Care Office (PPCO).

Questions or reporting a concern of abuse or neglect are to be directed to the Protection for Persons in Care Office via email protection@gov.mb.ca or phone (204) 788-6366. Further information about protection for persons in care can be found [here](#).

General Duty to Warn (Such as Intimate Partner Violence)

Court case law (also known as “common law”) suggests that a regulated health professional may have a legal duty to warn if they have reasonable grounds to believe that a client/patient intends to cause imminent serious bodily harm to an identifiable individual or group of individuals. The case law is not well developed and most often arises in the mental health context, but it likely applies to other situations as well.

An example that might arise in the pharmacy context is a threat of intimate partner violence. While there is some Manitoba legislation dealing with this issue (for example, the *Domestic Violence and Stalking Act*, which provides protection for individuals experiencing intimate partner violence), the statute does not contain a mandatory reporting provision. Similarly, the *Disclosure to Protect Against Intimate Partner Violence Act* offers options for individuals concerned about the conduct of their intimate partners to access information about their past history of violence, but it does not contain a mandatory reporting provision. However, the common law duty to warn may exist in certain circumstances.

Questions or reporting a concern or threat of violence against an intimate partner are to be directed to Manitoba Justice Family Resolution Service via email getguidance@gov.mb.ca or phone (204) 945-2313 (Winnipeg) or 1-844-808-2313 (toll free). Further information can be found [here](#).

Should I Investigate the Concerns if I Am Uncertain whether I Must Report?

Most mandatory reporting requirements do not create an obligation to make further inquiries if a reasonable belief has not been established (even if suspicions have been raised). While there may be circumstances in which clarifying certain information from the individual may be warranted (e.g., if a pharmacist is unsure as to what was said or meant by the disclosure), a pharmacist is not a trained investigator and making inquiries might compromise the ability of the authorities to conduct their own investigations. Similarly, it may be appropriate to review the pharmacy records to refresh one's recollection of past interactions and to ensure that the information to be conveyed is accurate (e.g., the name and contact information of a patient). However, it is generally not appropriate for a pharmacist to contact a third party to obtain further information to confirm the concern or suspicion.

It is not a pharmacist's role to make a credibility determination of whether the concern is legitimate.

What About the Duty of Confidentiality?

Some specific legislation expressly permits a person who is making a mandatory report to disclose confidential patient information. For example, section 18(2) of the CFSA and s. 3(2) of the PPCA provide that the reporting obligation overrides the duty of patient confidentiality.

In addition, personal information protection legislation contains exceptions to the duty of confidentiality where the safety of individuals is in jeopardy. For example, subsection 22(2) of the *Personal Health Information Act* permits disclosure of personal health information to prevent or lessen a risk of harm to the health or safety of a minor or the risk of serious harm to the health or safety of an adult.

Should I Tell the Person I Am Making a Report?

It is a judgment call as to whether the patient (or other person) should be informed that the pharmacist will be making a mandatory report. While doing so can be awkward and can result in efforts to dissuade the pharmacist from fulfilling their duty, informing the patient in advance can be a supportive act. Furthermore, in many cases the individual will be able to figure out who made the report and may be upset that they were not told in advance. However, in some circumstances, advising the individual can place the pharmacist's personal safety at risk or could compromise the ability of the authorities to gather evidence or intervene.

When telling a patient that a mandatory report will be made, it is useful to indicate that the report is required by law, that this obligation overrides the duty of confidentiality, the information that will be contained in the report, and to whom the report will be made. It is usually best to avoid speculating what the recipient of the report will do with the information. Where appropriate and feasible, the pharmacist can refer the patient to community resources for support.

Some legislation provides that a reporter's identity will generally be kept confidential, such as for reports made under the CFSA. The PPCA also provides significant protection of the identity of the

reporter. However, as noted above, the individual may still be able to determine, or at least guess, who made the report.

Can I Face Retaliation?

Some specific legislation prohibits retaliation from making a report (e.g., subsection 18.1(3) of the CFSA). Section 10 of the PCCA protects against legal proceedings and employment repercussions for making a report.

In addition, courts and administrative agencies, including CPhM, can prevent their processes from being misused to retaliate against pharmacists who make a report in good faith.

However, not every form of retaliation is easily prevented. A pharmacist who believes that their safety is at risk should contact the police.

What Is the Best Way to Make a Report?

Some of the requirements for making a report can be technical. For example, there are specific rules as to when a report of a child in need of protection should be made to the parent or guardian or to a child protective agency. A pharmacist who is uncertain of the requirements should obtain assistance from legal counsel and / or the government agency that would be receiving the report.

Reports should be made promptly, especially where the risk of harm is acute. Even if a report is made verbally (e.g., by telephone) it should be followed up in writing, so there is a record of it. When the report is about a patient, a notation should be made in the patient record, both at the time the information is received and at the time that the report is made. If the report is not about a patient, a contemporaneous record should be made to assist the pharmacist should they later have to give a formal statement to authorities.

The report and any record of it should be factual, containing all apparently relevant details. Expressions of opinion are to be avoided. Information that would assist the recipient of the report (such as names, physical descriptions, and contact information) should be included. However, gratuitous information (such as irrelevant portions from the patient's personal health record) should not be included. All records and other physical evidence (e.g., a medication container left behind) should be securely preserved in case they are needed later.

What Happens if I Do Not Make a Mandatory Report?

There can be serious repercussions when a pharmacist does not make a report when doing so is required. Failing to report often constitutes a provincial offence, for example, under the CFSA failing to report is an offence punishable by a fine of up to \$50,000 and/or imprisonment for up to 24 months. Failing to comply with a mandatory reporting obligation can also constitute professional misconduct. The pharmacist may also face civil liability, for example, a lawsuit for damages when further injuries occur to a child / vulnerable person after the report should have been made.

Conclusion

Pharmacists have an ethical and legal obligation to take steps to protect their patients, and others, from a risk of significant harm. Pharmacists should be aware of these duties and be prepared to respond quickly and effectively when necessary.