

# RD Responsibilities for Mandatory Reporting in a Facility

In the last issue of *résumé*, Richard Steinecke, legal counsel, provided an overview of the mandatory reporting responsibilities of health professionals as outlined in the new amendments to the *Regulated Health Professions Act* (Summer 2009, p. 9). After reading this article, some RDs called the College for clarification about their own reporting obligations, especially in a facility. This article presents an overview of reporting obligations for Registered Dietitians in facilities. The table on the next page shows what must be reported, the trigger for a report, and who is responsible for a report.

## FACILITY RESPONSIBILITY FOR REPORTING

Although not defined in law, a facility can be seen as any physical place where health professionals work. The mandatory reporting obligations fall to the corporation, or organization or the person that operates the facility. The facility operator and the employer are often the same.

The facility or employer may delegate their reporting obligations to an administrator, a supervisor, manager or other staff. This staff may be a dietitian. When making a report to the College on behalf of a facility, it would be important for an RD to state that the report is being made on behalf of a facility or employer.

## REPORTING OF ANOTHER RD

Under the *Professional Misconduct Regulation*, RDs working at a facility would fulfill their legal obligations by reporting "incidents of unsafe practice or unethical conduct of another RD" to an appropriate authority, such as their direct supervisor or manager. It is up to the facility operator or their designated staff to make inquiries and determine whether there are reasonable grounds to believe that the RD is incompetent or incapacitated. If they form this belief, the facility operator or their designated staff must make a formal report to the Registrar of the College of Dietitians of Ontario.

In certain cases, the facility operators, supervisors or managers may decide to work with the RD to effectively address or remediate the situation in-house. If the reporting RD feels that there are reasonable grounds for filing a report with the Registrar of the College, and the facility has not done so, the RD may wish to raise this legislated responsibility with their supervisor or manager. The RD may also consider filing a report or making a complaint in their own name.

## Sexual Abuse

If in the course of practicing dietetics, a Registered Dietitian has reasonable grounds to believe that another health professional has sexually abused a client, the mandatory report must be made by the dietitian directly to the Registrar of the appropriate College. In addition, the RD may take the information to the facility authority.

## Child Abuse

It is an offence for a dietitian not to report child abuse if they have reasonable suspicion that a child is in need of protection. The report must be made by the dietitian to the Children's Aid Society. It cannot be delegated to a facility authority.

## Self-Reporting of Criminal or Civil Offences

A colleague informs you that she has recently been convicted of careless driving. What are your professional reporting obligations in this case? You are not obligated to report offences pertaining to another colleague to their employer or to the College. This is a self-reporting requirement only. If a dietitian is found guilty of an offence then she or he must report this finding to the College. The College will investigate the matter to determine if the public is at risk, "If the finding raises concerns about the member's suitability to practise the profession, for example, a criminal conviction for fraud, the College will investigate the matter to determine if some regulatory action, such as remediation or discipline, should be taken." (Richard Steinecke, *résumé*, Summer 2009, p. 9)

## Mandatory Reporting Requirements for Dietitians

From Richard Steinecke & CDO, *Jurisprudence Handbook for Dietitians in Ontario*, Chapter 3, p. 33 (2008 online version). For more details on mandatory reporting, refer to the online version of the *Jurisprudence Handbook* which has been updated to reflect the new requirements of the *Regulated Health Professions Act* at [www.cdo.on.ca](http://www.cdo.on.ca) > Resources > Publications.

WHAT MUST BE REPORTED	LEGISLATION / LEGAL AUTHORITY	TRIGGER FOR REPORT	WHO IS RESPONSIBLE FOR THE REPORT	WHO REPORT IS MADE TO
Sexual relations, touching, behaviour or remarks of a sexual nature between a registered health practitioner and a client where you know the name of the alleged abuser.	<i>Regulated Health Professions Act</i>	Reasonable grounds obtained either in: 1. The course of practising your profession; or 2. Operating a health facility.	1. Dietitian; or 2. Facility Operator (e.g., CEO, administrator, or their delegate).	Registrar of the College to which the alleged abuser belongs.
Professional misconduct, incompetence or incapacity of a registered health practitioner.	<i>Regulated Health Professions Act</i>	1. You are terminating employment; 2. You are revoking, suspending or imposing restrictions on privileges; 3. You are dissolving a partnership or association; or 4. You intended to terminate or revoke, and the person quits first.	Any person who meets the trigger must make the report.	Registrar of the College to which the person belongs.
Incompetence or incapacity of a registered health practitioner.	<i>Regulated Health Professions Act</i>	You operate a facility and have reasonable grounds to believe that a registered practitioner is incompetent or has an incapacity.	Facility Operator (e.g., CEO, administrator, or their delegate).	Registrar of the College to which the person belongs.
Offence details, professional negligence or malpractice details in a finding by a court.	<i>Regulated Health Professions Act</i>	A dietitian is the subject of a finding by a court.	Self-report must be made by the dietitian who has been the subject of the finding by the court.	Registrar of the College of Dietitians of Ontario.
Incidents of unsafe practice or unethical conduct by another dietitian.	<i>Professional Misconduct Regulation for Dietitians</i>	Not stated. Probably reasonable grounds.	Dietitian	Any appropriate authority.
That a child (under 16) is in need of protection as defined in the <i>Child and Family Services Act</i> (e.g., suffering abuse or neglect).	<i>Child and Family Services Act</i>	Reasonable grounds to suspect.	Any person who meets the trigger must make the report.	Children's Aid Society (report must be personal, cannot delegate).
That a nursing home resident has suffered or may suffer harm as a result of unlawful conduct, improper or incompetent treatment or care or neglect.	<i>Nursing Home Act</i>	Reasonable grounds to suspect.	Any person who meets the trigger must make the report, other than another resident.	Director of Nursing Home.
That an identifiable person or group is at substantial risk of serious harm or death from another person.	Case law "duty to warn"	Reasonable grounds.	Dietitian	To an appropriate authority such as the police, the Public Guardian and Trustee or, in some circumstances, the primary care physician and, possibly, the intended victim.