



Own-Motion Inquiries by BCCNM

In addition to the more usual way complaints are brought forward by clients or their families, other health care providers (including midwifery colleagues), or following a hospital review, (refer to the article “Complaints and Disciplinary Matters” available on our website, www.bcmpp.org), the BC College of Nurses and Midwives (BCCNM) can, on its own-motion, order an inquiry into a midwife’s practice. This is part of the regulatory body’s mandate pursuant to the *Health Professions Act* (HPA).

An own-motion inquiry is most likely to occur after a lawsuit has been filed alleging harm to the mother or infant. Filing of a legal claim against a midwife brings the issues of care and outcome into the public domain. Upon annual registration with BCCNM a midwife has a positive obligation to disclose any outstanding legal claims naming the midwife. This disclosure typically involves providing the names of all the persons and agencies involved in the lawsuit, and would normally include providing BCCNM with a copy of the Notice of Civil Claim, along with the renewal documents. The inquiry that follows will typically involve questions for the midwife about the unproven allegations found in the Notice of Civil Claim and these can be distressing to read.

Other kinds of regulatory body own-motion inquiries are uncommon, but they can and do occur where BCCNM has information it deems relevant to its mandate to protect the public. This has included own-motion inquiries into shared practice arrangements, home birth standards or any “pattern” of concern. These own-motion inquiries most frequently arise out of a complaint brought by a complainant for a specific issue or issues, but which led BCCNM to have broader concerns.

The timing of a Notice of Inquiry (Inquiry) can come as a bit of a shock to the midwife as it does not always immediately follow registration, nor does BCCNM have to wait until litigation is settled, or a court has ruled on the matter; nor does it necessarily immediately follow the care complained of, or that is under scrutiny.

Several months is most common, a year post incident is not unusual, and in litigated cases the Inquiry may be several years after the event.

An Inquiry which takes place before litigation is concluded requires special attention. The response to BCCNM may become disclosable in the litigation so it must be framed carefully. In those circumstances, acknowledging an error may not be advisable. Keep in mind that the Midwives Protection Program (MPP) may be able to assist in having an Inquiry postponed until after litigation has concluded. It is also worth noting that the actual decision by BCCNM (Consent Agreement, Reprimand or other findings), is not admissible in the litigation.

The Inquiry process following a litigated case can be especially stressful, as the midwife must revisit matters that led to an unexpected poor outcome, and this can stir up issues that may still be unresolved, and feelings of sadness, remorse etc.

In addition to prompt reporting to MPP so that you can avail yourself of advice and support through this stressful time, making use of the confidential counselling service available through the Midwives Association of BC can be an important part of the self-care required to get through the process.

Keep in mind that one poor outcome, even where there has been severe harm to the mother or infant, is not the same as a pattern of substandard or negligent care. Losing the ability to practice would be a rare outcome from **any** regulatory body inquiry.

The most usual remedies for any deficiencies or breaches of standards of care are negotiated through Consent Agreements (Agreements). The terms of those Agreements typically include formal undertakings or promises to complete further education or training such as taking a course in documentation, or in communication; renewing neonatal resuscitation or suturing skills or acquiring other specific skill sets; being required to work alongside another midwife for a period of time; or arranging for a number of independent chart reviews at the midwives' own expense.

While litigation can take many years before there is a resolution, it is worth keeping in mind that there are tight time frames for disciplinary matters under the HPA and these will, in most circumstance, be concluded within six months from the time the midwife is given notice by BCCNM. Extensions of time for either party occur with some frequency.

Completing the terms and conditions that have been agreed to in a Consent Agreement within the time frames allowed is of utmost importance to avoid further sanctions or discipline from the regulatory body, or any negative impact on MPP assistance. Refer to article "Complaints Update and the Importance of Complying with Deadlines and Undertakings" available on our website, www.bcmpp.org.

Should a complainant not be satisfied with the BCCNM's disposition of a Complaint, an appeal (within thirty days of the decision) to the Health Professions Review Board is possible, but it is not customary. Make sure that you notify MPP and your assigned counsel of this further step that a complainant may take.

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