



# Privileging Issues and the Limitation of MPP Coverage

**Created from Article: Special Delivery  
Vol. 4, Issue 1 Spring 2012  
Reviewed and updated: April 2017**

Midwives in British Columbia are provided with liability coverage for malpractice by the Midwives Protection Program (MPP). In addition, MPP provides legal assistance to a midwife who is called on to attend a Coroner's inquest as a result of an incident. MPP also extends coverage for the legal fees incurred by a midwife in responding to complaints to the College of Midwives, up to an annual limit of \$100,000.

It is important for midwives to understand that one incident can result in a number of potential consequences, not all of which are covered by MPP. It can also be difficult, in dealing with an incident involving a midwifery client, to separate out all the potential consequences, some of which may be covered by MPP and some of which are not.

When an incident is reported to MPP and a lawyer is appointed to assist the midwife, there are some limitations on what that lawyer is able to help with. An important limitation relates to hospital privileging and credentialing issues.

The practical effect of this for midwives is that in dealing with a lawyer appointed by MPP, there are times when the lawyer will have to say that he or she is not able to discuss or advise the midwife on a particular aspect of the matter (unless the midwife makes a separate arrangement to retain and pay that lawyer to deal with that aspect).

The repercussions of a client incident often include an actual or threatened lawsuit, an actual or threatened complaint to the College, an investigation, inquiry or inquest by the Coroner, a complaint to a health authority under the Patient Care Quality Review Board Act, or an internal quality assurance review by a health authority. Many of these may go on at the same time.

The consequences of reports to the College, complaints to a health authority, or a quality assurance review may include recommendations to suspend or alter a midwife's hospital privileges and there is typically a detailed process in hospital bylaws relating to how privileges can be removed or altered. Health professionals, including midwives, whose privileges in a hospital are altered or removed are able to legally challenge this by appealing to the Hospital Appeal Tribunal.

The lawyer appointed by MPP will be able to help you with issues relating to actual or potential lawsuits, a complaint to the College or a Coroner's inquest, with the costs of that legal assistance being borne by MPP.

However, issues relating to a midwife's hospital privileges are not covered by MPP. The lawyer assisting you through MPP is therefore not able to advise you on matters related to hospital privileging even though the issue may arise in relation to an incident which is otherwise covered by MPP.

Having hospital privileges is necessary for a midwife to practice and is obviously an extremely important issue. If it is apparent that privileges may be reviewed as a result of an incident, the midwife may well need legal advice but will have to fund the cost of this herself. The midwife can choose to hire her own lawyer separately to advise on privileging issues, or, if a lawyer has already been retained by MPP to deal with the covered aspects of the matter, can reach an agreement with that lawyer for the midwife to independently fund the costs of advice on privileging issues.

Because recommendations about privileges can result from internal hospital reviews, midwives who are concerned that an incident may result in a review of privileges should consider getting legal advice at an early stage. Midwives are also encouraged to report to MPP if they become aware of a quality assurance review involving their care, as such a review may precipitate a complaint to the College.

Privileging issues arise rarely and only in the case of serious incidents, serious lapses in care, or where there is a pattern of problems in a midwife's practice.

Apart from privileging issues, another matter which may arise is organization of a midwifery practice and business issues. Again, these issues may require legal advice, but the midwife will have to retain the lawyer and pay those costs herself as MPP does not respond.

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