

Name of Protocol: Anti Harassment and Anti Violence Policy and Procedure
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Introduction

Lincoln Community Midwives:

- values the contributions of all members of the practice (including those contracted to work with the practice, i.e. suppliers and contractors) to the provision of quality midwifery services to clients and families of our community
- is committed to creating a safe and secure working environment where everyone is treated with respect and dignity
- does not tolerate, condone or ignore harassment or violence
- is committed to the development of a practice group program to prevent and manage harassment and/or violence in the workplace and taking the appropriate steps to ensure that the workplace is a safe, respectful and constructive environment

This policy

- applies to everyone involved with the practice group, including midwives, full-time, part-time, temporary, probationary, casual and contract workers, volunteers, students, clients, family members, and guests.
- applies to any setting where a midwife or other worker provides care or completes other work, which includes, but is not limited to, a client's home, the midwifery clinic, hospitals, birth centers as well as other community settings.
- addresses harassment and violence experienced in person and through any form of communication device/system (including but not limited to telephone, e-mail, social media, apps, postal service).
- implements the regulations of the Occupational Health and Safety Act addressing issues of harassment and violence, including sexual harassment,
- does not address harassment, violence or sexual abuse against a client or client's family member by a practice group member as such acts would fall under other legislation such as the Regulated Health Professionals Act (RHPA) and the College of Midwives of Ontario (CMO) rules (e.g., Professional Misconduct regulation, Code of Ethics standard, Sexual Abuse Prevention Program and the guide to Appropriate Professional Behaviour with Clients)
- will be posted in a prominent place in the clinic for all workers to access, in compliance with the posting requirements of the OHSA.

Lincoln Community Midwives will

- choose or appoint a midwife member who will be responsible for overseeing the Anti-Harassment and Anti-Violence program
- provide members of the practice group with information and instruction on the contents of the Anti-Harassment and Anti-Violence Policy
- conduct assessments of the risk of violence at work annually and at any time when a concern is brought forward. The assessment will be completed using the attached Workplace Violence Survey and will take into account, but will not be limited to, circumstances commonly experienced by midwives in carrying out their work as well as circumstances specific to Lincoln Community Midwives or to particular clients
- Will advise practice members of the results of the assessments/reassessments and measures taken to mitigate the risk of violence, and revise practice procedures where appropriate
- investigate and deal with all incidents and complaints of violence or harassment in a fair and timely manner
- shall not disclose to outside parties the name of the complainant, the circumstances giving rise to a complaint, or the name of the respondent unless such disclosure is required by a law or disciplinary or other remedial process
- will also refer to the relevant programs of other institutions (such as the hospitals where we hold privileges), while being mindful that partner(s) still have obligations to the midwife in those settings

Anti-Harassment and Anti-Violence Procedure

All members of the practice group share the responsibility for safety in the workplace. Lincoln Community Midwives has designated Megan Olson as the associate responsible for guiding the workplace safety program and managing reported incidents of harassment or violence, including sexual harassment.

Prevention

Lincoln Community Midwives will provide midwives, employees, students and volunteers with training and instruction on safety regarding harassment and workplace violence in the practice group's workplace. Training will be provided as follows:

- To all current midwives, employees, students and volunteers when the policy is first implemented
- To all additional midwives, employees, students and volunteers when they first join the practice group
- To affected midwives, employees, students and volunteers whenever lead midwife or partners are made aware of a new or previously unrecognized hazard

Safety training will include a discussion about:

- Preventative measures to reduce the threat of harassment and workplace violence, including client Code of Conduct Statement signed at intake, and procedures for reporting workplace safety concerns
- Recommendations/tips for managing and diffusing hostile or threatening situations in various settings
- How to call for immediate assistance and explanations of escape routes
- Comprehensive review and explanation of the Anti-Harassment and Anti-Violence Policy and Procedure
- Relevant information regarding HHS Code of Conduct and Workplace Health and Safety Policy and where those can be found

Assessment

Lincoln Community Midwives will conduct assessments regarding the risk of harassment and violence at work during a practice group meeting once a year, using the AOM Template Workplace Violence Survey. This assessment will take into account, but will not be limited to, circumstances commonly experienced by midwives in carrying out their work as well as circumstances specific to their local community, local hospital and to their current client population.

In addition to these regular assessments, additional reviews will take place when workers identify new concerns about harassment or violence in the workplace. It is the goal these additional reviews take place in person, as long as all parties agree, and ideally within 48 hours.

Management

Step 1: Dealing with concerns of harassment or violence

If an emergency exists and the situation is one of immediate danger, the complainant will contact the local police, and may take whatever emergency steps are available and appropriate to protect herself/himself from immediate harm (such as leaving the area).

If any worker is the victim of violence, believes they have been threatened with violence, or witnesses an act or threat of violence towards anyone else, they are encouraged to make a complaint to the designated associate and partner(s) as soon as possible and summon immediate assistance if required.

When workers experience non-urgent incidents in the workplace, complainants are encouraged to communicate with the person who is harassing them that the conduct is unwelcome, but are not obliged to do so. If directly addressing the person responsible for harassment could lead to escalation, or to safety risks, the complainant should not be expected to have to directly interact with that person. In such situations the complainant is encouraged to report their concerns verbally, or preferably, in writing to the designated associate. The complainant can call the AOM On Call to discuss safety planning.

Right to Refuse to Work

If the complainant is the victim of violence, believes they have been threatened with violence, or witnesses an act or threat of violence towards anyone else, they have the right to refuse to work and/or call the police. The specific work refusal procedure outlined in the Occupational Health and Safety Act will be followed in such instances.

In considering a work refusal, Lincoln Community Midwives will consider obligations under the RHPA and the CMO regarding, for example, continuing to provide care to clients (i.e. not abandoning clients) or arranging appropriate alternate care for clients (in some cases, this may mean calling EMS along with police). The Occupational Health and Safety Act limits workers right to refuse to work when doing so “would directly endanger the life, health or safety of another person.”

Step 2: Issuing a Complaint

The complainant will be encouraged to submit the complaint in writing, including details of:

- What happened – a description of the events or situation
- When it happened – dates and times of the events or incidents
- Where it happened
- Who saw it happen – the names of witnesses, if any?

A "complaint form" is not required.

In situations where the complainant wishes to remain anonymous for personal reasons, the designated associate and/or partner(s) will consider, depending on the circumstances and the potential risks to other workers, making a written complaint on their behalf. Every attempt will be made to respect the worker's privacy and sensitivity of the issue.

If the designated associate is the alleged harasser, the complainant can file a complaint with any of the partners they feel most comfortable with.

Step 3: Managing a Complaint

The designated associate will ensure that:

- Law enforcement is notified when an incident involving what might be a criminal act has occurred
- Emergency medical care is provided in the event of any violent act
- When appropriate/relevant Lincoln Community Midwives will consult a lawyer regarding recommended legal actions
- Incidents are handled in accordance with the Anti-Harassment and Anti-Violence Policy
- All workers are informed of any future related potential risk and develop a plan/program to reduce worker risk

When appropriate, workers are reminded of the post-event trauma counselling available for them

- for midwives via the member assistance program – Optimal Global Health 1-877-480-2240, Dialogue program, Social Worker or other professional funded under benefits funding
- for students via their university site
- For administrative staff MindBeacon (free digital therapy) Wellness Together Canada, dial 211 on any phone to reach government of Ontario mental health support

Step 4: Investigation

Acts or threats of harassment and violence will be investigated immediately to protect workers from (further) danger, anxiety and loss of work.

The designated associate (or determined third party) receiving the complaint will conduct a preliminary investigation. Depending on the level of urgency of the complaint, the most appropriate method for investigating the event(s) will be initiated. The decision regarding the appropriate course of action will be made on a case-by-case basis.

When a reported incident involves a respondent who works within the workplace, the associate or partner receiving the complaint will notify the person(s) complained against (“the respondent(s)”) of the complaint and provide the respondent(s) with a copy of the written complaint.

The respondent may be suspended with or without pay, or in the case of a midwife, with or without compensation for caseload. (The designated partner(s) will check with legal counsel before exercising this consequence.) The partner(s) will decide how to reassign the work of the worker until she/he is able to return.

Pending the investigation and outcomes, the designated partner(s) will recommend an assignment of reasonable alternative work if the circumstance is likely to endanger the worker or another person. If necessary/relevant, the complainant or the respondent will be provided with alternative reporting or working relationships (e.g. midwives may refer to a call rotation, shared care arrangement, or backup arrangement). If this is not possible the worker will be placed on an immediate and temporary paid leave of absence. The practice group will work out a method(s) of compensation that is (are) fair for workers affected by such action. [Partners will check with legal counsel before deciding on fair compensation.]

Legal Counsel

Complainants and respondents are entitled to seek representation of their choice, including legal counsel, during the complaints process, at their own expense. The designated partner(s) involved in investigating, mediating and making decisions relating to the situation will, where appropriate/relevant, obtain legal counsel on behalf of the practice group members.

Written Notes

Every person who believes they have experienced harassment, violence or the threat of violence, as well as every person who has been notified of a complaint against them, is advised to create and keep written notes about the events at issue, as well as to maintain any relevant written documentation.

Confidentiality

During the course of an investigation, the normal procedures associated with privacy and confidentiality will be observed at all times. All documents related to a complaint, including the written complaint, witness statements, investigation notes and reports, and other documents related to the complaint, will be securely maintained by the partners, separate from personnel or client clinical files and sealed upon the conclusion of the investigation. Information obtained a complaint including identifying information about any individuals involved, will not be disclosed unless the disclosure is necessary for the purposes of investigating or taking corrective action with respect to the incident or complaint, or as otherwise required by law.

A complainant will not be penalized for making a complaint, nor will the respondent be penalized before the situation has had a determination.

Step 5 – Reporting Findings of Investigation and Follow-up

Based on the findings in the investigation, the partners will make a decision as to whether the policy has been violated. The findings of an investigation will be reported in writing to the complainant by the designated partner(s).

In determining the appropriate action, the designated partner(s) will take into account a variety of factors including, but not limited to, the impact on the complainant, the degree and aggressiveness of any physical contact, the wishes of the complainant, the degree of a respondent's willingness to cooperate to change their behaviour, the nature of the violation of the policy, its severity, and whether the individual has previously violated the policy. Where a violation of the policy is found, the partners will also take any steps they can reasonably take to repair the effects of the harassment or violence on the complainant, and take the necessary steps to prevent any further recurrences within the practice group. Both complainants and respondents will be notified in writing of the outcome of the investigation as well as any corrective action taken.

Depending on the incident or circumstances, possible actions available to the designated partner(s) may include:

- An apology
- Counselling
- Mediation*
- Education and training
- Verbal or written reprimand (a verbal reprimand will be accompanied by a written report that will go in the person's personnel file)
- In the case of a student as the person who violated the policy, report to the MEP, and take actions necessary up to and including terminating the student placement
- In the case of a supplier or contractor who violated the policy report to the immediate supervisor
- Suspension with or without pay (practice partners will check with legal counsel before exercising this consequence)

- Termination of employment or contract (practice partners will check with legal counsel before exercising this consequence for staff or midwives)
- Termination of care, in the case of a client or support person as the person who violated the policy (practice partners will consult [College of Midwives documents and/or the CMO or the AOM] before exercising this consequence for clients)

* If upon completion of their investigation the person receiving the complaint feels that the complaint is rooted in conflict but does not constitute harassment and could be resolved through mediation, they will offer the parties mediation. Mediation is not appropriate in the situation where violence or a threat of violence has occurred. No person will be required to undertake mediation.

Note: If the complainant does not feel safe approaching any of the practice partners and feels that they have exhausted the options that are available, they may call the Ministry of Labour or the Human Rights Legal Support Centre to discuss possible next steps.

Domestic Violence

Practice partners aware of violent histories of any person (e.g. worker, visitor, client, or spouse of a worker, visitor, or client) where (a) worker(s) may expect to encounter that person during the course of her or his (their) work, will take every precaution reasonable in the circumstances for the protection of the worker(s). Partners will not disclose any more personal information than is necessary to protect the worker(s) from physical injury. When the partners have concerns about balancing a worker's right to be informed of the risk of workplace violence with an individual's privacy rights, including client rights under the Personal Health Information Protection Act, they will seek legal advice.

Appendix A: Definitions

Complainant refers to a worker making a complaint regarding harassment or violence in the workplace.

Harassment can take many forms. Workplace harassment in the Occupational Health and Safety Act (2) is defined as “engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome.” It may include:

- Singling out an individual for humiliating or demeaning “teasing” or jokes
- Repeated threats of dismissal or other severe punishment for no reason
- Sabotaging a person’s work, for example, by deliberately withholding or supplying incorrect information, hiding documents or equipment, not passing on messages, and getting a person into trouble in other ways
- Persistent and unjustified criticisms, often about petty, irrelevant or insignificant matters
- Discrediting an individual by spreading malicious gossip or rumours, ridiculing, humiliating, calling into question the person’s convictions or her/his private life, shouting abuse
- Singling a person out to perform tasks that are inferior to her/his competencies in a way that demeans or belittles her/him, setting the person up for failure, name calling in private or in front of others
- Isolating an individual by no longer talking to her/him, denying or ignoring his/her presence, distancing him/her from others
- Repeated offensive or intimidating phone calls or e-mails
- Nicknames, remarks, jokes or innuendos related to an individual’s race, sex, disability, sexual orientation, creed, age, physical characteristics such as weight, or any other ground
- Display or circulation of offensive pictures, graffiti or materials, whether in print form or via e-mail or other electronic means

Perpetrator refers to the individual(s) who, after investigation, have been found to be in contravention of this Policy.

Practice members refers only to partners, associates, supervised and mentored midwives, administrative staff, students and practice group volunteers NOT external suppliers or contractors.

Respondent refers to the individual(s) against whom the complaint is made

Sexual Harassment can take many forms. Workplace sexual harassment in the Occupational Health and Safety Act (2) is defined as “engaging in a course of vexatious comment or conduct against a worker in a workplace because of sex, sexual orientation, gender identity or gender expression, where the course of

comment or conduct is known or ought reasonably to be known to be unwelcome”; or “making a sexual solicitation or advance where the person making the solicitation or advance is in the position to confer, grant or deny a benefit or advancement to the worker and the person knows or ought reasonably to know that the solicitation or advance is unwelcome”. It involves unwelcome words or actions associated with sex, sexual orientation or gender that are that are known or should be known to be offensive, embarrassing, humiliating or demeaning to a worker or group of workers, in a workplace. It can also include behaviour that intimidates or isolates individual(s). Workplace sexual harassment may include:

- asking questions, talking, or writing about sexual activities (unless in the context of professional discussions regarding the provision of client care);
- rough or vulgar humour or language related to sexuality, sexual orientation or gender;
- displaying or circulating pornography, sexual images, or offensive sexual jokes;
- leering or inappropriate staring;
- invading personal space;
- unnecessary physical contact, inappropriate touching, demanding hugs, dates, or sexual favours;
- making gender-related comments about someone’s physical characteristics, mannerisms, or conformity to sex-role stereotypes;
- verbally abusing, threatening or taunting someone based on gender or sexual orientation; or,
- threatening to penalize or otherwise punish a worker if they refuse a sexual advance.

Violence in the workplace is defined in the Occupational Health and Safety Act (2) as the “exercise [or an attempt to exercise] of physical force by a person against a worker, in a workplace, that causes or could cause physical injury to a worker.” It can also be a “statement or behaviour that is reasonable for a worker to interpret as a threat to exercise physical force against the worker, in a workplace, that could cause physical injury to the worker.” Violence in the workplace may include:

- Actual and attempted acts of physical violence (including actions such as hitting, punching, slapping)
- Threats of physical violence or intimidation, including notes or emails
- Stalking
- Possession of weapons of any kind on [Practice Group’s name] property, including parking lots, other exterior premises or while engaged in activities for [Practice Group’s name] in other locations, or at [Practice Group’s name]-sponsored events
- Physical restraint, confinement
- Acts of physical aggression, such as the deliberate destruction of or damage to property, where such actions are meant to intimidate other individuals
- Any other act that a reasonable person would perceive as constituting a threat of violence (This could include, but is not limited to, loud, disruptive or angry behaviour or language that is clearly not part of the typical work environment, especially if it is extensive or repeated.)

Workers refers to the following: partners, associates, supervised and mentored midwives, administrative staff, students, practice group volunteers, as well as contractors and suppliers working temporarily with the practice group.

Workplace refers to any setting where a midwife or other worker (e.g. student) is providing care that most often will include a client's home, the midwifery clinic, hospitals, birth centres, as well as other community settings.

References

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