



**Midwifery Council**

Te Tatau o te Whare Kahu

# Be Safe.

PAPER

05.

## A MIDWIFE'S HEALTH

September 2018

### Our responsibility

We know that midwives can and do become unwell - we also know that delays in seeking support for a health issue can impact on both the midwife and the public. Under sections 45 – 51 of the HPCA Act 2003, the Council is charged with ensuring midwives are fit and competent to practise. This includes physical and mental health.

The Council has statutory functions and processes it must follow when it receives a notification or declaration regarding a midwife's health. The action required depends on many factors including the type and severity of the health issue and the risk of harm to the public.

When working with a midwife, we aim to help her manage her health condition and assist her to remain practising while the health matter is resolved. At times this is not possible and it can mean that a midwife will not be able to practise - or may practise with limitations - until she is well again.

The Council must balance the level of response against the risk of harm. To do this, we consider the impact of the health matter on the midwife's ability to practise. The Council can use its powers to support midwives who might otherwise have left practice to remain in work by imposing conditions on their scope of practice e.g. working hours.

We are aware that regulation should only be used when necessary and not used if the risk is already being managed. In many instances, while the Council needs to be informed of the risk, it leaves its management to those much closer to the problem.



### Be Safe

Be Safe is a series of papers highlighting safety, best practice and professional standards in midwifery.

### The Midwifery Council

The Midwifery Council makes sure midwives meet and maintain professional standards of education, conduct and performance so that they deliver high quality healthcare throughout their careers. The safety of mothers and babies comes first.

## How we define a midwife's ability to practise

As stated in the HPCA Act, the Council expects that midwives

- Demonstrate the level of skill and knowledge required for safe practice
- Make professional and safe judgements
- Behave appropriately
- Do not risk infecting women and their babies
- Do not act in ways that adversely impact on safety of women and their babies

The level of involvement and action that is required depends on the degree of impact that the health issue has on the midwife's ability to perform required functions.

## A midwife's obligations

All midwives must notify the Council if their health has impacted on their ability to practise - each year midwives make a statutory declaration that they are fit. Sometimes midwives do not believe their injury or health status has impacted on their ability to practise, despite being on light duties or not being able to work in clinical practice or because they are managed by an occupational health team or a caseworker. Regardless of employer involvement, individual midwives as well as relevant organisations must notify the Council of health matters.

## Why must the Council collect and hold personal health data?

We need to know if a midwife has a condition that affects - or could affect - their practice and to what extent this condition impacts on their practice. This is consistent with the statutory purpose of the Council. For many midwives this notification occurs at the time of application for practising certificates but this can occur during the year when for example a midwife contacts the Council seeking an extension of time for recertification due to health matters. All applicants for registration as a midwife must declare any health conditions. Having a condition rarely precludes registration but may mean conditions are placed on the midwife's scope of practice.

## Some common health issues include

- Acute stress in the midwife's personal life
- A physical or mental illness or injury
- Previous mental or physical condition which adversely affected her practice
- An incident or incidents directly involving use or misuse of medicines or alcohol
- Major blood-borne viral infection



## Who must notify the Council about health concerns?

The HPCA Act identifies certain people and organisations that are required by law to notify the Council if they believe that a midwife is unwell and may be unable to practise safely. These are:

- The midwife herself
- The midwife's employer
- Any registered health professional
- Anyone in charge of an organization that provides health services
- A person in charge of an education programme who believes that a student may be unable to practise safely

While we understand that making a referral may be a difficult decision, every midwife has a responsibility to advise the Council if they have a colleague who cannot practise safely.

Members of the public may also notify the Council if they have concerns about an individual midwife's health and its impact on practice.

## What happens when we receive a health notification?

The focus is on both public safety and supporting the midwife to stay in practice. Health matters are dealt with separately from competence and conduct. When a notification is received it is managed on a case by case basis. We may require information from midwives which includes reports from treating doctors or we may refer a midwife to a specialist for an independent report.

If there are concerns about risk of harm to the public, the Council can also seek an individual's agreement to stop practice or to limit practice while information is gathered about the individual's health. The Council will advise midwives to seek advice from the professional advisor or legal advisor to assist them through these processes.

If a situation is urgent and the midwife is unable or unwilling to engage with the Council, it has certain powers and statutory processes that enable it to act. These include:

- Interim suspension
- Ordering a medical examination
- Restrictions are placed on a midwife's registration or practising certificate

Health matters are dealt with separately from competence and conduct and are treated confidentially

All midwives must notify the Council if their health has impacted on their ability to practise

We know that regulation should only be used when necessary and not used if the risk is already being managed

## What happens if there is a risk of harm?

If the Council believes at any stage that the midwife poses a risk of serious harm to the public and she has not agreed to voluntarily cease or modify her practice, we may have to temporarily suspend the midwife's practising certificate or impose conditions on her Scope of Practice. The Council must also notify:

- The Accident Compensation Corporation
- The Director General of Health
- The Health and Disability Commissioner
- The midwife's employer (if any)
- DHBs with whom she has an access agreement

Such an Order is unlikely to be made before a medical practitioner's report has been considered and only when there is a risk of serious harm to the public, other health practitioners or the midwife herself.

Sometimes it is necessary to protect the health and safety of the public by putting in place measures to ensure the midwife continues practising safely. In this case, the Council will place conditions are on her scope of practice. The midwife remains under health monitoring until it is clear that she has fully recovered and is safe to practise unrestricted.

## What will it cost?

The midwife pays:

- Her own costs
- Compliance costs with orders made by the Council

The Council pays:

- Fees and costs associated with health monitoring
- The cost of any medical reports

Go to [www.midwiferycouncil.health.nz](http://www.midwiferycouncil.health.nz) for more information.

### Contact Us

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General enquiries: [info@midwiferycouncil.health.nz](mailto:info@midwiferycouncil.health.nz)

## Tips

- You do not need to contact the Council if you have a short-term condition - e.g. tonsillitis.
- Contact the Council sooner rather than later if you have any concerns.
- You do need to contact the Council if you have an injury which prevents normal range of movement - e.g. broken leg, slipped disc.



## In 2017-2018

the Council received

# 48

health referrals, of which

# 36

were self referrals from midwives

