



The following terms are defined under the Act:

**Professional Misconduct is any conduct that:**

- Contravenes the Act, the regulations or the bylaws of the College.
- Contravenes an order of the Discipline Committee, the Complaints Committee, the Council or the Registrar.
- Is defined as being professional misconduct in the regulations (Ontario Regulation 384/00 – visit [www.e-laws.gov.on.ca](http://www.e-laws.gov.on.ca) to download a copy of the regulation)

**Incompetence:**

- The member has displayed in his or her professional responsibilities a lack of knowledge, skill or judgment or disregard for the welfare of a person or persons of a nature or extent that demonstrates that the member is unfit to continue to carry out his or her professional responsibilities or that a certificate of registration held by the member under this Act should be made subject to terms, conditions or limitations.

**Incapacity:**

The member is suffering from a physical or mental condition or disorder such that,

- The member is unfit to continue to carry out his or her professional responsibilities; or
- A certificate of registration held by the member under this Act should be made subject to terms, conditions or limitations.

**Sexual Abuse:**

Sexual abuse with respect to a client by a member of the College means:

- Sexual intercourse or another form of physical sexual relations between the member and the client,
- Touching, of a sexual nature by the member or,
- Behaviour or remarks of a sexual nature by the member towards the client, other than behaviour or remarks of a clinical nature appropriate to the service provided.



## FAQs

# Mandatory Reports to the College



**The Ontario College of Social Workers and Social Service Workers (the “College”) is responsible for regulating the practice of social workers and social service workers, under provincial legislation called the Social Work and Social Service Work Act, 1998 (the “Act”). The Act was fully proclaimed in August 2000.**

As part of its duty to serve and protect the public interest, the College is required to have a process for Mandatory Reports. This brochure provides a brief overview of the Act’s requirements for Mandatory Reports. Although every effort has been made to ensure that the information is accurate and current, it is not intended to be an exhaustive summary of the requirements for Mandatory Reports. For comprehensive information, please consult the Act, regulations and College by-laws. In the event of any discrepancy between the contents of this brochure and the Act, regulations and College by-laws, the latter will prevail.

**What is a Mandatory Report?**

Under the Act, there are five circumstances when a written report to the College must be made.

1. If you, as an employer of a member of the College, terminate the employment of a member of the College for reasons of “professional misconduct”, “incompetence” or “incapacity”, you are required to file a written report with the Registrar of the College.
2. If you, as an employer or former employer of a member of the College, intended to terminate the employment of a member of the College for reasons of professional misconduct, incompetence or incapacity, but the member resigned before you could do so, you are required to file a written report with the Registrar of the College.

3. If you, as an employer or former employer of a member of the College, become aware that a member of the College who is or has been employed by you is convicted of an offence under the Criminal Code of Canada involving sexual conduct, you are required to file a written report with the Registrar of the College.
4. If you, as a member of the College, are convicted of an offence under the Criminal Code of Canada involving sexual conduct, you are required to file a written report with the Registrar of the College.
5. If you, as a member of the College, or an employer who is also a member of the College, in the course of your practice, obtain reasonable grounds to believe that another member of the College has sexually abused a client, you are required to file a written report with the Registrar of the College.

**When must the Mandatory Report be made?**

1. The report must be made **within 30 days** of the date on which you terminated the member’s employment, or **within 30 days** of the date on which the member resigned.
2. The report must be made **promptly**, if you, as an employer or former employer of a member of the College become aware that a member of the College has been convicted of an offence involving sexual conduct or if you, as a member of the College, are convicted of an offence involving sexual conduct.
3. The report must be made **within 30 days** of the date on which you, as a member of the College, learned of the member’s sexual abuse of a client. However, if you reasonably believe the member will continue to abuse the client, or other clients, you must make your report immediately.

**Can I get in trouble for making a report?**

If your report is made in good faith, the Act provides that there can be no proceedings instituted against you for making your report.

**What can happen if I don’t make a report?**

The Act makes failure to report an offence. On conviction, there is liability for a fine of up to \$25,000. Members of the College who fail to report may also face allegations of professional misconduct.

**What should be included in the report?**

The report should contain:

- Your name;
- The name of the member of the College who is the subject of the report;
- A statement about whether the report is being made due to the termination or resignation of the member, the member’s conviction of an offence involving sexual conduct and/or the member’s sexual abuse of a client;
- If the report concerns the termination or resignation of a member, a detailed explanation or description of the professional misconduct, incompetence or incapacity for which you terminated or intended to terminate the member;
- If the report concerns the member’s conviction of an offence involving sexual conduct, a detailed explanation or description of the offence, including the dates on which: the sexual conduct occurred, or on which the member was charged; and, the date on which the member was convicted;
- If the report concerns a member’s sexual abuse of a client, a detailed explanation or description of the sexual abuse;
- The name of the client who was sexually abused **ONLY IF** the client or the client’s representative (if the client is incapable) has consented in writing. If the client (or client’s representative if the client is incapable) has not consented in writing, the client’s name **MUST NOT** be included in the report.