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Understanding and preventing discrimination and harassment for midwifery preceptors

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October 25, 2017



Midwifery Education Program
Faculty of Community Services

Learning Objectives

- Review basic human rights related legislation
- Use case studies to illustrate practical human rights related implications for preceptors
- Develop strategic prevention skills to help respond and resolve potential human rights concerns before they escalate
- Opportunity to brainstorm and troubleshoot challenging situations with peers

Agenda

A/ Welcome:

- Introductions
- Agenda Overview

B/ HR Review

- Key concepts
- Legislation

C/ Case Studies

D/ Conclusion

- General tips, Discussion, Q&A

What is a Human Right and how do human rights issues show up in midwifery?

What Legislation Protects Human Rights in Canada?

| Legislation Législation | Federal Bodies Gouvernement Fédéral | Provincial Bodies Gouvernement Provincial |
|---|--|--|
| Canadian Charter of Rights and Freedoms (1982) | Canadian Human Rights Commission | Provincial Human Rights Commissions |
| Canadian Human Rights Act (1977) | Canadian Human Rights Tribunal | Provincial Human Rights Tribunals |
| Universal Declaration of Human Rights (1948 – UN) | | |
| Provincial Human Rights legislation | | |

Canadian Human Rights Act

Prohibited Grounds:

| Race | Sex |
|--|--------------------|
| National or ethnic origin | Sexual orientation |
| Colour | Marital status |
| Religion | Family status |
| Age | Disability |
| A conviction for which a pardon has been granted or a record suspended | Gender identity |

Applies to:

- Federal government – employers/service providers
- Businesses and organizations regulated by federal government

Ontario Human Rights Code (1962)

17 Grounds of Discrimination

It is public policy in Ontario that we can all live, work, and play with dignity, contribute to society, and have equal access to opportunities without discrimination based on:

| | | |
|-----------------|--|---------------------------------|
| Race | Sex | Disability |
| Ancestry | Sexual orientation | Marital status |
| Place of origin | Gender identity | Age |
| Colour | Gender expression | Family status |
| Ethnic origin | Creed | Record of offences (employment) |
| Citizenship | Receipt of public assistance (housing) | |

Key Concepts



Intent vs. Impact

Intent: The purpose

Impact: The effect

- It doesn't matter if you didn't intend to discriminate.
- Human Rights Codes look at what actually happened and the effect of the discriminatory behavior.
- Remedial: resolve not punish. But it does carry consequences (tribunal vs commission)

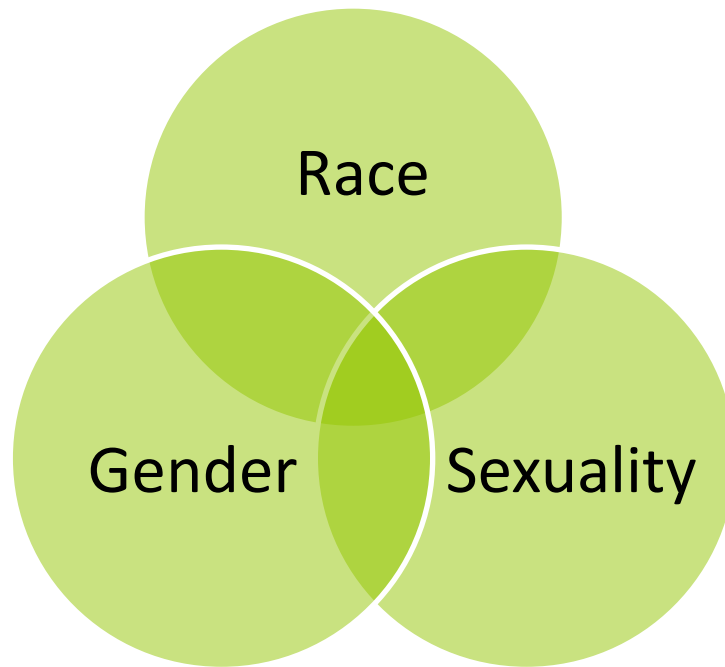
Reprisal

Taking action or threatening to take action against someone who has a human rights complaint or who is a witness. You cannot be punished or threatened with punishment for:

- trying to make a complaint
- filing a human rights application
- filing a human rights grievance
- acting as a witness at a human rights hearing.

Intersectionality

We all belong to multiple social categories and they all get consideration.



Discrimination and Harassment

Discrimination

Denial of equal treatment or opportunity to individuals or groups

Direct

Indirect

Subtle

By Association

Harassment

Pattern of comments or behaviors that are known or ought reasonably to be known to be unwelcome.

Workplace Harassment: Non-Code

- Two types of harassment: Code-based/non-Code
- “Workplace harassment” means 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 (Bill 168/Bill 132)
- Includes all harassment not based on prohibited grounds

| | | | |
|--------------|--------------------|------------------|------------------|
| Jokes | Humiliation | Intimidation | Profanity |
| Put-downs | Offensive pictures | Physical assault | Yelling/shouting |
| Name-calling | Isolation | Verbal assault | Interference |
| Ridicule | Withholding info | Damage | Threats |

What isn't harassment?

- Having a different opinion
- Friendship
- Setting deadlines or objectives
- Firm communication
- Criticism of poor performance
- Legitimate performance management
- Probation or discipline

Performance management may constitute harassment if it is:

- Arbitrary
- Inconsistent
- Unclear
- Persistent
- Uncivil

Is it harassment? Code or non-code?

You have a student who frequently shows up late. You speak to this person about their time and ask them to do better.

A colleague is spreading rumours that you are sleeping with a client's spouse.

Every time you see this client, she asks you where you are from.

A client tells you a student's hijab makes her uncomfortable during appointments.

Duty to Accommodate

Requirement to prevent and remove barriers, and provide accommodation (to the point of undue hardship) based on any code ground.

| Code Ground (example) |
|--|
| Religion/creed |
| Family status |
| Sex (pregnancy) |
| Disability |
| Gender identity (ON, MB, NS, NL, NT, SK, PEI, AB) |

Family Status

- Being in a parent and child relationship.
- A relationship based on blood or adoption ties, based on care, responsibility and commitment.
- This includes relationships of dependence between parents and kids, and adult children and elderly parents.

Examples:

- Allowing persons to take an appropriate leave of absence to care for family members who are aging, ill, or have a disability.
- Providing flexible work hours so a student can pick up their child from daycare.

Disability

- Covers a broad range and degree of conditions
- Some visible and some not visible.
- Many choose to not disclose that they require an accommodation as a result of the stigma and possible discrimination
- A disability may be present from birth, caused by an accident, or develop over time:

| | |
|-----------------------|--------------------------|
| Physical | Episodic (i.e. epilepsy) |
| Cognitive | Mental health |
| Learning disabilities | Addictions |
| Mental illness | Sensitivities |
| Sensory | Other conditions |

Religious Observations

- Includes the practices, beliefs and observances that are part of a faith or religion
- Does not include personal moral, ethical or political views
- Does not include religious doctrine that promotes violence or hate towards others, or that violate criminal law.

Gender Identity

- Name and document changes (HR)
- Accessible bathrooms
- Respect for pronouns and identity

Key Considerations: Accommodations

If asking for an accommodation

- Put it in writing
- Explain why needed
- Give adequate time to respond
- Prepare to be flexible
- Expect alternative resolutions

If responding to an accommodation request

- Treat person with respect
- Assess based on needs of group and resources
- Reply within a reasonable time
- Consider alternatives
- If accommodation is not possible, explain clearly and be prepared to demonstrate why

Competing Human Rights

1. No rights are absolute
2. There is no hierarchy of rights
3. Rights may not extend as far as claimed
4. The full context, facts, and constitutional values at stake must be considered
5. Must look at extent of interference
6. The core of a right is more protected than its periphery
7. Aim to respect the importance of both sets of rights
8. Laws may restrict rights of one group and give rights to another.

Your Role in Human Rights

Discussion:

What do competing human rights look like in midwifery?

What are ways in which we can manage the expectations (and realities) of students?

Scenario

At a hospital visit, you and your student are working with an obstetrician. Your client is a recent immigrant who recently obtained citizenship. This is her 4th pregnancy.

While the client is in the bathroom, the obstetrician makes a comment about the client “draining” healthcare services due to her many pregnancies. You don’t say anything in the moment. Later on, your student brings up the incident and accuses you of condoning racism and microaggressions.

Scenario

A client goes into labour early and you call in your student, as they are supposed to be on 24-hour call. Your student protests that she can't come in due to medical appointments that can't be easily re-scheduled.

Later on, you find out that the student has complained to the Ryerson faculty advisor and says that she requires an accommodation.

Scenario

Student A has an accommodation plan through Ryerson that the faculty advisor has made you aware of. The plan involves time and a half in placement for an extra six weeks.

Student B, who is also placed with you and your colleague, complains that they have a heavier workload than student A and doesn't understand why she "gets all this time off" while they are on constantly call. Student B alleges discrimination.

Prevention

- Build in time for debrief
- Explore student expectations and be clear about your own
- Raise issues such as how to deal with conflict or raise concerns in advance
- Be clear on your own reactions to conflict (what is helpful and what isn't)
- Ask about accommodation needs in advance

Your Role in Human Rights: Reducing Liability

Have you taken concerns seriously and treated people with respect?

If there is an allegation of discrimination or harassment, what action have you taken?

Have you documented the situation?

Have you referenced other legislation such as AODA or privacy laws?

Other Scenarios?

Discussion

Q&A

“The task of the mediator is to help the parties to open difficult issues and nudge them forward in the peace process. The mediator's role combines those of a ship's pilot, consulting medical doctor, midwife and teacher.” Martti Ahtisaari