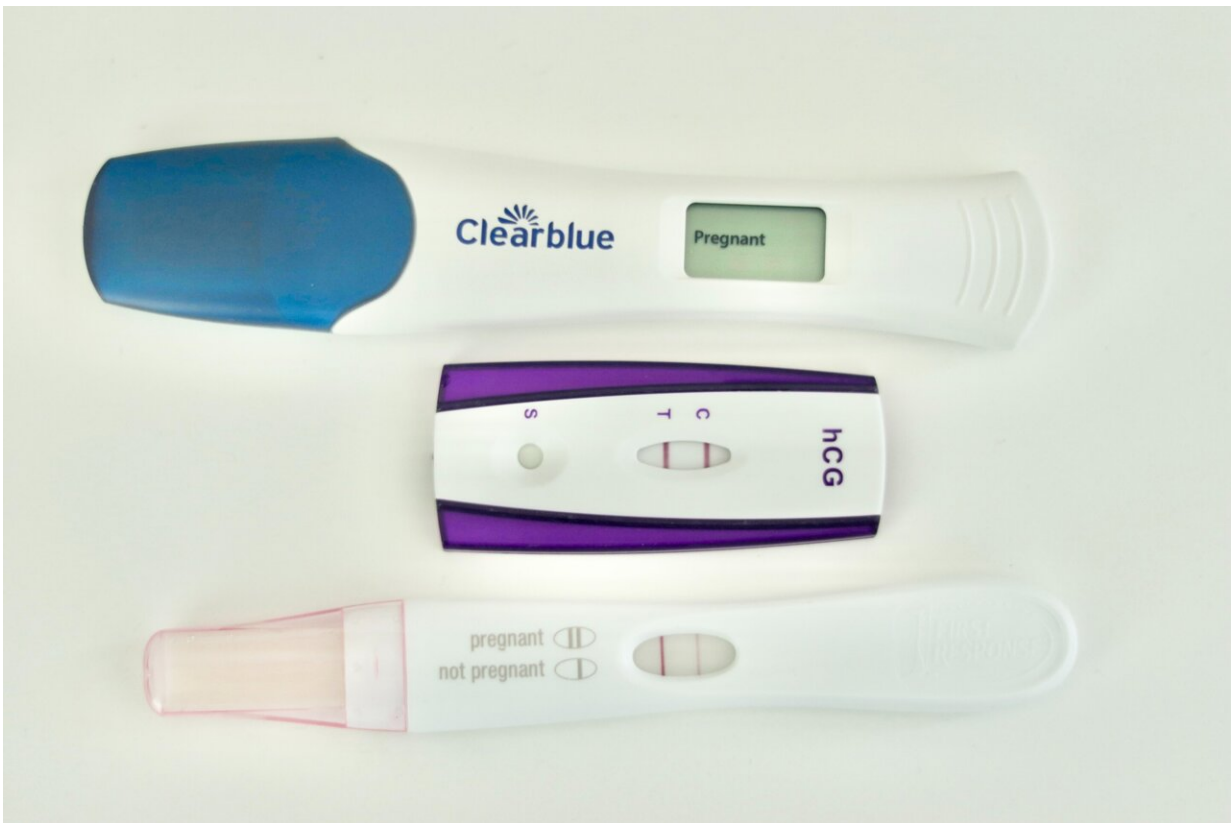


Should a health professional be disciplined for reporting an illegal abortion?

January 23 2024, by Dominic Wilkinson



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There have been [several high-profile cases](#) in the last year of women in the UK being prosecuted for allegedly obtaining abortions illegally. In 2022, there were 29 cases of suspected unlawful abortions that were

reported to police—almost a two-fold rise on the number reported four years earlier.

In response to this, the Royal College of Obstetrics and Gynecologists (RCOG) has [issued guidance](#) that seeks to clarify the legal obligations of health care professionals. The full guideline has not yet been released, but the RCOG insists that professionals "are under no legal obligation to contact the [police](#) following an [abortion](#), pregnancy loss or unattended delivery."

There are different ethical questions that we might ask concerning abortion and the law in the UK. For example, we might ask what the law should be. That is, at what stage of pregnancy and in which circumstances abortion should be legally permitted?

A more radical question would be whether abortion is properly a question for the law.

[RCOG](#) and the [British Medical Association](#) (the trade union for UK doctors) have long called for reform and decriminalization of abortion, arguing that—where it is provided by a health professional with the woman's consent—it should be managed and regulated as other forms of health care.

But a different question relates to how [health professionals](#) should respond in a situation where abortion is sometimes unlawful and they become aware that a woman has sought an abortion outside the current legal framework. Must they report to the police? May they report to the police (for example, if they have a personal view that abortion is seriously wrong)? Or, if they do report to the police, might the health professional be the one who ends up in trouble?

A question of confidentiality

The central ethical issue at stake here is not, in fact, the morality of abortion. Rather, the key issue is about medical confidentiality and when health professionals are justified in violating their strong obligations to safeguard the patient's medical details.

Confidentiality has been thought to be vital to the doctor-patient relationship [for centuries](#). For doctors to be able to help patients, they need the patient to provide full details of their symptoms and how they have arisen. That will sometimes include very private details—say, of sexual relationships and function—which the patient will only divulge if they can be assured the doctor will keep them strictly secret.

In more recent decades, confidentiality has also been justified in terms of a more fundamental right of the patient to [privacy and autonomy](#). That right seems particularly vital when it comes to reproductive health care.

Because it is so important, modern [codes of practice](#) for health professionals allow confidentiality to be breached only in truly exceptional circumstances. That could include notification of a serious infectious disease or prevention of terrorism. But it does not, in most circumstances, include reporting that a patient has committed a crime.

For example, imagine a doctor who discovers that their patient suffered an injury while burgling a house, has suffered an overdose from taking class A drugs, or has acquired a sexually transmitted disease while engaging in street prostitution. General Medical Council (GMC) guidance suggests that in such circumstances it would not be appropriate (unless the patient consents) for the doctor to report that information to the police.

The GMC—the body responsible for medical licensing—indicates that breaching confidentiality would only be [justified](#) for a "serious crime,"

and that it would only be in the public interest to disclose if "failure to do so may expose others to a risk of death or serious harm."

Of course, one key ambiguity in the GMC guidance is what counts as a "serious crime." The guidance notes this and mentions [examples of](#) "murder, manslaughter, rape and child abuse." However, some members of the community—including potentially some health professionals—regard abortion as a serious crime, just as bad as those listed. That may lead them to feel a responsibility to report.

The latest RCOG guideline seeks to address that ambiguity, indicating a [view](#) that "it is never in the [public interest](#) to investigate and prosecute women who have sought to end their own pregnancy."

Reassuringly strong statements

It indicates that health professionals must not provide information to the police without a woman's consent unless "concerned for her safety or the safety of others." Such strong statements will hopefully reassure health professionals of the scope of their legal duty to report and reduce the number of women who are reported to the police.

But we might wonder what would happen if, despite this guidance, a doctor were to report to the police. The [college guideline](#) refers, elliptically, to "potential consequences of breaching patient confidentiality."

That might be intended to remind professionals of the [profound, distressing negative consequences](#) for patients if they were to [report](#) to the police. But it should also prompt professionals to consider whether they might find themselves having to answer awkward questions in front of their regulatory body.

Providing information, without her permission, about a woman's pregnancy and reproductive choices is a grave threat to patient trust and risks serious harm to vulnerable patients. The GMC has suspended doctors for [much less](#).

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Provided by The Conversation

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