



Navigating Regulatory Authorities

A Guide for Women and their Doulas

Overview

Due to more women choosing to freebirth and being more knowledgeable about their rights, there is more push by maternity care and state governments system to regulate doulas and obtain power and control over women's bodies.

A risk of supporting a woman during a freebirth or doing by-stander intervention to stop obstetric violence in hospital, as a doula, runs with the possibility of being reported to a regulatory authority. The reports are usually vexatious and can range from accusations of interfering with medical practice (when advocating for clients against obstetric violence) or being falsely accused of acting outside scope for when attending a known freebirth.

Doulas who are deregistered midwives are more at risk of being reported

The regulatory authorities that investigate these claims are:

The Australian Health Practitioner Regulatory Authority (Federally)

The Health Care Complaints Commission (Vic and NSW)

The Health Ombudsman (Qld)

Complaints Ombudsman (Tas)

The Health Protection Service (ACT)

Health and Community Services Complaints Commission (NT & SA)

Health and Disability Services Complaints Office (WA)

If these regulatory authorities get enough information for their investigation, they may proceed to take a doula to court and may issue an Interim Prohibition Order. In rare cases and with serious accusations, AHPRA criminal investigation division may be involved in an attempt to charge a doula criminally and issue an IPO

So far there has not been much success with this, but there is an agenda to establish some court precedent for doula regulation.

The Process

When a report is made, a regulatory authority makes contact with both the doula and their client either via phone call, email or registered post. Sometimes they may request the client or doula to come in for a phone interview.

Depending on the state, the accusation is made known to the doula in writing and by whom if the accusation comes from a health service or an organization.

What to do

- Women

If you as a client receive a letter or a phone call or an email from a regulatory authority, do not engage or respond. You are not obligated to give information about your birth decisions. Your right to birth with, and where and how you wish is already enshrined in Australian Case Law and International Human Rights laws.

If you receive a phone call and are caught unawares, hang up the phone. If you feel you can't do that, ask for the complaint officer's names and official email address and say you will only respond in writing. If they decline to give you their information or claim you have to answer phone questions, hang up and document the interaction in a time stamped email to yourself.

If you are worried about the legalities if you should respond or not, seek legal advice before you do and work with your doula on this in a joint effort. You are well within your rights to support your doula through this process.

- Doulas

If you as a doula receive any correspondence from a regulatory authority, do not engage until you have received legal advice on how to answer their questions. You have the right to obtain legal advice before giving any information to a regulatory authority. We encourage this to be done. A consult is far cheaper than responding wrongly and ending up in court.

Transfer from Homebirth

Women and their birth support should be aware that clinicians may be asking inappropriate questions about your doula/hired birth support about their role, what they did and their name and contact details. This is none of their business. Women (if possible) or their support should set boundaries and politely decline to discuss this and redirect the clinician to any clinical questions.

“We will not be discussing our birth decisions thank you. Do you have any clinical care questions?”

Protect Yourself

If you are a doula who has intervened to stop obstetric violence and have been reported, it is very important that on the day the intervention occurred, it is documented on your official business records both handwritten and electronic. You must do this in detail with names, times and what occurred. The client and the client's birth support should be encouraged to contact us as soon as

possible so we can document their experience for their benefit and yours. With the woman's permission, you should report the provider who abused the woman to AHPRA as soon as possible.

This is so if you have to legally respond to a regulatory authority investigation you have documented and time stamped evidence from yourself, your clients, a birth advocacy organization and an AHPRA reference number as proof of what occurred. This can help protect you.

It is imperative your clients does not engage with any regulatory authority until you sort out your legal advice.

If you are a doula who attends freebirths, you should keep accurate records and a clear contract outlining that you do not provide medical services. We advise only taking on freebirthing clients who are well educated about birth, are system aware and are prepared for medical emergencies and hospital transfer in the rare event they occur. It is better however not to transfer in with your client and that they agree not to give health providers your information or your name. You can also claim upon transfer to be a birth companion, the woman's friend or cultural support because these are all also true.

Written by:

Emilia Bhat

Contact MCN: management@maternityconsumernetwork.org.au