

PREVENTION OF SEXUAL ABUSE OF PATIENTS

An important function of the *Regulated Health Professions Act* (RHPA) is to protect patients from sexual abuse by:

- (a) defining the conduct that constitutes sexual abuse;
- (b) empowering colleges to investigate and prosecute allegations of sexual abuse;
- (c) establishing serious consequences for members who sexually abuse their patients;
- (d) requiring members to report sexual abuse by other members; and
- (e) providing funding for therapy and counselling for patients who have been sexually abused by members.

This document is intended to act as a guideline with respect to the prevention of sexual abuse of patients and the maintenance of professional boundaries between members and their patients.

The College's Position on Sexual Abuse

The College is dedicated to upholding the best interest of patients in Ontario, and endorses a **Zero Tolerance** policy toward any forms of sexual abuse. The College regards any act of sexual abuse of a patient as unacceptable and such actions are subject to investigation as professional misconduct.

The member/patient relationship is based on mutual trust and respect, and any form of sexual abuse of a patient by a member is considered to be a betrayal of that trust.

The College recognizes the seriousness and extent of harm that sexual abuse can cause the patient. The College accepts its important responsibility to protect the public by dealing with sexual abuse issues openly, and prioritizing prevention through educating both the members of the profession as well as the public.

The consequences for sexual abuse are serious. Under the legislation, the Discipline Committee is required to, at a minimum, **reprimand** and **suspend** any member who is found to have committed an act of professional misconduct by sexually abusing a patient. In certain circumstances, the legislation requires the Discipline Committee to **revoke** the member's certificate of registration.

Given the severity of the consequences, the College encourages its membership to read this document and to treat it as a reference for not only themselves, but also for their staff, employers and co-workers.

Definition of Sexual Abuse

The [Health Professions Procedural Code](#), which is Schedule 2 to the RHPA, defines sexual abuse of a patient as:

- (a) sexual intercourse or other forms of physical sexual relations between the member and the patient
- (b) touching, of a sexual nature, of the patient by the member, or
- (c) behaviour or remarks of a sexual nature by the member towards the patient.

Under this definition, **any conduct of a sexual nature between a registered health professional and a patient is “sexual abuse”, and therefore professional misconduct. It does not matter who initiated the conduct, or if it was consensual.**

In addition, the RHPA does **not** provide an exemption from the sexual abuse provisions for a spouse who is also a patient. This means that it is not permitted under the legislation for a member to treat his or her spouse.

The Member/Patient Relationship

The relationship between the patient and the member is one of a professional nature, where sexually abusive behaviour is considered to be a fundamental betrayal of the trust that is implicit in such a relationship. The member is always responsible for any occurrence of abuse, and thus also bears the onus to prevent it.

A patient entrusts his or her vision care to a member based on the member’s unique knowledge and professional skills. It is assumed by the public that the member will address the health care needs of the patient in a manner that is sensitive, caring and professional.

The member’s knowledge and expertise places him or her in a position of power in the member/patient relationship, and it is paramount that this hierarchy not be exploited by members.

Professional Boundaries

Each member has the personal responsibility to maintain professional boundaries and is responsible for using his or her professional judgement to determine when relationships have exceeded professional boundaries.

As set out above the definition of “sexual abuse” is very broad and captures **all** sexual relationships between a member and a patient (including a patient who is a spouse). In addition, members must not enter into intimate or romantic relationships with **former patients** unless:

- The member/patient relationship has been terminated, and arrangements have been made for another member to treat the patient; **and**
- At least one year has elapsed since the member/patient relationship was terminated.

In some cases, due to the imbalance of power inherent to some professional relationships, it may never be appropriate for a member to commence a sexual relationship with a former patient.

Maintaining Professional Boundaries

The member is always both responsible and accountable for any occurrence of abuse. This is true even if the patient takes the initiative to change the relationship. The member, therefore, must at all times be mindful of maintaining appropriate professional boundaries, including as follows:

1. Never express romantic or sexual interest in a patient. If the member develops romantic feelings for a patient, the member must immediately put a stop to them, or transfer care of the patient to another member. If a patient expresses romantic or sexual interest in the member, the member must respectfully but firmly, discourage it, and if necessary transfer the patient's care to another member. A notation of any action taken by the member should be noted in the patient's file.
2. Do not date patients.
3. Avoid engaging with patients socially, whether in person, by phone or online (for example, through social media).
4. Do not touch a patient, except where necessary for dispensing purposes. Where it is clinically necessary to touch a patient, the member should always:
 - (a) Prior to any physical contact, explain to the patient why, where and when the member needs to touch him or her;
 - (b) Ensure that the member has the patient's informed consent before moving into close physical proximity and/or making physical contact;
 - (c) Respect, as much as possible, the patient's personal sense of space;
 - (d) Give clear instructions to the patient;
 - (e) Provide reassurance and explanations throughout the assessment; and
 - (f) Provide opportunities for the patient to ask questions.
5. Members should never:
 - (a) Engage in any behaviour of a sexual nature that can cause discomfort to anyone, including colleagues or patients;

- (b) Make comments, tell stories, or make jokes that are, or could be perceived as being, of a sexual nature in the presence of a patient;
 - (c) Inquire about the patient's sexual life, practices or orientation;
 - (d) Have a patient disrobe – it is never appropriate;
 - (e) Make sexualized comments about the patient's physical appearance.
6. Monitor for warning signs that professional boundaries are becoming crossed or blurred. Signs might include things such as making personal disclosures, giving or receiving gifts, connecting with patients on social media, offering special treatment to certain patients, scheduling visits or treatment outside of the dispensary or after-hours, or engaging in social or leisure activities with a patient.
7. Be mindful of the ways in which a patient's sense of personal boundaries might be affected by his or her age, gender, ethnicity, culture, religion, sexual orientation, gender identity, physical differences and/or socio-economic status.

Mandatory Reports

All members are required to file a report in writing with the appropriate health regulatory college if they have reasonable grounds, obtained in the course of practicing opticianry, to believe that a member of any health profession has sexually abused a patient. The report must be made within 30 days (or sooner if the member believes the regulated health professional may continue to sexually abuse patients). The report must contain:

1. The name of the member filing the report;
2. The name of the member who is the subject of the report;
3. The name of the patient who may have been sexually abused, but only if that patient provides written consent; and
4. An explanation of the alleged sexual abuse.

Once the report is received, the relevant college will review the information and determine next steps, which may include initiating a formal investigation.

The failure by a member to file a report may result in a fine of up to \$50,000 and/or disciplinary action by the College.