

New Provisions to Protect Patients from Sexual Abuse in Force on May 1, 2018

April 26, 2018

On May 30, 2017, the Ontario government passed the *Protecting Patients Act, 2017* ("Bill 87") making a variety of changes to the regulation of health professions in the province, primarily in relation to protecting patients from sexual abuse. Several of the changes made have not yet come into force, as the government was in the process of creating complementary regulations. On March 2, 2018, the government proposed three regulations to complement the changes in Bill 87.

The government has now approved the proposed regulations, which will come into force along with certain provisions in the *Regulated Health Professions Act* (the "RHPA") on May 1, 2018. A brief summary of the new obligations as of May 1, 2018 are as follows:

Reporting Obligations — All regulated health professionals will be obligated to report to the College if the member has been charged with an offence and any corresponding bail conditions or restrictions. Additionally, all regulated health professions will be obligated to report if they are a member of another professional body inside or outside of Ontario, and if any such body has made a finding of professional misconduct or incompetence against the member.

Funding — Each College will have to establish a program to provide funding for therapy and counseling for persons alleging sexual abuse by a member. Many colleges already have this in place, having made updates to their practices while this legislation was in draft form.

Definition of a "Patient" — Sexual abuse was previously defined as sexual intercourse, touching of a sexual nature or behaviour of a sexual nature by a regulated health professional towards a patient. As of May 1, 2018, someone will be considered a "patient" of their health-care provider up until one year after they cease to be a patient. A patient-provider relationship will be considered to exist if the provider:

1. charges the individual for a health-care service;
2. contributes to a health record for the individual;
3. recommends a health-care service that the individual consents to; or

4. prescribes the individual a drug for which a prescription is needed. The only exceptions to this are in emergency circumstances or where the service is minor in nature.

College Register — A College will need to include the following information about a member on its register:

1. all criminal findings of guilt in Canada (unless there is a record suspension, a pardon or the conviction is overturned on appeal);
2. all outstanding criminal charges in Canada (and corresponding bail conditions); and
3. licence and registrations held in any other jurisdictions (including disciplinary findings by any professional regulatory authority).

Mandatory Revocation of License Following Criminal Conviction — A College will be obligated to revoke a member's certificate of registration when the member is found guilty of one or more of 15 offences under the *Criminal Code*, including sexual exploitation, publication of an intimate image without consent, child pornography and sexual assault.

If you have any questions about these changes, require further information, or wish to understand how they impact you or your organization, please do not hesitate to contact us.

By

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