

## Prevention of Sexual Impropriety in the Dental Office

The Practice Advisories of the Royal College of Dental Surgeons of Ontario (RCDSO) contain practice parameters which should be considered by all Ontario dentists in the care of their patients. It is important to note that these Practice Advisories may be considered by the College and its Committees in determining whether professional responsibilities have been maintained.

### Introduction

Ontario government legislation has required all health-care regulatory colleges to have in place a patient relations program that includes measures for preventing and dealing with the sexual abuse of patients. These mandated measures under the *Regulated Health Professions Act, 1991* (RHPA) include the publishing of guidelines for the conduct of members of the College toward their patients. RCDSO has a successful patient relations program in place. The College's Patient Relations Committee and Council have been instrumental in developing and revising guidelines which are contained in this Practice Advisory, as well as in promoting educational initiatives.

Sexual impropriety with patients or staff is considered an extremely serious matter. The sanctions mandated by the RHPA against members who are found guilty of professional misconduct in connection with sexually abusing patients are very severe. These penalties are detailed in this Practice Advisory.

Given the severity of the consequences, all members are strongly advised to read this Practice Advisory and to keep it available for reference. This Practice Advisory should be read in conjunction with the RHPA and the Professional Misconduct Regulation made under the *Dentistry Act*. If you have any questions or concerns, you are encouraged to contact the College at 416-961-6555, toll free at 1-800-565-4591, or by e-mail at [info@rcdso.org](mailto:info@rcdso.org).



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## Introduction (continued)

Sexual impropriety may consist of varying degrees of misconduct, which are outlined below.

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## Sexual Abuse of Patients

Sexual abuse of a patient is defined under the RHPA's Health Professions Procedural Code as follows:

- 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;
- c. behaviour or remarks of a sexual nature by the member towards the patient.

As you can see, sexual abuse is very broadly defined in the legislation to include not only physical actions, but also behaviour or remarks of a sexual nature.

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## Sexual Harassment of Dental Office Staff

The RHPA requires that the College have guidelines for the conduct of members with their patients. While it is not dealt with specifically in the RHPA, the College has taken the sexual harassment of dental office staff equally as seriously as sexual abuse of patients. The College recommends that members have in-office policies that address staff interactions.

Members should be aware that there are provisions set out in the College's Professional Misconduct Regulation that can be used to impose sanction for this type of behaviour. For example, a member may be found guilty of an act or acts of professional misconduct for sexual harassment of staff under the provision that he or she engaged in conduct that would reasonably be regarded by members as disgraceful, dishonourable, unprofessional or unethical. The penalty imposed will be at the discretion of the Discipline Committee based on the individual circumstances of the case, and may include the full range of discipline penalties. This type of conduct may also be addressed through the Human Rights Commission, employment law and/or common law.

Dentists should be aware that office staff who receive or have received dental treatment from you will be considered patients for the purpose of interpreting the RHPA and this Practice Advisory.

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## The Dos and Don'ts

More subtle types of sexually inappropriate behaviour are often unrecognized and occasionally may be committed inadvertently. Dentists should consider appropriate professional boundaries in their interactions with both patients and office staff. Boundary issues include not only respecting a person's personal physical space, but also take into account verbal, emotional and cultural matters. Because of the power differential inherent in the dentist/patient relationship, it is always the responsibility of the professional to establish and maintain appropriate boundaries. While the College recognizes that this Practice Advisory does not cover all eventualities, most sexually demeaning conduct and boundary violations could be prevented through increased awareness and education.

### **The Dos**

- Be aware that recent publicity about sexual abuse of patients, the proclamation of the RHPA, the issuing of guidelines and their availability to the public have changed the climate of dental practice in Ontario. What constitutes appropriate and inappropriate conduct and comments change with time.
- Be aware that individuals have ethnic, cultural, religious, sexual orientation, gender and socioeconomic differences and ensure that you maintain a high level of professionalism throughout your practice, such that regardless of the background of the patient or staff member of which you may or may not be aware, your conduct is appropriate and respectful to all.
- Ensure that any and all conversations between you and your dental office staff would not be found offensive by a patient.
- Use appropriate draping practices that respect a patient's privacy and ensure that the placement of patient bibs or drapes is carried out in a professional manner.
- Ensure that office staff are present in the treatment room at all times when nitrous oxide-oxygen, conscious sedation, deep sedation or general anaesthesia is being used.
- Ensure where reasonably possible that a member of the dental office staff or a third party is present when treatment is rendered outside of regular office hours.
- Be vigilant that the dignity of office staff is respected to the same degree as patients' dignity.
- Document on the patient record anything unusual or out of the ordinary in the dentist-patient interaction. These chart entries should be made as soon as possible after the incident occurred and should contain statements from you and the dental office staff, if any, who were present. If you do not feel comfortable treating the patient any longer due to this

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## The Dos and Don'ts (continued)

type of incident, dismiss the patient in accordance with the College's protocol or adopt an in-office policy for potentially sensitive or unusual situations, such as having a third party present for the whole appointment, in order to protect yourself from misunderstanding and/or accusation.

### **The Don'ts**

- Do not enter into an intimate relationship with a patient. Even relations where you have or think you have the patient's consent are strictly prohibited by the RHPA.
- Do not use gestures, tone of voice or expressions or engage in any other behaviour that may be interpreted as seductive or sexually demeaning or as sexual abuse.
- Do not place dental instruments or supplies upon a patient's chest, lap or shoulder/neck area.
- Do not make comments about a person's body or clothing that could be interpreted as sexual in nature.
- Do not make sexually demeaning comments or comments that in any way "sexualize" the professional relationship.
- Do not tell jokes or stories of a sexual nature in your office.
- Do not comment, inquire or speculate about a patient's or staff member's sexual life, practices or orientation.
- Do not display any material, such as jokes, posters or pictures, that has a sexual connotation or that may be offensive to your patients or staff.
- Do not initiate conversations with patients regarding sexual problems, preferences or fantasies, and do not participate. Document in the chart if such discussions are initiated by a patient.
- Do not engage in inappropriate affectionate behaviour with a patient such as hugging, kissing or touching. If you wish to comfort or reassure a nervous patient, do it with words and not touch.

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## Dating Patients

Because of the very broad definition of sexual abuse in the provincial legislation, it is unacceptable for you to date a current patient. Even the most casual dating relationship may lead to forms of affectionate behaviour that would fall under this definition and could leave you open to a possible accusation.

If you intend to date a patient, the dentist-patient relationship should first be terminated, the account settled and the patient information and/or duplicate records transferred to another practitioner according to the College's Guidelines on the Release and Transfer of Patient Records.

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## Professional Behaviour

As a general guiding principle, as a member of the College you are required to ensure that your patients receive dental care in an atmosphere that places no sexual demands upon them, and is free of any sexual connotation or context.

Blatant types of sexual misconduct (often referred to as sexual abuse or sexual violation) usually include some form of overt sexual physical contact with the patient or touching of a sexual nature. Section 1(4) of the Health Professions Procedural Code (RHPA, 1991) states that “sexual nature” does not include touching, behaviour or remarks of a clinical nature that are appropriate to the services provided. In the context of the practice of dentistry, clinical touching of a patient that is related to the examination, diagnosis and treatment of conditions of the oral-facial complex is appropriate.

In most cases, if touching must involve areas beyond the oral-facial complex, you should explain beforehand to the patient the context of the treatment and/or investigation in order to avoid any misinterpretation or misunderstanding. As with all phases of dental examination, diagnosis and treatment, the principles of informed consent should be followed at all times.

The College understands that there may be times in a hospital or office setting when a patient is under deep sedation or general anaesthesia, or in cases of a life-threatening emergency, that it may not always be possible to explain the need of such touching beforehand. In such circumstances, you should ensure that the clinical record documents the exact nature of the touching beyond the oral-facial complex and the reasons for it.

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## Penalties

The legislation states that when a panel of the Discipline Committee finds a member guilty of committing an act of professional misconduct by sexually abusing a patient, as a minimum, it must:

1. Reprimand the member.
2. Revoke the member's certificate of registration for a minimum of five years if the sexual abuse consisted of, or included any of the following:
  - sexual intercourse;
  - genital to genital, genital to anal, oral to genital, or oral to anal contact;
  - masturbation of the member by, or in the presence of, the patient;
  - masturbation of the patient by the member;
  - encouragement of the patient by the member to masturbate in the presence of the member.

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## Penalties (continued)

As required by the RHPA, the member may also be ordered to reimburse the College for funding provided for therapy and counselling for patients who were sexually abused by the member, to a maximum of \$10,000 per patient.

A dentist may also be found guilty of professional misconduct for inappropriate sexual behaviour with respect to his or her staff, under the Professional Misconduct Regulation on the basis that the conduct would reasonably be regarded by members as disgraceful, dishonourable, unprofessional or unethical conduct. While the RHPA prescribes minimum mandatory penalties (five-year minimum revocation) for serious sexual abuse of patients, these penalty provisions do not apply to sexual harassment of staff. However, in situations involving sexual harassment of staff a dentist will still be subject to the full range of discipline penalties, which include revocation (one-year minimum) and suspension, if found guilty of professional misconduct. Also, sanctions for this type of conduct may be imposed through the Human Rights Commission, employment law and/or common law.

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## Summary

This Practice Advisory has been developed and updated by the College as part of its mandate, and in accordance with the legislated requirements under the RHPA. They are not intended to interfere with the traditional dentist/patient relationship of providing appropriate dental treatment in a professional and caring manner, or in developing an amicable but professional rapport between the dentist and his or her patients.

The College recognizes the importance of ongoing professional education respecting the prevention of sexual abuse and/or impropriety and boundary issues and has been proactive in developing strategies to further this objective.



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*Ensuring Continued Trust*

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