

Prevention of Sexual Abuse of Clients

The *Regulated Health Professions Act, 1991*, (*RHPA*), mandates development of a sexual abuse prevention plan. Under the *RHPA*, sexual abuse of clients is an act of professional misconduct. The Act requires the reporting of sexual abuse by health professionals and provides for funding for therapy and counselling for clients who have been sexually abused by registrants.

The College of Dental Hygienists of Ontario (CDHO) is committed to providing dental hygienists with information and resources to assist them in treating their clients responsibly, consistent with the *RHPA*, and in a manner that reflects the profession's commitment to respecting the personal dignity of every individual who is entrusted to their care. The CDHO has developed a policy of zero tolerance for sexual abuse of clients.

Zero Tolerance

- The CDHO recognizes the seriousness and extent of injury that sexual abuse causes.
- Sexual abuse/impropriety by dental hygienists while providing oral health care will not be tolerated under any circumstances, nor may a dental hygienist engage in the treatment of any person with whom the dental hygienist is in a sexual relationship of any kind.

Definition of Sexual Abuse

Section 1 of Schedule 2 to the *RHPA* defines sexual abuse as follows:

- “(3) In this Code, “sexual abuse” of a patient by a member means,**
- (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.*
- (4) For the purposes of subsection (3), “sexual nature” does not include touching, behaviour, or remarks of a clinical nature appropriate to the service provided.”**

The definition of sexual abuse includes the treatment of spouses even if there was a pre-existing spousal relationship prior to dental hygiene treatment being performed. It is important to note that a client's consent to treatment in these cases is irrelevant; it still amounts to sexual abuse as defined in the legislation.

Should a mandatory report, complaint or other information be brought to the attention of the College that a dental hygienist is treating her/his spouse, this could lead to a referral to the Discipline Committee. The mandatory penalty for a finding of sexual abuse, even where the client is one's spouse, is revocation of the dental hygienist's certificate of registration. At present, a dental hygienist who has his/her registration revoked for sexual abuse may not apply to the CDHO for reinstatement earlier than five years after the Discipline finding.

Guidelines for Professional Behaviour

Many clients feel particularly vulnerable in an oral healthcare setting. Therefore, dental hygienists should use their professional judgment to determine the client's comfort level and whether the presence of an additional person is advisable.

Health care professionals are responsible for communicating effectively by paying attention to the ways in which information is conveyed and the words selected when speaking with clients. They must also be compassionate listeners and be sensitive to the concerns and needs of clients. Awareness of cultural and physical barriers that may interfere with clear communication, and respect for these differences will help dental hygienists practise in a responsive and responsible manner.

Guidelines

- Dental hygienists should demonstrate professional supportive behaviour. If this includes physical contact, client consent must be obtained.
- Dental hygienists should recognize cultural diversity. They should seek opportunities to learn about cultural attitudes and behaviours so that inappropriate behaviour does not occur as a result of ignorance.
- Dental hygienists must not exhibit behaviour, gestures, expressions or comments that are seductive or sexually demeaning to a client.
- If a client is uncomfortable with the words or behaviour used by a dental hygienist, the dental hygienist should be sensitive to the discomfort and change the words or behaviour.
- Dental hygienists must never place instruments or other materials on a client's person.
- Dental hygienists must never criticize sexual orientation.
- Dental hygienists must ensure that all conversations, carried on in the presence of clients or in circumstances where the conversation may be overheard by clients, would not be found offensive.
- Dental hygienists must use a tone that is professional and yet conveys genuine caring, promotes a sense of safety and helps to establish and maintain appropriate boundaries.

Communication principles for dental hygienists

obtain consent prior to touching

avoid inappropriate comments

avoid external conversations

treat each client as an individual

never make assumptions

reserve judgment

speak directly to the client

maintain client confidentiality/dignity

explain your procedures carefully

Touching principles for dental hygienists

respect the client and her/his personal space

respect cultural diversity

never place instruments or other materials on a client's person

never make assumptions – always obtain the client's consent prior to touching

maintain the client's dignity

remember clients can withdraw consent

Mandatory Reporting

Sexual abuse and the registrant's obligation to report

It is mandatory to file a report if the registrant has reasonable grounds to believe that another registrant of the same or different profession has sexually abused a client.

Failure to report sexual abuse of clients when there are reasonable grounds to believe that abuse has occurred is an offence under the Act and can lead to severe penalties.

Please note:

- You are required to report information obtained in the course of practising your profession.
- You must submit a report if you know the name of the health professional who was involved in the alleged abuse.
- You must not include the client's name without her/his written consent.

Specifically, if you believe that a client has been sexually abused, you must:

- Submit the report immediately if you have reason to believe the abuse will continue or abuse of other clients will occur.
- Submit a written report within 30 days to the Registrar of the health professional's regulatory body.

The *RHPA* provides protection to a person who files a report in good faith, from actions or other proceedings being taken against that person.

Penalties for Sexual Abuse

The RHPA defines the penalties for a registrant who has been found guilty of committing an act of professional misconduct by sexually abusing a client (section 51(5)). A Panel of the College's Discipline Committee must:

1. Reprimand the registrant.
2. Revoke the registrant's certificate of registration if the sexual abuse consisted of, or included, any of the following: i) sexual intercourse; ii) genital to genital, genital to anal, oral to genital, or oral to anal contact; iii) masturbation of the registrant by, or in the presence of, the client; iv) masturbation of the client by the registrant; v) encouragement of the client by the registrant to masturbate in the presence of the registrant; and vi) touching of a sexual nature including touching of a client's genitals, anus, breasts or buttocks.

In addition to the above penalties, a panel of the Discipline Committee may:

1. Require the registrant to pay a fine of not more than \$35,000 to the Minister of Finance of Ontario.
2. Require the registrant to pay all or part of the College's legal costs and expenses, the College's costs and expenses incurred in investigating the matter and the College's costs and expenses incurred in conducting the hearing.
3. Require the registrant to reimburse the College for funding provided under the program for therapy and counselling for clients.

Further, an application for reinstatement by a person whose certificate of registration was revoked for sexual abuse of a client cannot be made until five years after the revocation. A finding of sexual abuse and a summary of discipline decisions are posted and remain on the CDHO website.

The CDHO Patient Relations' program endeavours to meet the needs of the public and the profession by providing:

- registrants with an online Jurisprudence Education Module, a copy of The Registrants' Handbook, these guidelines for the Prevention of Sexual Abuse of Clients and guidelines titled Professional Boundaries for Dental Hygienists in Ontario;
- educators with Preventing Sexual Abuse of Clients: Instructor's Guide For Ontario Dental Hygiene Educational Programs; and
- the College's administration with education on how to communicate with members of the public who have been sexually abused by health professionals.

(Version disponible en français)

The RHPA uses the term 'patient' as it relates to the person receiving treatment from a regulated health professional, while the College of Dental Hygienists of Ontario uses the term 'client'. Therefore, the terms 'client' and 'patient' become mutually interchangeable. A 'member' as referred to in the RHPA, and hence this document, is a 'registrant' of this College.

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