

# Special Notice

THE COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO

## Important Changes to Legislation

In May, changes will be made at both the provincial and federal levels that will impact Ontario physicians and patients. On May 1, 2018, changes flowing from Bill 87, the *Protecting Patients Act* will come into effect. Health Canada has also announced that effective May 19, 2018, prescribers will no longer require a federal exemption to prescribe methadone.

### Amendments to the Regulated Health Professions Act

On May 1, 2018, changes to the College's governing legislation made by the provincial government will come into effect. One of these changes relates to the definition of a patient in the context of sexual abuse allegations involving physicians and other regulated health professionals. The changes flow from Bill 87, the *Protecting Patients Act*.

In late April, the College was notified of the wording of the regulation that specifies when someone will be considered to be a patient in relation to allegations of sexual abuse and of the timing of the legislative changes. This communication is being provided by the College to ensure that the profession is informed of this important change.

Currently, the definition of "patient" is based on case law and is not specifically defined in the legislation. The definition developed in the court cases has not distinguished between allegations of sexual abuse and other matters. However, as of May 1, when amendments to the RHPA and the new regulation are in force, there will be specific criteria in regulation for who will be considered to be a patient in the context of sexual abuse. The length of time that an individual will remain a patient for the purposes of sexual abuse will also be specified.

#### Duration

In the legislation, the definition of patient, in relation to sexual abuse, will include any individual who was a member's patient within **one year** from the date on which the individual ceased to be the member's patient.

In other words, for the purposes of sexual abuse, under the *Regulated Health Professions Act*, a person will be considered to be a patient for a year after the termination of the doctor-patient relationship. This means that any physician who engages in a sexual relationship with a patient within one year of the termination of the doctor-patient relationship will be subject to mandatory revocation. The only exception will be if the treatment was provided in emergency circumstances or was minor in nature, as described below.

#### Criteria

The regulation sets out criteria specifying when someone will be considered to be a patient in relation to any allegation of sexual abuse. In addition to the existing definition in the case law, the regulation states that:

An individual is a patient of a member if there is direct interaction between the member and the individual and **any** of the following conditions are satisfied:

- The member has, in respect of a health care service provided by the member to the individual, charged or received payment from the individual or a third party on behalf of the individual.
- The member has contributed to a health record or file for the individual.
- The individual has consented to the health care service recommended by the individual.
- The member prescribed a drug for which a prescription is needed to the individual.

To reiterate, if any of the above interactions take place between an individual and a physician, then that individual will be considered, for the purposes of sexual abuse, to be that doctor's patient. Further, that individual will continue to be a patient for the purposes of sexual abuse for a minimum of a full year after the termination of the doctor-patient relationship. If a frank sexual act were to take place between the doctor and the individual during that year-long period, then the physician will be subject to mandatory revocation. The only exceptions to this definition are stated in the following paragraph.

The regulation includes an exemption from the definition if **all** of the following conditions are satisfied:

- There is, at the time the member provides the health care services, a sexual relationship between the individual and the member;
- The member provided the health care service to the individual in emergency circumstances or in circumstances where the service is minor in nature; and
- The member has taken reasonable steps to transfer the care of the individual to another member or there is no reasonable opportunity to transfer care to another member.

#### Other Changes

Additional legislative and regulatory changes will also come into effect on May 1. These include specifying the criminal offences which will trigger mandatory revocation, expanding the information to be reported by members to the College and increasing the timeliness of those reports.

Please visit our website for more information about these changes, which we will be updating shortly. We will also have further details in an article about Bill 87 changes in the upcoming issue of *Dialogue*.

### Exemption to Prescribe Methadone Lifted

Health Canada has announced that effective May 19, 2018, prescribers will no longer require a federal exemption to prescribe methadone. Currently, physicians must hold an exemption from the *Controlled Drugs and Substances Act* in order to prescribe the medication.

This announcement follows an extensive national consultation of key stakeholders including regulatory authorities on subsection 56(1) of the *CDSA*.

Over the next few months, the College will be looking closely at our longer term approach to methadone prescribing in light of this changing environment and we will continue to update you on developments in this area. While methadone is an important tool in the treatment of both pain and opioid use disorder, it is not without its risks. In recognition of the public safety risk that methadone represents if not prescribed appropriately for maintenance treatment, at the present time the College will continue to expect physicians to:

- complete the Opioid Dependence Treatment course offered by the Center for Addiction & Mental Health (CAMH);
- complete a minimum of one day's preceptorship with either a pre-approved methadone prescriber or take the CAMH Methadone Preceptorship Simulation Course;
- give written notification to the College of their intention to begin prescribing methadone;
- undergo an assessment of their methadone prescribing practice for opioid use disorder one year after they begin prescribing methadone.
- be familiar with the expectations in the College's "[Prescribing Drugs](#)" Policy, which states that physicians must have the requisite knowledge, skills and judgment in order to prescribe any drug.

"Even though the requirement to obtain an exemption will be lifted, the College's expectation is that physicians who choose to enter this area of practice will first ensure that they have the appropriate knowledge and training," said Dr. Steven Bodley, College President.

The College of Physicians and Surgeons of Ontario is the licensing and regulatory body governing the practice of medicine in Ontario. The College is responsible for setting and maintaining standards, licensing physicians, investigating complaints about physicians on behalf of the public, and disciplining doctors found to have committed act(s) of professional misconduct.

For more information please visit the [CPSO website](#).



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