When do I have to make a report of sexual abuse by another regulated health professional?

Under the Regulated Health Professions Act (RHPA), a regulated health professional is required to file a report if he or she has reasonable grounds, obtained in the course of practising the profession, to believe that another regulated health professional has sexually abused a patient.

Additionally, a person who operates a facility where one or more regulated health professionals practice shall file a report if he or she has reasonable grounds to believe that a regulated health professional who practises at the facility has sexually abused a patient.

Which are the regulated health professions in Ontario?

The following are the regulated health professions in Ontario:

- Audiology and Speech-Language Pathology
- Chiropody and Podiatry
- Chiropractic
- Dental Hygiene
- Dental Technology
- Dentistry
- Denturism
- Dietetics
- Massage Therapy
- Medical Laboratory Technology
- Medical Radiation Technology
- Medicine
- Midwifery
- Nursing
- Occupational Therapy
- Opticianry
- Optometry
- Pharmacy
- Physiotherapy
- Psychology
- Respiratory Therapy
- Traditional Chinese Medicine

Links to websites maintained by the health regulatory colleges for many of these professions are available on the College’s website at www.cpso.on.ca/links/links.htm

The College’s Mandatory Reporting policy was published in the November 2006 issue of Dialogue. The policy sets out the various mandatory reporting obligations which are imposed on physicians, including the requirement under the Regulated Health Professions Act to make a report to the relevant College when the physician has reasonable grounds, obtained in the course of practising the profession, to believe that another regulated health professional has sexually abused a patient.

This article provides a number of questions and answers to explain the mandatory reporting requirements in cases of sexual abuse of a patient by a health professional. Should you have further questions about this requirement or other mandatory reporting requirements discussed in the Mandatory Reporting policy, please call the College’s Intake Coordinator at (416) 967-2600 ext. 629 or toll free at 1-800-268-7096 ext. 629.

If you have reasonable grounds, which you have obtained in the course of practising the profession, to believe that another regulated health professional belonging to the same or different college has sexually abused his or her patient, you must make a report.

If you are a facility operator, you must make a report if you have reasonable grounds to believe that a regulated health professional who practises in your facility has sexually abused his or her patient.

The report must be in writing, and must include your name, the name of the regulated health professional that you suspect has abused his or her patient, an explanation of the suspected abuse, and the name of the patient if the grounds for making the report relate to a specific patient (as long as you have the consent of the patient or his or her representative to include his or her name).

If you are providing psychotherapy to the regulated health professional who is the subject of your report, you must also provide your opinion, if you are able to form one, as to whether he or she is likely to sexually abuse patients in the future. You must also make a report to the relevant College if you cease to treat the individual.

The report must be made within 30 days of the time at which you became aware of the potential abuse, or as soon as possible if you have reason to believe that the abuse will continue or that the regulated health professional will abuse other patients.

The report should be made to the College to which the regulated health professional in question belongs. If you are making a report about another physician, please send the report to: The Registrar, College of Physicians and Surgeons of Ontario, 80 College St., Toronto, Ontario, M5G 2E2.
What constitutes sexual abuse?
The *RHPA* defines sexual abuse as:
- sexual intercourse or other forms of physical sexual relations between the member and the patient,
- touching of a sexual nature, of the patient by the member, or
- behaviour or remarks of a sexual nature by the member towards the patient.

The *RHPA* also clarifies that “sexual nature” does not include touching, behaviour or remarks of a clinical nature appropriate to the service provided.

What are “reasonable grounds”?
In order to have reasonable grounds to believe that another member has abused his or her patient, you must have some information to lead you to form that belief. The information must be more than mere suspicion, intuition or rumour. Most reports to you from a patient of a specific incident of sexual abuse of that patient would constitute reasonable and probable grounds. Information received from a third party whom you know to be a reliable source will often constitute reasonable grounds, even if you have not spoken directly to either the patient or the member.

What if I am aware of sexual abuse, but it did not occur within the context of a doctor-patient relationship?

The provisions of the *RHPA* do not require you to make a report to the College if you are aware of sexual abuse that has taken place outside of a doctor-patient relationship, such as abuse by a physician of another colleague. Even though the *RHPA* does not require that you make such a report, providing information to the College or other authorities, such as the police, may help to ensure that such abuse does not continue.

In some cases, sexual abuse occurring outside of a doctor-patient relationship may trigger other mandatory reporting duties, such as the reporting requirements under the *Child and Family Services Act*.

Physicians are advised to refer to the College’s Mandatory Reporting policy for guidance. The policy is available on the College’s website at www.cpso.on.ca/policies/mandatory.htm.

What if I learn of the sexual abuse while I am not practising the profession?
The *RHPA* requires you to make a report about information you learned while practising the profession. This would include most information you receive while at the office, even if not in the context of a specific appointment with a patient. Although you are not required by law to report sexual abuse by another regulated health professional of which you became aware while in a social setting, for example, you may wish to make a report nonetheless in order to protect patient and public safety.

If I don’t know the name of the regulated health professional who has allegedly abused the patient, do I have to make a report to the College?
No. Under the *RHPA*, if you do not know the name of the regulated health professional who would be the subject of the report, you are not required to file a report. You may wish to follow up with the person who provided you with the information to find out as much information as possible and to encourage them to disclose the name of the regulated health professional.

There may be numerous reasons for a patient’s reluctance to reveal the name of the regulated health professional. This may include uncertainty about the College’s investigatory and complaints process and what will be involved once the report is submit-
ted. With respect to complaints of sexual abuse by physicians, the College has produced a fact sheet which provides information on the process of making a sexual abuse complaint and the investigation which the College will undertake. Reviewing this fact sheet with the patient may help to put him or her at ease. The fact sheet is available on the College’s website (www.cpso.on.ca/Info_Public/factcompl.htm).

If another person or the patient has already reported the suspected sexual abuse to the relevant college, do I still have to make a report?

Yes. Even if you believe or are aware that the suspected abuse has been reported to the applicable college by another person or institution, this does not discharge your obligation to make a report. You may have information that another reporter does not have. Additionally, this will ensure that a report does, in fact, get filed with respect to the regulated health professional in question.

If the patient has retracted his or her allegation of sexual abuse, do I still have to make a report?

Your duty to report arises when you have reasonable grounds to believe another regulated health professional has sexually abused a patient. If your belief was triggered by information provided by a patient who then retracts the allegation, the question is whether you still have reasonable grounds to believe the abuse occurred. In some cases, you will no longer have reasonable grounds to believe the abuse occurred. However, since there are many reasons that a patient who has been sexually abused by a health professional may retract an allegation, in some circumstances, you may still reasonably believe the abuse occurred. In those cases, you must still make a report to the appropriate college.

Making the Report

To whom do I make the report?

Your report should be made to the Registrar of the college to which the regulated health professional in question belongs. For example, a report concerning a nurse should be made to the Registrar of the College of Nurses of Ontario and a report regarding a physician should be made to the Registrar of the CPSO.

How do I make the report?

To fulfill your obligations under the RHPA, the report must be made in writing to the Registrar of the college to which the subject of your report belongs.

If you are making a report to the CPSO, please send your report to: The Registrar, College of Physicians and Surgeons of Ontario, 80 College Street, Toronto, Ontario, M5G 2E2.

If you are making a report to another college, the CPSO’s website provides links to the websites of many of the other health regulatory colleges which may assist you in obtaining the required contact information.

When do I make the report?

The report must be made within 30 days after you form a belief, based on reasonable grounds, that another regulated health professional has sexually abused his/her patient. Note, however, that if you have reason to believe that the member in question will continue to sexually abuse the patient or sexually abuse other patients, the report must be filed as soon as possible.

Do I need the patient’s consent in order to make the report?

No. If the information you have about the member was obtained from a patient, you must use best efforts to advise the patient that you are required to provide a report to the college before proceeding to file the report; however, the consent of the patient is not required in order to disclose information to the relevant college. Remember that you do need the patient’s consent in writing to disclose his or her name, and should not provide the patient’s name without this consent (or the consent of the patient’s representative).

What information do I need to include in the report?

The report should include:

• Your name;
• The name of the regulated health professional you believe may have sexually abused a patient;
• An explanation of the alleged sexual abuse; and
• The name of the patient who may have been sexually abused, if the grounds for the suspicion are related to a particular patient and the patient has consented in writing to the disclosure of his or her name.

If the patient does not consent to the disclosure of his or her name in the report, am I still required to make the report?

Yes. You must still submit the report, as long as the other requirements for filing the report discussed in this article have been met. Unlike the name of the regulated health professional in question, which is a necessary requirement of your report to the relevant college, you may make a report of sexual abuse
without including the name of the patient.

**Do I have any special obligations if I am providing psychotherapy to the regulated health professional in question?**

If you are providing psychotherapy to the regulated health professional who is the subject of your report, your report must include your opinion, if you are able to form one, as to whether he or she is likely to sexually abuse patients in the future. In addition, if you stop providing psychotherapy services to the subject regulated health professional, you must make an additional report to the college to which he or she belongs.

**Are there any penalties if I fail to make a mandatory report of sexual abuse?**

If the College becomes aware of a failure to make a mandatory report of sexual abuse, the College has the ability to investigate whether the failure constitutes professional misconduct. Additionally, the RHPA currently makes the failure to make this type of report an offence punishable by fines of up to $25,000 for a first offence and $50,000 for a second or subsequent offence in the case of an individual. A facility operator which is a corporation may be subject to fines of $50,000 for a first offence and up to $200,000 for a second or subsequent offence.

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**College Announces Appointments of New Public Members**

**Ms. Manon Thompson of Cornwall and Ms. Betty Fevreau of Arnprior will serve as public members on the College’s Council.**

**Ms. Manon Thompson**

Ms. Thompson is a fund raising consultant for Carefor Health & Community Services in Cornwall. She is the former Executive Director of the Cornwall Community Hospital Foundation, and led a successful fund raising initiative that exceeded its $10 million goal by raising more than $12 million for the Our Hospital, Our Future campaign. In addition, she was the Executive Director for the Cornwall General Hospital Foundation that raised funds for the Dialysis unit, along with much needed other equipment for the health centre and her community.

Ms. Thompson brings 20 years experience in both the health care and philanthropic sectors, and is a member of the Association of Healthcare Philanthropy and the Association of Fundraising Professionals.

**Ms. Betty Fevreau**

A registered real estate broker since 1976, Ms. Fevreau was also a public relations consultant and communications officer for SLF Joint Venture for the Highway 407 ETR East and West Extensions (1999-2001). She was a senior business development officer for Ferrovial Agroman Canada Inc., the construction division of Grupo Ferrovial, Madrid, Spain (2001-2004).

Ms. Fevreau served as a member of the Board of Directors, Toronto Board of Trade, Infrastructure Committee (2001-2004) and was a member of the Arnprior & District Memorial Hospital Board of Directors (June 2005-April 2007). She was also a candidate for the Liberal Party in the federal elections held in 1984 and 1988.