



The College of Naturopaths of Ontario



Registrant Guide

Guideline for the prevention of sexual abuse

Introduction

Ontario government legislation requires all health care regulatory colleges to have 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 registrants of the College towards their patients.

Sexual impropriety with patients is considered an extremely serious matter. The sanctions mandated by the RHPA against registrants who are found guilty of professional misconduct in connection with sexually abusing patients are very severe.

The College of Naturopaths of Ontario is committed to providing registrants with information and resources to assist them in treating their patients in a manner that reflects the profession's commitment to respect the personal dignity of every individual who is entrusted to their care and is consistent with the RHPA.

Philosophy

The College has zero tolerance for sexual abuse. The patient-practitioner relationship is based on mutual trust and respect. Any act of sexual abuse is a betrayal of that trust.

The College will investigate and take appropriate action when it receives complaints or information where it appears that a registrant may have engaged in this type of behaviour.

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 naturopathic treatment being performed. It is important to note that a patient’s consent to treatment in these cases is irrelevant; it still amounts to sexual abuse as defined in the legislation.

It is, however, acceptable for registrants to treat a spouse in emergency situations where there is no one else qualified to do so. The College considers this acceptable because the benefits of providing the required care in emergency situations outweigh the challenges posed by the personal relationship.

Definition of patient

The *RHPA* also defines a patient which includes:

- a person whom a naturopath has charged or received payment from for health care services,
- a person who has consented to receive health care services from the naturopath;
- a person who was prescribed a drug by the naturopath,
- a person who had a health record or file created by a naturopath, and/or
- an individual who was a naturopath’s patient within one year from the date on which the individual ceased to be the naturopath’s patient;

Professional behaviour

Registrants are required to ensure that their patients receive naturopathic 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 usually include some sort of overt sexual physical

contact with the patient or touching of a sexual nature. If touching must be involved in the examination or treatment of a patient, you explain beforehand to the patient the context of the touching in order to avoid any misinterpretation or misunderstanding. The principles of informed consent should be followed at all times.

In cases of a life-threatening emergency, it may not always be possible to explain the need of such touching beforehand. In such circumstances, you should ensure that the patient chart documents the exact nature of the touching and the reasons for it as well as the circumstances that defined the situation as a life threatening emergency.

Patients may feel particularly vulnerable in a health care setting. Therefore, naturopaths should use their professional judgment to determine the patient's comfort level and whether the presence of an additional person is advisable.

Naturopaths are responsible for communicating effectively by paying attention to the ways in which information is conveyed and the words selected when speaking with patients. They must also be compassionate listeners and sensitive to the concerns and needs of patients. Awareness of cultural and physical barriers that may interfere with clear communications or cross gender expectations, and respect for these differences will help naturopaths practise in a responsive and responsible manner.

Professional conduct guidelines

1. The registrant meets the legislative requirements and conditions of the College as they relate to naturopathic practice.
2. The registrant supports the objectives and purpose of the College and is governed by its rules and regulations.
3. The registrant practices in a professional manner, being guided at all times by respecting human dignity.
4. The registrant keeps confidential all information received in the course of the professional relationship except:
 - a. when reporting is required by law,
 - b. when the sharing of pertinent information is appropriate for collaboration with other health care providers involved.
5. The registrant continues education/training to improve their awareness of sexual abuse issues.
6. The registrant recognizes what the RHPA considers as "sexual abuse of a patient" and "abuse of a sexual nature" and does not engage in such unprofessional conduct.

7. The registrant recognizes that under the RHPA it is mandatory for registrant to report information or incidents of suspected sexual abuse of a patient by a registrant of the same or of a different College to the governing College of the practitioner.
8. The registrant cooperates with College investigations or inquiries into the professional conduct of any member of a regulated health profession.
9. No registrant shall falsely impugn the reputation of any colleague.

Do's and don'ts

Subtle types of sexually inappropriate behaviour are often unrecognized and occasionally may be committed inadvertently (e.g., jokes or comments used to reassure or calm a patient may be inappropriate). Naturopaths 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 verbal, emotional and cultural matters. Because of the power differential inherent in the patient-practitioner relationship, it is always the responsibility of the professional to establish and maintain appropriate boundaries.

Do's

- Be aware of what constitutes appropriate and inappropriate conduct.
- Be aware that individuals have ethnic, cultural, religious, sexual orientation, gender and socioeconomic differences and ensure that you maintain a high level of professionalism.
- Ensure that nothing in your conversations could offend a patient.
- Use appropriate draping practices that respect a patient's privacy.
- Ensure that informed consent is obtained and documented particularly in situations where touch may include sensitive areas such as upper thigh, genitals, anus, buttocks or breast.
- Document on the patient chart anything unusual or out of the ordinary in the patient-practitioner interaction.
- Ensure that the patient (patient's authorized representative or substitute decision maker) clearly understands the purpose of any procedures, especially those that require removal of clothing or physical contact.
- Provide ample opportunity for the patient to ask questions.
- Encourage patients to take an active role in their treatment.
- Be sensitive to a patient's discomfort with words or behaviour and change them if necessary.

- Be aware of a patient's uneasiness with your physical proximity to them and react appropriately.
- Maintain patient confidentiality.
- Use gloves when appropriate.
- Obtain consent prior to touching.

Don'ts

- Have 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.
- Hug or kiss patients.
- Use gestures, tone of voice, expressions or engage in any other behaviour that may be interpreted as seductive or sexually demeaning or as sexual abuse.
- Place instruments or supplies on a patient's chest, lap or shoulder/neck area.
- Tell jokes or make comments of a sexual nature.
- Perform treatment outside the professional's office or work setting.
- Make comments about a person's body or clothing that could be interpreted as sexual in nature.
- Touch patients excessively or unnecessarily.
- Comment, inquire or speculate about a patient's sexual life, practices, or orientation unless clinically relevant.
- Initiate conversations with patients regarding sexual preferences or fantasies, and do not participate in such conversations initiated by patients. Document in the chart if such discussions are initiated by a patient.
- Display any materials, such as jokes, posters or pictures, that have a sexual connotation or that may be offensive to your patients.

Naturopath-patient relationships

Trust is the cornerstone of the patient-practitioner relationship. When a patient seeks care from a naturopath, the patient trusts that the practitioner is a professional and as such will treat them in a professional manner. A naturopath must not make or respond to sexual advances. Sexualizing the relationship is a clear breach of trust and an abuse of the power in professional relationship.

The patient-practitioner relationship is characterized by a power imbalance in favour of the naturopath.

- A patient depends upon the naturopath's knowledge and training to provide care.

- To receive care, patients provide information of a sensitive nature about themselves or family members.
- Patients allow the naturopath to conduct intimate physical examinations.
- The transfer of information and the physical examination are one-sided, from patient to practitioner.
- Patients may feel particularly vulnerable if they:
 - are feeling unwell, experiencing pain, and/or are worried or afraid,
 - do not speak the same language as the naturopath,
 - are undressed or exposed,
 - have a history of abuse, and/or
 - have cultural differences.

Principles

1. A naturopath, being in a position of trust and power, has a duty to act in the patient's best interest.
2. A naturopaths must establish and maintain appropriate professional boundaries with patients.
3. Sexual activity and 'romantic interactions' interfere with the goals of the patient-practitioner relationship and may obscure the naturopath's objective judgment concerning the patient's health and well-being.
4. Sexual misconduct is detrimental to the patient-practitioner relationship, harms individual patients and erodes the public trust in the profession.
5. Patients must be protected from sexual abuse by a naturopaths.

Sexual Involvement with patients

A naturopath must not become sexually involved with their patient. Sexual involvement with a patient is sexual abuse under the RHPA regardless of whether the naturopath believes there is 'consent' from the patient. There is no such thing as patient consent for a sexual relationship.

It is always the naturopath's responsibility to ensure that appropriate boundaries are maintained, regardless of the patient's behaviour.

A naturopaths should follow the guidelines below when treating a patient in order to maintain proper boundaries within the patient-practitioner relationship:

1. A naturopath must not make sexual advances towards a patient nor respond sexually to any form of sexual advance made by a patient.

2. A naturopaths should explain the scope of an examination and reasons for examinations/procedures to patients.
3. Although third parties are not mandatory, the presence of a third party during an intimate examination may contribute to both the patient's and naturopath's comfort. Patients should be given the option of having a third-party present.
4. While naturopaths may intend non-sexual and non-clinical touching of patients to be therapeutic or comforting, supportive words or discussion may be preferable to avoid misinterpretation.

Penalties

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

1. Reprimand the registrant.
2. Revoke the registrant'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 contacts,
 - masturbation of the registrant by, or in the presence of, the patient,
 - masturbation of the patient by the registrant,
 - encouragement of the patient by the registrant to masturbate in the presence of the registrant,
 - touching of a sexual nature of the patient's genitals, anus, breasts or buttocks,
 - other conduct of a sexual nature prescribed in regulations.
3. Where the sexual abuse does not include any of the above noted acts, a panel shall suspend the registrant's certificate of registration.

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 for therapy and counseling for patients who were “sexually abused” by the registrant.