

SPECIAL EDITION - May 1, 2018

Important changes: *Protecting Patients Act* and *Regulated Health Professions Act, 1991*

This special edition of the *News Bulletin* outlines information for naturopaths about requirements that come into effect on May 1, 2018 based on amendments to the *Regulated Health Professions Act, 1991* (RHPA) as well as three new sets of regulations that have been enacted.

We discuss the requirements of the legislation, as well as what they mean for NDs in practice. Key changes include:

- the definition of who is a patient for the purposes of sexual abuse;
- immediate access to funding for patient counselling/therapy when sexual abuse is alleged;
- new mandatory reporting provisions, including the need to report any criminal or drug offences against a Member; and
- expanding the instances that require the mandatory revocation of a Member's registration certificate.

Below is a brief summary of the changes.

Definition of a patient for the purposes of sexual abuse

- A new regulation has expanded the definition of who is a patient, for the purposes of sexual abuse, to also include any of the following:
 - a person who received health care services from the Member and payment is charged or received;
 - an entry is made by the Member to the health record for the person;
 - the person has provided consent to a health care service recommended by the Member; and/or
 - the Member prescribed a drug for the person.

WHAT DOES THIS MEAN? For the purposes of sexual abuse, a person is considered a patient of

the Member where any of the above have occurred. However, a person is not a patient for the purposes of sexual abuse, even if any of the above criteria are met, where the services are provided in an emergency situation.

In addition, the definition of a patient for the purposes of sexual abuse has been expanded to extend their status as a patient to one year after the individual ceased to be the Member's patient.

WHAT DOES THIS MEAN? For the purposes of sexual abuse, a person is still considered to be a patient of the Member for one year after the person stopped receiving treatment from the Member.

As such, it may be considered sexual abuse if a Member, within one year of ending the professional relationship, enters into a sexual relationship (even if consensual) with a former patient.

Funding for counselling/therapy for those alleging sexual abuse

- Amendments to the RHPA now make an individual eligible for funding for therapy or counselling when a complaint or report is made that the person was sexually abused by a Member when they were a patient of that health care professional.

WHAT DOES THIS MEAN? The College is required to have a program in place to provide funding for therapy or counselling to patients who have been sexually abused by a Member. The maximum funding available is the equivalent to the amount that OHIP would pay for 200 half-hour sessions of individual outpatient psychotherapy, which amounts to approximately \$16,000. Prior to the amendments to the RHPA, a person was only eligible for funding after a panel of the Discipline Committee found that the person, while a patient, was sexually abused by a Member. The changes now allow individuals to access funding for therapy as soon as a complaint or report is made alleging that they were sexually abused by a Member while a patient.

Charges, release restrictions and reporting

- Amendments were made to the RHPA expanding the Mandatory Reporting Provisions. Members are now required to provide the College, as soon as reasonably practicable, with the following:
 - if the Member is a Member of another regulatory body that governs a profession inside or outside of Ontario;
 - if the Member has had a finding of professional misconduct or incompetence made against them by another regulatory body; and/or
 - if the Member has been charged with an offence, including any bail conditions or other restriction imposed in connection with the charges.
- Reports must be made in writing and must contain:
 - the name of the Member filing the report;
 - the description of the charges;
 - the date the charges were laid;
 - name and location of the court where charges were laid or where bail conditions were

imposed;

- every bail condition imposed and any restrictions imposed or agreed upon; and
- the status of any proceeding.
- A new regulation now requires the College's [Public Register](#) to include:
 - any criminal or drug offence findings against the Member;
 - any release restrictions for criminal or drug offence charges or findings; and
 - any outstanding criminal or drug offence charges;
 - disciplinary findings by another regulatory body; and
 - registration status of the Member with another regulatory body.

WHAT DOES THIS MEAN? Members are already required as per the College [by-laws](#) to provide us with this information within 30 days of the occurrence.

The new regulation requires the College to include additional information on the Public Register regarding criminal or drug charges, release restrictions, and registration and discipline findings by other regulatory bodies. Some of this information is already on the Public Register, including registration in other jurisdictions, summaries of restrictions on a Member's right to practise, bail conditions and findings of discipline.

Expansion of mandatory revocation

- A new regulation has expanded on the mandatory revocation provisions of the RHPA where a Member has been found guilty of a criminal offence. The College is required to revoke a Member's certificate of registration if they have been found guilty of any the following offences of the Criminal Code of Canada:
 - 151 – Sexual interference;
 - 152 – Invitation to sexual touching;
 - 153 – Sexual exploitation;
 - 153.1 – Sexual exploitation of a person with a disability;
 - 160(3) – Bestiality in the presence of or by a child;
 - 162 – Voyeurism;
 - 162.1 – Publication, etc., of an intimate image without consent;
 - 163.1 – Child pornography;
 - 170 – Parent or guardian procuring sexual activity;
 - 171.1 – Making sexually explicit material available to a child;
 - 172.1 – Luring a child;
 - 172.2 – Agreement or arrangement – sexual offence against a child;
 - 271 – Sexual Assault;
 - 272 – Sexual assault with a weapon, threats to a third party or causing bodily harm; and
 - 273 – Aggravated sexual assault.

WHAT DOES THIS MEAN? Where a Member of the College has been found guilty of any of the above-noted criminal offences, it is mandatory that the Member's certificate of registration be revoked by a panel of the Discipline Committee. The Member is also prohibited from applying for reinstatement for one year.

Production orders by Discipline Committee

- Amendments to the RHPA have been made setting out criteria for when production of private information (e.g., counselling or psychiatric records) of a third party (e.g., patient or witnesses) can be made and the process for considering such requests by a panel of the Discipline Committee.

WHAT DOES THIS MEAN? This is a procedural amendment to the RHPA outlining the considerations and factors to be considered by a panel of the Discipline Committee in a hearing involving allegations of sexual abuse for the production and disclosure of a record that contains information for which there is a reasonable expectation of privacy.

The article *The Protecting Patients Act and NDs in practice* in the Fall 2017 issue of [iNformeD](#) (starting on page 13), includes details about the requirements that came into force last year.

Questions? Please [email](#) Dr. Mary-Ellen McKenna, ND (Inactive), Regulatory Education Specialist, or phone her at 416 583-6020.

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