



Protecting Patients Act, 2017



practice management
resources
public protection
results

This issue of the CHO Practice Management Program is part 2 of a 4-part series.

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Heightened Priorities, Legislative Action

Government Initiatives

In 2014, Ontario’s Minister of Health and Long-Term Care, the Honourable Dr. Eric Hoskins, formed a Task Force on the Prevention of Sexual Abuse of Clients and the RHPA. After completing a thorough review of complaints and investigative processes across all of Ontario’s 26 health regulatory colleges, the Sexual Abuse Task Force (“SATF”) asserted that bold reform is needed in the area of sexual abuse prevention.

Last year, the Ministry published the Report of the Task Force on the Prevention of Sexual Abuse of Patients and the *Regulated Health Professions Act, 1991* (RHPA) which contained 34 recommendations on how to improve regulatory oversight of health professionals, and to prevent sexual abuse of patients in the health-care system.

As a result of the SATF’s report, Bill 87, *Protecting Patients Act, 2017*, was introduced with the goal of strengthening and unifying Colleges’ approach to dealing with cases of sexual abuse by regulated health professionals. Several of the SATF recommendations have not been addressed by the recent changes to RHPA, and the Ministry is closely assessing them. The Ministry of Health and Long-Term Care has communicated that it is evaluating other ways to improve regulation and in particular, to prevent the sexual abuse of patients¹ and clients.

In addition to the important changes outlined in this publication, the College of Homeopaths of Ontario (CHO or the College) anticipates many more changes to self-regulation in the coming year and will notify registrants² as changes come into being.

Public Protection is Our Mandate

Every patient of a regulated health-care professional rightfully expects and deserves to receive ethical, competent and quality care from their practitioner. Further, the public today expects to have access to information that is relevant to their choice of practitioner.

¹ Note that the term “patient” and “client” is used interchangeably throughout this document. Although the CHO primarily uses the term “patient”, some professions regulated under RHPA use the title “client”.

² Note that the term “member” and “registrant” is used interchangeably throughout this document.

All regulatory health colleges have the primary responsibility to protect the public. This is possible by ensuring the:

1. Registration of qualified and competent practitioners;
2. Public has the information they require to make informed choices about their care and who provides that care;
3. Development and enforcement of CHO and government regulations, as well as CHO bylaws, policies and professional practice standards and guidelines;
4. Education of registrants and the public on the College's professional practice standards, guidelines and promotion of public safety and protection;
5. Monitoring the ongoing competence and compliance of registrants; and
6. Investigation and hearing of inquiries, complaints, and reports and taking corrective actions, disciplinary measures and revocation of a registrant's certificate of registration as warranted.

Details: *Protecting Patients Act, 2017*

Immediate Changes under RHPA effective May 30, 2017

Increased Powers of the Minister

New provisions of the RHPA give the Minister the power to obtain from colleges personal information about College members.

a) Disclosing Information to the Minister:

With changes to RHPA section 36(1) k and 36(1.6) Colleges can provide information to the Minister so that the Minister can evaluate whether the College is carrying out its duties or whether to exercise the Minister's powers under the Act. The disclosed information shall be used only for the purposes for which it is provided or for a consistent purpose. For example, the College may release information to the Minister on specific complaints and mandatory reports, complaint processes, program statistics or outcomes. Additionally, in the case of complaints or discipline proceedings, the College may disclose information of interest to the Minister which services public protection.

b) Collection of Information by the Colleges for the Minister and Others:

Changes to section 36.1 and 36.2 of the RHPA allow the Minister to direct Colleges to collect and disclose information to entities other than the Minister for human resources planning, research or electronic health-record-keeping purposes.

c) Additional Functions for the Patient Relations Committee:

The Minister may make regulations requiring Patient Relations programs to address issues in addition to their current mandate which must include measures for preventing and dealing with sexual abuse of patients. Examples of additional functions might include creating a patient bill of rights or a standard on practitioner civility of communications with patients. *RHPA s. 43(1)(x), Code 84(3.1)*

d) At a future date changes will be made to the statutory committee structure.

The RHPA details seven committees which must be in place at the regulatory college level, including: Executive; Registration; Inquires, Complaints and Reports; Discipline; Fitness-to-Practice; Patient Relations; and Quality Assurance committees. In the past, the composition of these committees has been detailed in the College's bylaws. The Minister of Health and Long-Term Care now has the power to make regulations controlling all aspects of the structure of the statutory committees. The regulations can establish their composition, panel quorum, eligibility requirements, degree of expertise, and grounds for committee member disqualification. For example, the Minister could require that a majority of committee members (or even all committee members) be public as opposed to professional members.

The new regulations are not expected to alter the Councils of the Colleges in either size or composition. Councils are made up of publicly appointed members and elected professional registrants. Professional members come with knowledge of their profession. While professional members are voted in by geographic area, they are part of a collective which comes together with public appointees as Council to make united decisions in the public interest. Professional members **do not** represent constituents and are not the voice of the profession or any related entity or subset of it.

Increased Transparency

Council Meeting Information now available on the College Website

Each college is now required to post on its website advance notice of upcoming Council meeting dates, agendas and Council materials for the public portion of meetings. The CHO Council postings may now be found under Upcoming Events. Information about past meetings will be archived in the resources section of the website. Pursuant to Code 2. 7(1.1) and (1.2)

If the Registrar anticipates that any of the material relates to a portion of the Council meeting likely to be closed to the public, that material can be withheld, but the Registrar must provide the grounds for withholding it in the package posted.

The College's Powers to Make Interim Orders

Recent changes to RHPA grant powers to the Inquiries, Complaints and Reports Committee (ICRC) to make interim orders upon the filing of a complaint or report prior to a referral to Discipline or to the Fitness-to-Practise Committee. Such interim orders – such as suspension or terms, conditions or limitations on the registrant's Certificate of Registration – will remain in place until the matter is decided by the Discipline panel. This order can relate to any type of complaint if there is opinion that the conduct of the registrant exposes or is likely to expose the registrant's patients to harm or injury. Complaints resulting in an order shall be investigated and prosecuted expeditiously so as not to draw out proceedings any longer than necessary. Any such order would take place immediately despite any appeal. The registrant will be given notice of the College's intention to make the order, and the Registrant is allowed at least 14 days to make written submission to the issuing committee. Despite notice to the registrant and his or her right to make a submission, if the committee is of the opinion, on reasonable and probable grounds, that the conduct of the registrant exposes or is likely to expose the registrant's patients to harm or injury and urgent intervention is needed, they may make an interim order to suspend the registrant's Certificate of Registration.

The ICRC is precluded from making any interim orders that involve gender-based restrictions (such as preventing a homeopath from treating one gender of patients, i.e. the ICRC may not impose restrictions to allow a registrant to treat only males or only females). The Act also prevents the staying (or placing on hold) of any penalty pending appeal where an interim order was made. *Code s. 25.4, 37, 62, 63(1)*

From the legislation

RHPA Schedule 2, Health Professions Procedural Code

Interim suspension

25.4 (1) The Inquiries, Complaints and Reports Committee may, subject to subsections (2) and (6), at any time following the receipt of a complaint or following the appointment of an investigator pursuant to subsection 75 (1) or (2), make an interim order directing the Registrar to suspend, or to impose terms, conditions or limitations on, a member's certificate of registration if it is of the opinion that the conduct of the member exposes or is likely to expose the member's patients to harm or injury. 2017, c. 11, Sched. 5, s. 14.

No gender-based terms, conditions, limitations

(2) Despite subsection (1), the Inquiries, Complaints and Reports Committee shall not make an interim order directing the Registrar to impose any gender-based terms, conditions or limitations on a member's certificate of registration. 2017, c. 11, Sched. 5, s. 14.

Procedure following interim suspension

(3) If an order is made under subsection (1) by the Inquiries, Complaints and Reports Committee,
(a) the matter shall be investigated and prosecuted expeditiously; and
(b) the Inquiries, Complaints and Reports Committee, the Discipline Committee or the Fitness to Practise Committee, as the case may be, shall give precedence to the matter. 2017, c. 11, Sched. 5, s. 14.

Duration of order

(4) An order under subsection (1) continues in force until it is varied by the Inquiries, Complaints and Reports Committee or until the matter is withdrawn, resolved by way of an alternative dispute resolution process or otherwise finally disposed of by a panel of the Inquiries, Complaints and Reports Committee, the Discipline Committee or the Fitness to Practise Committee. 2017, c. 11, Sched. 5, s. 14.

Panel's order

(5) In a matter in which an order under subsection (1) was made, an order of a panel of the Discipline Committee or the Fitness to Practise Committee directing the Registrar to revoke, suspend or impose conditions on a member's certificate takes effect immediately despite any appeal. 2017, c. 11, Sched. 5, s. 14.

Restrictions on orders

(6) No order shall be made under subsection (1) unless the member has been given,
(a) notice of the intention to make the order;
(b) at least 14 days to make written submissions to the Committee; and
(c) a copy of the provisions of this section. 2017, c. 11, Sched. 5, s. 14.

Extraordinary action to protect public

(7) Despite subsection (6), an order may be made under subsection (1) without notice to the member, subject to the right of the member to make submissions while the suspension or the terms, conditions or limitations are in place, if the Committee is of the opinion, on reasonable and probable grounds, that the conduct of the member exposes or is likely to expose the member's patients to harm or injury and urgent intervention is needed. 2017, c. 11, Sched. 5, s. 14.



Changes coming to *Immunization of School Pupils Act, 1990*

Immunization is an important public health protection mechanism which impacts the health and well-being of children and all of society. It is the duty of every parent to ensure that their child has completed the prescribed program of immunization in relation to each of the designated diseases named by Ontario's Ministry of Health and Long-Term Care.

Changes require any parent wishing to file a statement of conscience or religious belief to exempt their child from receiving an immunization shot to complete an immunization education session with a medical officer of health. Government agencies are currently working to put the education program in place. These changes must be proclaimed by the Lieutenant Governor prior to coming into force. More information will be available at a later date.

College of Homeopaths of Ontario Policy on Vaccination

Vaccination is not within the homeopathic scope of practice.

A nosode is not a vaccination. Currently there is no homeopathic remedy which may be considered a substitution for vaccination. A Registrant shall not advise his or her patient against vaccination. A Registrant shall, in his or her professional judgment, provide care which is in the best interest of the patient and shall not intentionally put the patient in harm's way.

CHO has a Vaccination Standard

On May 4, 2015, the Council of the College of Homeopaths of Ontario (CHO) approved Professional Practice Standard #19 on Vaccination. This standard is in keeping with the position taken by Health Canada and the Ontario Ministry of Health and Long-Term Care. See the full standard, available on the CHO website, for complete details.

The intent of this standard is to provide guidance to Registrants and the public about the expectations of the CHO when the issue of vaccination is raised. The best interests of the patient must be paramount. A treatment plan and any professional opinion must be delivered in a manner that does not confuse the patient or compromise the patient's care.



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