

On November 19, 2018, the Government of Alberta gave Royal Assent to Bill 21 – *An Act to Protect Patients*. Bill 21 speaks specifically to sexual abuse and sexual misconduct by regulated health professionals and introduces many new requirements for regulatory health colleges, including CAD and its members. The amendments are complex and far-reaching and require careful attention by health colleges to implement. The bill is available at [Bill 21](#).

Some of the requirements/changes coming to regulated health profession colleges include:

New definitions

Within the bill, clear definitions are set out for:

- **Sexual abuse** is defined in the HPA as the threatened, attempted or actual conduct of a regulated member towards a patient that is of a sexual nature and includes any of the following conduct: (i) sexual intercourse between a regulated member and a patient of that regulated member; (ii) genital to genital, genital to anal, oral to genital, or oral to anal contact between a regulated member and a patient of that regulated member; (iii) masturbation of a regulation member by, or in the presence of, a patient of that regulated member; (iv) masturbation of a regulated member's patient by that regulated member; (v) encouraging a regulated member's patient to masturbate in the presence of that regulated member; and (vi) touching of a sexual nature of a patient's genitals, anus, breasts or buttocks by a regulated member.
- **Sexual misconduct** is defined in the HPA as any incident or repeated incidents of objectionable or unwelcome conduct, behaviour or remarks of a sexual nature by a regulated member towards a patient that the regulated member knows or ought reasonably to know will or would cause offence or humiliation to the patient or adversely affect the patient's health and well-being but does not include sexual abuse.
- **Sexual nature** does not include any conduct, behaviour or remarks that are appropriate to the service provided.

Changes to conduct processes

The introduction of these amendments has considerable impact on every College's conduct processes; maybe most notably on mandatory sanctions imposed due to findings of unprofessional conduct on these matters.

These mandatory sanctions are:

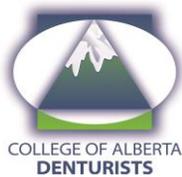
- Cancellation of a practice permit for any health professional whose conduct is deemed to be sexual abuse of a patient with no ability to reapply or be reinstated
- Suspension of a practice permit for any health professional whose conduct is deemed to be sexual misconduct toward a patient

Before this legislation, penalties for conduct determined to be sexual abuse or sexual misconduct varied across almost 30 health regulatory colleges in Alberta and were determined on a case-by-case basis. The new rules will ensure consistent penalties are applied to all health professionals regulated under the *Health Professions Act* for findings of sexual abuse or sexual misconduct.

Standards of Practice

This bill also included a mandate for College's to amend their Standards of Practice to include:

- Determining who is considered a patient for the purposes of the College's regulated members;
- Determining when a sexual relationship may occur between a regulated member or former member and a patient; and



- Determining when it is acceptable for a regulated member's spouse/interdependent relationship partner to be a patient.

The process to amend the Standards must follow the standard route for Standard approval and, as per the new legislation, drafts of these new Standards were submitted to the government prior to December 31, 2018. We are awaiting government feedback. The new standards will be in force by April 1, 2019.

Patient Relations Program

Under this new legislation, each College is required to establish a patient relations program to "include measures for preventing and addressing sexual abuse of and sexual misconduct towards patients by regulated members." These measures must include, but are not limited to:

- Educational requirements for regulated members;
- Educational guidelines for the conduct of regulated members towards patients;
- Training for trauma informed practices for College staff, councils and hearing tribunals;
- Information for persons respecting the College's complaints processes; and
- Assistance in directing persons to appropriate resources, persons or organizations that may be able to assist them.

A College must also provide funding for patients who have alleged unprofessional conduct in the forms of sexual abuse and/or sexual misconduct against a regulated member. A special fund must be established for this purpose and we are awaiting details on the specific requirements for this.

All regulated health professionals in Alberta will be required to participate in training as part of this program.

Public-facing register

Colleges must post health professionals' discipline history for sexual abuse or misconduct on a public-facing website.

Applications for registration

As of November 19, 2018, it became law for College's to collect the following information, in addition to already established processes, from all new applicants:

- A valid criminal records check;
- Whether an applicant is currently an investigated person under the HPA or the equivalent in another jurisdiction;
- Whether any conduct of the applicant has previously constituted unprofessional conduct;
- Evidence of whether the applicant has ever had conditions imposed on their practice permit or equivalent; and
- Evidence of whether there has ever been a judgment in a civil action against the applicant with respect to their practice.

The College of Alberta Denturists is committed to implementing all requirements established under this new statute within the extremely tight timelines imposed by government.