

## Practice Guideline

# Conduct of Regulated Members towards Patients

### INTRODUCTION

Amendments to the *Health Professions Act* (HPA) require all health Colleges in Alberta to administer a Patient Relations Program. A patient relations program includes measures for preventing and addressing sexual abuse and sexual misconduct towards patients by regulated members. The program includes, but is not limited to:

- Education for regulated members
- Educational guidelines for the conduct of regulated members towards patients
- Training requirements for staff, Council and members involved with the conduct process
- Publicly available information on the complaints process
- Assistance in directing individuals to appropriate resources, persons or organizations which may be of assistance to them
- A fund for treatment and counselling that is available for anyone who alleges sexual abuse and/or sexual misconduct by a regulated member of the College

The College of Alberta Denturists has a zero tolerance for sexual abuse and/or sexual misconduct towards patients by regulated members. As per the legislation, sanctions imposed upon members with findings of unprofessional conduct for sexual abuse and/or sexual misconduct are severe. All members of the College are encouraged to read and understand the information presented in this document and the provisions set out in law that speak to these serious offenses.

### DEFINITIONS

The HPA now contains the definitions as below:

**Sexual Abuse** means 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 regulated 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;
- (vi) Touching of a sexual nature of a patient's genitals, anus, breasts or buttocks by a regulated member.

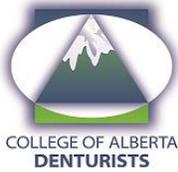
**Sexual misconduct** means any incident or repeated incidents of objectionable or unwelcome conduct, behavior or remarks of a sexual nature by a regulated member towards a patient that the regulated member knows or ought reasonably to know will or would cause offense or humiliation to the patient or 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<sup>1</sup>.

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<sup>1</sup> This would include contact with the patient's orofacial area. If contact outside this area is required, the regulated member should explain to the patient so that they understand the reason for the contact.





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### WHO IS CONSIDERED A PATIENT?

For the purposes of interpreting the legislation, the use of the term “client” is used to denote “patient” and may be used interchangeably.

According to the College of Alberta Denturists’ Standards of Practice, a dentist-client relationship is formed when a dentist provides, to an individual, professional services as described in Schedule 7<sup>i</sup> of the HPA. During the five-year period following the end of the dentist-client relationship, a former client is considered to be a “patient” for the purposes of the sexual abuse and sexual misconduct provisions defined in the HPA.

It is noted however, that a person receiving professional services from a dentist is not considered to be a patient if the dentist is their spouse or adult interdependent partner or if they are in a pre-existing sexual relationship with the dentist.

### DOS AND DON'TS

Some forms of inappropriate behaviour may happen inadvertently with no sexual intent. The College encourages members to be conscious of their behaviours that may be misinterpreted by others. Although this list is not exhaustive, inappropriate conduct could be prevented by adhering to the following:

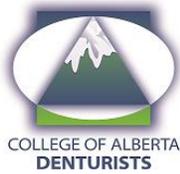
#### DO:

- be knowledgeable of the obligations for regulated members set out in the HPA regarding the prevention of sexual abuse and/or sexual misconduct of patients by regulated members
- be aware of your actions and how they may be perceived by others
- maintain appropriate professional boundaries with patients and patient representatives
- explain to the patient the reason for touching them and where you will touch them and why so that they understand the reason for the contact
- respect the sensitivities of patients as to modes of communication and contact
- be respectful of all patients in your interactions
- ensure to maintain the patient’s dignity and privacy with appropriate draping procedures
- document, as soon as possible, interactions, comments or concerns that may have occurred during the course of a patient’s treatment by yourself, your patient or patient representative that may be interpreted to be of a sexual nature
- be aware of the consequences of your actions, as laid out in the HPA, should you be found to have committed unprofessional conduct in the form of sexual abuse and/or sexual misconduct towards patients

#### DON'T:

- engage in behaviours or conversation with a patient that may be interpreted by anyone to be of a sexual nature
- place dental instruments anywhere on a patient’s body that may be misinterpreted to be of a sexual nature





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### **PENALTIES**

The HPA contains mandatory sanctions for any regulated member found to have perpetrated unprofessional conduct by sexual abuse and/or sexual misconduct. All complaints deemed to include sexual abuse and/or sexual misconduct must be adjudicated by a Hearing Tribunal.

If a member is found guilty of unprofessional conduct in the form of sexual abuse:

- the Hearing Tribunal must order immediate suspension of the regulated member's practice permit until the Tribunal issues written orders
- the orders of the tribunal must include the cancellation of the regulated member's practice permit. The individual may never apply for reinstatement.

If a member is found guilty of unprofessional conduct in the form of sexual misconduct:

- the Hearing Tribunal must order a suspension of the regulated member's practice permit (there is flexibility on the duration of the suspension)

If a regulated member is found guilty of sexual abuse and/or sexual misconduct in another jurisdiction (Canada or US), the Registrar of the Alberta College must:

- cancel the member's practice permit if the conduct was based on sexual abuse
- suspend the member's practice permit if the conduct was based on sexual misconduct

If the Registrar of the Alberta College has sufficient evidence that a governing body of similar profession, in a jurisdiction other than Canada or the US, has found that the regulated member has engaged in unprofessional conduct, the Registrar must:

- cancel the member's practice permit if the conduct was based on sexual abuse
- suspend the member's practice permit if the conduct was based on sexual misconduct

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### <sup>i</sup> **Practice**

**3** In their practice, denturists do one or more of the following:

- (a) assess, diagnose and treat persons missing some or all of their natural teeth,
- (b) design, construct, repair, alter and fit any complete or partial denture for the purpose of restoring and maintaining function and appearance,
- (b.1) teach, manage and conduct research in the science, techniques and practice of denturism, and
- (c) provide restricted activities authorized by the regulations.

RSA 2000 cH-7 Sched. 8 s3;2008 c34 s23

