

Practice Guideline

Mandatory Reporting

On November 19, 2018, Bill 21: *An Act to Protect Patients* was passed in the Alberta legislature. This amendment to the *Health Professions Act* (HPA) sets many requirements on health Colleges and on regulated members. One of the paramount expectations implemented by the new legislation is the concept of mandatory reporting. Please use the following as a guideline to know your obligations under the Act.

Employer Reporting

Section 57 of the HPA states that an employer must notify the Complaints Director of the College as soon as possible:

- (i) if they have terminated or suspended a regulated member, or if the regulated member resigns, as a result of behaviour that the employer deems to constitute unprofessional conduct; and/or
- (ii) if they have reasonable grounds to believe that the conduct of a regulated member in their employ, constitutes unprofessional conduct in the forms of sexual abuseⁱ and/or sexual misconductⁱⁱ as defined in the HPA. This is irrespective of the regulated member's employment repercussions.

Please note that the definition of employment is not restricted to paid employment and includes, but is not limited to, situations of unpaid employment, consulting, contracting and volunteering.

Self-Reporting

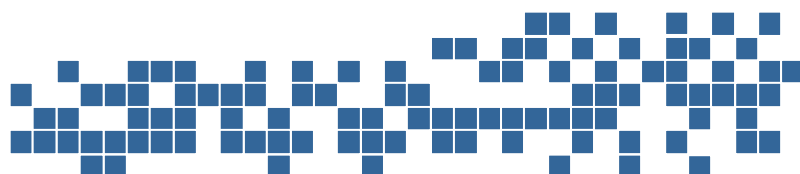
Under the HPA, regulated members have a legal obligation to report any of the following to the College Registrar:

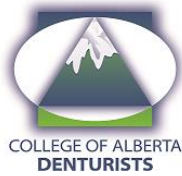
- (i) if the regulated member is a regulated member of more than one College, the regulated member must report to all other applicable Colleges, as soon as reasonably possible, a decision of unprofessional conduct that has been levied against them by any applicable College. The regulated member must supply a copy of the decision to the Registrar.
- (ii) if a regulated member is found to have committed unprofessional conduct in another jurisdiction, by a governing body of a similar profession, the regulated member must report and provide a copy of the decision to the Registrar.
- (iii) if a regulated member has had a finding of professional negligence made against them, the regulated member must report that to the Registrar in writing as soon as reasonably possible.
- (iv) If the regulated member has been charged with or convicted of an offense under the *Criminal Code* (Canada), the regulated member must report it in writing to the Registrar as soon as reasonably possible.

Reporting of Other Regulated Members

If in the course of providing professional services, regulated members are required, under the HPA:

- (i) to report any other regulated member, from within the same College or not, for which they have reasonable grounds to believe that the conduct of the other regulated member constitutes sexual abuse and/or sexual misconduct.





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Please note that:

- reasonable grounds must be formed in the course of the reporting member acting in their own professional capacity
- an exception to the above exists in that there is no reporting obligation if the regulated member becomes aware of the sexual abuse and/or sexual misconduct as a result of providing professional services to the regulated member who discloses the conduct.

Should you have any questions about your reporting obligations, please do not hesitate to contact the College at 780.429.2330 or 1.844.380.1711.

ⁱ 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.

ⁱⁱ 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.

