

Prevention of Abuse of Patients/Clients

As a Member of the College of Respiratory Therapists of Ontario, you are professionally accountable to practise in accordance with the standards of practice of the profession. The CRTO uses the phrase “standards of practice” to refer to the legislation, regulations, standards, policies and guidelines that establish practice parameters. This Practice Guideline may, therefore, be used by the CRTO to determine whether appropriate standards of practice and professional responsibility have been met and/or maintained.

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I N T R O D U C T I O N

The Regulated Health Professions Act (RHPA) requires that all Colleges in Ontario have a Patient Relations Program. This program must include measures for preventing or dealing with the sexual abuse of patients/clients and guidelines for Member conduct.

Although the RHPA specifically addresses the prevention of sexual abuse, Members should note that any form of abuse of patients/clients is professional misconduct and will not be tolerated by the College.

This practice guideline will differentiate between sexual abuse and abuse in general only where the RHPA specific procedures and penalties have an impact. A section of this practice guideline will also discuss the implication of the *Child and Family Services Act*.

WHAT IS ABUSE?

For the purposes of this practice guideline, unless the context otherwise indicates, abuse may be defined as "all unreasonable or improper use or treatment, by word or act, of a patient or client" and includes, but is not limited to:

- Physical abuse (e.g., pushing, shoving, shaking, slapping, hitting or other physical force that may cause physical harm);
- Verbal abuse (e.g., derogatory or demeaning comments, cultural slurs, use of profane language, insults);
- Emotional abuse (e.g., threats, intimidation, insults, humiliation and harassment);
- Financial abuse/exploitation (e.g., theft, forging a person's signature, influencing a patient/client to change his or her will), and
- Sexual abuse (see below).

WHAT IS SEXUAL ABUSE?

The *Health Profession Procedural Code (HPPC)* specifically defines sexual abuse as:

- a. sexual intercourse or other forms of physical sexual relations between the member and the patient;
- b. touching, of a sexual nature, of the patient by the member, or
- c. behaviour or remarks of a sexual nature by the member towards the patient.

The HPPC does permit touching, behaviour or remarks of a clinical nature appropriate to the service provided [HPPC section 1(3)].

ZERO TOLERANCE

In December 1994, the CRTO approved the following policy:

"The College of Respiratory Therapists has a policy of zero tolerance for sexual abuse of patients/clients. The College recognizes that it may be difficult for members of the public to make a report of sexual abuse due to a fear that the process may be painful or difficult, and could result in further victimization. The purpose of staff, Council and Member education is to be sensitive to these concerns and attempt to alleviate them."

A commitment to zero tolerance of sexual abuse may assist in lessening the burden on the victim of sexual abuse of deciding whether or not to report abuse, and shares responsibility with Respiratory Therapists.

GUIDELINES FOR PROFESSIONAL CONDUCT

As a Respiratory Therapist you must ensure that you provide respiratory therapy services to your patients/clients in a manner that is free of abuse, sexual context or connotation. The relationship between a Respiratory Therapist and his or her patient/client is a professional one which is built on trust, respect, compassion and honesty. The Respiratory Therapist must respect the dignity and privacy of the patient/client and their cultural, religious and sexual diversity. In the relationship between a Respiratory Therapist and his or her patient/client the balance of power is unequal and there is an inherent potential for abuse. Sexual activity cannot be consensual when there is a power imbalance. This power imbalance occurs because the Respiratory Therapist has authority, knowledge, access to information and influence. It is always the Respiratory Therapist's responsibility to know what meets the legal and professional obligations and professional Standards of Practice. Ignorance of a legal or professional obligation or standard is not an acceptable excuse.

As a Respiratory Therapist you **should**:

- learn about attitudes and behaviours (e.g., cultural, religious, societal) that are appropriate to the patient/client services you provide;
- understand that the essence of the professional relationship between a Respiratory Therapist and a patient/client is one of trust and behave accordingly; and
- understand that publicity about sexual abuse of patients/clients, the proclamation of the RHPA, and publication of information brochures from many Colleges,

the Ministry of Health and Long Term Care and advocacy groups, have changed the climate in health care such that behaviour that in the past had no apparent consequence may now leave the Respiratory Therapist exposed to complaints and possible prosecution.

As a Respiratory Therapist you **must**:

- act with attitudes and behaviours that are appropriate to the services or care provided;
- not engage in conversations, or make comments, that cause discomfort of a sexual nature, in the presence of patients/clients;
- not engage in behaviour that causes discomfort of a sexual nature;
- not engage in any sexual activity with a patient/client;
- not condone abusive behaviour by others by body language (e.g., laughing) or silence;
- report allegations of sexual abuse by a Respiratory Therapist or any other regulated health care provider to the appropriate College [HPPC section 85.1]; and
- support and encourage patients/clients and others to report allegations of sexual abuse to the appropriate health regulatory College [RHPA section 85.1].

COMMUNICATION WITH PATIENTS/CLIENTS, FAMILY AND GUARDIANS

■ Words

The most common form of sexual abuse of patients/clients is remarks of a sexual nature. Remarks that may be perceived by the patient/client, another Respiratory Therapist or anyone else as sexual, suggestive, seductive, derogatory, exploitative or humiliating are abuse. The remarks may consist of sarcasm, racial slurs, retaliation, intimidation, manipulation, teasing, taunting, swearing, inappropriate comments about or to the patient/client, making sexual comments about a patient/client's body or underclothing, or making sexually demeaning comments to a patient/client.

Always pay close attention to how you share information, and to the words you select when speaking to patients/clients. Use proper vocabulary for body parts and for procedures to be performed and be particularly sensitive to words that could cause misunderstandings. When the need arises, call an interpreter. Many patients/clients may have language or conceptual difficulties that may be assisted by the use of diagrams, sketches or charts. Make sure you speak in words that your patient/client can understand and preserve your patient/client's dignity and confidence.

As a Respiratory Therapist you **should**:

- use tact and consideration in explaining procedures;
- be honest and straightforward in your interactions with patients/clients;
- demonstrate respect, empathy and concern in your interactions with patients/clients;
- be aware of and acknowledge the patient/client's fear or embarrassment;
- provide opportunities for questions;
- provide answers to questions within the scope of respiratory care practice;
- talk directly to your patient/client when you are working with interpreters or members of the patient/client's support network; and
- verify that the patient/client understands the message by rephrasing the information and if necessary, asking the patient/client to repeat the information.

As a prudent and professional Respiratory Therapist you **will**:

- introduce yourself (including your name and professional title);
- explain and obtain consent (this involves ensuring that the information has been understood by the patient/client or their designate);
- respect that consent may be withdrawn at any time; and
- introduce any student or staff member present.

The appropriate use of words assists patients/clients in gaining confidence in you as a professional, reduces the likelihood of patients/clients becoming angry or abusive, and above all, promotes informed decision-making by patients/clients.

■ Body Language

How you say something is as important as what you say. Your body language communicates as much as or more than words. Patients/clients may misunderstand your message if your body language contradicts what you are saying. This is particularly significant for patients/clients of different cultural backgrounds.

It is important that you:

- maintain appropriate eye contact;
- use physical gestures carefully;
- convey concern and empathy with an appropriate facial expression;
- respect your patient/client's personal sense of space; and
- maintain the patient/client's dignity.

■ Listening

The main goal of communication is mutual understanding and listening is just as important as speaking. You must learn to communicate with your entire body, to listen and carefully observe patients/clients. By listening effectively, you can learn to modify your speech and behaviour to match the needs of the patient/client. The benefits of listening and observing are greatly enriched communication and patients/clients who are partners in their own care.

■ Touching and Other Physical Contact

Appropriate words, behaviour and touching can reduce the embarrassment, distress, and fear that some patient/client's experience in the course of receiving care from a Respiratory Therapist. Touching must be appropriate to the service you are providing.

When you are preparing to touch a patient/client, you **should**:

- deal with your patient/client's concerns first;
- respect, as much as possible, the patient/client's personal sense of space;
- give clear instructions to your patients/clients (e.g. wear a gown open in front for an ECG);
- provide reassurance and explanations throughout the procedure;
- involve the patient/client in some aspect of the procedure (e.g. moving themselves in response to clear instructions);
- encourage patients/clients to identify affected areas when possible;
- constantly check for understanding and consent by the patient/client;
- consider wearing gloves;
- use appropriate draping to provide privacy and support dignity; and
- practice increased sensitivity when performing procedures that may be awkward, painful, uncomfortable, or embarrassing to the patient/client.

When you are preparing to touch a patient/client you **will**:

- obtain consent, when required by law (i.e. *HCCA*);
- respect a decision to withdraw consent, verbally or non-verbally, at any time during a procedure;
- tell your patient/client why, where, and when he or she is to be touched prior to beginning;
- allow patients/clients independence, enough time and privacy while disrobing;
- allow your patient/client to disrobe themselves and only touch body areas as needed to facilitate removal of clothing when providing assistance to disrobe;
- ask for the patient/client's consent for student or staff observation, assistance or performance of a procedure;
- ensure that patients/clients who must necessarily be partially unclothed have privacy and are as comfortable as possible;

- make every effort to familiarize yourself with cultural and religious differences where applicable to your individual practice setting; and
- respect gender, physical and sexual preference differences.

■ Dating

Dating and other forms of affectionate behaviour between a Respiratory Therapist and his or her patient/client may constitute sexual abuse as defined by the RHPA. While it is not possible to address every possible type of relationship, the CRTO provides the following guidance with respect to personal relationships for its Members.

As discussed earlier in this document, the relationship between a Member and his/her patient/client has an inherent power imbalance. As long as the Member has influence over the services provided to his or her patient/client that power imbalance exists. If you intend to date a patient/client you must make alternate arrangements for the provision of services BEFORE you become involved and BEFORE you withdraw your services. Your transfer of care or services must be appropriately documented.

You may date a former patient/client when you no longer have influence over his or her care or the provision of services to him or her. When do you have influence? You have influence if you are currently providing care or services. Once a patient/client is discharged from the hospital or permanently transferred to another Respiratory Therapist, it may be interpreted that your sphere of influence has stopped. In the case of a respiratory therapy student, an instructor will continue to have influence over that student until graduation, but a staff person at a specific hospital will likely only have influence as long as the student is on rotation at that hospital.

Whenever possible, avoid caring for your immediate family members. The College recommends that as soon as is practicable, a Member should transfer the care of a family member to another Respiratory Therapist.

PENALTIES FOR ABUSING A PATIENT/CLIENT

A Respiratory Therapist accused of abuse can expect to be adjudicated by a panel of the Discipline Committee made up of Respiratory Therapists and public members. This panel hears arguments and evidence from witnesses, peers, and the patient/client. Proceedings are open to the public, and information may be placed in the local media.

Abusing a patient/client is professional misconduct [O.Reg 753/93 - Professional misconduct section 5].

A Member found guilty of professional misconduct (abusing a patient/client; failing to file a report of abuse; contravening the RHPA, etc.) **may** be subject to any one or more of the following [HPPC section 51(2)]:

1. revocation of the Member's certificate of registration;
2. suspension of the Member's certificate of registration for a specified period of time;
3. imposition of terms, limitation or conditions on the Member's certificate of registration;
4. appearance before the panel for a reprimand;
5. a fine of up to \$35,000.

When the misconduct is sexual abuse, the Member **will** also be subject to the following [HPPC section 51(5)]:

1. a reprimand; and
2. a minimum five year revocation of the Member's certificate of registration if the sexual abuse consisted of:
 - i. sexual intercourse;
 - ii. genital to genital, genital to anal, oral to genital or oral to anal contact;
 - iii. masturbation of the Member by, or in the presence of, the patient/client;
 - iv. masturbation of the patient/client by the Member; and/or

- v. encouragement of the patient/client by the Member to masturbate in the presence of the Member and **may** be subject to:
3. an order for the Member to reimburse the College for funding provided for care and counselling for the patient/client who was sexually abused to a maximum of \$10,000 per patient/client.

WHAT TO DO WHEN YOU BELIEVE SOMEONE HAS BEEN ABUSED BY A HEALTH CARE PROFESSIONAL

Accusations or complaints relating to abuse by any health professional are difficult to deal with at any time or situation. It is your ethical, professional, and sometimes legal responsibility to report any incidents of unsafe professional practice or professional misconduct, physical, verbal, emotional and/or financial abuse involving a regulated or non-regulated health care provider, to the appropriate authority.

There is also an obligation to report another member of the CRTO where you have reason to suspect professional misconduct, including the sexual harassment, emotional or verbal abuse of a co-worker by a CRTO member [*Standards of Practice - Professional Conduct and Accountability*].

The RHPA requires you to submit a report where you have reasonable grounds, obtained during the course of practising your profession, to believe a member of the CRTO or a different College, has sexually abused a patient/client [HPPC section 85.1; CRTO Information Sheet - Reporting Obligations under the *Regulated Health Professions Act - Sexual Abuse*].

Under the RHPA Members **must** report sexual abuse in the following circumstances:

1. *When you know the name of the alleged abuser (member).* (You are **not** required to file a report if you do not know the name of the alleged abuser).

2. *Where the alleged abuser is registered with one of the health regulatory Colleges.*

(If you are not sure, you can check with the College that regulates his or her profession).

3. *Where the person being abused was a patient/client.*

(Although there is no obligation **under the RHPA** to report sexual abuse of non-patients, for example, co-workers or students, as noted above, under the CRTO Standards of Practice there is a professional obligation to report another member of the CRTO where you have reason to suspect professional misconduct, including the sexual harassment, emotional or verbal abuse of a co-worker by a CRTO member).

4. *If the conduct involved sexual abuse as defined by the RHPA.*

(See the definition of "sexual abuse" above).

5. *Where you have "reasonable grounds" to believe sexual abuse occurred.*

(For example, concrete information from a reliable source or a patient/client, as opposed to rumour), and

6. *Where you obtained the information concerning sexual abuse during the course of practising the profession.*

(The reporting requirement is not intended to capture a member's conduct or behaviour outside the patient care/employment setting).

As always, should you have any questions concerning the reporting process then please call the College for advice.

Your report must be filed with the Registrar of the appropriate College within thirty days of the incident being brought to your attention, unless you reasonably believe the abuser will continue to abuse, in which case you must file the report immediately. Your report must be in writing and include:

- your name, address, and a phone number where you can be reached;

- the name of the alleged abuser (regulated health care professional);
- details/description of the alleged abuse;
- the name of the patient/client, **only if** the patient consents, in writing, to their name being included (if the patient will not give consent you must still submit the report but **do not** include the patient/client's name. You should include the fact that you have tried to obtain consent, and that it was refused, in the report);
- the names of witnesses or any other persons who might have information about the alleged abuse is also helpful.

The following tips will help you to assist someone when they tell you they have been abused:

DO:

- Listen calmly and with an open mind.
- Take the information seriously.
- Reassure the person that they are not to blame, and that they are not alone.
- Be supportive.
- Involve the appropriate corporation or institution staff, while respecting the person's privacy.
- Report the incident to the Registrar of the appropriate College.
- Ask the person for their written permission to include their name in the report.

DON'T:

- Make light of the situation.
- Assume that the crisis has passed.
- Try to explain the behaviour as having been misinterpreted.
- Guarantee quick fixes or other promises that cannot be kept.
- Display a strong emotional reaction of shock, disgust, or embarrassment.

CONSEQUENCES FOR FAILING TO REPORT

Anyone who fails to file a required report as outlined above, is guilty of an offence and if convicted is liable for a fine up to \$25,000 [HPPC section 93(4)]. Additionally, if you, as a Member of the CRTO, fail to file a report as required, you may be subject to professional misconduct proceedings [O. Reg 753/93 Professional misconduct section 24 and HPPC section 51(2)].

While this practice guideline specifically addresses abuse of patients/clients, abuse of a similar nature against any individual in circumstances relevant to the profession of respiratory care might be subject to disciplinary proceedings [O.Reg 753/93 - Professional misconduct section 29]. Understand your responsibilities and the definition of abuse and sexual abuse and incorporate that understanding into your every day dealings with the people receiving your care and attention.

RESPONSIBILITIES RELATED TO THE CHILD AND FAMILY SERVICES ACT

The *Child and Family Services Act* (CFSA) exists to protect and promote the best interests and well being of children. The legislation includes the reasons for finding a child in need of protection, a provision to allow evidence of a person's past conduct toward children to be used in court protection proceedings, access to information by Children's Aid Societies (CAS), a provision for a mandatory review of the CFSA every five years, and specification of the duty to report that a child is or may be in need of protecting.

Under the legislation, there is a duty for all persons to promptly report a suspicion that a child is in need of protection and the information upon which it is based, to a CAS. Health and other professions are considered to have a particular responsibility to report and the Act makes it an

offence to fail to report. The duty to report exists in circumstances where the person has reasonable grounds to suspect the child:

- has suffered, or is likely to suffer, physical harm;
- is neglected or is subject to a pattern of neglect;
- has been, or is likely to be, sexually molested or exploited;
- requires medical treatment to cure, prevent or alleviate physical harm or suffering and the child's parent or other person having charge of the child does not provide, or refuses or is unavailable or unable to consent to, the treatment;
- has suffered, or is at risk of suffering, emotional harm demonstrated by serious
 - anxiety,
 - depression,
 - withdrawal,
 - self-destructive or aggressive behaviour
 - delayed development;
- suffers from a mental, emotional or developmental condition that, if not remedied, could seriously impair the child's development and the child's parent or other person having charge of the child does not provide, or refuses or is unavailable or unable to consent to, treatment to remedy or alleviate the condition;
- has been abandoned; and
- is less than twelve years old and has killed or seriously injured another person or caused serious damage to property.

A person who has reasonable grounds to suspect a child is or may be in need of protection must report immediately and directly to the CAS and cannot rely on anyone else to make the report. There is also an ongoing duty to report such that additional suspicions must be reported even if previous incidents have already been brought to the attention of the CAS.

Professionals and officials have the same duty to report as the public, but their particular responsibilities make it an offence not to report. Specifically a person who:

- performs professional or official duties with respect to children (for example, health care professionals, teachers, social workers, members of the clergy); and
- obtains information in the course of his or her professional or official duties; and
- does not report a suspicion of a child in need of protection, is guilty of an offence and subject to a penalty of not more than \$1000.00.

There is an immunity provision in the legislation for individuals who make a report in good faith and with reasonable grounds for the suspicion of a child in need of protection.

MANDATORY REPORTING - TERMINATION

A person or employer who terminates employment or revokes, suspends or restricts privileges, dissolves a partnership or association with a health care professional for incompetence, professional misconduct or incapacity must also file a report within 30 days of such action. This requirement to file a report holds even if the health care professional resigned to avoid restrictions or termination. Section 85.6 provides the filer of a report with immunity provided that the report was made in "good faith" [HPPC section 85.6; CRTO Information Sheet, Reporting Obligations under the *Regulated Health Professions Act - Termination*].

ABUSE OF RTs BY PATIENTS/CLIENTS

On rare occasions an RT may be the subject of verbal, physical or even sexual abuse by a patient/client. RTs should take the appropriate steps to protect themselves when their personal safety is threatened and report all

incidents of abuse to the appropriate person, i.e., manager/supervisor. In the event there is a significant threat or risk of injury to a member it may be necessary to leave the area and withhold care. Withdrawing or withholding care or services from a patient/client is not common and only used as a last resort in a strategic plan for managing abuse. For information on documenting such incidents see CRTO Documentation PPG - Withdrawal of Care/Services Due to Abuse or Violence.

ADDITIONAL READING:

CRTO Information Sheet, Reporting obligations under the Regulated Health Professions Act - Sexual Abuse
<http://www.crto.on.ca/pdf/Sexualabusereports.pdf>

CRTO Information Sheet, Reporting Obligations under the Regulated Health Professions Act - Termination
<http://www.crto.on.ca/pdf/Terminationreports.pdf>

CRTO Standards of Practice - Professional Conduct and Accountability
<http://www.crto.on.ca/html/stand-e.htm#profaccount>

Where is My Line. Information for health-care professionals about defining and respecting personal boundaries in health-care relationships (Colleges of Physiotherapists, Massage Therapists and Chiropractors of Ontario).
http://www.collegept.org/college/content/pdf/en/Where_is_my_line.pdf

Nurse Abuse. Practice guideline (College of Nurses of Ontario).
http://www.cno.org/docs/prac/47004_AbusNurses.pdf

G L O S S A R Y

CAS	Children's Aid Society
CFSA	<i>Child and Family Services Act</i>
HPPC	Health Profession Procedural Code is a schedule to the <i>Regulated Health Professions Act (RHPA</i>
patients/clients	for the purposes of this practice guideline, patient/client denotes a broader concept than the traditional patient or client receiving direct clinical care and, unless the context indicates otherwise , includes students, research subjects and sales clients
Respiratory Therapist	is a Member of the CRTO
zero tolerance	transgressions in behaviour will not be accepted under any circumstances

Comments on this practice guideline are welcome and should be addressed to the Professional Practice Advisor of the College of Respiratory Therapists of Ontario.

**College of Respiratory
Therapists of Ontario**

**Ordre des thérapeutes
respiratoires de l'Ontario**

(416) 591 7800 Phone
1 800 261 0528 Toll Free
(416) 591 7890 Fax
questions@crto.on.ca E-mail



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