

Respiratory Therapy Act, 1991
Loi de 1991 sur les thérapeutes respiratoires

ONTARIO REGULATION 753/93
PROFESSIONAL MISCONDUCT

<https://www.ontario.ca/laws/regulation/930753>

PROPOSED AMENDMENTS
(deletions are in ~~black~~ & additions are in **red**)

1. The following are acts of professional misconduct for the purposes of clause 51 (1) (c) of the Health Professions Procedural Code:

THE PRACTICE OF THE PROFESSION AND THE CARE OF, AND RELATIONSHIP WITH, PATIENTS AND CLIENTS

1. Contravening, **by act or omission**, a term, condition or limitation imposed on the member's certificate of registration.
2. Contravening, **by act or omission, or failing to maintain** a standard of practice of the profession or a published standard of the College, ~~or failing to maintain the standard of practice of the profession.~~
3. Doing anything to a patient or client for a therapeutic, preventative, palliative, diagnostic, cosmetic or health-related purpose in a situation in which a consent is required by law, without such a consent.
4. Delegating a controlled act ~~set out in subsection 27 (2) of the *Regulated Health Professions Act, 1991*~~, **to another person unless that person has the knowledge, skill and judgement to perform the controlled act, in contravention of the regulations.**
4.1 Performing a controlled act that was delegated to the member by another person unless the member has the knowledge, skills and judgment to perform the controlled act.
5. Abusing a patient or client.
5.1 Abusing a person, other than a patient or client, with whom the member has a professional relationship or, in relation to whom the member is in a position of authority or trust.

6. Practising the profession while the member's ability to do so is impaired by any substance or condition, which the member knew or ought to know would impact the member's ability to practise.
7. Recommending, dispensing or selling or administering medical gases, substances or equipment for an improper purpose.

7.1 Administering a drug or substance for an improper purpose.

8. Discontinuing, without reasonable cause, professional services that are needed unless,
 - i. the patient or client requests the discontinuation,
 - ii. alternative services are arranged, or
 - iii. the patient or client is given reasonable opportunity to arrange alternative services.
9. Failing, without reasonable cause, to fulfil the terms of an agreement for professional services other than an employment agreement, with a health care facility, unless,
 - i. the health care facility requests the termination of the agreement,
 - ii. alternative services are arranged, or
 - iii. the health care facility is given reasonable opportunity to arrange alternative services.
10. Practising the profession while the member is in a conflict of interest.
11. ~~Giving~~ Disclosing information about a patient or client to a person other than the patient or client or ~~his or her~~ their authorized representative ~~except,~~ unless such disclosure is made with the consent of the patient or client or ~~his or her~~ their authorized representative or as required by law.
12. Breaching an agreement with a patient or client relating to professional services for the patient or client or fees for such services.
13. Failing to reveal the exact nature of any remedy or treatment used by the member following the patient's or client's request to do so.

13.1 Failing to advise a patient or the patient's authorized representative to consult another member of a health profession within the meaning of the *Regulated Health Professions Act, 1991*, when the member knows or ought to know that the patient requires a service that the member does not have the knowledge, skill or judgment to perform or is beyond their scope of practice.

13.2 Making a representation about a remedy, treatment, device or procedure for which there is not a generally accepted scientific or empirical basis for such a representation.

13.3 Failing to provide a patient or the patient's authorized representative, when requested, with information about how to contact the College.

REPRESENTATIONS ABOUT MEMBERS AND THEIR QUALIFICATIONS

14. Using a term, title or designation in ~~respect of~~ connection with the member's practice in contravention of the regulations.
15. Using a name other than the member's name as set out in the register, in the course of providing or offering to provide services within the scope of practice of the profession.

15.1 Failing to identify themselves by name and registration number, upon request in the course of practising the profession.

15.2 Permitting, counselling or assisting a person who is not a member to represent themselves as a person who is qualified to practise in Ontario as a member of the College.

RECORD KEEPING AND REPORTS

16. Falsifying a record relating to the member's practice.
17. Failing, without reasonable cause, to provide a report or certificate relating to an examination or treatment performed by the member, within a reasonable time to the patient or client or ~~his or her~~ their authorized representative after the patient or client or ~~his or her~~ their authorized representative has requested such a report or certificate.
18. Signing or issuing, in the member's professional capacity, a document that the member knows or ought to know contains a false or misleading statement.

18.1 Failing to keep records in accordance with the standards of practice of the profession or a published standards of the College.

BUSINESS PRACTICES

19. Submitting an account or charge for services that a member knows is false or misleading.
20. Charging a fee that is excessive in relation to the service rendered.

21. Failing to disclose the fee schedule or payment structure prior to delivery of services or failing to provide the patient or client with sufficient time to refuse the treatment and arrange for alternative services.
22. Failing to itemize an account for fees charged by the member for professional services rendered,
 - i. if requested to do so by the patient or client or the person or agency who is to pay, in whole or in part, for the services, or
 - ii. if the account includes a commercial laboratory fee.
23. Selling any debt owed to the member for professional services; this does not include the use of credit cards to pay for professional services.

23.1 Offering or giving a reduction for prompt payment of an account.

23.2 Charging a block fee unless,

- i. the patient or client is given the option of paying for each service as it is provided,
- ii. a unit cost per service is specified,
- iii. the member agrees to refund the patient or client the unspent portion of the block fee, calculated by reference to the number of services provided multiplied by the unit cost per service.

23.3 Charging a fee or accepting payment from a patient or client respecting services which have been paid for by the Ministry of Health or any other agency.

MISCELLANEOUS MATTERS

24. Contravening the Act, the *Regulated Health Professions Act, 1991* or the regulations under either of those Acts.
25. Contravening a federal, provincial or territorial law, a municipal by-law or a by-law or rule of a hospital healthcare facility where the member provides professional services ~~within the meaning of the *Public Hospitals Act* if,~~
 - i. the purpose of the law, by-law or rule is to protect public health, or
 - ii. the contravention is relevant to the member's suitability to practise.

26. Failing to comply with an order of a panel of the Inquiries, Complaints and Reports Committee, Discipline Committee, Fitness to Practise Committee, ~~or~~ Quality Assurance Committee or Registration Committee.
27. Failing to carry out an undertaking given to the College or an agreement entered into with the College.
28. Influencing a patient or client to change ~~his or her~~ their will or other testamentary instrument.
29. Engaging in conduct or performing an act, relevant to the practice of the profession, that, having regard to all the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.
30. In the case of a former member whose certificate of registration is suspended, engaging in the practice of respiratory therapy while the certificate is suspended.
31. Failing to appear before a panel of the Inquiries, Complaints and Reports Committee to be cautioned.
32. Failing to take reasonable steps to ensure that any information provided by or on behalf of the member to the College is accurate.
33. Failing to report an incident of unsafe practice or unethical conduct of a member.
34. Misappropriating property from a patient or client, or place.
35. Engaging in conduct unbecoming of a respiratory therapist.
36. Failing to appropriately supervise a person whom the member is professionally obligated to supervise.

2. OMITTED (PROVIDES FOR COMING INTO FORCE OF PROVISIONS OF THIS REGULATION). O. Reg. 753/93, s. 2.