

Consultation Sessions on the Issue of Mandatory Revocation Provisions and Treatment of Spouses by Regulated Health Professionals

Hamilton

Note:

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Health Professions Regulatory Advisory Council (HPRAC)



Session 1 – For General Public/Public Organizations

Respondent: Participant #1

The speaker is from the Niagara region and is speaking on behalf of a group of spouses of dentists. The speaker pointed out that she feels discriminated against by the current law as her right to choose her health care provider has been taken away.

She noted that trust is an important foundation of a marital relationship and she has absolute trust in her spouse with her dental care.

With respect to the issue of power imbalance, the speaker pointed out that love and trust often precedes marriage and therefore transference should not be a concern. Teamwork is often part of a marriage which also results in the equalization of power.

Finally, the speaker spoke about the issue of consent and didn't feel that it should be an issue. Prior to the zero tolerance policy, spouses had voluntarily consented to dental treatment .

Alternatives:

The speaker would like to see alternatives to the current mandatory revocation sanctions. She noted that this would not pose any risk to the public. Further, a 5 year revocation of a health provider's license would be damaging to their career and negatively impact their community.

The speaker further noted that sexual abuse could be dealt with under the Criminal Code.

Respondent: Participant #2

The speaker is a spouse of a dentist. She has received dental services from her husband for many years prior to the zero-tolerance policy.

The speaker questioned the current scope of the sexual abuse provisions with respect to its applicability to other regulated professions (i.e. lawyers and accountants). Should the current status quo remain, she felt that more discussion around its applicability across professions outside of health would be required.

The speaker also felt that the current legislation creates access issues for those spouses living in remote areas. Further, she noted that an able spouse should have the right to choose his or her health care provider.

Alternatives:

The speaker felt that regulatory bodies should be given the authority to decide whether their members should be providing treatment to spouses.

Respondent: Participant #3

The speaker found it very insulting that health practitioners providing treatment to their spouses are considered sexual abusers. She noted that the Leering case was built on a short-term relationship that failed. She also questioned the fairness of this law for those couples who are happily married and for those who have been receiving treatment from their spouse prior to the legislation.

The speaker felt the current legislation places an economic burden on those families who may not have planned for additional dental expenses.

Alternatives:

The speaker felt that the RCDSO should be given the right to review complaints on a case-by-case basis. Regulatory bodies should have the authority to determine membership conduct with respect to the treatment of spouses.

Secondly, a consent form should be utilized to grant a health provider permission to treat his or her spouse.

The speaker did not feel that the above proposed alternatives would pose a risk of harm to the public.

Session 2 – For Health Care Professionals / Organizations

Respondent: Participant #1

The speaker is a dentist who supports zero-tolerance for sexual abuse. However, he felt that spousal treatment was not sexual abuse and an exemption for the treatment of spouses should be provided in the legislation. He further noted that spouses should be able to choose their health care provider.

The speaker spoke about access issues for spouses living in rural areas. He also noted that the revocation of a health provider's license for five years could negatively harm whole communities of people. For those reasons, the speaker felt that the current legislation was not in the public's best interest.

Alternatives:

The speaker felt that regulatory colleges have demonstrated an excellent track record in exercising discretion and should be given the authority to investigate complaints on a case-by-case basis.

He felt that exemptions provided for spousal treatment would not pose any harm to the public, nor would it jeopardize the safety of spouses as they would continue to be protected under legislation set out to protect the general public.

Respondent: Participant #2

The speaker is the Executive Director of the Ontario Dental Hygienist Association (ODHA). She stated that the ODHA and its members do not condone abuse of any kind. However, she noted that the topic she was speaking about did not involve sexual abuse. It was about health care providers being able to provide care to their spouses. The speaker felt that it was difficult to categorize the care that is provided to spouses as sexual abuse.

Also, the speaker noted that it was difficult to consider the current issue of mandatory revocation as a distinct issue from current sexual abuse provisions in the legislation. The speaker pointed out that considerations should also be made to the negative consequences that findings of sexual abuse could have on a health provider's career. She further noted that a discussion around the mandatory reporting requirement for health professionals is also required as the law could be used in malicious ways that were unintended by the legislation.

Also, the speaker pointed out that spouses who live in rural communities are negatively affected by this legislation as access may be an issue.

Finally, the speaker discussed the intent of the legislation, which in her opinion was never meant to prevent health providers from treating their spouses.

Alternatives:

Allow Discipline Committees of colleges the discretion to consider specifics of allegations and nature of relationship to arrive at specific sanctions. The speaker suggested that it should be up to regulatory colleges to set out in regulation whether members of their profession should be providing spousal treatment. Further, the speaker noted that all professional misconduct regulations are passed by government which provides a second level of accountability in the provisions set out.

Respondent: Participant #3

The speaker is a dentist. He felt strongly that the profession did not need additional laws around sexual abuse as the criminal code provided adequate protection.

The speaker noted that the real victims in this matter are spouses, as their ability to choose a health provider has been taken away. This violates their freedom of association. Further, this law has unintentionally denied spouses access to care.

The speaker felt that the health system is overloaded and Ontario cannot afford to lose more health providers. He also pointed out that this law could be used inappropriately for personal vendetta and personal gain.

Alternatives:

The speaker noted that for many years, alternatives have been set up for spouses of dentists. He would like to see the rights of the college restored to allow RCDSO to exercise discretion in handling complaints of sexual abuse.

The speaker felt that the above suggestion would not pose a risk of harm to the public.

Respondent: Participant #4

The speaker is a dental hygienist and a spouse of a dentist. The speaker described her working relationship with her husband as being professional. She trusts her husband and they share common values on a personal and professional relationship. The speaker found it insulting that, as a spouse, it would be considered

sexual abuse if her husband provided her with dental treatments. She noted that historically it has been the norm for dentists to provide services to their family. She also questioned whether there was evidence to indicate that this was problematic.

The speaker felt that the law takes away the freedom of spouses to choose their health care provider. She did not understand how the sexual abuse provisions in the legislation provided protection to the public. She felt that the legislation could cause great harm to communities. She also noted that the legislation could be used for personal vendettas and open doors for misuse by unhappy partners or disgruntled employees.

Alternatives:

The speaker felt that governing bodies should be able to review sexual abuse complaints on a case-by-case basis and dentists should be able to resume treating their spouses.

Respondent: Participant #5

The speaker was representing the Niagara Peninsula Dental Association.

The speaker spoke about issues of power imbalance, trust and consent. He noted that power imbalance should not be a concern in a marital relationship because the exchange of information and care between two spouses are mutual. Trust and consent, he noted, would have also been established before the patient - provider relationship, where a pre-existing spousal relationship exists. Finally, he noted that transference is not a consideration with pre-existing relationships.

The speaker felt that the current legislation causes a risk of harm to the public because it takes away a spouse's access to health care in rural areas and removes their right to choose a health provider.

Alternatives:

The province should encourage maximum accessibility of patients to health care providers

Respondent: Participant #6

The speaker is a dentist in Burlington. He noted that in the past the RCDSO had the discretion to look at sexual abuse complaints on a case-by-case basis and has demonstrated a long history in protecting the public.

The speaker did not consider dental treatment provided to a spouse as sexual abuse. He felt that all patients should have the right to choose their health provider.

Alternatives:

Restore the right of the RCDSO to exercise discretion in dealing with sexual abuse complaints.



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