

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

## Ottawa

### Note:

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Health Professions Regulatory Advisory Council (HPRAC)



## Session 1 - For General Public/Public Organizations

### Respondent: Participant #1

The speaker is a dental hygienist and her husband is a dentist.

#### Alternatives:

It was suggested by the speaker that a wavier should be available for those who choose to be treated by their spouse.

The speaker feels that she should be able to choose her own health care provider.

### Respondent: Participant #2

The speaker is a wife of a dentist and finds it very difficult to understand the zero-tolerance rule and mandatory 5 year revocation of a health professional's license for treating his or her spouse.

The speaker also felt that the law was not in the best interest of the public and poses a burden on the autonomy of a dentist. As a spouse, she now needs to travel further for dental care and their family has taken a financial loss as her husband is no longer able to treat her.

The government should acknowledge that relationships usually happen outside of the patient-provider relationship.

#### Alternatives:

Allow the RCDSO to examine complaints on a case-by-case basis as they are equipped to do so.

### Respondent: Participant #3

The speaker referenced the Canadian Charter of Rights and Freedoms as the foundation that enabled her husband to practice dentistry, and the reason she became a Canadian citizen. However, she felt that the right to choose a health care provider has been taken away from spouses of regulated health professionals. The speaker also felt that spouses were being discriminated against.

In the view of the speaker, providing treatment to a spouse was not considered detrimental to the public.

**Alternatives:**

The speaker would like the provision to be revoked, and the RCDSO should be granted the right to review sexual abuse allegations on a case-by-case basis.

**Respondent: Participant #4**

The speaker felt that the mandatory revocation policy was discriminatory because it prevented spouses from choosing their health care provider. The speaker noted that the current legislation goes against the idea that one should be innocent until proven guilty, which is present within all civilized countries.

The speaker also felt that the Ministry should encourage a professional patient-provider relationship between spouses rather than discouraging it so bluntly. It was noted that although the Background Document produced by HPRAC Staff talks about power imbalance inherent in relationships, the ministry should consider that spousal relations are based on common and equal trust between two people.

The speaker was puzzled by the idea that as a family there is equality and trust, yet on a professional level there is inherent power imbalance. The speaker further noted that this was patronizing and medieval. He felt that the ministry was taking away his right to choose a health care provider.

This law has caused a great deal of inconvenience for the speaker as he must make arrangements with other health providers.

**Alternatives:**

It was suggested by the speaker that spouses should be given a consent form that could be placed in a patient's file. Further, it was suggested that the ministry should provide a detailed explanation in the form so that people are fully aware of what it is they are consenting to.

The speaker would like to see this proposal revoked and replaced with the right to sign a waiver.

**Respondent: Participant #5**

The speaker noted that the zero-tolerance policy was not present in other jurisdictions within and outside of Canada. The speaker also noted that Ontario has recognized that the law was not meant to prevent dentists from treating their spouses.

The speaker pointed out that it has been very difficult for her to tell her family and friends that her husband, who is a dentist, is unable to treat her because he will be charged with sexual abuse. This has tarnished her husband's reputation because people assume that he must be a bad dentist.

The speaker felt that preventing her husband from treating her as if he were predisposed to committing a crime has been a form of punishment for her and her

spouse.

**Alternatives:**

It was suggested by the speaker that the RCDSO should be able to investigate allegations on a case-by-case basis.

**Respondent: Participant #6**

The speaker is an engineer and his wife is a dentist. He does not believe that anyone should tell him who he can choose to be his health care provider when he lives in a free country. The speaker felt that the benefits of receiving treatment from his wife far outweighed any potential risks.

The speaker also noted that this law was insulting and it is a bad conclusion to assume that if his wife provided him with treatment it would be considered sexual abuse. He further noted that there is no current literature which provides this conclusion either.

**Alternatives:**

The speaker proposed that this law be revoked for all health care professions. Also, patients should be provided with a waiver that includes a disclaimer which outlines any power imbalances that may exist in order to educate the public.

The speaker further noted that if a health care provider committed sexual abuse, there are laws and regulations to deal with that. Also, this law could be used as a weapon after divorce and cause hardship on the health practitioner.

**Respondent: Participant #7**

The speaker's husband is a dentist and they both met in dental school. She has chosen her husband to be her dentist because he is great at what he does and she trusts him to provide her with excellent quality care.

The speaker and her husband moved to Ontario from Quebec. She pointed out that the mandatory revocation clause has taken away her ability to choose her health provider and has placed her dental health at risk because she does not want to seek care from another dentist because of an irrational law.

**Alternatives:**

The speaker suggested the RCDSO should be given the capability of exercising judgement on a case-by-case basis, and the law should be replaced with a more suitable solution.

**Respondent: Participant #8**

The speaker pointed out that there was no room for the state in the bedroom and equating the treatment of a spouse to sexual abuse is hard to follow. The speaker also felt a disconnect between the original case involving a chiropractor who inappropriately billed his partner and allegations of sexual abuse.

Further, the speaker felt that a penalty of 5 years would ruin the lives of a family, and zero-tolerance is an exaggerated response to a non criminal act.

**Alternative:**

The speaker suggested that sexual abuse investigations should be carried out on a case-by-case basis and should not be dealt with using a blanketed conclusion. Also, she noted that if sexual abuse were present, it is a matter unrelated to health legislation, and should be classified under criminal law.

Also, health professionals should have the right to remain innocent until proven guilty.

**Respondent: Participant #9**

The speaker is wife of a dentist. She described the level of anxiety she experienced as a patient and the trusting patient-provider relationship she has established with her husband.

As a result of her anxiety, she would really like to be given the right to choose her dentist. Going to another dentist would also result in a great expense for her and her family as they have not budgeted for it.

**Alternatives:**

Advise the Minister to change the mandatory revocation law, allow dentists to treat their spouses and restore her right to choose her health provider.

## Session 2 - For Health Care Professionals/Organizations

### Respondent: Participant #1

The speaker spoke about her responsibility to use her skills to benefit members of her family. However, the Regulated Health Professions Act says that if she provides care to her spouse, it is considered sexual abuse. The speaker cannot understand how oral exams and placing crowns could be confused for sexual abuse.

She pointed out that the jurisdictional review carried out by HPRAC shows that Ontario is the only jurisdiction with such a mandatory revocation policy. The speaker felt that this was draconian. Although she personally supports zero-tolerance of sexual abuse, it is very difficult for her to equate oral examinations with sexual abuse.

#### Alternatives:

Allow the RCDSO the discretion it once had to examine sexual abuse complaints on a case-by-case basis

### Respondent: Participant #2

The speaker and his wife are both dentists who went to dental school together. The speaker found it ironic that in dental school it was encouraged that he and his spouse work on each other, but now as professionals, it is considered a crime.

He also felt that the law puts health professionals in a vulnerable position. For example, he could encounter a disgruntled employee who may find it in his or her interest to take a picture of him and his spouse working on each other just to ruin their lives.

The speaker noted that he would like the same freedoms of other people to be able to choose the dentist of his choice.

#### Alternatives:

Perhaps a contract between two parties could be signed, but a simple no is unacceptable.

### Respondent: Participant #3

The speaker and her husband are both dentists. She pointed out that the current law does not provide health providers with the opportunity to defend themselves. She also noted that if a picture were taken of her and her spouse treating each other, the photos could be misconstrued.

**Respondent: Participant #4**

The speaker has been a dentist for 30 years. His wife has a financial background and there is no one he trusts more to look after his finances than his wife, and she feels the same way about him taking care of her oral health care.

The speaker feels that a spouse who is capable of a consensual sexual relationship should also be capable of consenting to oral health care. He feels that if a great number of dentists and dental hygienists were to be put out by this law, it would constitute public harm. Also, his right to choose has been taken away. The law that was designed to prevent illegitimate actions of a few has resulted in the suffering of all health care professionals.

**Alternatives:**

The speaker suggested that authority should be given to the RCDSO to determine whether it is appropriate for their members to treat their spouses and allow them the right to deal with complaints on a case-by-case basis.

**Respondent: Participant #5**

The speaker feels that it is abuse that her partner cannot treat her. She trusts him and works closely with him as a dental hygienist.

She finds this law to be insulting. She doesn't appreciate having to pay for services and forgoing income to attend appointments.

The speaker also pointed out that it was puzzling to her, how a health professional could be charged with sexual abuse by simply prescribing a dental x-ray.

**Alternatives:**

The speaker is recommending that the Minister change the law.

**Respondent: Participant #6**

The speaker pointed out that this law was taking away his freedom, which is something that is very important to him. He finds this law to be oppressive.

The speaker has been a dentist for 42 years. He doesn't feel that providing treatment to his wife would result in harm to the public. He is embarrassed as a Canadian that such a law exists.

**Alternatives:**

The speaker suggested that the whole thing should be dropped. He noted that if sexual abuse were present in his relationship, that would be a legal matter.

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