

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

Toronto

Note:

Summary information included in this document is based on presentations made to the Health Professions Regulatory Advisory Council (HPRAC) and documented by Secretariat Staff for Council use. These notes should not be considered a verbatim record. HPRAC is not responsible for any errors provided in the information and such errors are attributable to the relevant participant. The stakeholder feedback is posted according to access to information guidelines. The information guidelines could be found at <http://www.hprac.org/en/privacy.asp>.

Health Professions Regulatory Advisory Council (HPRAC)



Session 1 – For General Public/Public Organizations

Respondent: Participant #1

The speaker is a spouse of a dentist. He is also a professional trombone player for the Toronto Symphony Orchestra and in his presentation he emphasized the importance of his oral health for his career. He considered his wife to be a great dentist and would like to see the laws changed so that he could resume dental care with her.

He also spoke about issues of trust, power imbalance and consent, which in his view were not areas of concern in a marital relationship.

Alternatives:

The speaker suggested that health providers should receive payment prior to commencing treatment with their spouse to avoid issues related to finances.

Also, a waiver should be signed to permit treatment of a spouse by a regulated health provider.

Respondent: Participant #2

The speaker is a spouse of a dentist and she manages her husband's dental practice. The speaker felt that her rights under the legislation have been violated. She would like the freedom to choose her health provider as she trusts her husband to provide her with quality care.

She further noted that dentistry was not sexual abuse because consent to treatment is required and a dental hygienist or assistant is always present during treatment in a dental office.

Alternatives:

The speaker would like the RCDSO to have the discretion to review complaints on case-by-case basis.

Respondent: Participant #3

The speaker is a lawyer who was the Director of Legal Services Branch in the Ministry of Health and Long-Term Care. The speaker was directly involved in the development of the *Regulated Health Professions Act, 1991* and amendments to the legislation proposed under BILL 100 in the early 1990's, which provided the current sexual abuse provisions in the legislation.

The speaker provided a brief summary of events which lead to the development of a task force commissioned by the CPSO to look at issues related to sexual abuse by health providers. This work resulted in a set of recommendations to the Ministry that were eventually included in BILL 100.

The speaker pointed out that unfortunately there are instances where the courts may interpret the law in ways that were never intended by those whom drafted the legislation. He also spoke about considerations by government of the time to clarify whether spouses should be exempt from the statutory scheme. Further, the speaker noted that perhaps amendments proposed under BILL 100 could have been given more consideration in respect to the issue currently being looked at by HPRAC.

Alternatives:

In hindsight, the speaker noted that if he were asked whether spouses should be included in the statutory scheme, he would have suggested that regulatory colleges be given the discretion to determine whether their members should be providing treatment to spouses.

He also suggested that issues of intent and harm should be considered by HPRAC in developing its recommendations to the Minister.

Session 2 – For Health Care Professionals / Organizations

Respondent: Participant #1

The president of the RCDSO, in attendance with the Registrar of the college provided a presentation to HPRAC.

The speaker started by saying that the college believes that sexual abuse by a health professional is a serious matter as it would be a breach of trust of the patient-provider relationship. The college takes its responsibility of public protection very seriously. It deals with sexual abuse cases in an effective manner and supports strong sanctions to deal with deplorable situations.

However, the speaker felt that it was wrong to equate, without exception, the treatment of a spouse by a health practitioner as sexual abuse. This law is considered offensive to both spouses and dentists. The speaker also noted that it would be misguided to continue the automatic revocation of a health provider's license for spousal treatment without discretion.

Alternatives:

The speaker would like the Discipline Committee to have discretion to investigate complaints of sexual abuse on a case-by-case basis and to arrive at a decision using the evidence before it.

The speaker did not feel the above suggestion would weaken the ability of regulators to continue to protect the public. Further, it was noted by the speaker that the RCDSO has only received one complaint in relation to the treatment of a spouse by one of its members since 1993.

Respondent: Participant #2

The speaker is a dental hygienist. She acknowledged that the sexual abuse provisions in the RHPA are important. However, it was her understanding that the intention of the Act was never to prevent health providers from treating their spouses.

The speaker felt that issues of power imbalance may be present in patient-provider relationships amongst some professions (i.e. psychologists) but did not feel that such concerns were relevant to some professions such as dental hygienists and dental technicians.

It was also noted that access may be an issue for spouses who live in remote areas. Further, complaints could be made inappropriately by a disgruntled spouse.

Alternatives:

The speaker felt that the College of Dental Hygienists of Ontario is well equipped to investigate complaints of sexual abuse. Also, she would like to see alternatives to the mandatory revocation policy that is fair to both the public and health providers.

Respondent: Participant #3

The speaker is a Policy Analyst at the Association of Midwives of Ontario (AMO). The speaker noted that the AMO believes there should be alternatives to the mandatory revocation provisions. The AMO supports the choice of their members to determine whether it would be appropriate to provide spousal treatment. In particular, the speaker noted guidelines developed by the College of Midwives of Ontario which is a tool endorsed by the Association to assist its members in determining whether care should be provided to a family member.

Alternatives:

AMO believes that each profession should be given the discretion to determine whether it is appropriate to treat a spouse. Further, colleges should be able to investigate claims of sexual abuse and determine appropriate penalty based on each unique situation.

The speaker did not feel that the above alternatives would pose a risk of harm to the public. Further, the AMO did not believe that issues of power imbalance or transference would be a concern to the profession of midwives as the care provided by its members is relatively short in duration.

Finally, the AMO believes that the alternatives presented would best serve the public interest and support the model of midwifery, where care takes place in the community and often in the client's home.

Respondent: Participant #4

The speaker is a dentist and also spouse of a dentist. The speaker noted that she and her spouse have been each other's dentist for many years and she believes that he is one of the dentists to deal with her phobia of receiving dental treatments. She also noted that in dentistry, there is always someone else present during treatment. The speaker would like to see a change to the mandatory revocation provisions.

Respondent: Participant #5

The speaker is a dentist and also a spouse of a dentist. She noted that trust, power and consent was not an issue in her case because she is married. She and her spouse trust each other. They completed dental school together and often discussed cases with one another.

The speaker took issue with the fact that she and her spouse could not treat each other.



Health Professions Regulatory Advisory Council

56 Wellesley St. W. 12th Floor
Toronto, Ontario, Canada
M5S 2S3

Telephone: 416-326-1550
Toll-Free: 1-888-377-7746
Fax: 416-326-1549

Website: www.hprac.org
Twitter: www.twitter.com/hpraontario
Email: hpracwebmaster@ontario.ca