



# **Sexual Abuse and Sexual Misconduct Complaints**

Alberta College of Occupational Therapists

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# Sexual Abuse and Sexual Misconduct Complaints

A health care professional is in a position of power over a patient, by virtue of having professional knowledge and skill that a patient must rely on for their well-being. In addition, they have access to patients' personal health information.

Health care professionals must maintain professional boundaries with their patients at all times. They are prohibited from engaging in any form of sexual abuse or sexual misconduct as defined by law in the *Health Professions Act* with a patient.

## What is Sexual Abuse and Sexual Misconduct

**Sexual Abuse** is defined in the *Health Professions Act*, and "means the threatened, attempted or actual conduct of a regulated member towards a patient that is of a sexual nature and includes any of the following conduct:

- a) Sexual intercourse between a regulated member and a patient of that regulated member;
- b) Genital to genital, genital to anal, oral to genital or oral to anal contact between a regulated member and a patient of that regulated member;
- c) Masturbation of a regulated member by, or in the presence of, a patient of that regulated member;
- d) Masturbation of a regulated member's patient by that regulated member;
- e) Encouraging a regulated member's patient to masturbate in the presence of that regulated member;
- f) Touching of a sexual nature of a client's genitals, anus, breasts or buttocks by a regulated member."<sup>1,2</sup>

**Sexual Misconduct** as defined in the *Health Professions Act*, "means any incident or repeated incidents of objectionable or unwelcome conduct, behaviour or remarks of a sexual nature by a regulated member towards a patient that the regulated member knows or ought reasonably to know will or would cause offence or humiliation to the patient or adversely affect the patient's health and well-being but does not include sexual abuse."

## Who is a patient?

Each college that regulates a health profession must define who constitutes a "patient" in their Standards of Practice.—Our College has defined a patient as described in our new [Standard 10](#).

*Note: If the health care provider is not a member of a regulated profession, they are not subject to the authority of any regulatory college. Should you have a complaint or concern about their conduct or the care they provided, please contact the employer of the unregulated provider and/or the police.*



## Do you think a health care professional may have violated a boundary or otherwise engaged in sexual misconduct or sexual abuse?

Did your health care professional do something to make you feel uncomfortable? Maybe he or she touched you in a way that was not medically necessary or appropriate or perhaps he or she said something sexually suggestive. If this is the case, please contact the appropriate [Alberta College or Association](#) to discuss your concerns.

We recognize that coming forward with a complaint about sexual abuse or sexual misconduct can be very difficult. If you believe your occupational therapist may have crossed a sexual boundary, we urge you to contact us at **780-436-8381**.

Complaints of a sexual nature may involve:

- **Privacy and respect:** This could include a health care professional not providing enough privacy while putting on a gown or getting dressed after an examination.
- **Inappropriate comments or gestures:** This could include saying something sexually suggestive or seductive to you, commenting unnecessarily about sexual relationships or sexual orientation, making sexually insulting or offensive comments or jokes, or giving unwanted attention (like kissing).
- **Unnecessary or improper physical examinations:** This could mean more frequent breast, genital or pelvic examinations than would be considered medically necessary, touching without your permission or explanation, or conducting a physical examination in a sexual rather than a medical way.
- **Sexual contact or assault:** This encompasses everything from inappropriate touching to sexual assault. It also includes any sexual contact between a health care professional and patient that would otherwise be considered consensual.

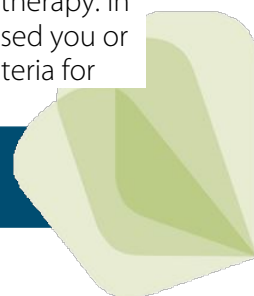
## Why report?

Coming forward about a sexually inappropriate encounter you've experienced with a health care professional can be incredibly difficult and there are many reasons why you may choose not to do so. There are, however, good reasons for reporting:

- **Public protection:** Incidents of sexual abuse or sexual misconduct are often not isolated. By coming forward, you could help us act to ensure that what happened to you does not happen to someone else.
- **Awareness:** The regulatory body won't know otherwise, we rely on individuals to make us aware when things aren't right. We can only learn about sexual abuse or sexual misconduct from people who make complaints.
- **Your own sense of closure:** If you've been the victim of sexual abuse or sexual misconduct by a health care professional, knowing that there is an investigation and potential consequences may play a role in your healing process.

## Therapy & Counselling Funding

There are a variety of situations in which you may be eligible for funding for counselling or therapy. In fact, filing a complaint with the College alleging a health care professional has sexually abused you or engaged in sexual misconduct with you while you were a patient is one of the eligibility criteria for



receiving funding. Additional, details regarding funding for therapy and counselling is available by calling the Complaints Director at 780-436-8381 ext. 103.

## Complaint Process

We recognize that coming forward with a complaint about sexual abuse or sexual misconduct can be very difficult. When you call for assistance or to make a complaint, you will speak the Complaints Director. This person has specific training in the area of sexual abuse and sexual misconduct and is very familiar with the College's complaint process and can give you an idea of what to expect. They will not take statements or conduct investigations. You can speak to this person on the phone by calling 780-436-8381. You can remain anonymous, use an alias, or arrange to meet in person. If you then decide to make a formal complaint, it must be submitted in writing and signed.

When your complaint is received, the Complaints Director may conduct or appoint an investigator to conduct, an investigation. The investigator will contact you to discuss your concerns and obtain additional information. If you prefer, you can meet in person. The investigator will ask you to explain what happened as clearly and in as much detail as you can possibly provide.

**Legislation requires us to notify the health care professional of your complaint,** and the health care professional is given the opportunity to respond to it.

With your consent other people with information about the incident or documents related to the complaint such as hospital, Alberta Health Care or pharmaceutical records maybe gathered as part of the investigation.

Your complaint is handled with the utmost seriousness, and all complaints will be fully investigated. When the investigation is complete, all the materials gathered by the investigator are given to the Complaints Director of our College who reviews the information and decides what should happen.

The Complaints Director may decide to refer the concerns about the occupational therapist to the Hearing Tribunal or may determine no further action is needed if the conduct or care was appropriate.

## What happens if my complaint is referred to the Hearing Tribunal?

Your complaint may be referred to the Hearing Tribunal for a hearing. Hearings at the College are much like proceedings in a court of law. If the Complaints Director refers your complaint to the Hearing Tribunal, the College will present evidence before a panel consisting of regulated health care professionals and members of the public whose role is like that of a jury. They will hear the evidence presented by both parties and make a ruling based on that evidence.

You may be asked to testify at the hearing and you are encouraged to bring someone with you for support. If you must testify, you maybe questioned by the legal representatives for the College and the occupational therapist.

If the Hearing Tribunal finds the allegations of sexual abuse are proven, the occupational therapist's registration will be cancelled, and they will not be allowed to practice for life. If the Hearing Tribunal



finds allegations of sexual misconduct proven, the occupational therapist's registration will be suspended and timelines imposed for the suspension will depend on the circumstances of the case.

The decisions of the Hearing Tribunal are subject to an appeal process whereby the Investigated person or the Complaints Director, on behalf of the college may appeal the hearing tribunal's decision.

Hearings are open to the public and the media may attend unless the hearing tribunal orders the hearing be held in private or an application is submitted for the hearing to be held in private. The media can publish the name of the health care professional, but in cases involving misconduct of a sexual nature the Hearing Tribunal is required, by law, to order a publication ban on information that could identify you if you request such an order.

### Who to Contact

If you think you have experienced sexual abuse or sexual misconduct at the hands of an Alberta regulated occupational therapist, we urge you to contact the Complaints Director at the Alberta College of Occupational Therapists at 780-436-8381 extension 103.

