

The *Protecting Patients Act, 2017*: What Regulated Health Professionals Need to Know



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On May 30, 2017, the *Protecting Patients Act, 2017* (S.O. 2017 C.11) (the “PPA”), formerly known as Bill 87, received Royal Assent. The PPA amends several pieces of legislation, including the *Regulated Health Professions Act, 1991* (S.O. 1991 C.18) (the “RHPA”). This article focuses on some of the major changes to the RHPA which have been brought into effect by the PPA.

By way of background, the PPA was in part designed to implement changes which were proposed in the *Task Force Report on the Prevention of Sexual Abuse of Patients*, which was written by an independent task force which was commissioned by the Minister of Health Dr. Eric Hoskins. According to the Ministry of Health and Long-Term Care, the PPA “strengthens the prevention of, and response to, incidents of patient sexual abuse, increases supports for victims of sexual abuse by regulated health professionals and improves regulatory oversight and accountability of health regulatory colleges” (<https://news.ontario.ca/mohltc/en/2017/05/the-protecting-patients-act-2017.html>). In so doing, the

PPA dramatically increases the risks associated with being a regulated health professional who is accused of “sexual abuse” of a patient (In this context, “sexual abuse” is a defined term in the RHPA which includes any form of sexual relationship, even a consensual one, between a regulated health professional and a patient.), provides increased control over the self-regulatory process to the Minister of Health, and increases the amount of information about a health care provider which is available to the public to include remedial and educational steps which are not meant to be punitive in nature.

While certainly not an exhaustive list, what follows are the “Top 10” most important changes to the RHPA of which regulated health professionals must be aware, some of which have not yet come into effect:

- 1) Members of any regulated health profession are now required to report to the Registrar of their regulatory college (the “College”) if they are charged with an offence, and are required to provide information about bail conditions in said report.

2) The Minister of Health now has the power to make regulations respecting the composition of College committees and panels, thereby allowing the Minister to control the role of professional and public members on these committees and panels.

3) The list of matters which a College is required to post on its public register has been expanded to include a notation of every caution which a health professional has received, any specified continuing education or remediation program which a professional has been required to complete, a copy of any specified allegations against a professional which have been referred to the Discipline Committee but have not yet been finally resolved, and a notation and synopsis of any acknowledgements and undertakings provided to the College in relation to professional misconduct or incompetence which are in effect.

4) The list of acts which would result in the mandatory revocation of a regulated health professional's certificate of registration has been expanded to include touching of a sexual nature of a patient's genitals, anus, breasts or buttocks, and any other conduct of a sexual nature outlined by the Minister and as prescribed by regulation.

5) In the case of findings of sexual abuse for acts which do not require mandatory revocation, a suspension of the regulated health professional's certificate of registration is now mandatory.

6) Each College's Inquiries Complaints and Reports Committee ("ICRC") has lost the ability to impose gender-based restrictions on a regulated health professional's certificate of registration.

7) Each ICRC now has the ability to impose an interim order on a regulated health professional at any point following receipt of a complaint or report, without any finding of guilt, instead of only after a referral for discipline or incapacity proceedings has been made.

8) The fines for health professionals and organizations that fail to report an allegation of patient sexual abuse to a College have been increased.

9) Funding for therapy and counselling for patients who were sexually abused by a regulated health professional has been expanded.

10) A **minimum** time period of one year after the end of a patient-professional relationship has been established, during which time activities of a sexual nature between professionals and former patients are prohibited.

Obviously, these changes are rather significant, and will have a major impact on the way in which the Colleges handle complaints and investigations related to allegations of sexual abuse, amongst others. Simply put, a regulated health professional cannot be too careful when it comes to responding to an allegation of sexual abuse, or any allegation for that matter, either against themselves or another

professional. Health professionals are highly encouraged to seek legal advice the moment any such allegation comes to their attention.