



Jurisprudence

Module 5 – Abuse Prevention

In this module you will learn about

- CMRITO's sexual abuse prevention program and zero tolerance philosophy
- How sexual abuse is defined in the RHPA
- Communication and touching principles for registrants of the CMRITO
- Registrants' obligation to report sexual abuse
- Registrants' obligation to report child abuse
- Facility and employer reporting requirements

Resources to include with Module 5

- CMRITO Standards of Practice
www.cmrto.org/pdfs/standards/standards-of-practice.pdf
- *What you must know about ... preventing sexual abuse*
www.cmrto.org/pdfs/wymkas/sexual-abuse.pdf
- *What you must know about ... mandatory reporting*
www.cmrto.org/pdfs/wymkas/mandatory-reporting-2018.pdf
- *What you must know about ... communicating with patients*
www.cmrto.org/pdfs/wymkas/communicating-with-patients.pdf
- *Child, Youth and Family Services Act*
<http://www.ontario.ca/laws/statute/17c14>
- *Regulated Health Professions Act*
<http://www.ontario.ca/laws/statute/91r18>

- Health Profession Regulators of Ontario (HPRO)
<http://www.regulatedhealthprofessions.on.ca>
- Ontario Association of Children's Aid Societies
<http://www.oacas.org/>



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Module 5 – Abuse Prevention

Prevention of sexual abuse of patients

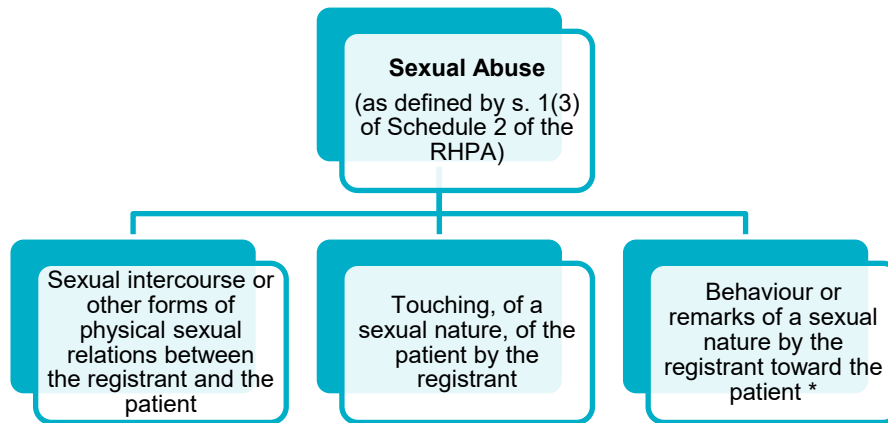
There has been considerable public discussion and debate surrounding the responsibilities of health care professionals in preventing and reporting the sexual abuse of patients. Ontario's *Regulated Health Professions Act* (RHPA) requires that regulated health care professions develop sexual abuse prevention programs. More information on the prevention of sexual abuse can be found in the CMRITO's publication, *What you must know about ... preventing sexual abuse*. This publication can be found on the CMRITO website [here](#).

Zero tolerance

Consistent with the RHPA, the CMRITO has adopted a philosophy of zero tolerance of sexual abuse of patients. This philosophy of zero tolerance means that no act of sexual abuse (as defined by the RHPA) is ever acceptable and sexual abuse must never be tolerated.

Definition of sexual abuse under RHPA

Under the Health Professions Procedural Code (Schedule 2 of the RHPA), sexual abuse is defined as follows:



**Does not include behaviour or remarks of a clinical nature appropriate to the service being provided*

The Code identifies sexual abuse of a patient by a health care professional as an act of **professional misconduct**. The RHPA defines the penalties for a registrant who has been found guilty of professional misconduct by sexually abusing a patient. In such a case, a panel of the CMRITO's Discipline Committee must:

1. reprimand the registrant
2. revoke the registrant's certificate of registration if the sexual abuse consisted of, or included, any of the following:
 - i. sexual intercourse
 - ii. genital to genital, genital to oral, oral to genital, or oral to anal contact
 - iii. masturbation of the registrant by, or in the presence of, the patient
 - iv. masturbation of the patient by the registrant
 - v. encouragement of the patient by the registrant to masturbate in the presence of the registrant
 - vi. touching of a sexual nature of the patient's genitals, anus, breasts or buttocks
 - vii. other conduct of a sexual nature prescribed in regulations made pursuant to clause 43(1)(u) of the *Regulated Health Professions Act, 1991*
3. in addition to the above penalties, a panel of the Discipline Committee may impose other penalties, such as requiring the registrant to pay a fine of not more than \$35,000 to the Minister of Finance.

Communication and touching principles: best practice for registrants of CMRITO

Problems may arise with the very broad definition of sexual abuse of patients contained in the legislation. Many health care professionals have raised concerns about the exact interpretation of "touching of a sexual nature", or the types of remarks which can be considered "of a sexual nature". It is important to understand, however, that sexual nature does not include touching, behaviour or remarks of a clinical nature appropriate to the services provided.

Considerable responsibility is placed on health professionals to communicate effectively by paying attention to the ways in which information is conveyed and words selected when speaking to patients. Registrants must also be active and compassionate listeners and show sensitivity to their patient's concerns and needs. Awareness of cultural and physical barriers which may interfere with clear communication – and respect for these differences – will help registrants to practise the profession in a responsive and responsible manner.

The principles set out in the chart below will help registrants to achieve the high standards of integrity and effectiveness that should be part of their pattern of care for patients:

Communication Principles for Registrants of the CMRITO	Touching Principles for Registrants of the CMRITO
<ul style="list-style-type: none">• talk before you touch• treat each patient as an individual• never assume• reserve judgement• speak directly to the patient• maintain confidentiality• create a safe environment	<ul style="list-style-type: none">• assume nothing• maintain the patient's dignity• show respect for the patient• do not hurt the patient• touch only where necessary• respect cultural diversity• get the patient's consent• remember patients can change their mind

Mandatory reporting of sexual abuse

The RHPA makes it mandatory to file a written report if you have reasonable grounds, obtained in the course of your practice, to believe that a patient has been sexually abused by any registrant of the CMRITO or any other College (for a list of all provincial health regulatory colleges, consult the Health Profession Regulators of Ontario's website at <http://www.regulatedhealthprofessions.on.ca>). While this has usually been the practice of our profession, the Act clearly defines this as a responsibility for registrants.

Failure to report sexual abuse of patients when there are reasonable grounds to believe that the abuse has occurred is an offence under the Act and can lead to severe penalties.

Specifically, if a registrant believes a patient has been sexually abused, then they must:

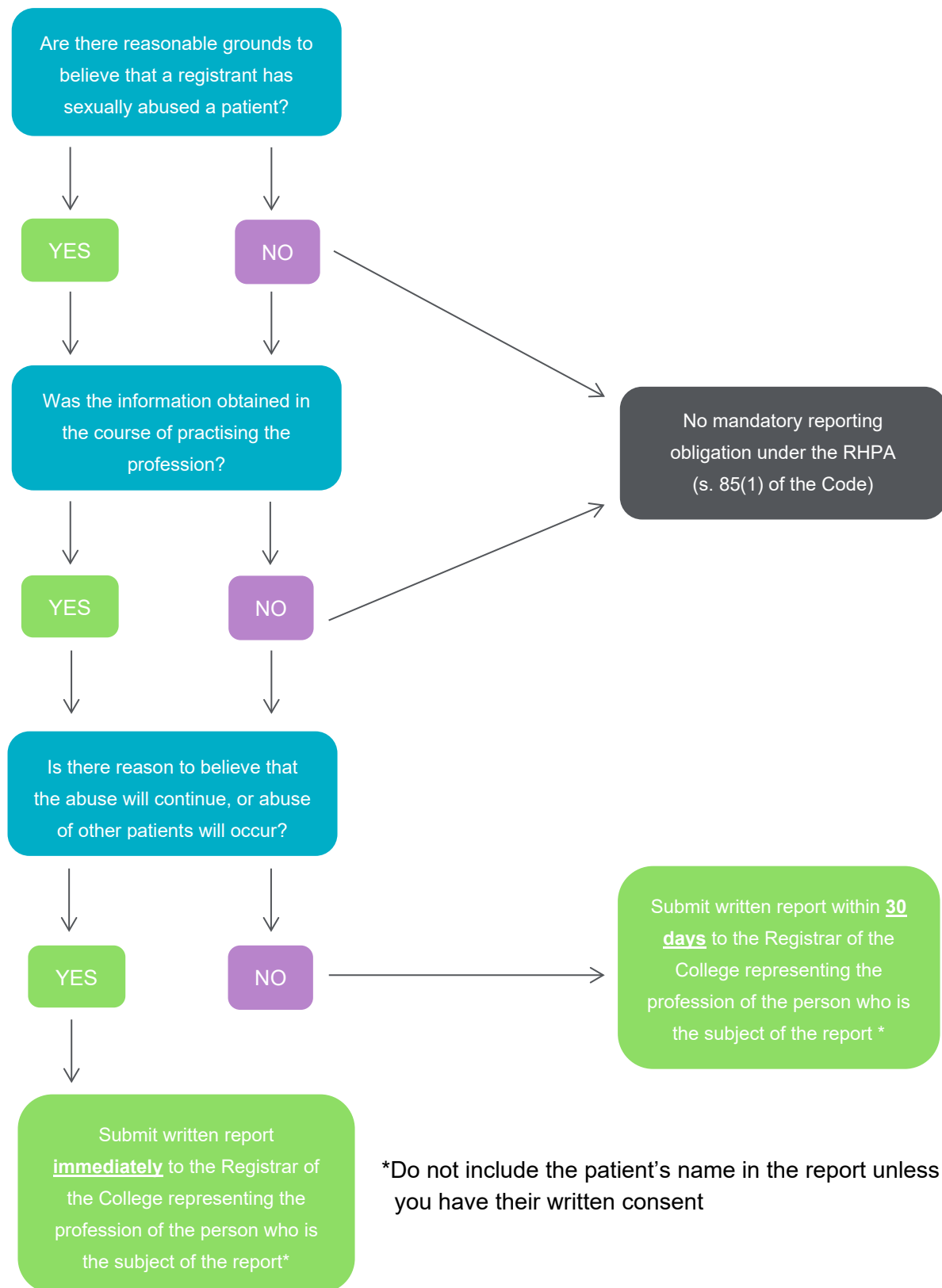
- submit a written report within 30 days to the Registrar of the College regulating the profession of the person who is subject of the report;
- submit the report immediately if there is reason to believe the abuse will continue or that abuse of other patients will occur.

And keep in mind these other requirements for submitting a report:

- registrants are required only to report information obtained in the course of practising the profession;
- registrants must only submit a report if the name of the practitioner who was involved in the alleged abuse is known;
- the patient's name must not be included in the report without their written consent.

Remember, too, that the RHPA provides protection to a person who files a report in good faith from actions or other proceedings being taken against them.

Decision-making guide for mandatory reporting of sexual abuse



Child abuse

Mandatory reporting of child abuse

Under the *Child, Youth and Family Services Act* (CYFSA), health professionals, including registrants of the CMRITO, are required to report when a child is in need of protection. Failure to report is an offence that carries a potential penalty of \$5,000.

If you suspect a child is, or may be in need of protection you must report immediately and directly to the local Children's Aid Society.

Remember:

1. you have an ongoing duty to report, despite previous report that may have been made;
2. you cannot rely on others to make the report;
3. the CYFSA provides protection to individuals who file reports in good faith; and
4. unlike the obligation to report sexual abuse, the obligation to report child abuse extends beyond a registrant's professional practice, to all aspects of their life.

If a registrant is in doubt about their reporting obligations, they may contact the CMRITO or the Children's Aid Society for guidance. You can find the Children's Aid Society in your area through the Ontario Association of Children's Aid Societies' website at <http://www.oacas.org/>.

For the full text of the *Child, Youth and Family Services Act*, please consult the Government of Ontario's website at: <https://www.ontario.ca/laws/statute/17c14>.

Facility/employer abuse reporting requirements

Registrants should familiarize themselves with the reporting requirements imposed on them by their facility/employer and review all relevant policies. The reporting obligations of the facility are in addition to the reporting requirements imposed on registrants by legislation.

Therefore, if a facility policy imposes a greater reporting obligation on registrants than the CMRITO Standards of Practice, registrants are expected to comply with the facility policy. On the other hand, if the facility policy imposes a lesser reporting obligation on registrants than the CMRITO Standards of Practice, registrants are expected to comply with the Standards of Practice. This is because the Standards of Practice set out the minimum standards of professional practice and conduct for registrants, and hold that registrants must adhere to all legislative requirements. Because the mandatory reporting of abuse is a legislative requirement, registrants must comply.