Mission Statement
The Alberta College of Medical Diagnostic and Therapeutic Technologists exists so that the public is assured of receiving safe, competent, and ethical diagnostic and therapeutic care by regulated and continually advancing professions.

Guide
Protecting Patients from Sexual Abuse and Sexual Misconduct
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1.0) **Introduction**
The Alberta College of Medical Diagnostic and Therapeutic Technologists (the College) exists so that the public is assured of receiving safe, competent and ethical diagnostic and therapeutic care by a regulated and continually advancing profession.

The College is a regulatory body established under the *Health Professions Act* (HPA) whose primary purpose is the protection of the public. This driving principle is upheld through requirements and procedures established by the College. In addition, the College continues to offer member services that promote and support continuing education, networking opportunities, and professional excellence. The College is the regulatory body in Alberta for five distinct specialties within two distinct professional groups called medical radiation technologists and electroneurophysiology technologists. The five specialties consist of radiological technologists, nuclear medicine technologists, magnetic resonance technologists, radiation therapists and electroneurophysiology technologists.

**Background - Bill 21 and HPA**

Bill 21 – *An Act to Protect Patients* received Royal Assent on November 18, 2018. The Bill introduced significant amendments to the HPA, providing specific guidance and requirements to regulated health professions for preventing and addressing sexual abuse and/or sexual misconduct towards patients by regulated members.

All regulated health professions practicing in Alberta under the HPA are subject to these amendments. The amendments, along with the College’s Standards of Practice and Code of Ethics, provide specific direction to you for professional conduct and establishing and maintaining professional boundaries with patients.

The Bill adds section 135.7 to the HPA which requires Colleges to establish a Patient Relations Program as follows:

**135.7(1)** A patient relations program must include measures for preventing and addressing sexual abuse of and sexual misconduct towards patients by regulated members.

**2)** The measures for preventing and addressing sexual abuse of and sexual misconduct towards patients by regulated members must include

(a) educational requirements for regulated members,
(b) educational guidelines for the conduct of regulated members towards patients,
(c) training requirements for the college’s staff, council members and any members appointed under section 13 or 15,
(d) information for persons respecting the college’s complaints process, and
(e) assistance in directing persons to appropriate resources, persons, or organizations that may be able to assist them.

Following the requirements set out above in s.135.7(2)(a) and (b), the following education course and the accompanying questions are presented to assist your understanding of the amendments to the HPA.

Time spent completing this module and its quiz (maximum four hours) may be counted towards your Continuing Competence Program requirements if you are a full member of the College at the time of completion. You may print the result as part of your records.

2.0) **Key Learnings**

In this educational module, you will learn about:

- Definitions of sexual abuse and sexual misconduct within the HPA
- The College’s Standard of Practice regarding sexual abuse and sexual misconduct
- Mandatory reporting requirements for regulated members and employers
- Decision-making guide for mandatory reporting of sexual abuse and sexual misconduct
- The College’s complaint and hearing process
- Guidelines for maintaining appropriate professional boundaries
- Available Resources
3.0) **Definitions within the Legislation**

All regulated health professions operating under the HPA are required to protect patients from sexual abuse and sexual misconduct. The HPA, along with the College’s Standards of Practice and Code of Ethics, provides specific direction to regulated members for professional conduct and establishes professional boundaries with patients.

**Sexual abuse**, as defined by the HPA, "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:

(i) sexual intercourse between a regulated member and a patient of that regulated member;
(ii) 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;
(iii) masturbation of a regulated member by, or in the presence of, a patient of that regulated member;
(iv) masturbation of a regulated member’s patient by that regulated member;
(v) encouraging a regulated member’s patient to masturbate in the presence of that regulated member;
(vi) touching of a sexual nature of a patient’s genitals, anus, breasts or buttocks by a regulated member.”

**Sexual misconduct**, as defined by the HPA, "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.”

**Sexual nature**, as defined by the HPA, “does not include any conduct, behaviour, or remarks that are appropriate to the service provided.”

4.0) **College’s Standard of Practice**

**Standard Area 5.0 Protection of Patients from Sexual Abuse and Sexual Misconduct**

The College uses the Standards to outline standards/expectations for evaluation of the quality of professional practice and inform processes to review professional practice and conduct of regulated members. Regulated members use the Standards to guide exemplary practice, and a framework for patient care, enhance the culture of professionalism, and provide the basis for self-monitoring processes and facilitate continued learning initiatives.

This new Standard Area 5.0. Protection of Patients from Sexual Abuse and Sexual Misconduct came into full force on April 1, 2019; it must be reviewed, understood, and practiced as within the context of the 2014 Standards of Practice document.

**Standard**

A regulated member of the College ensures that they will not enter into a relationship of a sexual nature with their patient and will take measures to prevent sexual abuse and sexual misconduct.

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For the purposes of this standard:

i. ’Patient’ shall mean a person who has received medical diagnostic and/or therapeutic services administered by a regulated member of the College within the immediately preceding year except in the cases of an episodic care. A person receiving episodic care is considered a patient while they receive episodic care; however, they cease to be considered a patient upon its conclusion.

ii. A spouse, adult interdependent partner or person with whom there is an existing personal and/or sexual relationship, is not a patient.

To demonstrate this Standard, a regulated member will:

- Maintain and manage professional boundaries with patients at all times.
- Refrain from providing professional diagnostic and/or therapeutic services to their current or ongoing spouse, current or ongoing adult interdependent relationship partner or any other individual in which they have a current or ongoing personal and/or sexual relationship, unless there is an emergent situation in which the regulated member is the most competent healthcare professional present to perform the required duties and/or the patient is restricted by geography, or other factors, that prevent them from receiving services from an alternate authorized healthcare professional. In addition, a regulated member providing professional diagnostic and/or therapeutic services in these circumstances is expected to take reasonable steps to transfer the individual’s care to another authorized healthcare professional as soon as reasonably possible.
- Explain to the patient the need for removing clothing or other items that may interfere with diagnostic or therapeutic procedures.
- Ensure informed consent is obtained when required to touch the patient for diagnostic and/or therapeutic purposes.
- Provide the opportunity, where appropriate, of having a third party in attendance for procedures.
- Take measures to perform procedures in a manner that maintains the patient’s dignity (e.g., providing gowns, appropriate draping, private space).
- Report any sexual abuse and/or sexual misconduct to the appropriate authority (e.g., duty to report, self-reporting).
- Comply with the College’s Code of Ethics.

A patient’s consent or interest to participate in a sexual relationship is not a defense for inappropriate behaviour, sexual abuse, or sexual misconduct. A patient’s consent or interest do not affect the applicability of this Standard.

5.0) Professional Boundaries
Professional boundaries set limits to define the parameters of a safe, diagnostic, and therapeutic connection between healthcare professionals and their patients. These limitations set restrictions for the relationship based on the recognition of the inherent power imbalance, the vulnerability of the patient, and the responsibilities of the regulated member in the therapeutic relationship.

Professional boundaries assist the regulated member, and the patient, to recognize the difference between therapeutic and personal relationships and avoid a possible misinterpretation of words and behaviours.

Guidelines for Maintaining Professional Boundaries
Sexual abuse and/or sexual misconduct causes trauma to the patient, and others related to the patient.

Several steps regulated members could take to ensure that they maintain professional boundaries, includes:

- Accept the legislative definitions of sexual abuse and sexual misconduct that captures a diversity of individual and societal viewpoints.
- Take responsibility for establishing, assessing, and maintaining appropriate professional boundaries with each patient.
- Ensure interactions with patients are respectful of the patient’s dignity and privacy.
- Ensure the patient understands the clinical procedure to be performed.
- If any procedure requires physical contact, explain where and why this physical contact is necessary.
• Explain to the patient the need for removing clothing or other items that may interfere with the procedures.
• Obtain and document patient’s informed consent to proposed diagnostic and/or therapeutic services.
• Avoid disclosure of personal information that is unconnected to the professional health service provided.
• Ensure verbal and physical interactions are not suggestive, inappropriately affectionate, or disrespectful.
• Respect a patient’s cultural and social sensitivities.
• Avoid inappropriate use of humour.
• Avoid requesting details of a patient’s sexual or personal history unless related to the patient’s care.
• Do not socialize or communicate with a patient to pursue a sexual relationship.
• Be aware and consider the emotional, cognitive, physical needs of the patient, which may interfere with clear communication of the patient’s expressed wishes. Be an active and compassionate listener.
• Maintain effective communication between regulated members, patients, and their families, to provide high-quality, effective, safe, and ethical care.
• If applicable, communicate the termination of services to the patient and document the termination of services in the patient’s record.
• Keep notes of patient interactions that were not positive; this may be helpful in the future if a complaint is raised.
• Give patients a choice to have a third-party or a chaperone present at any procedure.
• Terminate the diagnostic and/or therapeutic relationship if professional boundaries cannot be established and/or maintained.

Regulated members should consider the following:

• Sexual misconduct may include sexual comments or gestures toward a patient, giving and sharing sexually explicit content with a patient and photographing or recording anything of a sexual nature of a patient.
• Consent cannot be obtained when there is a power imbalance; this power imbalance is intrinsic in a patient and health care professional relationship.

Case Studies
Review and discuss the case studies below.

a) A female magnetic resonance technologist (MRT) is scanning a patient late in the evening. The male patient is trying to get her attention, complimenting her looks, and consistently making sexual advances. He repeatedly asks the MRT out for coffee. The regulated member should take the following steps to prevent and avoid any allegations of sexual misconduct and sexual abuse:

*Appropriate Response*

• The technologist is required to communicate with the patient to stop their behaviour.
• Clearly explain to the patient that regulatory and ethical responsibilities must guide professional behaviour.
• Explain to the patient the nature of the therapeutic relationship and how professional boundaries must be maintained at all times throughout the delivery of health services.
• Document in the patient’s chart the dates, the nature of their conduct and remarks, and the measures taken to stop this behaviour.
• If the behaviour does not stop, transfer to another health professional, and document appropriately.
• Consult with colleagues and the College as required.

b) A radiological technologist is working alone in the department at night. A young patient is being seen for a bone density scan in a closed room; there usually are no other individuals in the waiting or treatment rooms. Portions of the bone density scan require physical touching of the patient’s knee area. The regulated member should take the following steps to prevent and avoid any allegations of sexual misconduct and sexual abuse:

*Appropriate Response*
• Before starting the assessment, explain to the patient the nature of the assessment setting, invite them to bring someone along if there are concerns, explain the various steps that are involved, the positioning of the patient, where and how they will be touched.
• Obtain the patient’s informed consent and remind them that they can stop the procedure at any time.
• Reassure and regularly check with the patient throughout the procedure to ensure that they understand and continue to consent.
• The technologist should also consider a chaperone/witness to provide support or assistance during the examination.

c) A radiation therapist had a friendly professional relationship with a regulated member from another College that became a patient. The treatment lasted for two months. The radiation therapist and the patient became attracted to each other throughout the patient’s treatment. They happen to meet, at a cross country ski club that they had both independently joined. After a month of meeting weekly for cross country skiing and social interaction, they consider starting a romantic relationship. The regulated member should take the following steps to prevent and avoid any allegations of sexual misconduct and sexual abuse:

**Appropriate Response**
• Abstain from entering into a romantic or sexual relationship with a patient regardless of the patient’s consent and behaviour.
• At the earliest signs of any romantic feelings
  • explain to the patient that regulatory and ethical responsibilities must guide professional behaviour,
  • discuss the nature of the therapeutic relationship and how professional boundaries must be maintained at all times throughout the delivery of health services, and
  • discharge the patient and transfer to another provider.
• Document how the situation was managed.
• Consult with the College as required.

d) A male nuclear medicine technologist treated a female patient with thyroid cancer. A year passed, and they happened to meet in the community. They contemplated starting a sexual relationship. The regulated member should take the following steps to prevent and avoid any allegations of sexual misconduct and sexual abuse:

**Appropriate Response**
• Determine whether the time interval that has passed since the last health service was provided is sufficient to ensure that there is no lasting power imbalance and dependency from the therapeutic relationship.
• Reflect on the nature of the patient’s illness, their degree of vulnerability, and the extent to which issues of a personal nature were discussed during the delivery.
• Consult with the College as required.
• If the regulated member does decide to enter into a sexual relationship with the former patient, should medical diagnostic and therapeutic services be required in the future, the individual should be transferred to another appropriate provider.
Decision-Making Guide for Mandatory Reporting of Sexual Abuse and Sexual Misconduct

Are there reasonable grounds to believe that a regulated member has sexually abused a patient and/or sexual misconduct has occurred towards a patient?

- **YES**
  - Was the information/evidence obtained in the course of the alleged regulated member practising the profession?
    - **YES**
      - Submit written report as soon as reasonably possible to the Complaints Director of the College
    - **NO**
      - No mandatory reporting obligation under the HPA

- **NO**
  - No mandatory reporting obligation under the HPA

Submit written report as soon as reasonably possible to the Complaints Director of the College
6.0) **Mandatory Requirements applying to all regulated members**

**Self-Reporting**

- A regulated member is expected to report to the College any finding of professional negligence to the registrar in writing, as soon as reasonably possible after the finding has been made.
- If a regulated member in more than one college or in another jurisdiction, and the other college and/or the other jurisdiction makes a decision of unprofessional conduct, the regulated member is expected to report the decision and provide a copy of that decision, if any, to the College.
- If a regulated member has been charged or convicted of an offence under the *Criminal Code* (Canada), the regulated member must report the offence in writing to the College, as soon as reasonably possible.

**Reporting another regulated member**

- If a regulated member acting in their professional capacity (e.g., providing professional services) has reasonable grounds to believe that the conduct of another regulated member of their College or another College constitutes sexual abuse or sexual misconduct, the regulated member is required to report the conduct of the other regulated member to the Complaints Director in writing. However, if the information regarding unprofessional conduct was obtained in the course of the regulated member providing professional services to the other regulated member, a report is not required.

**Employer Reporting**

- An employer who has reasonable grounds to believe the conduct of a regulated member constitutes unprofessional conduct based on the behaviour that, in the employer’s opinion, is sexual abuse and/or sexual misconduct must, as soon as possible, give notice of that conduct to the Complaints Director.

7.0) **Complaint and Hearing Process**

- When a complaint is made to the College, it is handled by the Complaints Director. The Complaints Director has specific training with regards to dealing with sexual abuse and misconduct and may not use the Alternative Complaint Resolution (ACR) process. The member is notified of the complaint and is recommended to obtain legal counsel either through their third-party professional liability insurance plan or employer-sponsored insurance. Filing a complaint enables the patient to be eligible for funding established by the College for counselling or therapy. The complaint is referred to a Hearing Tribunal, a panel consisting of regulated members and member(s) of public. Every reasonable effort will be made to ensure that at least one member of the hearing tribunal has the same gender identity as the patient.
- Complaints can be made against a regulated member and a former regulated member. Although complaints cannot be made about a member if two years have elapsed since the person became a former member.
- The College applies appropriate sanctions on findings of sexual abuse and sexual misconduct from any other regulatory college in Alberta, Canadian jurisdiction or USA.
- The College must publish any decision made by the Hearing Tribunal, Council or court of unprofessional conduct based in whole or part on sexual abuse or sexual misconduct; also publish whether a regulated member’s practice permit has been suspended or cancelled as a result of a decision of unprofessional conduct based in whole or in part on sexual abuse or sexual misconduct and any conditions placed on an investigated person’s practice permit as a result of a decision of unprofessional conduct based in whole or in part on sexual misconduct. Publication of decisions by the Hearing Tribunal can be viewed on the College’s website and the College’s public register.

For more information on the complaint and hearing process of the College, please see the complaints page of the College’s website.
Mandatory Sanctions

- Where a complaint results in a decision of unprofessional conduct based on sexual abuse, the Hearing Tribunal must order the permanent cancellation of the practice permit and registration.
- If a regulated member’s practice permit is cancelled as a result of a decision on unprofessional conduct based on sexual abuse, the person may never re-apply to the College for a practice permit.
- Where a complaint results in a decision of unprofessional conduct based on sexual misconduct, the Hearing Tribunal must order the suspension of the practice permit for a specified period. The Hearing Tribunal may order conditions on the member’s permit or cancel the practice permit. The Hearing Tribunal cannot impose gender-based conditions.
- If the person’s practice permit is cancelled as a result of a decision on unprofessional conduct based on sexual misconduct, the person may not re-apply for a practice permit for a minimum of 5 years.

8.0) Responsibilities under the HPA

The College’s Responsibilities
Under the terms of the HPA, the College is required to have the following measures in place:

- A Complaints Process
  - Patients who feel they have been the subject of sexual abuse or sexual misconduct are encouraged to make a complaint with the College’s Complaints Director. More information related to the processes for dealing with concerns and complaints can be found at the College’s website.

- A Patient Relations Program
  - Under the HPA, the College must have a Patient Relations Program, which includes measures for preventing and addressing sexual abuse and sexual misconduct by the College’s members towards their patients. The Patient Relations Program also strives to support patients who are the victims of sexual abuse or sexual misconduct by regulated members.
  - The College provides funding for treatment or counselling for patients who have experienced sexual abuse or sexual misconduct by a College member.
  - The College will provide education and training for College staff, Council and Hearing Tribunal members on sexual abuse and/or sexual misconduct to deal sensitively and knowledgably with patients and regulated members; and
  - Provide education on what can be expected from regulated members related to sexual abuse and sexual misconduct, and how, if required, to register a complaint.

- Public Register
  - Information about complaints received by the College is confidential unless sent to a formal disciplinary hearing. Under the HPA, the Registrar:
    - Must release certain information when a regulated member’s practice permit is 1) cancelled, 2) suspended, or 3) restricted with conditions.
    - The College reserves the right to publish or distribute information about any discipline hearing not held in private to ensure transparency and accountability to the public.
  - The College is required to post discipline history of any regulated member who has been disciplined for sexual abuse and/or sexual misconduct.

Regulated Member Responsibilities
Under the terms of the HPA, regulated members are required to

- Be aware and up-to-date at all times, on the terms of the HPA and the impact of this legislation on their practice;
- Complete mandatory educational requirements prescribed by the Council for preventing and addressing sexual abuse of and sexual misconduct towards patients;
- Practice in compliance with the HPA, the College’s Standards of Practice and Code of Ethics to prevent sexual abuse of and sexual misconduct towards patients;
- Understand that if professional boundaries are not met, it can jeopardize the therapeutic relationship and may lead to allegations of sexual abuse and/or sexual misconduct; and
- Prevent sexual abuse of and/or sexual misconduct towards patients during all aspects of health services delivery.
Glossary

**Alternative Complaint Resolution (ACR)** seeks to settle complaints involving issues while circumventing formal investigation outcomes and processes.

**Adult interdependent partner relationship** – a relationship outside of marriage in which two people: share one another's lives; are emotionally committed to one another; and, function as an economic and domestic unit. A person who is a spouse cannot be part of an adult interdependent relationship.

**Informed consent** – obtaining permission from a patient “based on reasonable disclosure of the facts, risks, and alternatives, to use identified intervention procedures”. Informed consent may be expressed verbally, in writing or implied. Implied consent refers to consent inferred from the patient's or alternate decision maker's (if applicable) actions and surrounding circumstances.

**Episodic Care** is a single encounter with a patient in which health services are provided where neither the regulated member nor the patient has the expectation of an ongoing care.

**Patient** is a person who has received medical diagnostic and therapeutic services administered by a regulated member of the College within the immediately preceding year.

**Professional boundaries** – sets limits to define the parameters of a safe, diagnostic, and therapeutic connection between healthcare professionals and their patients.

**Regulated member** – a healthcare professional currently registered with College and
  i. is eligible for registration as a regulated member as specified in Section 33(1)(a) of the HPA and in accordance with the Regulations; and
  ii. pays the fees and other charges which are prescribed in the Regulations or by the Council, for licensing and membership.
  iii. includes a previous regulated member whose last day of registration with the College is within the immediately preceding two years.

**Sexual abuse** is defined in section 1(1) (nn.1) of the HPA as “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:
  • sexual intercourse between a regulated member and a patient of that regulated member;
  • 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;
  • masturbation of a regulated member by, or in the presence of, a patient of that regulated member;
  • masturbation of a regulated member's patient by that regulated member;
  • encouraging a regulated member's patient to masturbate in the presence of that regulated member;
  • touching of a sexual nature of a patient's genitals, anus, breasts or buttocks by a regulated member.

**Sexual misconduct** is defined in section 1(1) (nn.2) of the HPA as: “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 a 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 wellbeing but does not include sexual abuse”.

**Sexual nature** according to section 1(1) (nn.3) of the HPA does not include any conduct, behaviour or remarks that are appropriate to the service provided.
Resources


- MyHealth Alberta (information source, search “sexual assault” or “sexual abuse”)

- 211 Alberta 24 Hour Information and Referral Service (search “sexual assault” or “sexual abuse”). You can also reach the Alberta 211 call centres on the following toll-free numbers: Calgary: Central Alberta & Alberta South 1-855-266-1605 Edmonton: Alberta North 1-888-482-4696

- Association of Alberta Sexual Assault Services (AASAS)

- Health Link Alberta (Dial 811)
References


The College will like to thank its collaborators on this project:
- College of Medical Laboratory Technologists of Alberta
- College and Association of Respiratory Therapists of Alberta
- Alberta College of Combined Laboratory and X-Ray Technologists