



File Number: 1205-2 (HPRAC)

SUBMISSION
To The
HEALTH PROFESSIONS REGULATORY
ADVISORY COUNCIL
Regarding
MANDATORY REVOCATION
PROVISIONS
AND
TREATMENT OF SPOUSES
BY
REGULATED HEALTH PROFESSIONALS

18 January 2012

The
Ontario
Association
of
Medical Radiation
Technologists

OAMRT Submission to HPRAC Regarding Mandatory Revocation Provisions & Treatment of Spouses by Regulated Health Professionals

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PREAMBLE

The Ontario Association of Medical Radiation Technologists (OAMRT)

The OAMRT is a voluntary Association representing approximately 4,000 Members.

The OAMRT is the official voice for the profession of Medical Radiation Technology in the province of Ontario. As such, the Association is the advocate for Medical Radiation Technologists (MRTs) representing their needs and their views to the government and other Stakeholders.

The OAMRT was founded in 1935 as an independent, non-profit organization. During this time, it has been responsible for a number of initiatives that have shaped and helped to shape health-care in Ontario. The Association has been a driving force concerning the evolution of Medical Radiation Technology in Canada and will continue to be as a key partner and stakeholder in the Ontario health-care system. The OAMRT believes in the principles of collaboration and partnership to ensure an effective, efficient and safe health-care environment.

The OAMRT is governed by nine Board Directors with a representative from the national Association sitting on the Board. It has representation from all areas of the province through its regional or 'Section' system. In this way communications flow from the grass roots up and from the decision-makers down and laterally to the various volunteers and leaders of the Association.

Although the Association's mandate is to provide leadership advocacy and education on behalf of its Members and to represent their needs, the safety and interests of the public are of primary concern to the Association in meeting its Mission and Vision.

MISSION STATEMENT

"The OAMRT is the collective and influential voice of the Profession of Medical Radiation Technology dedicated to the support and promotion of the interests and needs of its Members".

PREAMBLE (continued)

Thank you for the opportunity to submit comments on this very important issue to all health-care professionals. This is a very complex and sensitive issue, and one we never anticipated when Bill 100 was introduced in the early days of the development of the RHPA or when Bill 100 became a Code within the RHPA.

EXECUTIVE SUMMARY

Minister's Request

“My request relating to the sexual abuse provisions focuses solely on one issue, as follows. The issue is whether or not, in your view, alternatives to the mandatory revocation provisions should exist in the Act respecting treatment by a spouse by a regulated health professional”.

Summary

The Ontario Association of Medical Radiation Technologists (OAMRT) supports the position of “zero tolerance” of sexual abuse of patients by health-care professionals. Further, the Association also supports the goals and objectives of the sexual abuse provisions of the Procedural Code and throughout the RHPA.

The OAMRT does believe, however, that alternatives need to be put into place. The RHPA does not define what a “patient” is and because of this, the courts have become involved resulting in unintended consequences for health-care practitioners. It is our position that provisions can be made to the RHPA that will clarify the original intent of those who crafted the RHPA and thus focusing the provisions on sexual abuse of patients while still preserving the objectives and the position of zero tolerance of sexual abuse.

RESPONSE

First Question:

In your view, should alternatives currently mandated in the RHPA with respect to the treatment of a spouse by a regulated health professional be considered. If yes, please propose appropriate alternatives.

Answer – Yes

Comments

The OAMRT believes that Medical Radiation Technologists (MRTs) should not examine or treat their spouses/partners as a best practice protocol. That stated, there have been and could be situations in remote or rural areas where the only MRT present is that person and having them go elsewhere would be contrary to good patient care, or not practical. An alternative model would provide for this situation.

The situation that the term “patient” is not defined is the key factor in this matter. Our Members both “examine and treat”. The term “examine” is not stated in the question, but perhaps is implied in the word “treatment” so we will go with that. We are not sure within the practice of Medical Radiation Technology how “treatment” is being defined or interpreted, and we see this as an issue, especially in a spousal relationship situation.

We are aware that spousal exemption is provided in other health-care legislation, and it should be considered here. The RHPA provides no flexibility, a mandatory penalty on a broad definition of sexual abuse.

Appropriate Alternatives

It is our view that the Regulatory Colleges should have the ability to investigate each case on a case-by-case basis and subsequently decide on the appropriate action to take specific to the evidence and the circumstances.

Another alternative would be to have no Mandatory Revocation as the present penalty is overly severe on a five (5) year mandatory revocation.

A third alternative would be to amend s.51(5)(2) of the Procedural Code so that it states that it does not apply if the patient was in a spousal relationship with the health-care professional before any professional relationship began.

A fourth alternative would be to change the definition of “sexual abuse” so that there is no “sexual abuse of a patient” when the professional relationship is with a “spouse” or began when there was an intimate spousal relationship.

Second Question:

If you find that there are appropriate alternatives to the mandatory revocation provisions mandated in the RHPA with respect to the treatment of a spouse by a regulated health professional, in your view:

A. Do the alternatives post a risk of harm to the public?

B. Do the alternatives serve the public interest?

A. Risk of Harm

In our view the proposed alternatives do not pose a risk of harm to the public. The alternatives suggested would achieve the original intent and objectives of the mandatory revocation provisions, and provide flexibility.

B. Serving the Public Interest

We believe the public interest is still well served by the alternatives posed. The alternatives would provide a quality element to the RHPA while reducing the costs to society as a whole in terms of reducing the time and money spent in and by the court system. Further, by allowing the Regulatory Bodies more flexibility, it would put less strain on the resources of the health-care system, and as mentioned, the court system.

Victims and their families would still have a voice and support and actually strengthen the legislation in question. Such things as marital strife, “patient blackmail”, etc. would also be removed from the RHPA question and thus

provide the practitioner with a more fair and equitable environment to prove their innocence: in other words reduce the chance of exploitation.

Third Question:

Do you have any other comments about the issue of Mandatory Revocation Provisions and Treatments of Spouses by Regulated Health Professionals?

The OAMRT trusts the College of Medical Radiation Technologists of Ontario (CMRTO) to be able to appropriately and fairly handle complaints, including through mediation, regarding sexual misconduct from spouses, and discipline those accused appropriately rather than being forced to revoke a registration, as there is no other alternative.

Ontario could learn from other jurisdictions in terms of their flexibility in dealing with pre-existing spousal relationships, and the emotive actions taken by spouses when the relationship goes sour. No other jurisdiction in Canada is mirroring what we have done in Ontario regarding this matter.