



COLLEGE OF DIETITIANS
OF ALBERTA

Summary of Changes in *Bill 21: An Act to Protect Patients*

as of December 2018

The Alberta government recently introduced *Bill 21: An Act to Protect Patients* to amend the *Health Professions Act* (HPA). Bill 21 speaks specifically to sexual abuse and sexual misconduct by regulated health professionals and introduces a number of new requirements for regulatory health colleges and its members. The new rules will ensure consistent penalties are applied to all health professionals regulated under the *Health Professions Act* for findings of sexual abuse or sexual misconduct.

The following changes to regulated health profession colleges are **effective November 19, 2018** and include the following sections:

- Additional information is required from applicants for registration including a criminal record check and information on whether an applicant is currently an investigated person under the HPA or the equivalent in another jurisdiction, whether any conduct of the applicant has previously constituted unprofessional conduct, evidence of whether the applicant has ever had conditions imposed on their practice permit or equivalent and evidence of whether there has ever been a judgment in a civil action against the applicant with respect to their practice. (s. 5 Bill 21, s. 28(1) HPA)
- A regulated member may request correction of information on the register that is inaccurate or incomplete. (s. 6 Bill 21, s. 35 HPA)
- Interim suspensions and conditions can be imposed any time after a complaint is made up to the time that a Hearing Tribunal makes orders. (s. 12 Bill 21, s. 65(1) HPA)
- Complaints Director can appeal decision of Council to Court of Appeal. (s. 16 and 17 Bill 21, s. 90(1) and 92(1)(d) HPA)
- The Minister will be permitted to disclose health information or personal information to a College where reasonable grounds exist to believe that conduct might constitute unprofessional conduct or where there is a need to protect the public. (s. 21 Bill 21, s. 122.01 HPA)
- A College that publishes information on its website in addition to what is set out in the HPA must make a bylaw respecting such publication. (s. 23 Bill 21, s. 133.1 HPA)
- Council must develop Standards of Practice which define who is considered to be a patient for the purposes of the College's regulated members, respecting when a sexual relationship may occur between a regulated member or former member and a patient and respecting when a person who is a spouse of or in an interdependent relationship with a regulated member may also be a patient. The College must consult with members and Minister and any other persons Council considers necessary prior to submission of the Standards of Practice for approval of Minister. Standards of Practice must come into effect on or before March 31, 2019. (s. 24 Bill 21, s. 133 HPA)
- Standards of practice may be imposed on a College if in the Minister's opinion, the College's proposed standards of practice are not in the public interest. (s. 25 Bill 21, s. 135.5 HPA)

The following changes coming to regulated health profession colleges will be **effective April 1, 2019** and include the following sections:

- Introduces new definitions to the HPA for “patient”, “sexual abuse”, “sexual misconduct”, and “sexual nature”. (s. 2 Bill 21, s. 1(1) HPA)
- Colleges will be required to report to the Minister on the number of complaints and findings of unprofessional conduct which relate to both sexual abuse and sexual misconduct. (s. 3 Bill 21, s. 4(1.1) HPA)
- Require regulatory colleges, when holding a hearing for allegations of sexual abuse or sexual misconduct, to make every reasonable effort to ensure that hearing tribunal members have received training on trauma informed practice and sexual violence, and that at least one member of every hearing tribunal has the same gender identity as the patient. (s. 4(1) Bill 21, s. 16(1) HPA)
- Mandatory cancellation of a practice permit for any health professional whose conduct is deemed to be sexual abuse of a patient with no ability to reapply or be reinstated. Mandatory suspension of a practice permit for any health professional whose conduct is deemed to be sexual misconduct toward a patient with prohibitions/delays in application for reinstatement. (s. 7 and 15, Bill 21, s. 45 and 82 HPA)
- Removal of a Complaints Director’s discretion to engage in informal resolution processes where complaints are sexual in nature. (s. 8 Bill 21, s. 55 HPA)
- Expanded mandatory reporting obligations for employers with respect to sexual abuse and sexual misconduct. (s. 9 Bill 21, s. 57 HPA)
- Where an alternative complaint resolution process is ongoing and new information arises, which relates to potential sexual abuse or sexual misconduct, the Complaints Director must determine whether the process can continue. (s. 10 Bill 21, s. 58(1) HPA)
- The Complaints Director will be required to notify the complainant and the investigated person of the status of an investigation every 60 days or within any other period agreed to by the parties. (s. 11 Bill 21, s. 61(1) HPA)
- The complainant must be given 30 days’ notice of the date, time and location of the hearing. (s. 13 Bill 21, s. 77 HPA)
- For findings of unprofessional conduct relating to sexual abuse or sexual misconduct, the patient involved must have an opportunity to provide an impact statement before the sanction order is made. (s. 14 Bill 21, s. 81 HPA)
- Registrars will be required to cancel (in the case of sexual abuse) or suspend (in the case of sexual misconduct) a member’s registration if there is a finding of unprofessional conduct in another jurisdiction relating to such issues. (s. 18 Bill 21, s. 96.2(1) HPA)
- The College will be required to provide information upon request to a governing body in another jurisdiction about whether a member is in the complaint process. (s. 20 Bill 21, s. 119(5) HPA)
- Members will have an obligation to self-report findings of unprofessional conduct made by other Colleges or in other jurisdictions as well as findings of professional negligence or charges and/or convictions under the Criminal Code of Canada (these reporting requirements will only apply to conduct that arises after the coming into force of Bill 21). Members will be required to report unprofessional conduct of other regulated members that they believe constitutes sexual abuse or sexual misconduct. (s. 22 Bill 21, s. 127 HPA)

- Colleges will be required to implement a patient relations program that includes access and funding for treatment and counselling for patients who make a complaint about sexual abuse or sexual misconduct by a regulated health professional, training for health professionals, college staff and for those involved in the disciplinary process to prevent and address sexual abuse and misconduct, and information to help Albertans understand CDA's complaints process and assistance in directing persons to appropriate resources. (s. 26 Bill 21, part 8.2 HPA)
- Colleges must maintain a website available to the public which includes information on the College's annual reports and regulatory documents, information regarding the College's directory of regulated members, decisions made by a Hearing Tribunal, Council or Court, and any information regarding suspensions, cancellations or conditions on practice permits. (s. 26 Bill 21, part 8.3 HPA)