SEXUAL ABUSE PREVENTION PROGRAM

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EXECUTIVE SUMMARY

This Sexual Abuse Prevention Program ("Program") was developed by the College of Audiologists and Speech-Language Pathologists of Ontario's ("CASLPO") Patient Relations Committee. The function of the Patient Relations Committee is to enhance relations between members and patients.

The purpose of this Program is to inform audiology ("AUD") and speech-language pathology ("SLP") members of CASLPO and the public concerning CASLPO's measures for preventing and addressing sexual abuse.

INTRODUCTION

Under the Health Professions Procedural Code (the "Code"), being Schedule 2 of the Regulated Health Professions Act, 1991, (the "RHPA") each regulatory health college must have a Patient Relations Committee and a Patient Relations Program.

The Patient Relations Program must include measures for preventing and dealing with sexual abuse of patients. Specifically, the program must include educational requirements for AUDs and SLPs, guidelines for the conduct of AUDs and SLPs with their patients, training for the College's staff and the provision of information to the public. CASLPO has been diligent in its efforts to comply with these requirements.

In keeping with the requirement to deal with AUDs and SLPs who sexually abuse patients, a variety of measures have been implemented. Staff and council member training on the nature of sexual abuse is provided on an ongoing basis. Intake procedures for complaints have been enhanced to address specific complaints of a sexual nature. CASLPO maintains a fund to provide counselling for survivors of sexual abuse.

This Program is the cornerstone of the College’s strategy for preventing sexual abuse. It is intended to give AUDs and SLPs guidance respecting CASLPO’s position of "zero tolerance" of sexual abuse and to provide information and direction to AUDs and SLPs concerning their obligations under provincial legislation. The Program is also intended to provide a policy foundation for the further development of information resources and procedures to support the goal of eliminating sexual abuse.

STATEMENT OF POSITION

Sexual abuse within a therapeutic relationship is unacceptable and will not be tolerated.
# GUIDING PRINCIPLES

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<th>Zero Tolerance</th>
<th>Sexual Abuse</th>
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<td>The term &quot;zero tolerance&quot; refers to the College’s position that sexual abuse of patients by AUDs or SLPs will not be tolerated.¹</td>
<td>For the purposes of sexual abuse, the RHPA defines a patient as an individual who is an AUD or SLP’s patient and/or was an AUD or SLP’s patient within one year of the treatment relationship ending.²</td>
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<td>Further the Code³ identifies “sexual abuse” of a patient by a member to be:</td>
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<td>→ sexual intercourse or other forms of physical sexual relations between the member and the patient,</td>
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<td>→ touching, of a sexual nature, of the patient by the member, or</td>
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<td>→ behaviour or remarks of a sexual nature by the member towards the patient.</td>
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<th>Prevention</th>
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<td>CASLPO is committed to the prevention of inappropriate behaviour and demonstrates this commitment by educating AUDs and SLPs through standards of practice, College communications, educational webinars, in-person presentations and practice advice for both professions.</td>
<td>CASLPO acknowledges the potential vulnerability of patients and provides a reporting process that is accessible and sensitive to their needs. Anyone with a communication and/or hearing barrier can access CASLPO’s website to find resources in an accessible format.</td>
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| CASLPO also requires each new applicant to satisfy to the Registration Committee the requirement of good character for the issuance of any certificate of registration⁴. | |

² Section 1(6) the Health Professions Procedural Code (the “Code”) being Schedule 2 of the Regulated Health Professions Act, 1991 (RHPA). The Minister has further powers under clause 43 (1) (o) of the RHPA; however, at the time of writing the Minister has not implemented further definitions of patient.
³ Section 1(3) of the Code.
⁴ This includes an evaluation of criminal offences, findings or proceedings by other regulatory bodies (inside or outside of Ontario) and circumstances concerning the loss of registration from a profession.
The new definition of “patient” came into force on May 1, 2018. AUDs and SLPs should be aware that a patient’s consent to begin or continue with treatment while engaged in a sexual relationship does not eliminate the abusive nature of the conduct as defined by the RHPA. A zero-tolerance policy means that there is no acceptable explanation or excuse for engaging in a sexual relationship with a patient and that the patient’s consent is irrelevant.

This definition also applies to spousal relationships. Providing treatment to a spouse would be considered sexual abuse under this legislative framework. Therefore, the treatment of spouses is prohibited.

All AUDs and SLPs are expected to behave in a professional manner, which includes (among other things) refraining from sexual abuse of their patient.

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5 The previous definition did not identify an individual as a “patient” for a full year following the end of the treatment relationship. At that time, CASLPO advised its membership that, following the end of a treatment relationship, depending upon the circumstances, it may never be acceptable to enter into a sexual relationship with a former patient.
7 Leering v. College of Chiropractors of Ontario (2010) ONCA 87 (CanLII)
GOALS AND OBJECTIVES

CASLPO’s Sexual Abuse Prevention Program has the following goals and objectives:

1. Provide a strategic focus for the development of programs, procedures, resources and activities aimed at preventing and eliminating sexual abuse
2. Have measures and education in place for preventing sexual abuse, including:
   a. Position Statement on Professional Relationships and Boundaries
   b. Required self-assessment through the Quality Assurance Program
   c. Good character requirements for all new applicants to the College
3. Have measures in place for addressing instances of AUDs and SLPs sexually abusing patients, including
   a. Risk assessment analysis for intake of complaints and reports
   b. Rule of Procedure for witnesses in discipline hearings

GUIDELINES FOR PROFESSIONAL CONDUCT OF AUDIOLOGISTS AND SPEECH-LANGUAGE PATHOLOGISTS

The Code specifies that measures for preventing and dealing with sexual abuse of patients must include “guidelines for the conduct of members with their patients” (paragraph b of subsection 84(3)). The following outlines CASLPO’s position with respect to the nature of the professional relationship and basic parameters regarding professional conduct. For further information, refer to CASLPO’s “Position Statement on Professional Relationships and Boundaries” (available at the end of this document).

Guideline 1: The purpose of the relationship between an AUD or SLP and a patient is to provide assessment, treatment, and management of disorders as defined in the scope of practice and Practice Standards.

Guideline 2: It is the AUD’s and SLP’s responsibility to establish a therapeutic relationship with the patient based on trust, support and mutual respect. Sexually abusive behaviour is a fundamental betrayal of such a therapeutic relationship.

Guideline 3: The AUD or SLP must be sensitive to the inherent vulnerability created by the clinical relationship. This relationship may also result in dependency on the part of the patient.

Guideline 4: AUDs and SLPs must be cognizant of their own cultural perspectives which may impact how they engage in the therapeutic relationship with patients.
Professional Conduct Guidelines are intended to:

- Identify risks and increase awareness of situations in which sexual involvement might occur
- Prevent inappropriate patient interaction, including a spousal relationship
- Ensure that boundaries are established and maintained between the professional and his or her patients
- Establish processes for initiating, maintaining and terminating professional relationships with patients
- Be responsive to cultural practice issues

8 For more information, please refer to CASLPO’s “Guide for Service Delivery Across Diverse Cultures”.
PROFESSIONAL EDUCATION PROGRAM

CASLPO is committed to providing ongoing education, direction and support to AUDs and SLPs on the topic of sexual abuse of patients. The objectives of CASLPO’s professional education program include:

- Increasing awareness of professional development opportunities for AUDs and SLPs on the topic of sexual abuse and its impact on patients
- Developing and collecting resource materials related to the topic of sexual abuse
- Collaborating with business, professional, and educational partners to enhance the development and delivery of education to AUDs and SLPs
- Alerting AUDs and SLPs to high risk situations and the consequences of engaging in sexual abuse
- Providing assistance, direction and resource support to AUDs and SLPs in matters related to the reporting or disclosure of information concerning sexual abuse of patients in respect of a Member of this or another regulated health profession
- Educating AUDs, SLPs and employers about mandatory reporting requirements
- Educating AUDs and SLPs about the complaints process and special procedures available for the reporting of complaints related to sexual abuse

These objectives are achieved by:

- Developing and compiling resource and educational materials related to sexual abuse and its prevention
- Collecting data on reports and complaints of sexual abuse
- Making available educational materials concerning circumstances arising from complaints and discipline matters and providing clear guidance on how such situations can be prevented
- Complying with all terms of any evaluation of CASLPO's Patient Relations Program by the Health Professions Regulatory Advisory Council as set out in the RHPA
- Collaborating with other colleges, either individually or through the Federation of Health Regulatory Colleges of Ontario (“FHRCO”) in the development and delivery of educational materials
- Providing information to AUDs and SLPs and the public on mechanisms for the reporting of sexual abuse including the complaints process and mandatory reporting requirements
- Recognizing the different needs of diverse populations, (e.g., children, people of different cultural, religious, and/or language backgrounds, individuals with different communication challenges) in the design and delivery of educational programs and services relating to sexual abuse
STAFF EDUCATION

CASLPO recognizes that it may be difficult for members of the public or AUDs and SLPs to report an occurrence of sexual abuse. This difficulty may arise from the fear that the process could be painful and result in further victimization or that additional unpleasant consequences might arise from the reporting process.

CASLPO is committed to ensuring that staff members are properly trained and that proper procedures exist for the intake of complaints or reports of sexual abuse. Such procedures assess risk to the patient, and the public, and are implemented in a caring and sensitive manner that does not lend itself to the re-victimization of a complainant. All staff at CASLPO receive training for the intake of complaints involving sexual abuse. This education is updated on a consistent basis to provide important information on legislative changes and amendments.

PUBLIC EDUCATION

CASLPO strives to further protect the public by informing them of the role of the College and by providing supportive and accessible resources to the public, AUDs and SLPs. Elements of a public education strategy to increase awareness of the College and its role in the prevention and elimination of sexual abuse by AUDs and SLPs include:

- Publication of information on the definition of sexual abuse
- Publication of information on reporting and complaints procedures in general, and on reporting and complaints procedures specific to sexual abuse
- Provision of information and resources to the public and AUDs and SLPs on how to access support groups for survivors of sexual abuse and funding for therapy and counselling for patients who were sexually abused by AUDs and SLPs
- Collaboration with FHRCO and with individual colleges and others in activities designed to increase knowledge of the RHPA and its various provisions for preventing and dealing with sexual abuse

Please see Appendix A for a list of community organizations which can provide support and assistance to those who have been sexually abused by health care professionals.
INFORMATION ON THE PUBLIC REGISTER

CASLPO is committed to increasing the transparency of information available to the public about audiologists and speech-language pathologists. The public has access to information about their health care providers via CASLPO’s public register, which includes:

- Information respecting charges, findings of guilt and conditions of release made under the Criminal Code (Canada) and/or Controlled Drug and Substances Act (Canada)
- Other information respecting charges, findings of guilt and conditions of release under a federal, provincial or other offence which the Registrar believes is relevant to the member’s suitability to practice.
- Every referral to the Discipline Committee by the Inquiries, Complaints and Reports Committee
- Information on interim orders
- Findings of professional misconduct or incompetence made by other regulators

It is important for the public to be aware of conduct that could affect their therapeutic relationship with an AUD or SLP, even if the conduct occurred outside of Ontario. To access the public register, please see our website “Find an Audiologist and Speech-Language Pathologist” (here).
FUNDING OF THERAPY AND COUNSELLING OF VICTIMS

Under the terms of the **RHPA**, all regulatory health colleges are required to establish a fund to provide financing for the delivery of therapy and counselling services for members of the public who, while patients, were sexually abused by AUDs and SLPs of the College. The fund has been established and monies accrue annually to the fund to a limit of 200 half-hour sessions of individual out-patient psychotherapy paid by OHIP (approximately $16,060).

CASLPO’s policy position on the matter of eligibility for funding for therapy and counselling is that a patient is eligible if:

- it is alleged, in a complaint or report, that the patient was sexually abused by an AUD or SLP while receiving treatment, or within one (1) year following the termination of the treatment relationship;
- the Discipline Committee finds a Member guilty of sexual abuse;
- the funding that is provided to a person shall be reduced by the amount that the Ontario Health Insurance Plan or a private insurer is required to pay for therapy or counselling for the person during the period of time which funding may be provided for him or her under the program.
- subject to provisions in the **RHPA**, the patient is free to choose a particular counselor or therapist subject to the following restrictions:

  1. The therapist or counsellor must not be a person to whom the eligible person has any family relationship.
  2. The therapist or counsellor must not be a person who, to CASLPO’s knowledge, has at any time or in any jurisdiction been found guilty of professional misconduct of a sexual nature or been found civilly or criminally liable for an act of a similar nature.
  3. If the therapist or counsellor is not a member of a regulated health profession, CASLPO may require the person to sign a document indicating that he or she understands that the therapist or counsellor is not subject to professional discipline.

Funding is available for therapy or counselling that was provided at any time after the alleged sexual abuse took place. CASLPO is committed to supporting patients who have been sexually abused by an AUD or SLP and will not require them to appear or testify in a College proceeding. Further, a person is not required to undergo a psychological or other assessment before receiving funding.
PROCEDURES FOR HANDLING COMPLAINTS

CASLPO’s procedures for handling complaints are specified within the RHPA and are similar to those of all other Colleges regulated under the RHPA. These procedures are described in a variety of resource materials, including CASLPO’s website and a complaints brochure. Enhanced procedures which are risk-analysis based, complainant-centered and designed to provide a safe, supportive environment are applied to this process when complaints pertain to misconduct of a sexual nature.

In the event of a complaint, the College will ensure the immediate availability of a staff member to process the complaint. Due to the sensitivity of sexual abuse complaints, the complainant will be advised that he or she may request to speak to a staff member of either gender. Complaints may be submitted in writing or in other acceptable recorded formats.

Should the complainant wish to meet with a staff member, such a meeting will be arranged in accordance with the following criteria:

- The meeting will take place in a setting which ensures the complainant’s privacy.
- The complainant’s consent will be obtained for the presence of any additional College personnel. Likewise, complainants may request that two (2) staff members attend the meeting.
- Complainants will be advised prior to the meeting that they may be accompanied by individuals of their choosing (i.e., friends, counselors, interpreters, legal counsel).
MANDATORY REPORTS

Under paragraph 1 of section 85.1 of the Code, it is mandatory for regulated health professionals to file a report if they have "...reasonable grounds, obtained in the course of practising the profession, to believe that another member of the same or a different College has sexually abused a patient." In the case of another health care professional sexually abusing a patient, the report should be sent directly to the regulatory College which governs that health care professional. Operators of facilities where regulated health professionals practice are also required to report sexual abuse of a patient.

The report must be made, in writing, to the Registrar of the College of the Member who is the subject of the report within 30 days of learning of the alleged sexual abuse. The report must be submitted immediately if the Member has reasonable grounds to believe that the sexual abuse is on-going or if sexual abuse of other patients could occur. The AUD or SLP must use his or her best efforts to inform the patients of the AUD or SLP’s obligation to report the matter, although the name of the patient will not be included in the report unless the patient consents in writing.

Failure to make a mandatory report is an offence punishable with a fine of up to $50,000.00 for an individual and up to $200,000.00 in the case of a corporation. The RHPA provides protection from civil lawsuits or other proceedings to anyone who files a report in good faith. Such reports need to be referred for action to the ICRC if they identify concerns about the conduct, competence or capacity of a Member.

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9 Please refer to the Federation of Regulatory Health Colleges of Ontario’s website for a list of Health Colleges (here).

10 Members should be aware of additional requirements for practitioners under the Child, Youth and Family Services Act, 2017 to report any reasonable suspicion that a child has been, or is at risk, of suffering mental, emotional or physical harm and the person having charge of the child is responsible or ought to know of the harm. This report should be made to the Children’s Aid Society.
ENHANCED DISCIPLINE RULES OF PROCEDURE

To enhance the protections given to vulnerable witnesses in cases of sexual abuse or professional misconduct of a sexual nature, the College’s Discipline Committee revised its Rules of Procedure to introduce added protections for vulnerable witnesses, such as survivors of sexual abuse. Specifically, the Rules of Procedure include:

11.07(6) Where a vulnerable witness is, or will be, testifying regarding allegations of sexual abuse or professional misconduct of a sexual nature, it is presumed to be an appropriate case for the Discipline Committee to make one or more orders under subrules 11.07(1) to 11.07(5) in relation to the testimony of the vulnerable witness, in the absence of evidence to the contrary.

Subrules 11.07(1) to 11.07(5) relate to orders that a panel of the Discipline Committee can make for witnesses to have support persons available during testimony, provide for the ability of witnesses to testify behind screens or devices or by close circuit television, prevent an accused AUD or SLP from cross-examining a witness directly and appointing an alternative to cross-examine a witness.

This change was also made in recognition of recommendations that were made in the To Zero report (see recommendation no. 7).
PENALTIES FOR SEXUAL ABUSE: MANDATORY REVOCATION

If the Discipline Committee of the College makes a finding that an AUD or SLP has committed an act of professional misconduct by sexually abusing a patient, there is a mandatory minimum penalty which must be imposed. The mandatory minimum penalty consists of:

1. a reprimand and,
2. revocation of the AUD or SLP’s certificate of registration.

An application for reinstatement of the AUD or SLP’s certificate of registration cannot be made for 5 years. The Ontario Courts, including the Ontario Court of Appeal, have upheld the validity of the mandatory minimum penalty in sexual abuse cases.

In addition, after finding that an AUD or SLP has committed an act of professional misconduct by sexually abusing a patient, the Discipline Committee can also order the AUD or SLP to reimburse the College for any funding paid out to the patient for therapy and/or counselling.

APPLYING FOR REINSTATEMENT

AUDs and SLPs who apply for reinstatement after having their registration revoked as a result of sexual abuse of a patient after the mandatory five (5) year waiting period will have their application reviewed by the Discipline Committee prior to returning to practice. The potential of rehabilitation of the AUD or SLP will be considered on an individual basis. It should be noted that, regardless of reinstatement, the discipline decision will remain on the public register.

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12 Acts also included are defined under Ontario Regulation 262/18 – Prescribed Offences – Health Professions Procedural Code, namely the following sections of the Criminal Code (Canada): sections 151, 152, 153, 153.1, subsection 160 (3) and sections 162, 162.1, 163.1, 170, 171.1, 172.1, 172.2, 271, 272 and 273.
PROGRAM EVALUATION

CASLPO will monitor the handling of sexual abuse complaints on an annual basis, and the Patient Relations Committee will recommend appropriate revisions to this Program as necessary.

FOR MORE INFORMATION

Please feel free to contact the College by mail, phone, fax or e-mail if you have questions regarding this or other College publications.

A mandatory report does not need to be made if the Member does not know the name of the alleged abuser. If you are unclear about whether to make a report or how to handle suspicions of sexual abuse, please contact the College for further information.

The College’s Director of Professional Conduct & General Counsel can be contacted by email at conduct@caslpo.com or by phone at 416-975-5347 ext. 221, or toll free at 1-800-993-9459 ext. 221.

The College’s Registrar can be contacted by email at caslpo@caslpo.com or by phone at 416-975-5347 ext. 215, or toll free at 1-800-993-9459 ext. 215.
APPENDIX A

External Resources

As part of CASLPO’s Sexual Abuse Prevention Program, staff compile a list of organizations in the community which can provide support and assistance to those who have been sexually abused by health care professionals. Please note that this is not a comprehensive list.


Ontario Coalition of Rape Crisis Centres http://www.sexualassaultsupport.ca/

Canadian Centre for Abuse Awareness https://abusehurts.ca/

Assaulted Women’s Helpline http://awhl.org

Fem’aide – Ligne de solution pour femmes touchées par la violence http://www.femaide.ca/

Family Association of Ontario http://familyserviceontario.org

Ontario Women’s Justice Network http://owjn.org/owjn_2009/getting-support

Community Advocacy & Legal Centre Ontario (CLEO) http://www.communitylegalcentre.ca/referrals/Women.htm

Association of Native Child & Family Services Associations of Ontario http://www.chiefs-of-ontario.org/node/147

Aboriginal Health Access Centres http://aohc.org/aboriginal-health-access-centres

Native Women’s Resource Centre (GTA) http://www.nwrct.ca/get_help/index.php

Disabled Women’s Network (DAWN) of Canada http://www.dawn canada.net/

Ministry of the Attorney General – Victim Services (list of organizations providing services for victims of crime) http://www.attorneygeneral.jus.gov.on.ca/english/ovss/programs.asp

Human Rights Legal Support Centre / Centre d’assistance juridique en matière de droits de la personne de l’Ontario www.hrlsc.on.ca

Legal Aid Ontario (https://www.legalaid.on.ca/en/)

Francophone phone lines for Legal Aid Ontario (https://www.legalaid.on.ca/en/contact/flapp.asp)