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Introduction

The College of Hearing Aid Practitioners of Alberta is committed to providing a safe environment for those who require services or treatment from a Hearing Aid Practitioner. We encourage survivors of sexual abuse or sexual misconduct to contact the College as soon as possible if an incident occurs. The following information is provided to assist survivors (referred to as ‘complainants’ under the *Health Professions Act*) with a roadmap of how to proceed if you or someone you know feels they have been subjected to sexual abuse or sexual misconduct.

Hearing Aid Practitioners are held to a high standard of conduct. There is an imbalance of power over patients, who are considered uniquely vulnerable when receiving treatment or services for several reasons:

- 1) The Practitioner has advanced professional knowledge that the patient must rely on for their health and well-being;
- 2) The Practitioner has access to the Patient’s personal health care information;
- 3) The Practitioner is in a position awarded a high degree of deference and trust;
- 4) The Practitioner is in a position of authority as a result of the above.

Authority and trust are the basis of the power imbalance between Practitioner and Patient. This unique relationship requires that Practitioners maintain professional boundaries with patients at all times. The College takes complaints of sexual abuse and sexual misconduct very seriously as they are considered to be extreme violations of these professional boundaries and a severe abuse of the trust that is the foundation of the Practitioner-Patient relationship.

Sexual Abuse and Sexual Misconduct

i) What is ‘Sexual Abuse’?

Sexual Abuse is defined by the *Health Professions Act* and 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:

- 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.

ii) What is 'Sexual Misconduct'?

Sexual Misconduct as defined in the *Health Professions Act* 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.”

iii) Who is a patient?

The College of Hearing Aid Practitioners of Alberta broadly defines a 'Patient' as *anyone who receives a hearing aid service from a regulated member*. These services may involve examinations regarding hearing acuity, sensitivity or communication as well as selecting or fitting hearing instruments. A Practitioner may need to insert or remove instruments, fingers, or substances into the ear canal during the course of treatment. Services may also involve managing, teaching or research in relation to these activities.

iv) What does 'of a sexual nature' mean?

This term may encompass a wide range of inappropriate behaviour that doesn't lend itself to a comprehensive list. A helpful test of whether something is inappropriate is to 'go with your gut'. Did the Practitioner do or say something of a sexual nature that made you feel uncomfortable, unsafe, embarrassed or offended that was not necessary in the usual course of treatment? Perhaps a Practitioner said something sexually suggestive or touched you in a way that was not medically necessary. If this is the case, you may consider making a formal complaint. Some examples include, but are not limited to:

- **Privacy and respect:** This could include a Practitioner not providing enough privacy while changing for an examination, etc.
- **Inappropriate comments or Gestures:** This could include saying something sexually suggestive to you, commenting unnecessarily about sexual relationships or sexual orientation, making sexually insulting or offensive comments or jokes, and the like.
- **Unnecessary Contact:** This may include excessive unnecessary contact/touching beyond what is needed for the examination or treatment.
- **Sexual Touching/Sexual Assault:** This encompasses everything from sexual touching to sexual assault. *Note that any sexual contact between a practitioner and patient where no previous sexual relationship exists is never permitted, even if this contact would otherwise be considered consensual.*

Making a Complaint

We recognize that coming forward with a formal complaint about sexual abuse or sexual misconduct can be very difficult. If you feel you have been subjected to sexual abuse or sexual misconduct by a Hearing Aid Practitioner, we encourage you to contact the Complaints Director as soon as possible (see contact information below).

i) How do I make a Complaint? Can I remain anonymous?

When you call for assistance with a complaint, you will be referred to the Office of the Complaints Director. The Complaints Director is an individual who works specifically for the College and is tasked with overseeing complaints of all types. This person is very familiar with the College's complaints process and can give you an idea of what to expect should you choose to make a formal written complaint.

If you simply have questions about an incident but are not sure if you wish to report it, you can remain anonymous. However, if you choose to submit a formal complaint, it must be submitted in writing and signed. **Legislation requires us to notify the health care professional of your complaint** and the health care professional is given the opportunity to respond to it.

If you choose to submit a formal complaint, the Complaints Director may conduct or appoint an investigator to conduct an investigation.

The investigator may contact you to discuss your concerns and obtain additional information. If you prefer, you can meet in person. The investigator will ask you to explain what happened as clearly and in as much detail as you can provide. You will be asked to sign a consent form so that he or she can obtain your health care records as they pertain to the incident.

All complaints will be fully investigated. When the investigation is complete, materials gathered by any appointed investigators are given to the Complaints Director of our College, who then reviews the information. Generally speaking, unless a matter is found to be trivial or vexatious, complaints regarding sexual abuse or sexual misconduct are subject to a mandatory hearing before our Hearings Tribunal.

ii) What happens if my complaint is referred to the Hearing Tribunal?

Hearings at the College are much like proceedings in a court of law. If the Complaints Director refers your complaint to the Hearings Tribunal, the College will present evidence before a panel consisting of regulated health care professionals and members of the public. Their role is similar to a judge in that they will hear evidence presented by both parties and make a ruling based on that evidence.

You will likely be asked to testify at the hearing and you are encouraged to bring someone with you for support. If you must testify, you will be questioned by the legal representatives for the College and the Practitioner.

If the Hearings Tribunal finds sexual abuse has occurred, the Practitioner's registration will be permanently cancelled. If the Hearing Tribunal finds sexual misconduct has occurred, the Practitioner will be suspended with timelines imposed by the Hearings Tribunal.

Hearings are open to the public and the media may attend unless the Hearing Tribunal orders that the hearing be held in private. The media can publish the name of the Practitioner, but in cases involving misconduct of a sexual nature the Hearing Tribunal is required to order a publication ban on information that could identify you (if you request such an order).

iii) Therapy & Counselling Funding

You may be eligible for therapy and/or counselling in relation to your complaint. If you feel that you require these services, kindly advise the Complaints Director, who will determine if you meet the criteria for access to this funding. For eligible complainants, funds will be paid directly to the therapist/counsellor.

Who to Contact:

Kristal Attaway – Complaints Director
Personal & Confidential
#105, 17707- 105 Avenue
Edmonton, Alberta
T5S 1T1