

To Zero: Independent Report of the Minister's Task Force
on the Prevention of Sexual Abuse of Patients and the
Regulated Health Professions Act, 1991

Appendix B: Recommendations

1. Definitions of Patient and Boundaries

The RHPA, *Health Professions Procedural Code*, should be amended to define “patient” as well as to specify clear boundaries and time periods for sexual contact between members and their former patients. Therefore the Minister’s Task Force recommends:

- an amendment to the interpretation clause of the RHPA, section 1.(1) by adding, after the definition for “Minister”: “patient” means an individual who at any time has received, or is receiving, health care from a member, or has been assessed by the member, or is otherwise under, or assigned to, the care of the member, including psychotherapy delivered through a therapeutic relationship or counselling for emotional, social, educational or spiritual matters delivered through a confidential treatment context; and
- an amendment on clearer boundaries so that decision-makers in colleges and/or OSAPPA processes find that a member has committed an act of professional misconduct by sexually abusing:
 - i. a patient concurrent with a health care relationship; or
 - ii. an individual who was a patient within two years from the sexual abuse; or
 - iii. a person to whom a member has provided treatment by means of a psychotherapy technique delivered through a therapeutic relationship, including counselling delivered through a therapeutic relationship.

2. Mandatory Revocation: Zero Tolerance Standard

The *Health Professions Procedural Code* of the RHPA should be amended to add to specific acts defined in section 51.5 that trigger mandatory revocation of the certificate of registration of a member who has been found guilty of a recurrent pattern of sexual abuse under section 1(3) (b) or (c) of the *Code* (touching of a sexual nature or behaviour or remarks of a sexual nature by the regulated health professional).

The member's college must revoke the member's certificate of registration if the sexual abuse consisted of, or included, any of the following:

- i. sexual intercourse;
- ii. genital to genital, genital to anal, oral to genital, or oral to anal;
- iii. digital penetration or penetration with an object of the mouth; vagina or anus without medical/health care justification;
- iv. masturbation of the member by, or in the presence of, the patient;
- v. masturbation of the patient by the member;
- vi. masturbation of the patient in the presence of the member;
- vii. touching of a patient's breasts without medical/health care justification; or
- viii. simulated sexual intercourse with the patient.

3. No Gender-Based Restrictions

As discussed in detail in Chapter 5, with case examples, the Minister's Task Force recommends immediate stoppage of any decision-making body under the RHPA placing gender restrictions on the scope of practice where a health professional has been found to have had sexualized contact with one or more patients, in contravention of any of the sections of the *Code* related to sexual abuse and/or misconduct and/or impropriety.

The *Health Professions Procedural Code* should be amended by adding a new subsection to s. 51 to clarify that, notwithstanding section 37(1) and subsection 51(2)3, where the member has committed, or has been alleged to have committed, an act of professional misconduct by sexually abusing a patient, gender restrictions on the member's ability to practise as a term, condition or limitation on the member's certificate of registration are not to be imposed.

4. Ontario Safety and Patient Protection Authority (OSAPPA)

The Government of Ontario should establish OSAPPA, the Ontario Safety and Patient Protection Authority, with the mandate to uphold the standard of zero tolerance of sexual abuse of patients and receive dedicated long-term resources to support that mandate, including to provide for:

- public education and outreach, with particular attention and resources to cultural sensitivity and competency;
- educational liaison with all programs for students in the regulated health professions;

- supports to patients reporting sexual abuse by regulated health professionals; and
- complaints and investigations, but with adjudication of sexual abuse complaints by the independent OSAPPA Tribunal.

5. Fast Tracking Sexual Abuse Complaints

All discipline cases of sexual abuse by health care professionals should be given priority and fast tracked by the colleges during the transition to OSAPPA and any such occasion thereafter. The modernized RHPA is to place legislated onus on regulatory colleges to make immediate referrals of patients with sexual abuse complaints to OSAPPA — in person with written information provided to facilitate the patient’s access to OSAPPA services, and in writing — by the most efficient possible electronic means directly to OSAPPA. Every regulatory college is to be mandated to include a record of all patient visits and other forms of inquiry vis-à-vis the sexual abuse of patients (not only referrals to a discipline panel) with documentation as to the speed and nature of referrals to OSAPPA. The modernized RHPA is to mandate OSAPPA with resources and reporting responsibility to ensure that sexual abuse complaints are processed within the required timeline.

6. Patient Privacy and Confidentiality

Oversight by the Ministry of Health and Long-Term Care should be vigilant, to ensure that the existing protection in section 85.3(4) of the *Health Professions Procedural Code* is upheld so that a reporting member does not give the name of the patient–complainant unless the member has the express, written consent of the patient, for patients who are able to provide consent. For patients who are not able to provide consent for reasons of age (children) or mental or physical disability, consent must be provided by the legal guardian/power of attorney. However, when a complaint is received, the registrar of the college of the health professional making the report is to receive a copy of the mandatory report by that health professional, even when the patient is not named in the report.

7. Full Participation of Patients

In order to increase access to justice for patients, it is recommended that — instead of at the discretion of discipline panels to “allow” patients some greater participation in hearings, as set out in subsections 41.1(1)(b) and (2)

— the *Health Professions Procedural Code* be amended to include the following provisions for complainants in sexual abuse cases:

- all complainants should have the right to participate in the proceedings of any complaints or disciplinary hearings, as a full party, with their own legal representation provided by the colleges and OSAPPA after transition;
- all complainants should have the right to a support person of her choice at the expense of the health regulatory colleges, and after transition, OSAPPA;
- the RHPA should clearly provide to all complainants in sexual misconduct/abuse proceedings the option to testify behind a screen or by closed-circuit electronic means;
- all complainants should have the opportunity, in accordance with current RHPA provisions, where the member is found guilty, to submit a victim impact statement and not be cross-examined on that statement, such statement to be taken into account in the assessment of a remedy or penalty;
- a videotape of an interview with the complainant may be admitted in evidence if the complainant, while testifying, adopts the content of the videotape; and
- under no circumstances should the alleged perpetrator of the sexual abuse be permitted to cross-examine the complainant personally.

8. OSAPPA Tribunal — Adjudication

The Government of Ontario should establish a tribunal that should provide independent adjudication for OSAPPA cases, which could be a new tribunal or developed as a specialized branch of the Ontario Human Rights Tribunal or as a thorough restructuring of the Health Professions Appeal and Review Board (HPARB).

9. Health Professions Appeal and Review Board – Restructuring Review

A. A review as to the possible restructuring of the Health Professions Appeal and Review Board (HPARB), taking into account the Professional Standards Authority for Health and Social Care in the United Kingdom, the Health Practitioner Disciplinary Tribunal in New Zealand and the Ontario Human Rights Tribunal, should be conducted for the Minister's Implementation Council to assess and then advise the minister as to whether a restructured HPARB should function as the independent tribunal to decide OSAPPA cases.

B. In any event, the *Health Professions Procedural Code* should be amended to require HPARB to:

- render a decision within 120 days of receiving the request for review of a decision of a complaints committee panel;
- allow patients as full parties to review hearings, whether in person or by other means; and
- report annually on the number of appeals heard and the number of those where the board dismissed appeals by patients, such report to be made in a timely manner to be included in the public report of the Minister of Health and Long-Term Care to the appropriate committee of the Ontario Legislature.

10. Evidentiary Rules at Discipline Hearings in Sex Abuse Complaints

The *Health Professions Procedural Code* should be amended with a new provision that the evidentiary rules governing sexual abuse complaints and related discipline hearings are governed by the *Statutory Powers Procedures Act*.

11. Admissibility of Evidence

Subsection 36(3) of the RHPA should be amended so that evidence on the findings, orders or decisions in disciplinary proceedings under the RHPA are admissible in civil proceedings.

12. Expert Witnesses in the Dynamics of Sexual Abuse of Patients

The OSAPPA should appoint at least two independent experts with specialized backgrounds in research and/or practice related to the dynamics and impact of sexual abuse by health care professionals. These experts can present evidence at complaints, discipline and reinstatement proceedings, to ensure that the OSAPPA tribunal has the benefit of this expertise to take into consideration, rather than the prosecution and defence each appointing their own experts.

13. Resources for Participation of Patients in Investigation and Adjudication

Patients deserve appropriate and timely resources for full participation in the investigation and adjudication of sexual abuse complaints including access to therapy funds (during and after transition to the OSAPPA model).

A. Provincial rules and legislation should be amended to ensure that any fines imposed on a member for the sexual abuse of a patient should be designated as a separate fund under the jurisdiction of OSAPPA, to be used for support to patients, including therapy and counselling for eligible patients.

B. Subsection 85.7(4) of the *Health Professions Procedural Code* should be amended so that interim funding for patient therapy is provided prior to the hearing stage by colleges (during transition) and by OSAPPA.

14. Therapy and Counselling

A. A regulation pursuant to section 85.7 of the *Health Professions Procedural Code* should be made to clarify that funds are to be provided to the patient-complainant throughout a sexual abuse complaint process to cover the cost of medications, childcare and reasonable travel/accommodation expenses associated with accessing therapy related to the sexual abuse.

B. A regulation pursuant to the RHPA should stipulate that a patient is also eligible for funding for therapy or counselling if:

- there is an admission made by a member in a statement to the college (during transition) or to OSAPPA or the OSAPPA tribunal that the member sexually abused the patient;
- the member has been convicted under the *Criminal Code of Canada* of sexually assaulting a person while that person was a patient of the member; or
- OSAPPA staff determine that there is sufficient evidence to support a reasonable belief that the patient was sexually abused by a member.

15. Protection from Sexual Abuse by Unregulated Health Practitioners

A. The Ministry of Health and Long-Term Care (MOHLTC) and OSAPPA should commission research to determine the most effective legislative means for creating and maintaining a public record listing unregulated health practitioners who were previously licensed in Ontario or other jurisdictions, but who have lost their certificates of registration due to findings against them of sexual abuse of patients.

B. Currently unregulated health care providers — for example, sonographers — need to be identified and assigned to an existing college for regulation in the interest of patient safety, and where unregulated health care providers

are contracted to or employed by regulated health professionals or health care corporations, the regulated health professionals and/or corporations are to be held responsible for acts of sexual abuse or harassment by those employees/sub-contractors by amendments to the RHPA and the *Excellent Care for All Act* (ECFAA).

16. Enforcement of Mandatory Reports of Sexual Abuse Complaints

All health care institutions and corporations providing health services to patients in Ontario, including hospitals, universities and private clinics, should become subject to fines between \$100,000 and \$250,000 for failure to make a mandatory report of alleged sexual harassment, sexual misconduct, exploitation or abuse. Despite more than 20 years of cases since the RHPA was amended to include explicit institutional obligations to report, not one institution has been held accountable for sexual abuse of patient(s) that was proven to have occurred within its jurisdiction.

17. Prerequisites for New or Renewed Registration

The RHPA should be amended to enhance prerequisites for new or renewed registration for regulated health professionals, to ensure that:

- powers under the RHPA (for example in subsection 43 (1)(f)) and the *Health Professions Procedural Code* (for example, in subsection 94(1)) must be used to have all college councils change by-laws to require mandatory answering of questions by applicants/members on any complaints of sexual abuse or harassment against the applicant/member before certificates of registration are obtained initially or renewed annually;
- applications for a certificate of registration or for reinstatement of a certificate to any college under the RHPA are to require verification as to good character, including sworn statements as to previous convictions or charges of a criminal nature, any civil findings where the member has been a party in a lawsuit involving sexual abuse or harassment, and detailed reasons given for resignation or suspension if the member has resigned or was suspended from a college or any other health profession in any other jurisdiction in the world; and
- applications for reinstatement must include reference to any conditions placed by the college or OSAPPA, which the health professional was to meet, and evidence that the conditions have been met, as well as identifying the official(s) and expert(s) who deemed the evidence acceptable.

18. Access to Justice for Ontario Patients Pilot with Legal Aid Ontario

An Access to Justice for Patients pilot project with Legal Aid Ontario (LAO) is to be facilitated by the Inter-Ministerial Implementation Group, as per Recommendation 20. The Government of Ontario should provide adequate financial and other resources to LAO to launch and sustain this pilot project. The project will remove barriers that prevent patients in vulnerable populations from:

- getting comprehensive, understandable information and education about sexual abuse by regulated health professionals;
- reporting sexual abuse and impropriety for action to be taken; and
- receiving appropriate and timely resources so that they can fully participate in the investigation and adjudication of sexual abuse complaints.

Recommendation 18 is essential to an effective shift to the OSAPPA model by making the complaints and disciplinary process for patients more transparent and meaningful, through increased access to public legal information as well as skilled, culturally competent legal counsel. The project should be delivered through coordinated, sustainable programs by adequately resourced community-based organizations that are oriented to patient safety and patient rights.

A. Ontario should fund the development and delivery of a five-year pilot project, using the Barbra Schlifer Commemorative Clinic as lead community partner, to develop core legal competence for a vulnerable patient population, and to engage in direct patient legal advocacy and support throughout the complaint and discipline process. This five-year project should be evaluated at the end of year three, at which time a renewal plan will be created for the remaining two years of the pilot, with another evaluation and planning stage, with the stated goal of long-term, sustained access to justice for this vulnerable population.

B. Funding for this five-year project should include the hiring of at least two full-time legal counsel (based at the Schlifer Clinic for at least the first three years of the pilot project while OSAPPA is set up) to support the development of core legal competence of legal aid clinic lawyers and other legal aid service providers throughout the province.

C. As the lead agency, the Schlifer Clinic should collaborate with other legal advocacy partners (e.g., Community Legal Education Ontario [CLEO], ARCH Disability Law Centre, the Advocacy Centre for the Elderly [ACE],

Nishnawbe-Aski Legal Services, the African Canadian Legal Clinic [ACLC], Aboriginal Legal Services of Toronto, the South Asian Legal Clinic of Ontario, Justice for Children and Youth, etc.) in consultation with the Ontario Federation of Indian Friendship Centres (OFIFC) and other community-based networks, such as METRAC and Patients Canada, as appropriate, to promote cultural competency, diversity and effective outreach to patients in marginalized and hard-to-reach communities across the province.

D. The Schlifer Clinic and LAO, in collaboration with other legal advocacy partners, as appropriate, should ensure that they develop appropriate statistical and qualitative tools to measure and understand client needs. This information can be used for ongoing needs assessment, financial planning and service delivery purposes in the transition to OSAPPA and beyond.

E. The Government of Ontario will direct Legal Aid Ontario to inform patients about and direct them to the legal aid certificate programs (see below), and to train and sensitize staff at legal aid offices and legal aid clinics in the competencies required to meet the unique needs of patients who have experienced sexual abuse by regulated health care professionals (consistent with augmenting the sensitivity training provided as part of LAO's Domestic Violence Strategy). Training should be adapted to meet the desired outcomes in this recommendation, and increased access to justice for Ontario patients should include the following actions, as needed:

- i. Expand the current summary advice legal aid certificate program to provide two hours of summary advice to potential/actual complainants, and to support this expansion with resources and action, which will include the following:
 - (a) establishing a panel of eligible lawyers throughout the province who have the core competence to provide such advice;
 - (b) proactively informing frontline service organizations of the existence of, and eligibility for, this new legal aid certificate (e.g., the Ontario Coalition of Rape Crisis Centres [OCRCC], hospitals with sexual assault services, legal aid clinics, etc.);
 - (c) proactively engaging the legal profession and inviting lawyers with the appropriate eligibility criteria to be included on the panel; and
 - (d) as part of LAO's financial eligibility test expansion, possibly relaxing the strict financial eligibility criteria (for legal aid certificates) for this vulnerable client population. The revised criteria should be consistent with LAO's June 8, 2015, announcement to expand its certificate services in criminal law,

family law and refugee/immigration law and for mental health legal proceedings, as well as its November 2014 announcement to implement a higher financial eligibility test for family law clients who have experienced domestic violence.

- ii. Expand the current legal aid certificate program to permit patients alleging sexual abuse by a regulated health professional to obtain legal counsel throughout the discipline process (i.e., from the initial complaint to the hearing and the appeal). Legal Aid Ontario should develop eligibility criteria to establish a panel of qualified lawyers who have both legal competence in the area of patient sexual abuse and sensitivity training in dealing with survivors of sexual abuse.
- iii. Adjust LAO financial eligibility criteria so that they are not a barrier to Ontario patients in this pilot.
- iv. As a priority service, encourage Ontario's 76 legal aid clinics to develop a coordinated plan on how best to deliver legal services to eligible patients who have alleged sexual abuse by regulated health care professionals, consistent with this emerging area of legal representation.
- v. Set, as a specific priority for LAO public interest work, sexual violence in the regulated health professional context for the Group Applications and Test Case Committee of LAO, recognizing that complainants are a marginalized group.

Public Education and Legal Information Resources for the New Complaints Processes

F. Ontario should fund and develop an effective public education and legal information program, co-chaired by CLEO and METRAC, that informs the Ontario public about patients' legal rights and options for recourse when they have suffered sexual abuse by a regulated health care professional. The program will include information on:

- the scope of behaviours that constitute sexual abuse;
- the health care and forensic evidence collection services provided at sexual assault/domestic violence treatment centres across Ontario;
- the option of filing and pursuing a complaint and discipline process;
- patients' rights and status within complaint and discipline proceedings;
- the legislative provisions of the RHPA and its Code vis-à-vis patient sexual abuse;
- additional legal options under criminal and civil law; and
- legal support services and legal aid-funded services.

G. In implementing this aspect of the Access to Justice pilot project, CLEO and METRAC should offer to collaborate with other organizations that have public legal education mandates (such as Luke’s Place, the Legal Education and Action Fund [LEAF], Action Ontarienne contre la violence faite aux femmes [AOcVF], the Ontario Federation of Indigenous Friendship Centres and others, as appropriate), in order to:

- i. identify effective strategies for developing relevant public legal information training and resources for service providers to assist them in responding to patients’ disclosure of sexual abuse by health care professionals; and
- ii. engage diverse patient communities to develop relevant public education and legal information through the selection of topics and resource formats that ensure accessibility, and specification of relevant outreach and communications methods. The program will facilitate effective distribution of information based on intersecting needs and the provision of ongoing community feedback for improving program relevance and responsiveness, and contributing to a final evaluation to measure program results and overall effectiveness.

H. Ontario-coordinated funding to support the Access to Justice pilot should explicitly support inter-sectoral coordination and sharing of information and services across multiple sectors, including the following:

- i. ServiceOntario will distribute materials to individuals and institutions across Ontario, including government offices, patient advocates and service provider organizations.
- ii. The Government of Ontario will develop a program to educate lawyers about how to most effectively represent patients who have been sexually abused by regulated health professionals with respect to the related disciplinary processes. The government will do this in partnership with an appropriate agency, such as the Law Society of Upper Canada and/or the Ontario Bar Association.
- iii. Consolidation and distribution of examples of “lessons learned” and culturally competent proven practices, including highlighting different educational models, such as community-based approaches that include models for evaluation that can measure outcomes among multiple services and sectors, and incorporate access and equity principles.

19. Minister's Implementation Council

A. The Minister of Health and Long-Term Care (MOHLTC) should immediately establish the Minister's Implementation Council for an initial renewable five-year term, to make an annual public report to the minister, who in turn should report to a standing committee of the Ontario Legislative Assembly. Reports should include a detailed summary of cases, patient evaluations of processes and responses, an audit of decisions, evaluation of OSAPPA and suggestions for more effective procedures and educational initiatives for preventing the sexual abuse of patients in the public interest. Membership in the Minister's Implementation Council should include one Ministry of Health and Long-Term Care employee/appointee at the assistant deputy minister level (or equivalent) and one at the director level in the ministry, one member of the Premier's Permanent Roundtable on Violence and one member of the Aboriginal Roundtable on Violence, two experienced executives from health regulatory colleges, one health care administrator with extensive community-based care experience, at least two survivors and two advocates working in the field of abuse prevention and/or victim support, one executive officer of OSAPPA — taking into consideration those recommended by separate letter from the task force for the minister's consideration. To succeed, each member of the Minister's Implementation Council needs to be able to interact critically with every other member in a way that protects the integrity of each; thus, all members should receive the same level of remuneration for this public service — at the level of chair — as a clear indication of the respect and need for the equivalency of the range of expertise needed for effective collaboration and implementation of this major reform. The Implementation Council should encourage, receive and respond to reports on educational and research initiatives undertaken, as per relevant recommendations made herein.

B. That the Minister of Health and Long-Term Care include in the mandate of the Minister's Implementation Council responsibility to develop an evaluation framework for the OSAPPA with appropriate metrics, at minimum, annual reporting to the Minister on the number and type of complaints by patients, the disposition of those complaints, the fines levied for lack of mandatory reporting, general understanding of sexual abuse of patients and the response system, and other indicators of effectiveness of the reporting system and public education initiatives.

20. Inter-Ministerial Oversight for Implementation

The Cabinet of Ontario should immediately establish an inter-ministerial implementation initiative (group) that includes leadership from the Ministry of Health and Long Term Care in cooperation with the Ministry of Training, Colleges and Universities, the Ministry of the Attorney-General, the Minister Responsible for the Status of Women and others to be named, as decided by the ministers, to coordinate an ongoing cross-government response to preventing the sexual abuse of patients by health care professionals in Ontario — consistent with the whole-of-government response to sexualized violence and harassment in Ontario. Through the Minister of Health and Long-Term Care, leadership by this Inter-Ministerial Implementation Group would generate reforms consistent with the mandate of the Minister's Implementation Council to supervise and facilitate the development and implementation of initiatives to deal with sexual abuse by health professionals, including monitoring recommendations that flow from this report.

21. MOHLTC Leadership in Research

The Minister of Health and Long-Term Care (MOHLTC) should immediately ensure funding to designate an ongoing annual research fund within the MOHLTC health research program to support research pertaining to sexual abuse by health care professionals including but not limited to:

- rates of and remedies for same;
- comparison of rates and dispositions of sexual abuse complaints to other offences;
- relevant organizational innovations and responses;
- links to broader societal norms, attitudes and behaviours;
- improved performance of the health care system; and
- pre-service and in-service education and training intended to prevent and rectify such behaviours.

Such research should be conducted in accordance with recognized institutional ethics review policies and procedures and with appropriate consent processes and policies. Patients must be informed of such research and assured of anonymity.

22. Research and Monitoring

The Minister of Health and Long-Term Care should commission a research study to track and analyze the rates, responses and disposition of sexual abuse cases of patients by health care professionals in Ontario retrospectively and going forward 20 years, in five-year segments, recognizing the complexities of reporting, versus incidence data.

23. Minister's Annual Symposium

The Minister of Health and Long-Term Care should announce and support an annual international symposium to address systemic changes in the province of Ontario to prevent and provide remedies for the sexual abuse of patients by health care professionals. This would include ongoing research, professional and public education, community action and partnerships, and assessment of the RHPA. It is suggested that the minister be a keynote speaker at the symposium on sexual abuse of patients being planned by Women's College Hospital in 2016, and contribute substantial resources of experts, information and financial support to this symposium as an initial step in MOHLTC taking responsibility for its annual symposium, beginning in 2017.

24. Aboriginal Health Strategy Renewal

A. The task force recommends that the Minister of Health and Long-Term Care initiate the renewal of a comprehensive, cross-cutting inter-sectoral policy on aboriginal health to incorporate and act upon the 94 Calls to Action made by the Truth and Reconciliation Commission, as relevant to the overall health and well being of Indigenous peoples in Ontario generally, and to the sexual abuse of patients of Aboriginal origin, in particular. Specific attention should be given to research, policy proposals and commentary principally authored by experts of Aboriginal origin, including the *Final Report of the Truth and Reconciliation Commission of Canada* (released December 15, 2015), reports from the Ontario Joint Working Group on Violence against Aboriginal Women, the Strategic Framework to End Violence against Aboriginal Women (Ontario Native Women's Association and Ontario Federation of Indigenous Friendship Centres), and the Aboriginal Sexual Violence Action Plan (Ontario Federation of Indigenous Friendship Centres).

B. The task force recommends that the minister designate an Assistant Deputy Minister to lead a five-year plan from MOHLTC officials on comprehensive, cross-cutting intersectoral policy on cultural competency in research, education and other programs addressing the sexual abuse of patients in marginalized (social and/or geographic) and/or vulnerable populations in Ontario, to be submitted to the Minister's Implementation Council.

25. Patient Safety Reporting in Health Care Educational Curricula and Systems

A. The Inter-Ministerial Implementation Group should review accreditation standards for educational institutions providing certificate, diploma, undergraduate and post-graduate programs for professions under the RHPA, with the goal of incorporating patient safety assessments — including protections against sexual abuse — in all accreditation programs. The review of curricula should include an assessment periodically of ethical standards for professional practice and strategies in place to build awareness of the impact of sexual abuse on patients, along with the responsibilities, approaches to prevention, and requirements to report and to implement tracking mechanisms regarding knowledge of, and educational institutions' responses to, reports of sexual abuse of patients.

B. Institutions responsible for training health care professionals should have, as a minimum, explicit senior management commitments to preventing sexual abuse of patients, clear statements and explanations of sexual abuse of patients, professional responsibilities to report as part of core training, examinations concerning professional practice and codes of ethical conduct — all embedded in performance reviews conducted periodically for funders.

26. Education for Patients and Professionals

The Minister of Health and Long-Term Care should introduce and — in cooperation with the Ministry of Training, Colleges and Universities and other affected ministries — support, with adequate resources, newly designed and evaluated pre-service, in-service and public education on sexual abuse of patients by health professionals, to be reviewed and reported on periodically, including:

- refreshed curriculum for pre-service education in universities and colleges;
- refreshed continuing education and training for in-service health professionals;

- cultural competency as a mandatory component in any education or training public education campaign addressing patients, families, bystanders and communities about rights and redress;
- education for hospital and other health care administrators on their legal, patient safety and reporting responsibilities; and
- mandatory training, with periodic reviews, for members of governing councils and staff of health regulatory colleges to begin immediately and to continue through transition to include OSAPPA officials and personnel.

27. Patients' Safety Bill

A Patients' Safety Bill should immediately be developed by the Ontario Ministry of Health and Long-Term Care in consultation with patients' advocacy groups and the regulatory colleges as an amendment to the RHPA. The *Ontario Hospitals Act* should be amended to require all regulated health professionals and all administrators of health care facilities, including privately owned health care facilities, to post, with clear requirement to maintain: a) visibility of the Bill and b) availability upon request of print copies of the Bill. The Patients' Safety Bill and current contact information should be placed in high-visibility locations wherever health professionals are providing services. This amendment may be complementary to, but is substantially different from, the Patient Ombudsman office announced in 2015.

28. Patient Evaluations re Access to Justice for Better Health Care

Following every determination and resolution of a complaint about sexual abuse during the transition to the OSAPPA system, every college is to ensure that an evaluation form, with introductory information supplied by MOHLTC, is provided to every patient involved in the process, and include a pre-paid return envelope addressed to the Minister's Implementation Council. The OSAPPA mandate should include an ongoing responsibility to continue and improve upon gathering feedback from patients, to enable meaningful comparisons in evaluation and annual reporting.

29. Reports for the Public Record — *Excellent Care for All Act*

A. The Minister of Health and Long-Term Care should introduce the reporting and disposition of sexual abuse cases as a priority Quality

Improvement Indicator under the *Excellent Care For All Act* (ECFAA) pertaining to hospitals in Ontario, community and home-based care, and primary care practitioners. Results should be included in the minister's annual report to the legislative committee and — if not included — there should be an explanation required in the report.

B. The RHPA should be amended to include the requirement that every college shall make a public annual report to the Minister of Health and Long-Term Care and to OSAPPA of any complaints received concerning the sexual abuse of patients by members or former members of the college, including a summary of the timeline and description of actions taken by the college in referring on to OSAPPA. The Minister's Implementation Council should be responsible for the template for this annual report, in consultation with patients' advocacy groups, hospitals, educational institutions, OSAPPA and the colleges.

C. The Minister should recommend to the Ontario Hospital Association (OHA) to incorporate the sexual abuse of patients by health professionals into the current Quality and Patient Safety Plan (QPSP), given that one of their stated goals is "to champion the adoption of a culture of quality and patient safety." The OHA can support health care institutions in developing their annual Quality Improvement Plans (QIPs) as mandated under the ECFAA. The OHA could be instrumental in providing materials, supports and tools to health care institutions that include: a broader definition of patient safety, the psychological harm and other harms associated with sexual abuse of patients and definitions of patient, health care provider, and sexual abuse based on the RHPA. Responsibilities and accountabilities of the hospitals/other health care facilities and health providers for the prevention, identification, reporting, tracking and responding to reports of sexual abuse of patients by health care providers should also be delineated. The OHA should be encouraged to contribute leadership in preventing the sexual abuse of patients by making a long-term commitment to developing, providing and sustaining education, quality assurance and reporting mechanisms to OHA members.

30. Information Accessible on the Public Record — Registers

The *Health Professions Procedural Code* should be amended to require that every college register includes disciplinary decisions in which the member was found to have committed an act of sexual abuse/misconduct/impropriety as defined in the RHPA and Code, including section 1(3)(c)

(behaviour or remarks) as well as 1(3) (a) (physical sexual relations) and 1(3)(b) (touching of a sexual nature) of the Code and that staff of colleges are clearly obliged to inform anyone who inquires as to the nature of the complaint. The amendments should be designed to apply high-transparency standards to the public record of colleges during and after the transition and also to public records of the OSAPPA model.

31. Transparency and Notifications of Findings by Colleges and OSAPPA

The *Health Professions Procedural Code* should be amended to ensure that college and OSAPPA registers contain for the public record:

- any stipulations or programs imposed on a member related to any complaint of sexual abuse of a patient, with a notation on whether the requirements were disciplinary panel decisions, or determinations through any other means, including suspension or resignation of the member, related to sexual abuse complaints processed by a college (during transition) or OSAPPA (after transition); and
- determinations of any kind, including resignation, that colleges (which retain the authority to issue or revoke certificates to practise) should be legally obliged to inform all other licensing authorities in Canada and to keep written records verifying such notification, to be included in annual public reports to the Standing Committee on Government Agencies of the Legislative Assembly of Ontario or another appropriate standing committee that includes MOHLTC in its mandate.

32. Provincial, National and International Database Access

The Ministry of Health and Long-Term Care should initiate joint and reciprocal ventures to establish, link and maintain both a national and international database, with public access and capable of identifying sexual abuse offenders who are, or were, regulated health care professionals.

33. Patient Safety Standards Addressing the Sexual Abuse of Patients in Hospitals, Health Care Organizations, and Long-Term Care Facilities

The OHA and other such health organizations, as relevant, should provide increased, focused and sustained leadership in the development of policy and education for all institutional members. Included should be a broader definition of patient safety that recognizes the extensive and serious range

of harm associated with sexual abuse of patients. Specific and detailed standards for hospital and other health institution leaders should be established. These would leave no doubt about the definitions of patient, health care provider and sexual abuse, or the responsibilities of hospitals and other health care facilities for the prevention, identification, reporting and tracking of sexual abuse of patients by health care providers. Accountability mechanisms geared to hospitals and health care providers should be clear, resourced and implemented for the long term. Health care institutions, including hospitals, should have rigorous training, quality assurance and reporting mechanisms in place that reinforce their duties to prevent, report and track sexual abuse incidents within risk management systems that permeate every level of service within the health care institutions — with clear, enforced consequences for all executives who do not deliver on the patient safety and protection standards.

The minister should recommend to the OHA to incorporate sexual abuse of patients by health professionals into the current Quality and Patient Safety Plan (QPSP), given that one of their stated goals is “to champion the adoption of a culture of quality and patient safety.” The OHA can support health care institutions in developing their annual Quality Improvement Plans (QIPs) as mandated under the ECFAA. The OHA could be instrumental in providing materials, supports and tools to health care institutions that include: a broader definition of patient safety, the psychological harm and other harms associated with sexual abuse of patients and definitions of patient, health care provider, and sexual abuse based on the RHPA. Responsibilities and accountabilities of the hospitals/other health care facilities and health providers for the prevention, identification, reporting, tracking and responding to reports of sexual abuse of patients by health care providers should also be delineated. In keeping with Recommendation 29, the OHA should be encouraged to contribute leadership in developing and providing education, quality assurance and reporting mechanisms to OHA members.

34. Accreditation standards

The Minister of Health and Long-Term Care should recommend to Accreditation Canada the development of Required Organizational Practices (ROPs) in the Safety Culture category that are specific to the sexual abuse of patients by regulated health professionals. Sexual abuse of patients is a low-probability/high-impact risk that needs to be addressed at a strategic level as an issue of patient safety. These ROPs would clearly describe the

organizational/board responsibilities in addressing sexual abuse, i.e., educational requirements for employees, mandatory reporting expectations, and tracking and reporting within and by institutions.

The ROP approach would also require the sexual abuse of patients to become a “standing agenda item” at all regular meetings of the governing body. ROPs would include: a) definitions, consistent with the RHPA, of “patient” and of “sexual abuse or exploitation”; and b) clear commitments as to what patients should be able to expect from their health care provider within a patient safety context. ROPs would clearly describe for patients what to do if they experience sexual abuse and to whom reports must be made. Similar to the approach taken by many hospitals, for example, in protecting patient privacy, hospital boards should mainstream protection of patients from sexual abuse at all levels of governance and management and ensure implementation of relevant sections of the *Health Professions Procedural Code*, including mandatory reporting of sexual abuse complaints per section 85.1 (reporting by members) and section 85.2 (reporting by facilities).