

DRAFT Sexual Contact with Former Clients beyond 5 years Post Termination of Care

Note

Guidelines published by CRPO are intended to clarify CRPO's Professional Practice Standards, providing additional information that will help a member consider or respond to common situations that arise in practice in a manner that accords with the Standards.

Information provided in a guideline is to be considered along with other relevant sources of information, such as the Code of Ethics, applicable Standards, regulations, and laws. Members must rely on their knowledge, skill and judgement to determine when it is appropriate to apply a particular guideline, being mindful that ultimately, members are responsible for their own actions.

College publications are developed in consultation with the profession and describe current professional expectations. It is important to note that these College publications may be used by the College or other bodies in determining whether appropriate standards of practice and professional responsibilities have been maintained.

Introduction

The College of Registered Psychotherapists of Ontario (CRPO) has a duty to protect the public interest. This mandate drives the College's work to prevent and address sexual abuse of clients by members. As regulated health professionals, Registered Psychotherapists (RPs) owe a duty of care to their clients and the general public to safeguard client well-being, including clients' physical and emotional safety. When an RP sexually abuses a client, they betray that duty of care, causing harm not only to the person they abuse, but to all Ontarians. Abuse erodes the public's trust in the profession and undermines the skill and credibility of all RPs who provide safe, effective and ethical care.

Given the harmful impacts of abuse, the College must impose penalties that will deter abuse, ensuring that individual clients and the broader public are better protected.

The Sexual Contact with Former Clients Beyond the 5-Years Post Terminations Guideline provides additional information that may be helpful to members in: recognizing the power imbalance that is inherent in the psychotherapeutic relationship; assessing if an imbalance continues to exist that then places a former client at risk of undue influence, harm, or exploitation; and understanding, their obligations as an RP as dictated by CRPO's Regulations, Code of Ethics and Professional Practice Standards.

Guideline

Even if more than five years has passed since the last day of treatment, RPs must refrain from sexual conduct toward a former client where a power imbalance continues to exist and that places the former client at risk of undue influence, harm, or exploitation. Where there is a risk of undue influence, harm or exploitation, CRPO takes

the position that the RP is guilty of professional misconduct, and may recommend that the member’s certificate of registration be suspended or revoked by the Discipline Committee.

Applicable Standards and Entry-to-Practice Competencies

This guideline complements Professional Practice Standards and Entry-to-Practice Competencies:

Standards	Professional Practice Standards For Registered Psychotherapists	<p>Section 1: Professional Conduct</p> <p>1.3 – Reporting Unsafe Practices</p> <ul style="list-style-type: none"> ○ Members have a legal obligation to report to the College of another Member’s unsafe practice or behaviour <p>1.5 – General Conduct</p> <ul style="list-style-type: none"> ○ Standard states that members should refrain from illegal conduct related to the practice of the profession <p>1.7 – Dual or Multiple Relationships</p> <ul style="list-style-type: none"> ○ Members should avoid dual or multiple relationships with clients in addition to their professional one <p>1.8 – Undue Influence and Abuse</p> <ul style="list-style-type: none"> ○ The College’s Professional Misconduct Regulation requires that members not inflict any form of verbal, physical, psychological and/or emotional abuse on client. ○ RHPA prescribes penalties – sexual intercourse with a client carries a mandatory revocation of registration for a minimum of five years
Competencies	Entry-to-Practice Competency Profile for Registered Psychotherapists	<ul style="list-style-type: none"> ○ The competency profile lists the competencies that must be possessed by individuals entering the profession for the first time, in order for them to practice safely, effectively and ethically across a variety of practice settings ○ A Member must: <ul style="list-style-type: none"> 2.2 Maintain effective relationships 3.1 Comply with legal and professional obligation 3.2 Apply an ethical decision making process 4.2 Establish and maintain core conditions for therapy 4.3 Ensure safe and effective use of self in the therapeutic relationship 4.5 Structure and facilitate the therapeutic process

Regulatory Context

Sexual abuse of a client is defined in the *Health Professions Procedural Code* (HPPC), which is Schedule 2 to the *Regulated Health Professions Act, 1991* (RHPA), as:

- a) *sexual intercourse or other forms of physical sexual relations between the member and the patient¹,*
- b) *touching, of a sexual nature, of the patient by the member, or*
- c) *behaviour or remarks of a sexual nature by the member towards the patient.*

Once proclaimed, a recent change to the RHPA will establish a mandatory period under which there may be no sexual conduct toward a former client for at least one year. The RHPA will allow individual colleges to extend this period. CRPO's Council has determined that a five-year period is appropriate for its members and will be using its regulation-making authority to make this period mandatory.

This guideline is intended to address how, in some cases, sexual conduct with a former client will never be appropriate. In these cases, the Discipline Committee may make a finding of professional misconduct in the event a complaint or report is referred for a hearing.

Guiding Principles

Principle 1:

CRPO's Professional Practice Standard on the Client-Therapist Relationship (section 3) identifies that the client-therapist relationship itself is the foundation of psychotherapy. RPs are expected to place client well-being at the forefront of this relationship, relying on their knowledge, skill and judgement to do so safely, ethically and effectively.

Principle 2:

Because RPs possess and use professional knowledge, skill and judgement to establish and maintain the therapeutic relationship, an inherent power imbalance exists between RPs and their clients. As a result, it is not possible for an RP to have a sexual relationship with a client where the balance of power can be considered equal.

In light of the principles described above, the College believes sexual contact between an RP and their client (including with an individual who received therapy or other services from the RP within the past five years) must be strictly prohibited.

Members should understand that it may never be appropriate to enter into a romantic or sexual relationship with a former client, specifically where a power imbalance continues to exist between the member and the former client, which places the former client at risk of undue influence, harm or exploitation.

Assessment Framework

¹ The Regulated Health Professions Act uses the term "patient." In keeping with the terms common to the profession of psychotherapy, CRPO uses the term "client" instead of "patient."

In assessing the risk of exploitation or harm that sexual contact with a former client may carry, members should consider if a reasonable RP would determine that:

- the contact would likely demonstrate an impairment in objectivity, competence or effectiveness of the psychotherapist; or
- the dual relationship would likely cause impairment to the former client.

Members should look at the following factors to determine whether there is the risk of undue influence, harm, or exploitation:

- the nature and length of the former client-therapist relationship;
 - Was the therapy individual, couple, family and/or subsystems (e.g., in therapy for an adolescent, brief work with parent and child or siblings) and/or group?
 - Was the therapeutic relationship brief or long-term? Was the approach to therapy individual or relational?
 - Did the therapist's use of self primarily inform the therapeutic approach (e.g., working with transference and countertransference)?
 - Were the issues addressed related to trauma, addiction or serious mental illness?
- the issues presented by the client in therapy;
 - Were the issues serious, relational, sexual and/or trauma related?
 - Was the presenting problem or focus of therapy on difficulties in intimate relationships or failed relationships, which might re-traumatize the client if the sexual relationship with the RP then fails?
- the length of time since the client-therapist relationship ended; and
 - Has significant time elapsed post five-year?
- the vulnerability of the client.
 - Does the client have distressing symptoms or a significant or serious mental illness or condition that would impair their judgement (e.g., unmanaged personality disorder, severe depression, unresolved or unmanaged trauma) that is adversely affecting their day-to-day lives, relationships and the ability to enjoy life?