

**COLLEGE OF CHIROPRACTORS OF
BRITISH COLUMBIA**

SEXUAL MISCONDUCT COMPLAINTS

Sexual misconduct, including sexual harassment of a patient by a chiropractor, is unacceptable to the College of Chiropractors of British Columbia, and all complaints are taken very seriously. During the investigation of complaints and any disciplinary proceedings that follow, the College will strive to be supportive of the complainant's concerns while remaining fair to the chiropractor.

WHAT IS SEXUAL MISCONDUCT OR SEXUAL HARASSMENT?

Sexual conduct is any speech or behavior of a sexual nature. Sexual conduct between a chiropractor and patient is prohibited. Sexual conduct by a chiropractor toward a patient is an abuse of the chiropractor/patient relationship. Sexual harassment is any unwanted sexual conduct, whether toward patients, associates, other professionals or office staff. Sexual misconduct and sexual harassment include:

- sexual intercourse;
- sexualized touching, fondling, hugging, kissing and petting;
- removal of clothing or being watched or having clothing interfered with while robing or disrobing;
- sexually demeaning or suggestive remarks;
- requests for "dates"; and
- inquiries into a patient's sexual history unrelated to the direct diagnosis and treatment of the patient's condition.

HOW TO MAKE A COMPLAINT

1. If you have a complaint about sexual misconduct or sexual harassment by a chiropractor, notify the B.C. College of Chiropractors by sending a letter to :

The Registrar
College of Chiropractors of British Columbia
#125-3751 Shell Road
Richmond, BC
V6X 2W2

Alternatively, you can telephone the College at (604) 270-1332 and ask to speak with the College Registrar or send an email to Registrar@bcchiro.com.

2. A complaint must be in writing (whether by letter or in the form of an email) before the College can respond to it. If you are unable to make your complaint in writing or if you need help to do so, you should speak to the Registrar who will help you or arrange for an investigator from the College to provide that assistance.
3. If you have made your complaint in writing, the Registrar will send a letter or email to you confirming that your complaint has been received. The College will then assign an independent and impartial person to investigate your complaint and you will be told the name of the investigator. The investigator will contact you within one to two weeks of being assigned. If you have any questions in the meantime, you should contact the Registrar.
4. The investigator will meet with you in person or speak to you by telephone. The meeting can take place at the College's office or the investigator can visit you. At this meeting, the investigator will explain how the College handles complaints and answer any questions or concerns you may have. You are welcome to bring a support person to any meetings you have with the investigator.
5. After you have discussed the complaint process with the investigator, you will be asked whether you wish to proceed with the complaint. If you do not wish the complaint to be investigated, or you are not willing to participate in a disciplinary hearing against the chiropractor, the complaint will not go forward. Nevertheless, your permission will be asked to allow the College to inform the chiropractor of your complaint by giving the chiropractor either a summary of the complaint or a copy of your letter. This allows the chiropractor to respond to the complaint. It also allows the College to express concern to the chiropractor about the reported conduct and to state any expectations that may be appropriate regarding the chiropractor's future conduct.
6. If you do not wish the College to advise the chiropractor of your complaint, no record of the complaint will be made on the chiropractor's file and no action will be taken against him or her. However, the complaint will be kept in the College's general complaint file.
7. If you decide to go ahead with your complaint, the investigator usually will take a detailed statement from you about the complaint. The investigator will also determine if there is any other information or witnesses to support your complaint. Witnesses named by you also may be interviewed.
8. Usually after taking your statement, and perhaps after gathering any other available information to support your complaint, the investigator will advise the College that the initial investigation is complete. The College will then send a

- copy of the complaint to the chiropractor. Your address and telephone number will not be sent to the chiropractor. The chiropractor will also be instructed not to contact you at any time.
9. After receiving the complaint, the chiropractor will be asked to respond in writing by a set date. With your consent, the Registrar will ask the chiropractor to provide the College with a copy of your treatment records.
 10. The investigator may also meet with the chiropractor, either before or after receiving the chiropractor's written response to your complaint, to obtain details of the chiropractor's version of the events. After meeting with the chiropractor, the investigator may also contact you or meet with you again to clarify information relating to the complaint.
 11. During the course of the investigation, the investigator will ask how you would like your complaint resolved. The investigator will explain to you what options the College has to impose penalties on the chiropractor. The investigator will also explore whether the complaint can be resolved between you and the chiropractor to everyone's satisfaction.
 12. Upon completion of the investigation, the investigator will prepare a report. The investigator does not make any decisions or draw conclusions based on the facts that have been collected. Unless the investigator requests more time, the investigation will be completed within three (3) months of receiving the chiropractor's written response to your complaint.
 13. The investigator's report will be reviewed by the College's Inquiry Committee (the "Committee"). The Committee is made up of chiropractors and representatives of the public who have been appointed by the College Board to review complaints. A member of the College Board, usually one of the public members appointed by the provincial government, also sits on the Committee. The Committee decides what to do with the complaint.
 14. The Committee will consider the investigator's report and can either:
 - (a) direct the investigator to further investigate the complaint;
 - (b) dismiss the complaint;
 - (c) co-ordinate an informal resolution of the complaint, including by means of mediation, if a resolution to everyone's satisfaction can be reached;
 - (d) make a request to the chiropractor to enter into an undertaking or to consent to a reprimand or both, or

- (d) direct the Registrar to issue a citation to the chiropractor for a hearing before the College's Discipline Committee.
15. If the Committee directs the Registrar to issue a citation for a Discipline Committee hearing, The Registrar will advise you of the hearing date. The Registrar will also tell you the name of the College's lawyer who will be representing the College at the hearing. The lawyer will contact you before the hearing and explain the hearing process and what role you will play.
 16. At any time prior to the Discipline Committee hearing, the College and the chiropractor may be able to resolve the complaint by reaching an agreement that involves an admission of misconduct and the acceptance of an appropriate penalty. If an agreement is reached, you will receive a copy of the Consent Order describing the discipline consented to by the chiropractor.
 17. If the matter is to proceed to a hearing, you will meet with the College's lawyer at least once before hand. The lawyer can answer any questions you may have about the hearing process and your role. The lawyer will prepare you for giving evidence at the disciplinary hearing.
 18. The decision-makers at the discipline hearing will be a panel of Discipline Committee members. Most will be chiropractors. However, at least one will be a public representative appointed to the Committee by the Board.
 19. A Discipline Committee hearing is similar to a court hearing. The College lawyer will present the complaint on the College's behalf. You will be the principal witness for the College and you will tell your story to the Discipline Committee under oath.
 20. The chiropractor will likely be represented by a lawyer at the hearing. You will also have to answer questions asked by the chiropractor's lawyer.
 21. If you wish, you can hire your own lawyer at the hearing, although it is not necessary for you to do so. The disciplinary hearing involves the College disciplining the chiropractor. It is not a legal action by you against the chiropractor. The Registrar, the investigator and the College's lawyer can all answer questions you might have about the need for your own lawyer.
 22. The hearing will be held in public, unless you, the chiropractor, or a witness requests some or all of the hearing to be held in private, and the Discipline Committee grants that request. If the Registrar issues a citation for your complaint to be heard by the Discipline Committee and you feel some or all of that hearing should be heard in private, you should ask the College's lawyer how to make the appropriate request to the Discipline Committee.
 23. You may bring a support person to the Discipline Committee hearing.

24. After hearing all of the evidence and listening to the lawyers' presentations on the complaint, the Discipline Committee will decide whether the complaint against the chiropractor has been proved. For the complaint to be proved, the law requires clear and convincing evidence that the chiropractor committed the alleged conduct.
25. If the Discipline Committee finds the complaint is proved, it will then decide the penalty. Both the College's lawyer and the chiropractor's lawyer can make submissions to the Discipline Committee about an appropriate penalty.
26. The penalties which the Discipline Committee can impose on the chiropractor include the following:
 - (a) a reprimand;
 - (b) limits or conditions on the chiropractor's practice;
 - (c) payment of a fine to the College of up to \$50,000.00;
 - (d) suspension from practice for a specified period of time, and limits or conditions on the management of his or her practice during that suspension;
 - (e) cancellation of the chiropractor's registration with the College (complete removal of license to practice); and
 - (f) payment of the costs incurred by the College in investigating and prosecuting the complaint.
27. The Board will provide written reasons for its decision. You will be given a copy of the Board's written reasons. Your name will not appear in the written reasons or any publication describing the resolution of the complaint.
27. If the Discipline Committee finds the complaint is proved and disciplines the chiropractor, the chiropractor has the right to ask the Supreme Court of British Columbia to "review" the Discipline Committee's decision. If the court agrees with the chiropractor's arguments, the complaint may be referred back to the Discipline Committee for a new hearing on the whole or on some aspect of the Discipline Committee's decision.

Update approved by the Patient Relations Committee: December, 2009

Online March, 2010