

**Proposed Regulation Under the *Massage Therapy Act, 1991*
Funding for Therapy and Counselling for Clients Sexually Abused by a Member**

Definition

1. In this Regulation,
“member” includes a former member

Eligibility for Funding

2. The Client Relations Committee shall determine whether a person is eligible for funding under clause 85.7 (4) (a) of the *Health Professions Procedural Code* or under section 3 of this regulation.

Alternative Eligibility

3. (1) The alternative requirements for a person to be eligible for funding under clause 85.7 (4) (b) of the *Health Professions Procedural Code* are that,
 - (a) the person submits an application for funding to the Client Relations Committee in the form provided by the Committee which shall include the name of the member whose conduct may entitle the person to funding;
 - (b) the person provides any other information as required by the Client Relations Committee; and
 - (c) any of the circumstances described in subsection (2) exist.
- (2) The circumstances in which a person may be eligible for funding are as follows:
 - (a) there is a finding by a court that the person, while a client, was sexually assaulted by a member within the meaning of the *Criminal Code*;
 - (b) there is a finding by a court or administrative tribunal that a person, while a client was sexually abused by a member;
 - (c) there is an admission made by a member in a statement to the College or in an agreement with the College that he or she sexually abused the person while the person was a client of the member;
 - (d) there is an allegation that the person, while a client, was sexually abused by the member which results in an informal resolution with the member that contemplates funding for therapy or counselling;
 - (e) the person satisfies the Inquiries, Complaints and Reports Committee that there is a high probability that the person, while a client, was sexually abused by a member

but a hearing of the Discipline Committee is not held for one of the following reasons::

- i. the member is deceased or cannot be located;
 - ii. the member is incapacitated;
 - iii. the member has resigned and agreed not to practise again;
 - iv. the member's certificate of registration was revoked for misconduct of a sexual nature toward another client;
 - v. there is a finding by the Discipline Committee that the member sexually abused another person and, in the Committee's opinion, the public interest would not be served by conducting another discipline hearing;
 - vi. the person is unable to testify before the Discipline Committee as result of a physical or mental condition
- (f) at a hearing of the Discipline Committee into the conduct of a member, the person testifies that he or she was sexually abused by the member while a client and the Discipline Committee acknowledges in its written reasons that the testimony was credible;
- (g) there is a finding made by the Discipline Committee that conduct of a sexual nature had occurred between the person, while a client, and a member and such conduct resulted in a finding of professional misconduct or incompetence against the member;
- (h) there is a statement contained in the written reasons of the Discipline Committee given after a hearing which satisfies the Client Relations Committee that the person, while a client, was sexually abused by the member; or
- (i) there is sufficient evidence presented to the Client Relations Committee to support a reasonable belief that the person, while a client, was sexually abused by a member.

Eligibility for Funding not a Finding against the Member

4. A decision by the Client Relations Committee that a person is eligible for funding for therapy or counselling does not constitute a finding against the member and shall not be considered by any other committee of the College dealing with the member.

Pre- Regulated Health Professions Act, 1991 Abuse

5. A person who is otherwise eligible for funding for therapy or counselling under section 3 is not eligible for funding if the therapy or counselling for which funding is requested relates to sexual abuse by a member that occurred before December 31, 1993 unless if, in the opinion of the Client Relations Committee, the granting of funding would be just and equitable having regard to the following:
 - (a) whether the need for therapy or counselling results directly or indirectly from the alleged sexual abuse;
 - (b) the availability of other sources of funding; and
 - (c) the College's resources.