

July 2, 2019

Honourable Stephen Lecce
Ministry of Education
5th Floor
438 University Avenue
Toronto, ON M7A 2A5

Dear Minister Lecce:

Congratulations again on your appointment as the Minister of Education!

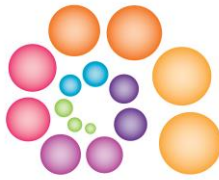
As you settle into your new portfolio one of the many priorities that your staff will need to consider is the development of a regulation to enable the College of Early Childhood Educators (the College) to implement a program to provide funding for therapy and counselling for children. This regulation will need to be in place by January 1, 2020 when the provisions in Part XI of the *Early Childhood Educators Act* (Funding for Therapy and Counselling) come into force.

The vast majority of registered early childhood educators (RECEs) are trusted, accountable professionals who practise the profession in a manner that supports the health and well-being of children. However as a regulatory body focused on protecting the public interest, one of the College's responsibilities is to address the behaviour of the small number of RECEs whose practice falls short of professional standards, and ensure that those who sexually abuse children are permanently removed from the profession. The College supported the government's decisive action in Bill 48 to protect children.

Ontario is a leader in requiring self-regulating professions to also facilitate access to therapy and counselling for children who have been sexually abused by members of the profession. The regulated health professions have had such a requirement for a number of years. The professions under the oversight of the Ministry of Education are the first non-health professions to implement such programs. Our goal is to design a program that puts the needs of children and families first.

The College recognizes the importance of the Funding for Therapy Program and we have been working hard to prepare for its implementation since these provisions were proclaimed earlier this year. The College's established a Special Advisory Committee to provide advice and recommendations on the program's implementation and I am pleased to share a copy of their final report.

We are grateful that in December 2018, Dr. Mary Broga, a clinical psychologist and leader in the field of child and youth mental health, was appointed by your government to serve on our governing Council as a public appointee. Her expertise and wealth of experience led the



committee's work in setting out the program policy direction and principles in addition to a number of recommendations regarding the approach to drafting the supporting regulation.

We appreciate your support and collaboration and looks forward to continued engagement with your staff on this important initiative. In the spirit of collaboration towards a common goal, we have also attached draft wording that can be used in the development of the regulation. I would be pleased to discuss the report and the draft wording for the regulation with you.

Sincerely,

Beth Deazeley
Registrar and CEO

[Colleges Proposed Wording for Part XI Regulation]

Early Childhood Educators Act, 2007

ONTARIO REGULATION **XYZ/19**

FUNDING FOR THERAPY AND COUNSELLING

Consolidation Period: From January 1, 2020 to the [e-Laws currency date](#).

No amendments.

This is the English version of a bilingual regulation.

Purposes of funding

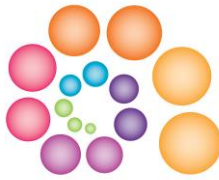
1. The following are prescribed as additional purposes under paragraph 2 of subsection 59.2(1) of the Act:

1. Therapy and counselling for the child who is the subject of sexual misconduct or a prescribed sexual act in which an allegation has been made against the member.
2. Facilitating and reducing barriers to accessing therapy and counselling in connection to the child who is the subject of sexual abuse, sexual misconduct, or a prescribed sexual act, or of a prohibited act involving child pornography.

Funding maximum

2. (1) Subject to subsection (2), for the purposes of a program established under section 59.2 of the Act the maximum amount of funding that may be provided for a person in respect of a case of sexual abuse, sexual misconduct, or a prescribed sexual act, or of a prohibited act involving child pornography is the amount that the Ontario Health Insurance Plan would pay for 200 half-hour sessions of individual out-patient psychotherapy with a psychiatrist on the day the person becomes eligible under subsection 59.2 (3) of the Act.

(2) If the College has paid the maximum amount of funding under subsection (1), the College may provide additional funding if the College is satisfied that,



- (a) the additional funding is required for the child to reach the therapeutic objectives set out by their therapist or counsellor regarding the alleged sexual abuse, sexual misconduct, prescribed sexual act, or prohibited act involving child pornography, and
- (b) the amount of additional funding is provided according to criteria approved by Council.

Duration of funding

3. (1) Subject to subsection (2), for the purposes of a program established under section 59.2 of the Act the period of time within which funding may be provided for a person in respect of a case of sexual abuse is five years from,

- (a) the day on which the person first received therapy or counselling for which funding is provided under subsection 59.2 of the Act, or
- (b) if funding is not provided under subsection 59.2 (11) of the Act, the day on which the person becomes eligible for funding under subsection 59.2 (3) of the Act.

(2) The College may extend the period of time under subsection (1) if,

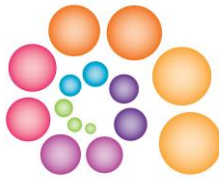
- (a) the extension of time is required for the child to reach the therapeutic objectives set out by their therapist or counsellor regarding the alleged sexual abuse, sexual misconduct, prescribed sexual act, or prohibited act involving child pornography, and
- (b) the extension is provided according to criteria approved by Council.

Payment to other persons

4. (1) For the purposes of subsection 59.2 (9) of the Act funding may be paid to persons who incur expenses without which, in the opinion of the College and in accordance with criteria approved by Council, a person eligible for funding under subsection 59.2 (3) of the Act could not access therapy and counselling.

Alternative requirements for eligibility

5. For the purpose of clause 59.2 (3) (b) of the Act a person is eligible for funding if one or more of the following requirements are satisfied:



1. It is alleged in a complaint or report against a member received by the College that the child was the subject of sexual misconduct or a prescribed sexual act in the context of, or as a result of, or is reasonably related to the member's practice of early childhood education.
2. The child was not a child the member supervised or was responsible for in the course of the member's practice at the time of the alleged sexual abuse or prohibited act involving child pornography but is otherwise eligible under clause 59 (3) (a) of the Act and in the opinion of the College, the alleged sexual abuse or prohibited act involving child pornography occurred in the context of, as a result of, or is reasonably related to the member's practice of early childhood education.
3. The person is a parent or primary caregiver or sibling of a child eligible for funding under clause 59.2 (3) (a) of the Act or paragraph 1 of section 5 of this Regulation and in the opinion of the College, therapy and counselling for the parent, caregiver or sibling is required to enable the child to reach the therapeutic objectives set out by the child's therapist or counsellor regarding the alleged sexual abuse, sexual misconduct, prescribed sexual act, or prohibited act involving child pornography.

[Note: Section 5 would be prescribed by regulations made by Council under section 43 of the Act, but is included here for convenience and should the College and Ministry decide to incorporate the College regulation with the LGIC regulation, if possible.]

June 2019

Report of the Special Advisory Committee on Funding for Therapy

Background

In June 2018, the provincial government added provisions to the *Early Childhood Educators Act* (ECE Act) requiring that the College of Early Childhood Educators (the College) administer a program to provide funding for therapy and counselling for children in relation to sexual abuse by members. Similar provisions were also added to the *Ontario College of Teachers Act* for members of the Ontario College of Teachers (OCT). The program, which will be administered and funded by the College, aims to support healing of those who have been sexually abused by members of the profession by reimbursing the costs of therapy and/or counselling. These provisions come into force on January 1, 2020.

These provisions are modelled on the requirements applicable to health professions. In 1994, provisions were added to the *Regulated Health Professionals Act* (RHPA) that required all regulated health colleges in Ontario to provide funding for therapy for patients who experienced sexual abuse by a member of the regulated profession. Initially, access to funding was only available when there was a finding made by the Discipline Committee. The *Protecting Patients Act*, which took effect May 2018, expanded this eligibility so that funds can be accessed when an allegation is made against a member.

The amendments to the ECE Act provide the broad parameters of the program:

- *Applicability*: applies to sexual abuse and offences related to child pornography committed by members in relation to children who were under their professional care or supervision at the time the offence occurred.
- *Separation of funding from discipline process*: eligibility is triggered by an allegation in a complaint. A finding by the discipline committee is not required. Eligibility for funding has no impact on discipline proceedings, and individuals accessing funding cannot be required to testify at the discipline proceedings.
- *Choice of provider*: no restriction on eligible providers of therapy and counselling except for no family relationship and no history of sexual offences.
- *Limitation on liability*: the College is not required to fund therapy or counselling which is paid for by OHIP, an insurer or some other provider. The College has the authority to recover amounts paid for therapy and counselling from the member following a discipline finding.

Section 45 (d.2) of the ECE Act provides that the Lieutenant Governor in Council may make regulations governing funding under the program, including the maximum amount of funding and the time period during which funding may be provided.

Section 45 (d.3) of the ECE Act provides that the Lieutenant Governor in Council may make regulations prescribing additional purposes for which funding may be provided and prescribing additional persons or classes of persons to whom funding may be paid.

To operationalize the program, a regulation that provides specific details on the program requirements will need to be in place prior to January 1, 2020 when the provisions in the ECE Act come into force. Regulations made under the RHPA detail the approach that all regulatory health colleges have taken in relation to funding amounts and timing.

While the provisions in relation to the maximum amount of funding and the time period within which funding can be provided that are detailed under the RHPA would generally be appropriate under the ECE Act, the College firmly believes that, due to the uniquely vulnerable population served by its membership, there may be additional support required that extends beyond these parameters. The College is recommending a number of elements to be included in the regulation which go beyond the precedent set in the RHPA. These recommendations, identified later in this report, take into account the unique challenges and needs of children experiencing trauma and ensure that they are supported at every stage.

Early Childhood Educators: Trusted, Accountable Professionals

Registered early childhood educators (RECEs) are responsible for the care and education of young children, providing the foundation for successful childhood development. This is achieved through the creation of inclusive play-based learning opportunities and stable, nurturing relationships which have been shown to have lifelong benefits for learning as well as physical and mental health. RECEs make the well-being, learning and care of children their foremost responsibility.

Because of their close relationship with children and families, RECEs hold a position of trust. As such, they are held to the high standards of the profession as established through the College's *Code of Ethics and Standards of Practice*. The vast majority of RECEs practice the profession in a manner that supports the health and well-being of young children and their families. However, when a RECE's behaviour falls below the established standards of the profession it can result in mistrust of the whole profession.

This reinforces the importance of establishing a program which holistically supports children and builds trust with the public through accountability.

Special Advisory Committee

In order to support the implementation of such a program, the College's Council established a Special Advisory Committee (SAC), chaired by Dr. Mary Broga, to oversee the development of recommendations. Dr. Mary Broga is a clinical psychologist who specializes in child and youth mental health, and is a member of the Council of the College appointed by the government of Ontario. She has practiced professionally as a psychologist for over 30 years and brings with her a wealth of knowledge and leadership to the SAC.

Guided by an understanding of the important and unique work of RECEs, the SAC set out to determine the best approach to developing the guiding framework for the Funding for Therapy Program. They consulted with experts to develop a deeper understanding of trauma and the particular needs of children who experience it, and reviewed the practices and experiences of Ontario health regulators who have similar requirements. Using this information, the SAC developed the policy direction and guiding principles for the program and set out several recommendations for inclusion in the regulation which are included in this report. These recommendations have been adopted by Council.

Understanding Trauma in Young Children

While there is limited research specific to sexual abuse of young children by non-family members, literature about similar types of sexual abuse in children and adults provides a reasonable proxy to draw advice and guidance.

Sexual abuse can cause both physical and psychological trauma. While physical effects will heal over time, psychological trauma can be more persistent and have long-term effects. If left untreated in young children, it can stunt their social and emotional growth and development, and can leave the child at risk of developing more serious mental health issues later in life.

This impact exists even in very young children. Experts have observed that even infants and toddlers who may be too young to discuss or even vocalize what occurred retain “sense memories” (physical sensations surrounding emotional events) of traumatic events that can affect their well-being into adulthood.

Trauma-informed care is universally accepted as the gold standard therapeutic approach for treating children who have experienced traumatic events such as abuse. This approach recognizes the presence of trauma symptoms and acknowledges the widespread role trauma may play in multiple areas of an individual’s life including school and home environments. It is important that parents are involved in treatment so that they have an understanding of trauma and can support their child’s healing through consistent approaches that extend the therapeutic interventions into the home environment. Experts also note that it is important to include families so that the family also deals with their own issues and trauma that may impede them from supporting their child.

The Experiences of Other Regulators

Other professional regulatory bodies in Ontario shared their experiences administering similar types of programs. Their insights highlighted factors for the College to consider, including:

- Some colleges reserve the right to end funding if their investigation determines that abuse did not occur;
- Some colleges extend supports to all complainants in cases of sexual abuse, even those who were not patients (e.g. co-workers);
- Several colleges have additional initiatives to support complainants in sexual abuse proceedings, (e.g. social workers to assist complainants during the investigation / hearing process); and
- Some colleges provide reimbursement for other expenses which may be considered barriers to accessing therapy, including travel and child care expenses.

In considering this information, it is important to remember that the College is the only regulator whose members work exclusively with children under the age of twelve. As a result, the experience of other regulators is used as a reference point only rather than a model of an approach to be replicated.

Policy Direction and Guiding Principles

The College's goal is to ensure that the program provides the most effective assistance possible to support children who have been sexually abused by members of the profession. The program should reflect the unique nature of the population served by early childhood educators and the effects that trauma can have on that population. Understanding that trauma left untreated can leave serious physical and mental health implications on a child well into adulthood, the College believes that any program offered should be as accessible and inclusive as is reasonably possible for all cases of sexual abuse by members dating back to the College's inception in 2009.

Guiding Principles

Child & family centered

Decisions are informed by the needs and best interest of the child involved

Builds on best practices

Considers the uniqueness of the age group served (The College is the only regulator whose members work exclusively with children 0-12 years)

Evidenced informed

Promotes the use of the most appropriate and effective age-appropriate intervention, while respecting parental choice

Accessible

Supports the removal of barriers so that culturally and linguistically appropriate services can be accessed

Recommendations

Based on the evidence, it is clear that children who have experienced trauma have unique needs and face distinct challenges that require support. These needs may require additional resources, funding and may extend beyond the individual child to include counselling and support for their families as well.

Recommendation on Funding Amount and Timing:

- Set the maximum amount of funding at the amount that the Ontario Health Insurance Plan would pay for 200 sessions (each being 30 minutes in duration) of individual out-patient psychotherapy with a psychiatrist, and
- Provide the College with the ability to approve funding amounts that exceed the maximum in accordance with the by-laws
- Set the period of time within which funding may be provided for a person at five years from the earlier of the date of commencement of therapy and determination of eligibility for funding, and
- Provide the College with the ability to approve an extension to the duration of funding provided in accordance with by-laws

While the College agrees that the provisions relating to maximum funding amount set and the time period during which funding may be provided under the RHPA would generally be appropriate for the ECE Act as well, circumstances and individual cases may vary, requiring additional support. The College recommends that the regulation provide the College with discretion to approve funding in a higher amount and/or for a longer period of time in accordance with criteria to be established by the College.

In order to ensure that the College is fully and effectively supporting all children who have been the subject of sexual abuse by a member, the College intends to implement the program retroactively to ensure access to funding for therapy and counselling in eligible cases dating back to the inception of the College on February 14, 2009. This discretion would allow the College to appropriately support children in unique situations, based on the evidence as to need.

The College understands that unique circumstances may require children to access additional funding in order to support their healing. Similar to the recommendation around funding amount, this discretion would allow the College to appropriately support children in these unique situations and would be applied to all eligible cases since the College's inception.

Understanding the unique needs of this vulnerable population and that untreated trauma can impact children's physical and mental well-being into adulthood, the College is recommending that the regulation provide the College with discretion to extend the period of time of funding in accordance with criteria to be established by the College.

Recommendations on the Purposes and Classes of Persons:

- Provide the College with the ability to approve funding in relation to acts of sexual misconduct and prescribed sexual acts in accordance with the by-laws;
- Provide the College with the ability approve funding to in relation to acts of sexual abuse or prohibited acts involving child pornography not meeting the eligibility requirements in section 59.2(3)(a) of the ECE Act, provided that in the act occurred in the context of, as a result of, or is reasonably related to the member's practice of early childhood education, in accordance with the by-laws;
- Provide the College with the ability to approve funding for therapy and counselling provided to parents / primary caregivers of a child who is eligible for funding where necessary to support the child, in accordance with the by-laws; and
- Provide the College with the ability to approve funding for additional purposes and to additional classes of persons to reduce barriers to accessing therapy and counselling in accordance with the by-laws

The College recognizes that situations may arise which may fall outside the parameters of the provisions of the ECE Act but are similar in nature and still require therapeutic interventions. In order to best support the child and their family, the College is recommending that the regulation provide the College with discretion to approve funding for purposes and classes of persons not identified in the amendments in accordance with criteria to be established by the College.

The College is requesting the discretion to approve funding for the following purposes and classes of persons outlined in the table below.

Purposes and/or classes of persons for funding discretion	Reasoning
In relation to acts of sexual misconduct and prescribed sexual acts (as defined in the ECE Act)	Due to the particularly vulnerable nature of the population involved, there may be additional situations involving sexual misconduct by members for which therapy and counselling will be important to support a child's well-being.
In relation to acts of sexual abuse or prohibited acts involving child pornography not meeting the eligibility requirements in section 59.2(3)(a) of the ECE Act	The strict application of the requirement that a child be under the professional supervision or responsibility of the member during the time period that the abuse occurred may exclude cases which should be covered in order to reflect the intent of the program. This could include cases where the abuse occurred subsequent to the period of professional supervision, but was only possible due to the relationship formed while the child was under the member's supervision.
For the purpose of therapy and counselling provided to parents / primary caregivers of a child who is eligible for funding where that therapy or counselling is necessary to support the best outcomes for the child	The expert advice received by the College in relation to the unique needs of children and evidence-based best practices in therapy for children indicates that including and supporting parents is critical.

For additional purposes and to additional classes of persons as determined by the College	This would allow the College to address unique individual circumstances and to assist in removing barriers to accessing therapy and funding in appropriate cases. Expert advice and the experience of other colleges in administering similar programs indicates that funding for therapy and counselling cannot be effective if there are other barriers that prevent families from accessing it. These could include travel expenses, childcare for other children in the family, etc. In appropriate cases, the College might authorize funding for supports to reduce barriers to accessing therapy and counselling.
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Conclusion and Next Steps

It is clear that the needs of this highly vulnerable population are unique and present distinct challenges that require the utmost sensitivity and care, and an approach which may differ than the standards of treatment for adults.

The College's recommendations are founded in its commitment to regulating the profession in the public interest and an understanding of the needs of children and families in relation to therapy, counselling and other supports.

The College looks forward to continuing to engage with the Ministry of Education on this important initiative and seeing these recommendations integrated into the Regulations.

References

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