HER VOICE CANADA

Her Voice Canada/ Sa Voix Canada

contact@hervoicecanada.org

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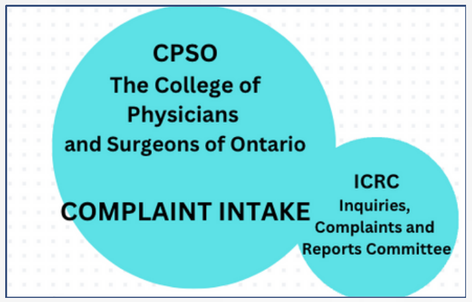
PHASE 1 – NO TRANSPARANCY

INVESTIGATION AND ICRC COMMITTEE



- **Physicians are not experts in sexual abuse;**
- **Physicians are more inclined to believe and defer to their cohorts;**

- **Allegations are "substantively recharacterized"** by the ICRC committee into "dishonourable, disgraceful and unprofessional conduct" or "failure to obtain consent" making it present as a clinical error rather than sexual abuse;
- **Avoidance of the term of "sexual abuse"** ensuring the doctor will not get his license suspended for 5 years which is mandated;
- **NO transparency in decision making**– no reasoning for the substantive recharacterization is provided. The ICRC is said to have discretionary power;
- **Acts clearly indicative of sexual abuse are omitted** when complaints are passed on to the Discipline Panel. Groping of genitals, sexual comments, simulated penetration, etc.

DOES THIS REFLECT NATURAL JUSTICE, DUE PROCESS, AND PROCEDURAL FAIRNESS?

- Not having an explanation and/or rationale for a decision (judicial courts do this but the CPSO doesn't have to?);
- No evidentiary rules;
- No reciprocal access to evidence– defence is given all evidence while none is provided to the victim;
- Legal bullying– scare tactics (demands and summons) = victims being threatened with bench warrants if they do not comply to requests within short periods of time leading to capitulation and the victim compromising their rights.

PHASE 2 – MUZZLED BY LEGISLATION

OPSDT - DISCIPLINE TRIBUNAL

OPSDT
Ontario Physicians and Surgeons Discipline Tribunal

COMPRISED OF MOSTLY PHYSICIANS

SOME MEMBERS OF THE PUBLIC APPOINTED BY GOVERNMENT

OPSDT CHAIR

PANEL HEAVILY GUIDED BY CPSO PROSECUTOR AND PHYSICIANS LEGAL COUNSEL

NO VOICE, NO LAWYER, NO CHANCE

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Evidence has been selectively omitted. Original complaints are not presented;

Victims are mere witnesses;

Victims are NOT allowed legal representation at their own hearing and if so, it's granted only in a very narrow sense;

Every year dozens of witnesses are silenced through plea deals, even having their victim impact statements redacted;

A plea deal by the physician to "disgraceful, dishonourable and unprofessional conduct" cannot be appealed by the victim;

Disgraceful, dishonourable and unprofessional conduct = DEAD END.

OPSDT PRACTICE ADVISORY GROUP (DISCIPLINE PANEL ADVISORY GROUP)

- ALL LAWYERS FOR THE COLLEGE & FIRMS WHO GET THEIR REFERRALS;
- NO MINUTES, NO VOTES, NO RECORDS;
- NO PUBLIC PARTICIPATION IN THE ADVISORY GROUP;
- ALL PAID BY PHYSICIAN'S FEES – MEMBER DUES TO CPSO AND/OR THE CMPA (Canadian Medical Protection Association)

WHO'S MISSING?
NO PATIENT ADVOCATES
NO LAWYERS FOR VICTIMS!

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Individuals who regularly represent physicians before the Tribunal

- Carolyn Brandow, Lerners LLP
- Marie Henein, Henein Hutchison LLP
- Jaan Lilles, Lenczner Slaght LLP
- Andrew Matheson, McCarthy Tétrault LLP
- Andrew W. McKenna, Gowling WLG International Limited
- Robert Sheahan, Gowling WLG International Limited

Individuals who regularly represent the CPSO before the Tribunal:

- Carolyn Silver, Legal Office, CPSO
- Elisabeth Widner, Legal Office, CPSO

Individuals from the OPSDT

- David A. Wright, Chair, OPSDT
- Dionne Woodward, Tribunal Counsel, OPSDT

THE GLARING LACK OF DUE PROCESS IN ONTARIO'S HEALTH REGULATORY SYSTEM

Resources	Physician	Sexual Abuse Victim
Full Participant	✓	
Legal Representation*	✓	
Access to All Evidence	✓	
Right to Speak	✓	
Choice of a Plea Deal**	✓	

*Physicians have **top notch** legal representation paid by **taxpayer money**. Victims are **rarely** given the right to legal representation during their hearing (if they are given a hearing **at all**).

Physicians are given the choice of a **Plea Deal, which **takes away** the victim's right to a pulic hearing and the chance to be heard by the Discipline Panel. The CPSO then further muzzles the victim's voice by **redacting** their Victim Impact Statement.

PROPONENTS OF THE STATUS QUO

There is a **right to appeal to HPARB** (Health Professions Appeal and Review Board) - this is **not the case for "disgraceful, dishonourable and unprofessional conduct" findings or pleas deals which is how many sexual abuse allegations are recharacterized;**

HPARB decisions can be further appealed to a judicial courts - *a moot point considering the previous point;*

There is pro bono help for these sexual abuse for these victims - regulatory law is not one of their core practices;

The process is quasi-judicial in nature and cannot be changed - this legislation is a construct of the provincial legislation and can be changed.

CITING IMPROVEMENTS MADE THROUGH THE PROTECTING PATIENTS ACT (2017)

The greater transparency brought by mandating “serious concerns” are noted publicly on a physician's profile as of January 1, 2015 - **which should have always been the case including before January 1, 2015;**

Certain Acts such as **groping was added as one of the acts mandating revocation - which always should have been the case.**

The banning of sex based restrictions - results in more cases being defined as “dishonourable, disgraceful and unprofessional conduct”.

HIGHLIGHTS FROM 34 RECOMMENDATIONS

THE 2015 TASK FORCE "TO ZERO"

2015 To Zero Report done at the request of the Ministry of Health and Paid for by Ontario Tax Payers

- **full participation of patients** (not just as mere witnesses);
- **evidentiary rules** at Discipline Hearings in Sex Abuse Complaints;
- **legal representation** for victims - access to justice for Ontario Patients Pilot with Legal Aid Ontario;
- **an independent organization for intake & Investigation** for Sexual Abuse Complaints (task force calls this the Ontario Safety and Patient Protection Authority);
- **an independent adjudication tribunal** – could be an offshoot of the Ontario Human Rights Tribunal.

Minister's Implementation Council;

Inter-Ministerial Oversight for Implementation.

PRESS "TO ZERO" FOR FULL REPORT OR EXPAND POINTS BY PRESSING

BC IS LEADING THE WAY!

THE HONOURABLE ADRIAN DIX HIRED U.K. EXPERT TO REVIEW REGULATORY BODIES IN BC.

In fact, Cayton, the former chief executive of the U.K. Professional Standards Authority, said health regulation in B.C**. is too broken to be mended**, and suggested the system needs an entire overhaul.

"There is a lack of relentless focus on the safety of patients in many but not all of the current colleges. Their governance is insufficiently independent, lacking a competency framework, a way of managing skill mix or clear accountability to the public they serve," Cayton writes.

In his blistering 100-page report, Cayton cites a litany of problems plaguing health regulation in B.C., saying the regulatory colleges lack transparency, are fragmented and fails to put patient first.

https://www2.gov.bc.ca/assets/gov/health/practitioner-pro/professional-regulation/cayton-report-college-of-dental-surgeons-2018.pdf


British Columbia

How B.C.'s system for regulating health-care workers is failing patients

A culture of secrecy and lack of focus on the public interest are at the heart of explosive report

Bethany Lindsay · CBC News · Posted: Apr 13, 2019 10:00 AM EDT | Last Updated: April 13, 2019

https://www.cbc.ca/news/canada/british-columbia/how-b-c-s-system-for-regulating-health-care-workers-is-failing-patients-1.5096784

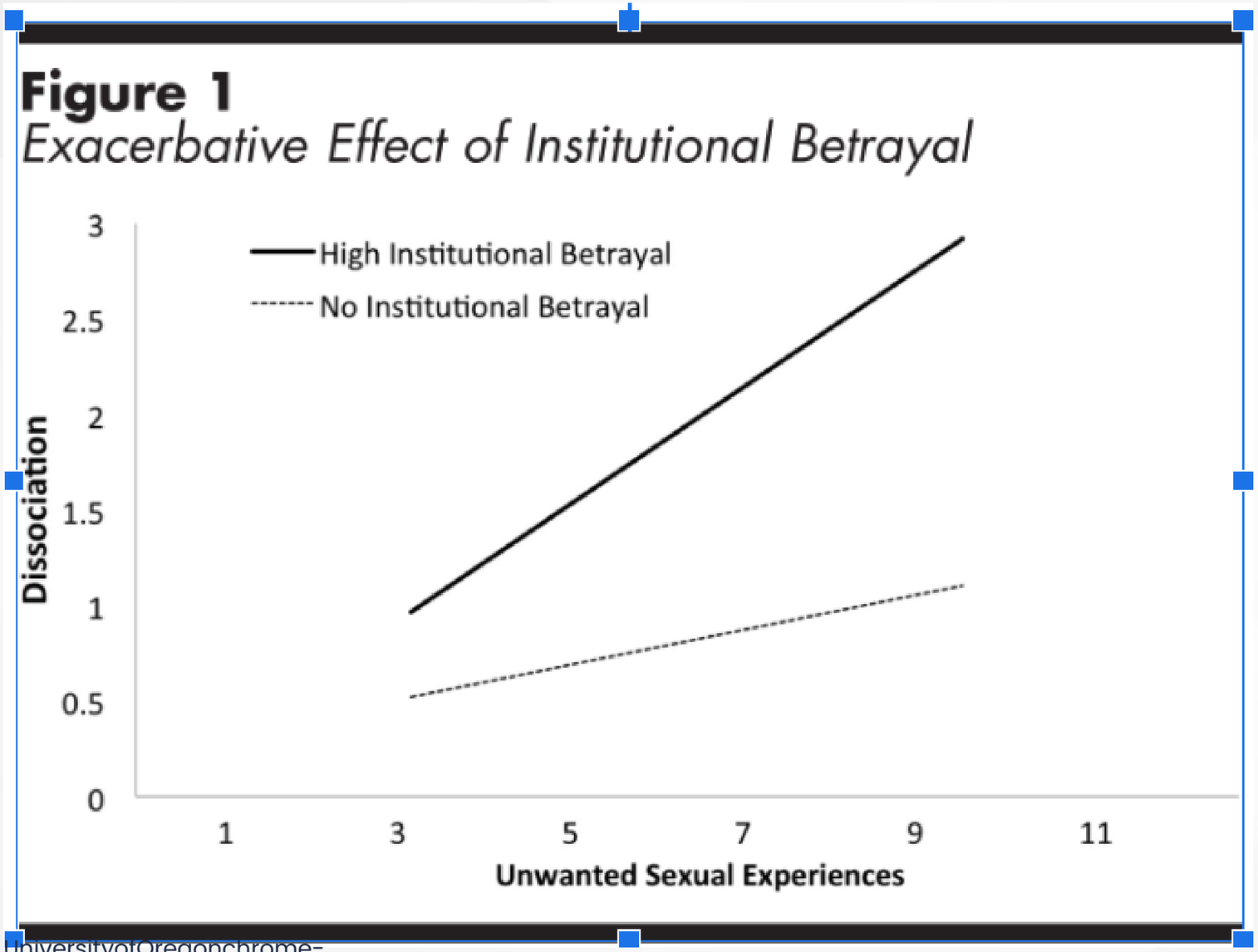

British Columbia

Rip up current system and start over, recommends review of B.C.'s professional health colleges

Review comes after a year of issues in colleges for dental surgeons, chiropractors and naturopaths

Bethany Lindsay · CBC News · Posted: Apr 11, 2019 3:07 PM EDT | Last Updated: April 12, 2019

https://www.cbc.ca/news/canada/british-columbia/bc-health-professional-regulation-report-1.5094180



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WHY THIS MATTERS

- THE VAST MAJORITY OF VICTIMS ARE FEMALE PATIENTS
- THE VAST MAJORITY OF PERPETRATORS ARE THEIR MALE PHYSICIANS
- THIS IS A SYSTEMIC PATRIARCHAL FAILING
- LIVES ARE FOREVER ALTERED - PTSD, DEPRESSION, DISASSOCIATION, INTERGENERATIONAL TRAUMA

Join us in making a change, because HER VOICE MATTERS

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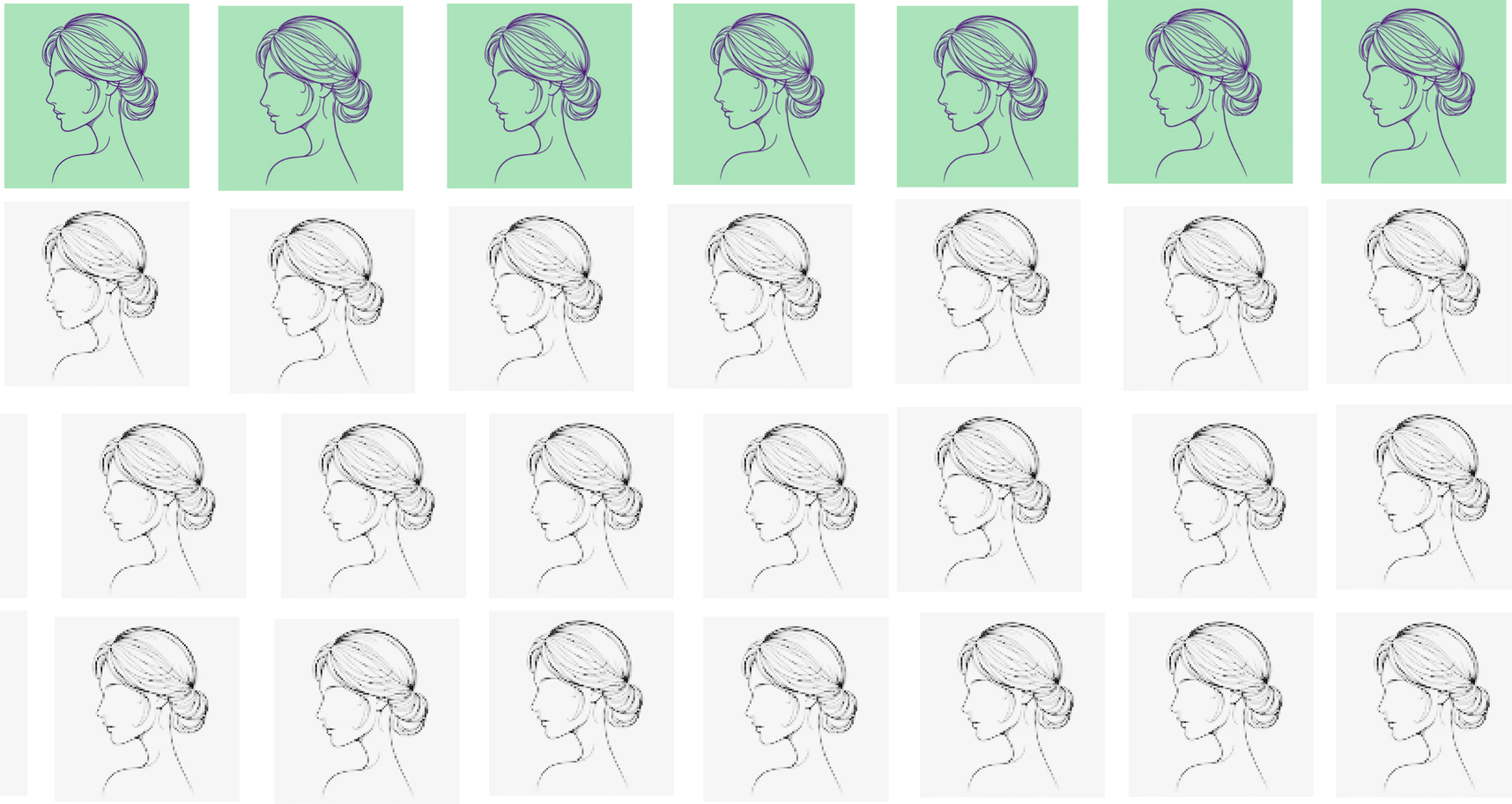
CPSO - ONE MULTI VICTIM SEXUALLY ABUSIVE MALE PHYSICIAN IS GREATER THAN DOZENS OF WOMEN'S COMPLAINTS



LEGEND

VICTIMS KNOWN TO THE PUBLIC. Sexual abuse complaintants that are sent to a hearing. Whether or not sexual abuse has been defined as an allegation, the physician is able to plea "no contest" to the meaningless catch all phrase of disgraceful, dishonourable and unprofessional conduct. After a 3 - 6 month suspension the physician returns to work.

VICTIMS UNKNOWN TO THE PUBLIC. Sexual abuse complaintants who report similar sexual abuse as those sent to a hearing for the same physician. These victims are told the doctor will take a boundary or remedial educational course. There can be dozens.