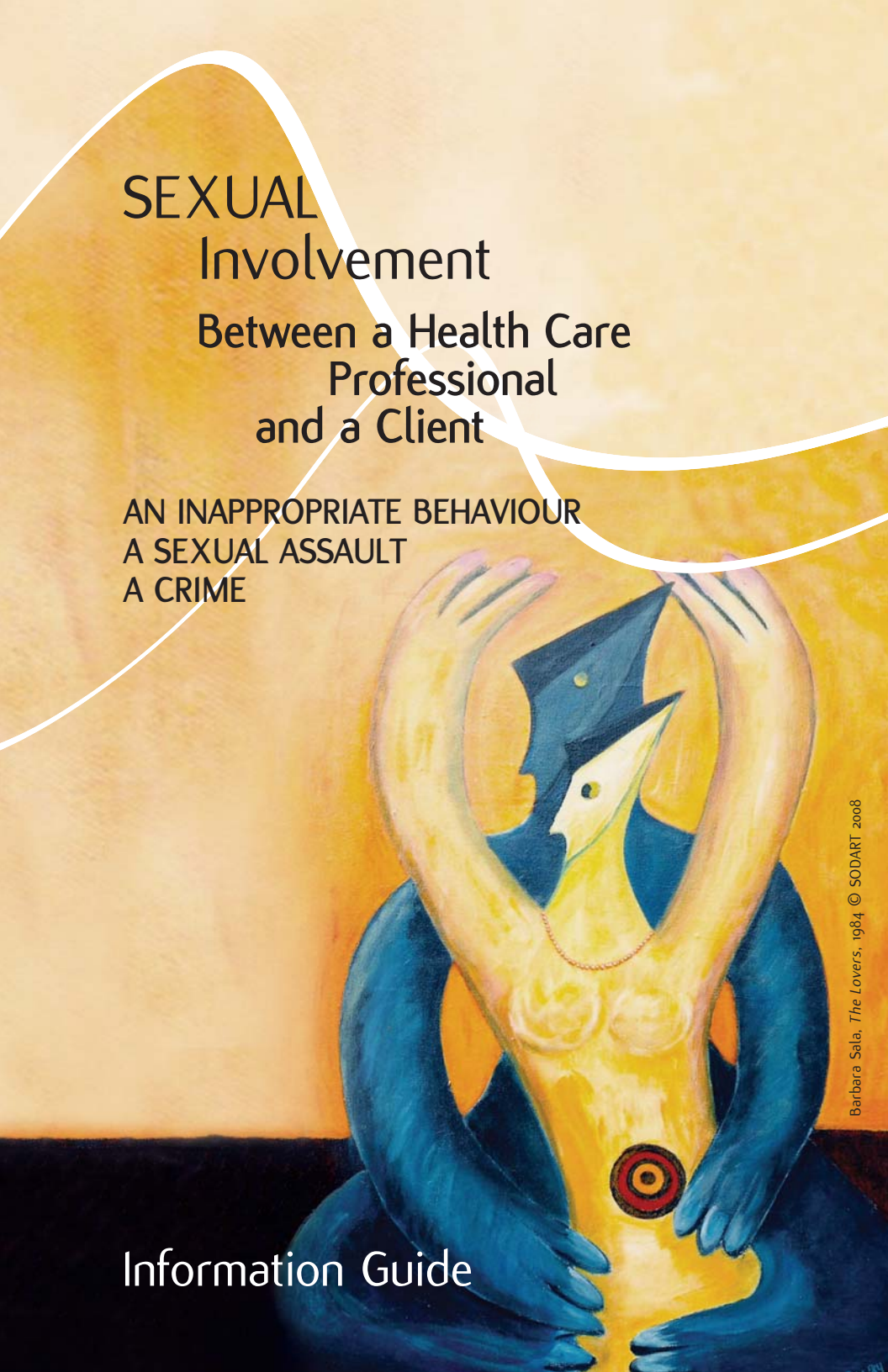
SEXUAL Involvement

Between a Health Care Professional and a Client

AN INAPPROPRIATE BEHAVIOUR
A SEXUAL ASSAULT
A CRIME



Barbara Sala, *The Lovers*, 1984 © SODART 2008

Information Guide

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By Way of PREFACE

Sexual Involvement Between a Health Care Professional and a Client: WHAT DO YOU KNOW?

Did you know

That any sexual involvement between a health care professional (physical or psychological) and a client is PROHIBITED?

Words or behaviour of a sexual nature are formally FORBIDDEN by the *Professional Code*. These acts constitute SEXUAL ASSAULT and can be deemed CRIMINAL by the courts.

Did you know

That at least 89% of sexual assaults by health care professionals are perpetrated by MALE professionals on FEMALE clients?[1]

These assaults are another form of violence perpetrated against women.

In order to reflect this reality, we refer to these professionals in the masculine and their victims in the feminine.

Finding it hard to believe it myself, I was sure no one would believe me.[3]

Did you know

That at least **10%** of health care professionals admit to having had sexual contact with clients?

Sexual assault of clients by health care professionals is a WELL KEPT SECRET. In spite of the breadth of the problem, this type of sexual assault is POORLY PUBLICIZED, POORLY UNDERSTOOD, and remains the object of SEXIST PREJUDICES. The majority of the victims REMAIN SILENT, fearing they will be BLAMED or will NOT BE BELIEVED. They often feel guilty, even though they are NEVER RESPONSIBLE for the behaviour of the professional.

Did you know

That at least **90%** of the victims suffer negative effects following the involvement?

The effects of sexual involvement are damaging for the great majority of the victims of a practitioner, as is any SEXUAL ASSAULT.

When I heard he was abusing other women in my community, I became very angry. Prior to that, I had felt so ashamed that I was afraid to talk to anyone. The anger helped me to find out how to complain.[5]

Did you know that

The professional is RESPONSIBLE AT ALL TIMES for any and all sexual involvement?

Contact of a sexual nature in the course of therapy or treatment is considered AN ABUSE OF POWER AND TRUST by the PROFESSIONAL. The professional bears sole responsibility for such behaviour.

"SEXUAL ACTIVITY BETWEEN A PATIENT AND A DOCTOR ALWAYS REPRESENTS SEXUAL ABUSE, REGARDLESS OF WHAT RATIONALIZATION OR BELIEF SYSTEM THE DOCTOR CHOOSES TO USE TO EXCUSE IT. [...] IT IS ALWAYS THE DOCTOR'S RESPONSIBILITY TO KNOW WHAT IS APPROPRIATE AND NEVER TO CROSS THE LINE INTO SEXUAL ACTIVITY".[4]

From a 1992 judgment by the Supreme Court of Canada

Did you know that sexual contact between a health care professional and a client IS A SEXUAL ASSAULT?

This Guide May Be Meant For You!

- Are you consulting a health care professional?
- Are you seeing a doctor, psychotherapist, psychiatrist, acupuncturist, chiropractor or any other health care professional?
- Do you have a physical or intellectual disability, or mental health problems?
- Do you receive in-home care or do you live in an institution?
- Are you a victim of discrimination, isolation, or marginalized?
- Are you a health care professional?
- Do you know someone who is seeing a health care professional?
- Do you know someone who is a victim of sexual assault by a health care professional?
- Are you part of an organization that helps victims of sexual assault or that defends their rights?

If you answered yes to any of these questions, THIS GUIDE IS MEANT FOR YOU!

This guide discusses sexual assault against adults only. It does not touch on situations involving children and teenagers who make up about 5% of the victims of health care professionals.[6] Sexual offences against minors present additional issues and necessitate a different approach, which can be the subject of another guide.

In this guide, the term PRACTITIONER is used to designate a person who provides physical or psychological treatment. The term TREATMENT is used for physical and psychological health services, including medical consultation, prescription of medication, psychotherapy, and various types of emotional and psychosocial support.

What Are The Goals of this Guide?

- To allow victims to recognize their situation, to identify and put into words the assault they experienced.
- Meet the needs of victims and make them aware of their rights.
- Make the public aware of this sexual offence.
- To inform and protect the public.
- To make health care professionals, their governing bodies and the government accept their responsibilities.
- To counter the prejudices and myths about the victims.
- Put this type of assault in the broader context of violence against women.

The ultimate goal is to END this kind of sexual assault.

Thoughts Regarding Anyone in a Position of Authority

Although this guide deals with sexual assault by a health care professional, it can help to understand other situations where A PERSON IN A POSITION OF AUTHORITY ABUSES HIS POWER, or takes advantage of his PRESTIGE or SOCIAL STATUS to procure sexual favours and to EXPLOIT those under his authority. Think, for example, of teachers, employers, clergy, coaches, supervisors, mentors, police, or lawyers.

Could You Recognize a Sexual Assault by a Health Care Professional?

Sexual assault can be difficult to recognize because the professional can gradually create an ATMOSPHERE OF TRUST AND INTIMACY, use AMBIGUOUS REMARKS and BEHAVIOUR or PRETEND that it is part of the treatment. These actions often make the client UNEASY.

NO MATTER WHAT THE PROFESSIONAL MAY SAY, SEXUAL INTIMACY BETWEEN YOU AND HIM HAS NO PLACE IN THERAPY. IT IS INTENDED TO PROVIDE SATISFACTION TO THE PROFESSIONAL THROUGH FINANCIAL, EMOTIONAL AND SEXUAL EXPLOITATION OF CLIENTS.

An obese woman [...] complained about a male neurologist she was referred to due to neuromuscular problems. [...] He never touched her, but made inappropriate sexual remarks that humiliated her. He asked her to undress for a physical exam and to squat. When she did, he said things like, "You mean your husband actually finds you attractive?" and "How often do you do it?"[7]

An assault may be in the form of words, actions or sexual relations

- **Words** of a sexual nature:
  - constant comments on your physical attributes, your undergarments, etc.;
  - asking for inappropriate details about your sex life;
  - talking to you about his sex life;
  - fostering a climate of seduction or intimacy, for example using endearments such as "Beautiful" or "Sweetheart";
  - making sexual or intimate remarks by telephone or the Internet.

- **Actions** of a sexual nature:
  - brushing against your buttocks while finishing a medical exam, or touching your breasts, thighs or genitals, either directly or through your clothing;
  - touching or examining you in a way not related to the purpose of the visit;
  - pressing his body against you, sitting needlessly close to you, lying down beside you;
  - watching you undress in a way that makes you uneasy, leering or looking at you in an indecent manner;
  - making you look at pornography;
  - justifying acts of a sexual nature by pretending they are part of the treatment;
  - asking you to take part in sexual activities on the pretext that this is part of your therapy, activities such as kissing, caressing, masturbation, etc;
  - masturbating in your presence.

- **Sexual relations**:
  - having sexual relations with you in his office or elsewhere;
  - having sexual relations without penetration: fellatio, cunnilingus, etc.;
  - having sexual relations with vaginal or anal penetration.

During a medical visit, I started to cry. He hurried to console me, took me in his arms, and then I felt his hands sliding over my back and buttocks.[3]

A woman reported having an abortion [...]. Six months later, she returned to her general practitioner for an internal examination. At this time, the doctor stroked her clitoris. When she asked what he was doing and why, the doctor replied, "to lubricate".[7]

PHYSICAL CONTACT, SUCH AS A GYNAECOLOGICAL EXAM OR A BREAST EXAM, IS NOT SEXUAL CONTACT. PHYSICAL CONTACT MUST BE FREE OF SENSUAL OR EROTIC ELEMENTS.

Health Care Professionals: Who Are They?

A health care professional is any person who provides physical or psychological services, therapy and emotional or psychosocial support. Such a professional may or may not have accredited training. He may or may not be a member of a professional association. Some examples of health care professionals are:

- family physicians, psychiatrists, specialists;
- psychologists, psychotherapists;
- orderlies;
- paramedics;
- nurses;
- social service providers such as educators, social workers;
- chiropractors;
- massage therapists, acupuncturists;
- teachers or supervisors of a practicum or clinical training for future health care professionals.[8]

How Many People Are Affected?

IN VIEW OF the fact that **ONE** health care professional in **TEN** admits having had sexual contact with a client;

IN VIEW OF the great number of health care professionals practising in Québec (19,000 physicians, general practitioners and specialists[9], 68,750 nurses[10], 8,000 psychologists[11]);

IN VIEW OF the fact that 80% of these offending professionals will assault more than one client[12];

THE NUMBER OF VICTIMS IS VERY HIGH. THIS IS A MAJOR AND WIDESPREAD PROBLEM OF CONCERN TO SOCIETY AS A WHOLE.

I had decided not to complain about him until I realised that in my small town alone, there were 13 other victims who had also been his patients.[5]

Who Are the Victims?

Mainly women

Between 80% and 90% of the victims are women[1].

"SEXUAL CONTACT BETWEEN THERAPIST AND PATIENT IS PERHAPS THE QUINTESSENCE OF SEX-BIASED THERAPEUTIC PRACTICE".
Jean Holroyd, principal investigator of the first national study of therapist-patient sex[13]

There are women at even greater risk!

We trusted the health professional to give appropriate care for our fragile, vulnerable daughter and he betrayed all of us, especially Sherrie. For the health professional, Sherrie was a tiny, fragile, helpless young woman who could not run away, could not call for help, and could not tell anyone what he was doing to her.[5]

Women who have a PHYSICAL HANDICAP OR AN INTELLECTUAL DISABILITY are doubly at risk of being sexually assaulted. A third of the assaults they suffer are committed by those who provide them with their health and basic care.[19]

Women with MENTAL HEALTH problems, living in an INSTITUTION, or receiving HOME CARE are often isolated, trapped, dependent on the caregivers, and have less means of defence.

Men can be victims too!

Between 10% and 20% of victims are male.

There is not much known about the experience of male victims because there have been so few studies on the subject.

In the general context of sexual assault, it would appear that male victims of sexual assault by a health care professional are mainly minors, and that the majority of the assailants are heterosexual men.

Requiring care for a simple oral lesion, Andrew attended a university clinic, where the health practitioner asked him to remove all his clothing and to lie on the examining table. Once he was in this vulnerable position, Andrew was fondled by the health care professional.[5]

For NATIVE women, the destruction of social structures and traditional lifestyles has caused a steep rise in social problems in their communities. Acculturation, social isolation, and a variety of problems make these women and children more vulnerable to all types of sexual assault, including assault by a health care professional.

IMMIGRANT women and women from various ETHNIC and CULTURAL COMMUNITIES are isolated by racism, language and cultural barriers, and separation from their original social networks. Isolation increases the likelihood of all types of assaults.

LESBIANS are often wrongly perceived as sexual deviants. Health care professionals can PRETEND to cure them of their supposed disease through sexual contact which is in fact sexual assault.

Women who are CRIMINALIZED, HOMELESS women and PROSTITUTES are too often marginalized and brutalized. Due to their low status, and exclusion from mainstream society, these women are at greater risk for sexual violence.[14]

Who Are the Assailants?

Mainly men

Dr. Masserman, an eminent and internationally known American psychiatrist, repeatedly raped his patient, Barbara, over the course of 17 years, taking advantage of the effects of a sedative injected to render her unconscious.[16]

Between 80% and 93% of professionals who sexually assault clients are men[15].

No profession and no method of treatment are free of this problem.

A professional's prestige and reputation is no guarantee of good conduct.

What Are the Warning Signs?

Sexual involvement is often preceded by behaviour which crosses the boundaries of the client-therapist relationship. This behaviour can be very subtle and disconcerting. Situations such as these can be a sign of manipulation by the professional:[17]

- the professional creates a seductive or erotic atmosphere;
- the professional presents sexual involvement as a part of the treatment;
- the professional dictates what behaviour you need to adopt in your daily life, including your sexual behaviour. He presents himself as the expert or the friend who has the answer to all of your problems;
- the professional suggests that you have a relationship outside the therapeutic context, for example, he invites you to a restaurant, to a party, or to other social activities;
- the professional makes you his confidante and your consultation focuses on his needs rather than yours;

Your Feelings Can Be a Sign

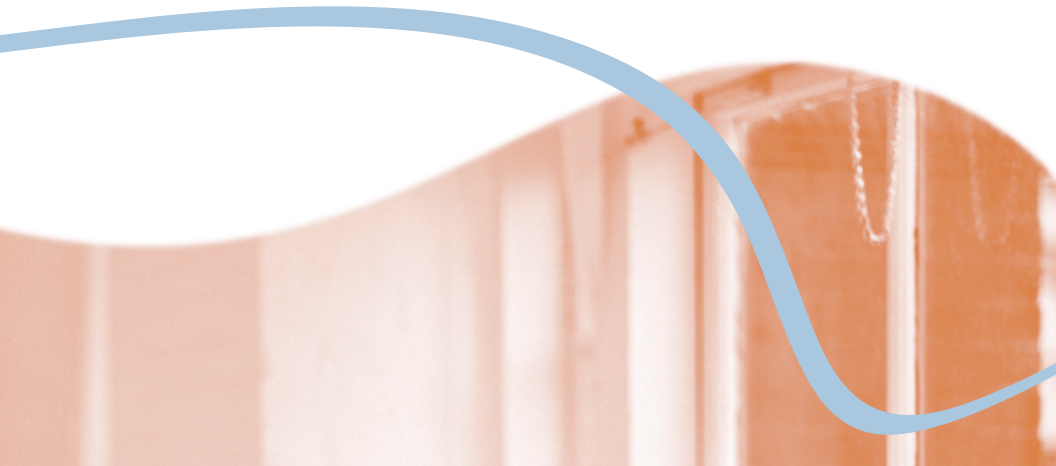
If a word or action makes you feel uncomfortable, tell the professional. He should cease this behaviour, even if there was no sexual intent.

If the professional does not want to talk about it, reacts negatively, or does not change, you have good reason to be concerned. Give serious consideration to ending all contacts with this person in order to avoid being manipulated and assaulted.

- normal practice is often changed: appointments are booked at times when no one else is in the office, consultations take place outside the office, or the number of consultations increases needlessly;
- the normal monetary method of payment is changed to the barter of goods and services, for example, repairing the professional's vehicle or preparing his tax return;
- the professional ensures his hold over you by isolating you from your network of friends and family, or by offering you a job;
- the professional is critical of your positive attitude;
- the professional lends you money or borrows money from you;
- the professional suggests consuming drugs or alcohol.

You Have the Right to...[18]

- be cared for in a **secure environment**, that is free of sexual comment or contact, free of harassment or physical or psychological assault;
- receive services **with no obligation** to adopt behaviour or treatment which you do not want;
- be **heard and believed**, especially if you are revealing an assault;
- have **your privacy respected** regarding questions not related to the problem for which you are seeking help. For example, if you do not feel it necessary to reveal details of your sex life, or of a previous assault, you have the right to refuse to answer such questions;
- deal with a professional who keeps his **love life or sex life to himself and brings neither into your consultations**;
- receive services that meet **your needs and are in your interest**, and not those of the professional;
- receive services that are **free of prejudice or discrimination**, whether sexist, racist, homophobic, or related to your social status;



- **ask for references** on the professional you wish to consult;
- **ask questions** about the treatments proposed **and refuse such treatments**, especially when they are sexual masquerading as therapeutic;
- **question** the ideas, decisions, actions, and behaviour of the professional. He can make a mistake or behave badly. A good professional will be open to your questions;
- require that the **professional share with you all information** deemed necessary in order to make your own decisions;
- request a **second opinion** about your practitioner or about his methods of treatment;
- **end your consultations**;
- obtain a **copy of your file** or ask that it be transferred;
- **register a complaint** of sexual assault or other professional misconduct.

ANY WORD OR BEHAVIOUR OF A SEXUAL NATURE FROM A HEALTH CARE PROFESSIONAL IS CONSIDERED A SEXUAL ASSAULT. MANY OF THESE ACTIONS ARE SUBJECT TO PENALTIES UNDER CRIMINAL LAW.

The Statistics — in Short

Assaults committed by health care professionals

- Between **80** and **90%** of victims are women;
- Between **80** and **93%** of professionals who commit assault are men;
- At least **89%** of sexual contact takes place between a male health care professional and a female client;
- At least **ONE** health care professional in **TEN** admits having had sexual contact with a client. This number is conservative, as it is based on voluntary declarations by professionals in surveys or studies;
- **80%** of professionals guilty of this misconduct assault more than one client;
- **ONE THIRD** of sexual assaults suffered by women with a physical or intellectual disability are committed by caregivers;
- In Ontario, a study estimated that between 1994 and 1999, **4%** of the adult population had been a victim of a sexual assault by a health care professional – which means there are nearly **200,000** victims[5];
- **63%** of psychiatrists and **20%** of all British Columbia physicians have patients who have had sexual contact with another physician, according to a public inquiry published in British Columbia in 1992 by the British Columbia Committee on Sexual Misconduct by Physicians[19];
- At least **90%** of victims experience negative effects following sexual contact with a health care professional.

The situation reflects sexual assaults as a whole since statistics show that[20]

- **82%** of victims of sexual assault are women;
- **98%** of those accused of assault are men[19];
- Nearly **8** in **10** victims of sexual assault know their assailant;
- **7** in **10** sexual assaults take place in a private residence;
- **40%** of women suffering a handicap will live at least one sexual assault in the course of their lifetime;
- More than **75%** of young native girls under 18 are victims of sexual assault;
- Very often, the assailant does not use physical violence or a weapon.

The EFFECTS of the Assault

Sexual Assault Is Distressing, Disconcerting, And Painful!

If you have had sexual contact with a health care professional, it is very likely that you are suffering negative consequences. You are not alone — such is the case for 90% of those in your situation.[11]

You may feel assaulted even if the act was subtle and of short duration. A single kiss or obscenity can be humiliating and assailant. You may experience any of the following effects intensely, at any time after the events:

- confusing emotions: your emotions may seem contradictory. For example, you may feel torn between a desire to report the professional and a desire not to do him harm; between feelings of love and hate for him; between feelings of guilt and feelings of betrayal. This ambivalence is often nurtured by a manipulative practitioner and can become paralysing;
- shame and guilt: these feelings are the result of biases that often minimize the effects of sexual assault and blames the victims;
- feeling empty inside, feeling alone;
- fear of judgment and blame, which makes you keep silent;
- loss of self-esteem, loss of self-confidence;

This experience damaged me badly. I have never been able to trust anyone since.[7]

MANY VICTIMS OF ASSAULT FEEL MORE AFFECTED BY THE PROFESSIONAL'S MANIPULATION AND BETRAYAL THAN BY THE SEXUAL ACT ITSELF.[7]

If you have already been sexually assaulted, the effects of a second sexual assault by a health care professional can be even more serious, even more destructive.

He raped me repeatedly. He abused me. He did not help me. He harmed me in my progress towards healing.[3]

- anxiety, depression, thoughts of suicide;
- anger or repression of anger, self-destructive behaviour;
- feeling betrayed and exploited;
- difficulty with interpersonal, intimate and sexual relationships;
- fear, mistrust of others, especially of men and of practitioners;
- increased consumption of alcohol, medication, or drugs;
- recurring dreams, overwhelming memories;
- difficulty concentrating, lapses of memory;
- keeping family and friends distant.

Male victims also experience these effects. However, it seems that men find it more difficult to recognize that they have been victimized and are even more reluctant to admit to having been a victim of sexual assault.[22]

The Effects on Family and Friends[23]

Are you the life-partner, friend, parent or child of a victim?

Have your suffered from the effects of an assault on someone close to you?

Your attitude is very important for the victim. She may confide in you or withdraw from you depending on your initial reaction.

As a LIFE-PARTNER, you may have

Suffered:

- the emotional absence of your spouse;
- her mood swings or depression.

Felt:

- anger, wounded;
- confusion, ambivalence;
- psychological exhaustion.

Thought about:

- separating;
- acting on behalf of your spouse, intending to help her;
- blaming your spouse;
- asking her to stop talking about this problem.

It is best to avoid overprotecting the victim, or acting or pushing her to act against her wishes. It is important to realize the consequences experienced by the victim.

You may experience these effects to various degrees and at various times. You can seek outside help to:

- understand the situation;
- express and understand your feelings;
- set your own boundaries.

It is preferable to seek help for yourself from someone other than the person helping the victim in order to deal with the effects of the assault.

As a FRIEND, CLOSE COLLEAGUE, you may have

Felt:

- sorrow for your friend's suffering;
- frustration with a victim who is not aware of the abuse she is experiencing;
- powerless;
- tired from the active listening and support you have given your friend.

Often, you are one of the first people in whom the victim confides. You definitely play an important role.

To help yourself and your friend, see the "Resources" section (p. 65). There are competent people available to help you.

Allow yourself to set boundaries, and if necessary, seek help to avoid exhaustion.

As a PARENT, you may have

Felt:

- guilty, especially if you are the one who referred your child to this professional;
- responsible for what happened.

Wondered:

- why you did not see what was happening;
- whether you have failed as a parent.

Remember that the ONLY ONE RESPONSIBLE is the person who assaulted, manipulated and took advantage of your child.

CHILDREN of a victim[23]

Children who are aware of their mother's situation react differently according to their age. Teenagers may feel confusion depending on where they are in their own quest for identity. They may also be preoccupied with the image their peers or their neighbourhood will have of them if the story becomes public, especially in the case of a lawsuit. Generally, children offer significant support to the victim.

If the children are not made aware of the problem, this secret can be a burden and can cause them uneasiness and confusion. Depending on circumstances and the ages of the children, it may be preferable not to reveal the assault. However, it can be reassuring for them to know that their mother is going through a difficult time which is in no way their fault – children often feel responsible for their parents' unhappiness. It can be useful to seek help in order to find a suitable way to broach the topic with your children.

How Victims Are Tricked Into Involvement

A health care professional's behaviour towards you has been sexual. You may be wondering what you did wrong and you may feel ashamed.

You did nothing wrong, you have been deceived!

You know a woman who has complained of sexual behaviour on the part of a health care professional. You think she must have misinterpreted the professional's behaviour, that she must have behaved seductively herself, or that she consented.

The victim is not responsible, she was deceived!

It is not normal to blame, judge or hold the victim responsible.

Too often, the behaviour of the person responsible for the assault is ignored.

Most of the time, the assailant uses neither force nor physical violence.

He uses manipulation, deceit, and control over the victim.

Here are a few possible scenarios

A professional who assaults clients presents his sexual behaviour as part of the treatment. He uses the prestige conferred by his knowledge and his status to MANIPULATE and CONFUSE his client.

> *"A woman [...] went to see a psychiatrist for the treatment of phobias — phobias about being touched. The doctor recommended that he desensitize her by touching her. At each treatment, the doctor would fondle and touch her. She felt that this treatment was inappropriate, but she felt powerless and so allowed it to happen. The therapy lasted for 7 years. She said she never got any better. The doctor often saw incest survivors".*[7]

The assailant can CONTROL the patient with medication.

> *One doctor kept his patient's medication at his office under the pretext that she might commit suicide. He gave her medication once a week when she came for a consultation. He took advantage of these regular visits to assault his client.*[7]

> *One doctor threatened a victim who wanted to end her visits by telling her that he will refuse to prescribe medication for her migraines and will tell the other doctors in the area to refuse to prescribe medication to her because she is dependent on this medication.*[24]

Based on his knowledge of the clients, the unethical professional can tell which of them are in situations that make them more vulnerable and more easily manipulated. The professional can slowly but surely ISOLATE the client from her social network. He can KEEP the SECRET by means of threats to the client.

> *I met Dr. X [when] I was depressed and suffering from insomnia. [...] My husband was violent and could not deal with the rape that I had suffered four years previously. Dr. X chose to treat me with medication for depression and anti-anxiety drugs, which made me feel that I was always "on drugs" or "at sea". [...] Dr. X quickly gained my trust. In fact, he was the only one who took the time to listen to me and I needed that. I finally felt that I mattered enough for someone to listen to me. [...] During one medical appointment, I broke down and began to cry. [...] He hurried to comfort me, took me in his arms, and then I felt his hands slide down my back and buttocks. I was paralysed. [...] In less than a year, I was at his mercy... I needed his advice, his listening, and he knew it. He often told me to never talk about what he was doing to me. He said that no one would believe me, that I would lose custody of my children, that I would destroy his family.*[3]

> *She felt that he was her lifeline, and he told her repeatedly that she could not get that kind of help anywhere else.*[24]

An abusive professional manipulates clients with AMBIGUOUS and SUGGESTIVE MESSAGES, leading them to believe that love and affection are growing in their relationship.

Lyse, who was experiencing marital problems and had difficulty asserting herself, consulted a psychologist. He was the only one who listened to her and did not discourage her when she spoke of divorce. Lyse felt unstable and confused and one day, confusing her need of comfort with love, she told him she thought she was in love with him. He replied, "And I love you, too". They continued to meet with no clarification of what he meant. Lyse found it unbearable to be in this ambiguous situation, a situation made worse by the silence of the professional. One day, she tried to clarify the situation; that is when her psychologist's sexual touching convinced her that he loved her as a woman. They had sexual relations during subsequent visits. Months later, Lyse discovered that he also had sex with other women.

"A woman [who] was in therapy [...] was encouraged to sit on the doctor's lap when he fondled her breast. The next time, they sat on the couch. Then he [...] said, "You must be very confused about what happened today, let's go for a drink". She said they did; nothing happened. She couldn't talk to him easily about it. [...] She said that she was very vulnerable and needy at the time, and she thought it was developing into a personal relationship".[7]

Once trust has been established, the offending professional gradually creates an INTIMATE AND SEDUCTIVE ENVIRONMENT. He presents himself as an attentive friend. The client and those close to her may be confused by his hugs or ambiguous touching, seeing them as friendly and considerate.

> *"Like many other victims, "Olivia's" secret relationship with a priest gave her a sense of being special. She felt safe and secure with him in the little room of the church, and barely noticed that his sexual demands were becoming more and more outlandish. Any concerns on her part were met with the assurance that they were truly blessed and communing in the sight of God".*[24]

A professional can TAKE ADVANTAGE of the legitimate medical acts to engage in sexual touching.

> *A woman reported sexual abuse by a male physician. She said that he was a respected family physician. One day, during her check-up, he "fingered" her, and she didn't know what to say. He asked her how it felt and stopped. She never went back, and was unable to tell anyone since then.*[4]

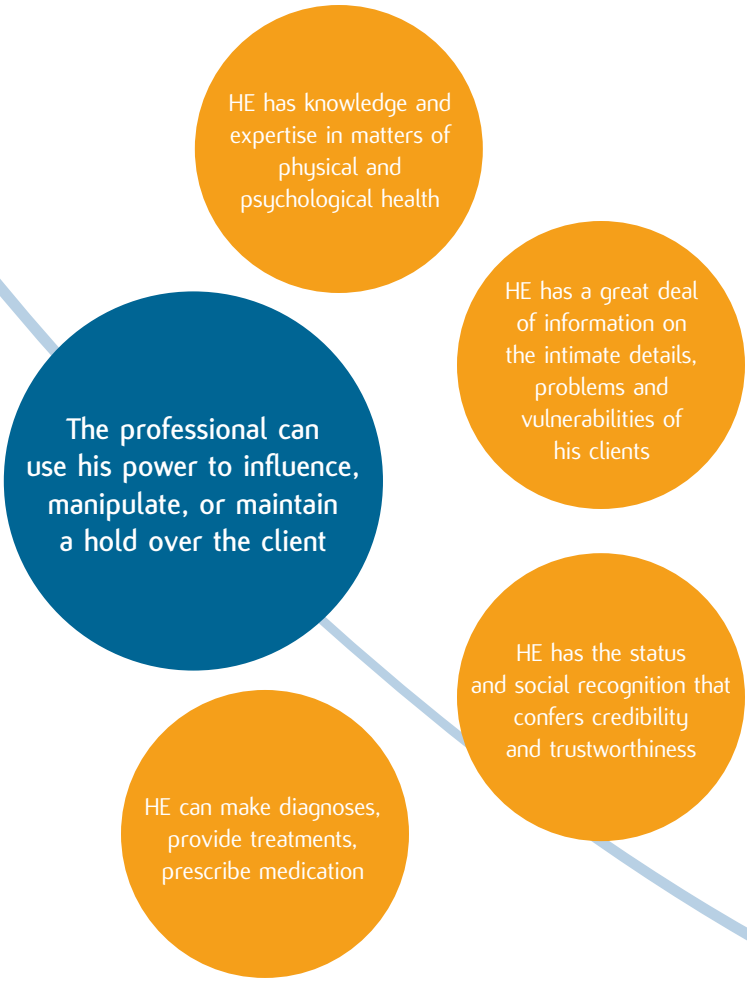
> *"A woman was seeing [a doctor] for acupuncture treatments. [...] He would stay in the room and masturbate while she had the needle struck in her back. [...] Charges she made toward the physician were dropped due to technicalities, and she was told that a doctor could do whatever he wanted in his private office".*[7]

THE OFFENDING PRACTIONNER IS THE ONLY ONE RESPONSIBLE FOR HIS BEHAVIOUR.

A Matter of an Imbalance of Power

You may feel that sexual contact between a health care professional and a client are of concern only to the two consenting adults. However, the client is in no position to freely consent to sexual involvement because of the IMBALANCE OF POWER between her and the practitioner.

The PROFESSIONAL is in a position of greater power than the client:



(Nora) could not have made a free choice to consent in sexual relationship with (her therapist). She was in a sexual relationship with a man who had power over her psychological state of mind and her treatment process. He had initiated erotic contact after a process of grooming her for exploitation and slowly eroding her personal, physical and psychological boundaries and implying that she was special to him and that he "loved her although he was not in love with her" [...] She was confused, anxious and vulnerable to him and afraid that, if she displeased him, she would lose him and thereby lose not only his attention but also her treatment for the emotional pain that originally brought her to him [...].[5]

The CLIENT is in a position of vulnerability and dependence:

SHE is going through a physical or psychological health problem which makes her vulnerable to manipulation

SHE is dependant on the professional to help her find a solution to the problem that led her to consult him (diagnosis, treatment, etc.)

The problems that led the client to seek help and the personal information that she must provide to the professional places her in a disadvantaged position

SHE must trust the professional if she is to reveal the problem and receive appropriate treatment

Violence Against Women...

It is NO COINCIDENCE that it is mainly WOMEN who are ASSAULTED BY MALE health care professionals.

Generally, sexual assault occurs between people involved in an UNEQUAL RELATIONSHIP.

Even today, women the world over have LESS MONEY and LESS POWER than men. These imbalances mean that women are CONSIDERED LESS and have WORSE LIVING CONDITIONS. For example, the victims of domestic violence, of depression, and of poverty are mainly women.

Even where the conditions for women have changed, there are still many situations where women are not respected.

DISADVANTAGED persons are often treated as SEX OBJECTS. That is why it is mainly women who are seen in "sexy" poses or clothing in advertising, in magazines, in movies, on the Internet. The use of women as sex objects does not respect their human dignity. This creates conditions favourable for sexual assault, conditions where women are seen as objects and not as human beings who have the right to physical and psychological integrity. And, it is mainly women who are victims of sexual assault, incest, rape, and prostitution.

"VICTIMS OF SEXUAL ASSAULT ARE RARELY THOSE THE ASSAILANT BELIEVES CAPABLE OF DEFENDING THEMSELVES; IN OTHER WORDS, SUCH VIOLENCE OCCURS BUT RARELY BETWEEN SOCIAL EQUALS".[26]

The number of MEN treated as sex objects is MUCH LESS. And the men who are used sexually are often in situations where they occupy an inferior position. They are mainly BOYS and TEENS, Natives, gays or bisexuals, men from ethnic minorities.

Gilbert, a young native of fifteen classified as a delinquent, was hospitalized and sexually exploited by another patient. An orderly and other patients witnessing these assaults acted as if nothing was happening. Still haunted by the memory, Gilbert says, "I learned that authority figures are untrustworthy".[5]

WHEN WOMEN HAVE THE SAME ECONOMIC AND POLITICAL POWER AS MEN, IT WILL BE MORE DIFFICULT TO SEXUALLY ASSAULT THEM OR COMMIT VIOLENCE AGAINST THEM.

Violence Against Women...
... Comprised of Specific Characteristics

Sexual assault committed by a health care professional has much in common with sexual assault in general where:

- the victims are mainly women;
- the assailant is often a man;
- the victims are blamed and feel guilty;
- few assailants use physical violence;
- the victims often know the assailant;
- the victims are dominated, used, abused.

But there are also differences:

- it is an economic exploitation because the client (or the government or the insurance company) is paying for a "service" which turns into a sexual assault;
- the assailant takes advantage of the physical, emotional, or sexual vulnerability of the client and of his own status as authority, to obtain sexual favours;
- many victims develop a great distrust of health care professionals. They will do without the healthcare they need rather than risk another assault. Their physical and psychological health may deteriorate;
- victims leave treatment with more problems that when they began. In addition to the initial problem for which they sought help, they are now experiencing the negative effects of the assault;
- victims of sexual assault find it very difficult to reveal the assault, fearing blame and judgment. There is an added fear for clients of psychotherapists, that of being thought "crazy" if they admit to having been in therapy;
- finally, the social status and credibility accorded to a health care professional can reinforce the myth that the abuser is innocent and that the client is responsible for what happened.

The Professional Is Always Responsible

A professional has RESPONSIBILITIES arising from his position of GREAT POWER and PRIVILEGE in knowing the intimate details of his client's life.

He must not TAKE ADVANTAGE of his position of authority to MANIPULATE and sexually assault a client.

The client is NEVER AT FAULT. She is NOT RESPONSIBLE for the behaviour of the health care professional.

"DUE TO THE POSITION OF POWER THE PHYSICIAN BRINGS TO THE DOCTOR-PATIENT RELATIONSHIP, THERE ARE NO CIRCUMSTANCES — NONE — IN WHICH SEXUAL ACTIVITY BETWEEN A PHYSICIAN AND A PATIENT IS ACCEPTABLE."[4]
Supreme Court of Canada, 1992

Sexual contact between a professional and a client Formally forbidden in the *Professional Code of Québec*

The members of 45 professions must follow the regulations defined in the *Professional Code*.

One of these regulations FORBIDS ALL SEXUAL INVOLVEMENT between a professional and a client.

"The fact of a professional taking advantage of his professional relationship with a person to whom he is providing services, during that relationship, to have sexual relations with that person or to make improper gestures or remarks of a sexual nature, constitutes an act derogatory to the dignity of his profession."
Professional Code, L.R.Q. c. C-26, s. 59.1.

Sexist Myths and Prejudices

Do you think that

Sexual involvement between a health care professional and a client is a matter of two consenting adults?

Yet, in REALITY...

As discussed in "A Matter of an Imbalance of Power", (p. 30), intimate relations that are mutual and egalitarian are not possible between a health care professional and a client due to the imbalance of power between them. This is a fact recognized by many health care professionals and also by the Supreme Court of Canada.[4]

Do you think that

The client "seduced" the health care professional, or "asked for it"?

Yet, in REALITY...

Thinking that the client "seduced" the professional comes down to holding her responsible for his behaviour. No matter the client's behaviour, the professional is responsible for his behaviour and knows that he must not have sexual contact with his patients. Furthermore, this notion would have us believe that a professional is unable to "control himself". Far from being a loss of control, the professional is actually taking control. A professional often plans and organizes his assault. He may gradually set the stage for it, or manipulate the client, or put pressure on her. See the section on "How Victims Are Tricked into Involvement" (p. 25).

Do you think that

Sexual assault by practitioners is the exception, that it is a chance error, or the action of a mentally ill professional?

Yet, in REALITY...

Unfortunately, sexual assault by a health care professional is not rare. At least one health care professional in ten admits having had sexual contact with one or several clients. If all these health care professionals are "sick", that would mean that there are thousands of "unbalanced" practitioners. This is simply not realistic. Rather, social customs and values are what affect the behaviour of these practitioners, and not the state of their mental health. This behaviour is no accident: 80% of offending professionals will assault more than one client.

Do you think that

A supposedly "lovesick" client is hoping for a love affair or sexual adventure with her practitioner?

Yet, in REALITY...

Women consult a health care professional first and foremost to regain their health. Very often, it is the health care professional who initiates sexual contact. He uses his power and chooses clients he believes will be easy to manipulate. Many clients are seeking help with difficult situations. They need help and they need to trust in order to confide in the professional.

Do you think that

Feminists exaggerate the problem and put all the blame on the health care professional?

Yet, in REALITY...

Over the centuries, various rules have been adopted forbidding health care professionals from abusing their power in order to have sexual contact with clients. A code of conduct for physicians dating from the fifth century BCE refers to this (the Hippocratic Oath). Freud, the father of psychoanalysis, suggested that his colleagues refrain from intimate relations with their clients. Feminists have stressed that this is another form of violence against women and that it must stop.

Extract from the Hippocratic Oath sworn by physicians: "WHATEVER HOUSES I MAY VISIT, I WILL COME FOR THE BENEFIT OF THE SICK, REMAINING FREE OF ALL INTENTIONAL INJUSTICE, OF ALL MISCHIEF AND IN PARTICULAR OF SEXUAL RELATIONS WITH BOTH FEMALE AND MALE PERSONS, BE THEY FREE OR SLAVES".[27]

Do you think that

Clients make false accusations?

Yet, in REALITY...

According to a number of studies, false accusations of sexual assault are no more numerous than for any other crime — about 2%.[28] Remember, too, that up to 90% of sexual assaults are not reported to the police.[14]

Do you think that

Male clients are quite happy to have sexual relations with a female practitioner?

Yet, in REALITY...

Men who are assaulted by a health care professional are generally victims of a male, not a female, practitioner. Also, many people think that men cannot be sexually assaulted by a woman. Yet, this is possible, especially between a minor and an adult woman.

A man called to talk about an incident of sexual abuse that occurred when he was a younger man. He said that he was seeing a female physician for headaches when she gave him a needle and knocked him out. When his awoke, she was undressed and masturbating herself. Then she put his penis in her mouth. He didn't know what to do or say and pretended to be asleep. When she was finished, he pretended to be waking up. [...] He said that this was the first time he talked to anyone about it.[7]

The ideas presented here are MYTHS supported by SEXIST PREJUDICES against women and victims of sexual assault. These myths serve to:

- justify the assailant's behaviour;
- blame the victim;
- disguise sexual assault as consensual contact desired by the victim;
- ignore the fact that it is violence against women.

What to Do if You are a Victim

If you are a victim of sexual assault by a health care professional, you can respond in various ways or decide not to do anything about it. There is no one decision that is better than another. You are the best person to decide what suits you. The "best" choice depends on your needs and goals.

Do you want to focus on your well-being? Prevent other assaults? Claim damages and compensation? You may be undecided or confused about what you want to do. Allow yourself enough time to weigh the pros and cons and time to reach a well considered decision. Here are examples of some of the choices possible.

Inaction

You may feel that you lack the energy to take action, are paralysed at the very thought of taking action, or feel that you do not want to pursue the matter. You have a right to your feelings — they are most legitimate. You may later change your mind, and this, too, is quite legitimate.

Talk to people that you trust, close friends or family members

Many victims will not talk about such a painful experience for a long time; they are afraid they will be judged, or not believed, or are ashamed. Remember that you are not the one responsible for the assault and that you are the victim of a manipulator. Take the time to carefully choose the person you want to confide in. You certainly need someone who will believe you, validate your emotions, listen to you, trust you; someone who will not blame you or defend the assailant; someone who will respect your timing and the way you choose to heal. You can stop confiding at any time if you feel that the person is not listening to you. You can always decide what you will share and what you will keep to yourself.

Begin individual or group therapy, or join a support group for victims of sexual assault

Consult the list of groups specializing in this matter in the section on "Resources" (p. 65). Qualified personnel can offer you professional help. In the beginning, it can be intimidating to start group therapy. However, group therapy allows you to overcome the isolation and to share your experience with other victims. If you want to see a private practitioner, be sure to choose one who is qualified in this field. Unfortunately, neither a diploma nor membership in a professional order can ensure that a practitioner is unbiased about sexual assault, or that he is not an abuser himself. Consult people or groups who thoroughly understand the problem of sexual assault and who can refer you to trustworthy practitioners.

Get involved in an association

Some victims find that involvement in a group that works for victims' rights or that aims to eliminate sexual assault gives them hope and a feeling of doing something about the problem.

Begin criminal proceedings, launch a civil lawsuit, or lodge a complaint with the professional order or association concerned

Criminal proceedings can take a lot of time and energy. Be sure to get help to guide you in these undertakings. For more information, consult the "Legal Recourses" section (p. 45).

File a claim for indemnity under the Crime Victims' Compensation Act

You can submit a claim under the Crime Victims Compensation Act (Indemnisation des victimes d'actes criminels — IVAC). Consult the "Resources" section, (p. 65). "If your request is accepted, various expenses will be reimbursed to you: transportation, clothing, moving, lost time at work, and other costs. You may also be allocated an indemnity for damages, either physical or psychological. In addition, IVAC may assume payment of fees for psychological consultations. You can make a request for indemnification whether or not criminal proceedings have been instituted against the assailant, and whether or not he has been found guilty".[20]

Contact the local complaints commissioner of the public health institution

If you are the victim of an employee of a public health service, you can contact its local complaints commissioner. This person can hear your complaint, investigate it if required, and make any necessary recommendations. The commissioner can, if necessary, notify human resources management who will investigate and decide on appropriate disciplinary measures. The commissioner can direct you to other services as needed and can help you with various actions. Organizations that have a local complaints and quality of service

commissioner are the CSSS (health and social service centres), which includes hospitals, residential and extended care centres, CLSCs, university hospitals, and non-institutional resources such as family and mediation resources. There are also commissioners in rehabilitation centres and youth centres. You can also contact regional commissioners for complaints about community organizations, ambulance service, pre-admission services, or private sector certified residential facilities for the aged. Or, you may call on the CAAP centre in your area (Centre d'assistance et d'accompagnement aux plaintes) for support and information on how to make a complaint about a service provided by one of the organizations mentioned above. For information on how to reach the CAAP in your area, call 1.877.767.2227.

Inform the professional of the harm you have suffered

Some victims find a beneficial effect in telling the professional of the harm he has caused them. It is up to you to decide if this option would be beneficial or if it puts you at risk of further harm. If you decide to go ahead with this course of action, you should prepare well in advance: will you inform him in writing, by telephone, or in person? If you intend to inform the practitioner in person, do you want someone to accompany you? What exactly do you want to tell him? How do you want the session to unfold? Do you want him to have the right to speak? And if so, when? Try to imagine how you would feel about various possible reactions on the part of the offending professional. For example, if he does not admit to any wrongdoing, how will you be affected? Consult a lawyer or a rights organization to prevent any mistakes that could harm you.

Read up on the subject

If you feel you can not trust others, a perfectly normal feeling after such an experience, reading up on the problem can be a way to overcome your isolation without having to discuss the experience with anyone else. Reading can also help you to better understand what is happening and can help relieve feelings of guilt. (See the “Resources” section, p. 65).

Express yourself in various ways

You need not confide in another person in order to express yourself. Other possible ways to express yourself are writing, drawing, painting, recording yourself, engaging in sports, physical expression, etc.

Take care of yourself, treat yourself

After an assault such as this, there is often little room for pleasure. Judgements are often harsh and the burden of the effects can be heavy. You can invest more time in taking care of yourself, offering yourself little treats, bringing peace to your body. For example, you could give yourself at least one pleasure or time to relax every day, a bath, a sport, gardening, relaxation exercises, etc.

You may think of yet other ways. Add them to the list.

YOU ALWAYS HAVE THE RIGHT TO SUPPORT AND ACCOMPANIMENT IN ANY OF THESE ACTIONS.

Legal Recourses*

You want the professional to cease practicing?

You want to prevent the offending professional from re-offending?

You want penalties imposed against the assailant for his behaviour?

You want financial compensation for the harm you have suffered?

Depending on your reasons or motivations, there are FOUR types of measures you can take:

1. Lodge a complaint with the assailant's professional order (if he belongs to one of the 45 orders governed by the *Professional Code*);
2. Register a complaint if the practitioner does not belong to one of the 45 professional orders;
3. Begin criminal proceedings;
4. Launch a civil suit.

If you wish to retain the services of a lawyer, check beforehand to see if you qualify for legal aid.

Warning

These measures can be complicated, costly, and difficult to bear. It is best to get all the information, prepare yourself well, and find someone to accompany you throughout. It is also possible that the outcome will not live up to your expectations. Find out about the pros and cons of each of these measures. It is recommended that you be advised and accompanied by competent persons who thoroughly understand the problem. This section is a summary of measures that can be undertaken and does not represent the range of procedures available.

* Parts of this section are adapted from: *L'inconduite sexuelle des professionnels auprès de leurs patientes*, Regroupement québécois des centres d'aide et de lutte contre les agressions à caractère sexuel, 1997.

1 Lodging a Complaint with a Professional Order

The objective of a complaint to a professional order is to punish the offending professional, to prevent him from continuing to practice as a professional and to prevent him from re-offending.

If you are a victim of sexual assault* by a health care professional, you should first see if he is a member of a professional order recognized by the *Professional Code*, a law covering 45 professional orders in Québec. Included are physicians (general practitioners, psychiatrists, gynaecologists, pediatricians, etc.), nurses, psychologists, chiropractors, social workers, nurse's aides, and acupuncturists.

"THE FACT OF A PROFESSIONAL TAKING ADVANTAGE OF HIS PROFESSIONAL RELATIONSHIP WITH A PERSON TO WHOM HE IS PROVIDING SERVICES, DURING THAT RELATIONSHIP, TO HAVE SEXUAL RELATIONS WITH THAT PERSON OR TO MAKE IMPROPER GESTURES OR REMARKS OF A SEXUAL NATURE, CONSTITUTES AN ACT DEROGATORY TO THE DIGNITY OF HIS PROFESSION."
Professional Code, L.R.Q. c. C-26, s. 59.1.

To find out more about professional orders, call the Office des professions du Québec at **418.643.6912** or **1.800.643.6912** or visit the site at **www.opq.gouv.qc.ca**

You can make a complaint to a professional order AT ANY TIME, whether the assault happened 1 year ago, 5 years ago, or more. But it is best to make your complaint as soon as possible.

* The meaning of sexual assault in this guide is not limited only to physical harm as interpreted under the *Criminal Code*, but also includes harassment and offensive words of a sexual nature.

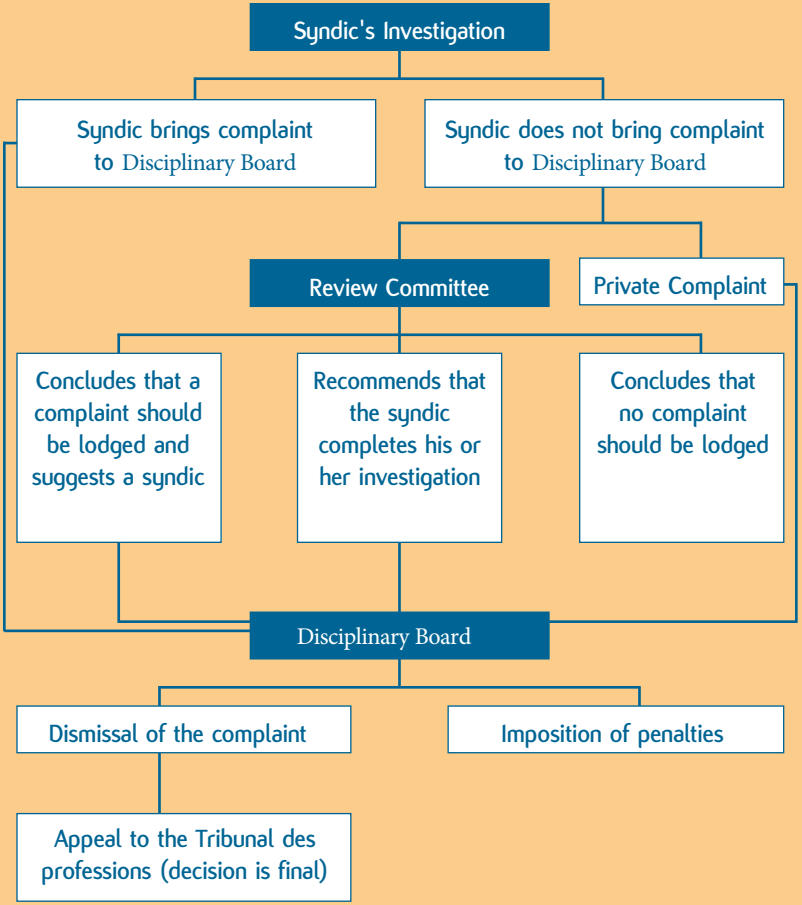
There are two ways to lodge a complaint.*

› **WRITE A LETTER** to the Bureau of the concerned professional order describing the basis of your complaint. Upon receiving your letter, the person responsible for complaints will make inquiries regarding the professional concerned. Generally, the person who will investigate is the syndic of the professional order. The syndic may ask you for written details of the events upon which your complaint is based. He or she will arrange a meeting with you to obtain a detailed version of what happened. If there is enough evidence, the syndic will be responsible for filing a complaint with the professional order's DISCIPLINARY BOARD. This board is responsible for studying the complaint and either rejecting it or finding the professional guilty of misconduct and imposing one or more penalties. If you decide to write a letter to the professional order, you are not responsible for proving the offence occurred. The syndic assumes responsibility for this. Your role will be that of a witness. There are no costs associated with this option, unless you prefer to have the help of a lawyer and are not eligible for legal aid.

› **FILE A PRIVATE COMPLAINT** with the secretary of the Disciplinary Board of the concerned professional order. Under this procedure, you are the one responsible for proving that your complaint is founded in fact. This is a more complex procedure and generally requires a lawyer, which means that you will incur costs if you are not eligible for legal aid. You might also choose this procedure if, after you send a letter describing your complaint to the professional order's Bureau, the professional order's syndic finds insufficient evidence to support your complaint.

* Complaints are dealt with in several stages as outlined on the following page.

Flowchart of Complaints Process



Warning

These measures can be complicated, costly, and difficult to bear. It is best to get all the information, prepare yourself well, and find someone to accompany you throughout. It is also possible that the outcome will not live up to your expectations. Find out about the pros and cons of each of these measures. It is recommended that you be advised and accompanied by competent persons who thoroughly understand the problem. This section is a summary of measures that can be undertaken and does not represent the range of procedures available.

› Penalties

Penalties against a professional found guilty by a Disciplinary Board vary from case to case. All penalties include at least two elements: a suspension or revocation of his licence, barring him from practising for a certain period of time, from striking off the roll for at least five years (unless he convinces the council that striking off for a shorter time would be justified in the circumstances) to permanent revocation of his licence, AND a fine of $2,500 to $62,500 for each offence.

› Advantages and Limits

Advantages

- The victim incurs no costs if the official syndic is the one to make the complaint. The concerned professional order assumes the cost;
- The victim's testimony is privileged and cannot be used against her in court;
- The practitioner cannot sue the victims when the official syndic of the professional order, rather than the victim, makes the complaint.

Limits

- Some professionals whose licences are revoked still carry on their practice under another title. For example, a psychologist whose licence has been revoked might continue to do business as a psychotherapist;
- Although this recourse seems very promising at first glance, it should be noted that a large number of complaints to the Bureau of the professional order concerned never make it to the Disciplinary Board for a variety of reasons (eg: lack of proof, complaint deemed unfounded...).

Note that IN ADDITION TO FILING A COMPLAINT with a professional order, you may also

- request an indemnity as the victim of a crime (IVAC);
- launch a civil suit;
- begin criminal proceedings.

In other words, you can seek redress under both civil and criminal law at the same time, circumstances permitting.

2 Lodging a Complaint when the Practitioner is not a Member of One of the 45 Professional Orders

If you are a victim of sexual assault* by a practitioner such as a psychoanalyst, a hypnotist, a massage therapist, or a psychotherapist, the options described above are not available to you. There is no professional order governing these practitioners and they are not subject to provisions of the *Professional Code* and the code of practice adopted by each professional order.

In this case, you can only hope that the practitioner is a member of a peer association. In most cases, these practitioners are members of some association, even if they are not obliged to join one. However, these practitioners' associations are not obliged to have procedures to deal with complaints, even though most of them do have such procedures. They may also have a code of practice that governs the good conduct of their members.

The steps and procedures for laying a complaint vary from association to association. It is best to call the association concerned to obtain all the relevant information before making a complaint. Some associations follow procedures similar to those of professional orders. This is the case, for example, with the Fédération québécoise des massothérapeutes.

Warning

These measures can be complicated, costly, and difficult to bear. It is best to get all the information, prepare yourself well, and find someone to accompany you throughout. It is also possible that the outcome will not live up to your expectations. Find out about the pros and cons of each of these measures. It is recommended that you be advised and accompanied by competent persons who thoroughly understand the problem. This section is a summary of measures that can be undertaken and does not represent the range of procedures available.

* The meaning of sexual assault in this guide is not limited to physical harm as interpreted under the *Criminal Code*, but also includes harassment and offensive words of a sexual nature.

› Penalties

Penalties imposed on a practitioner found guilty of an offence vary depending on the rules established by the concerned professional association. Examples of penalties include a reprimand, having to take a professional development course or other training, a fine, a temporary or permanent loss of membership in the association.

› Advantages and Limits

Advantages

- One advantage shared by several associations is that a complainant often incurs no costs for making a complaint to professional associations. Most associations assume the costs of their complaints process.

Limits

- The principal drawback to making a complaint to this type of association is the limited power of such associations over the practice of offending members. In fact, there is nothing to prevent the practitioner from carrying on his professional activities (though not as a member of the association) following a suspension or revocation of his membership. The association's power regarding the practitioner depends on the circumstances.

Note that IF YOU CANNOT REGISTER A COMPLAINT with an association, you can:

- request an indemnity as the victim of a crime (IVAC);
- launch a civil suit;
- begin criminal proceedings.

In other words, you can seek redress under both civil and criminal law at the same time, circumstances permitting.

3 Begin Criminal Proceedings

The purpose of this process is to have a criminal sentence imposed in order to deter health care professionals or practitioners from committing this crime. This method does not allow for financial compensation nor does it prevent the guilty professional or practitioner from practicing, with some exceptions.

Even if you have registered a complaint with a professional order or with an association, and even if you have made a claim for indemnity as a victim of a crime or launched a civil suit, you can still press criminal charges.

You can press charges AT ANY TIME, no matter when the assault took place.

The first step is reporting the sexual assault* to the police. You can go to your local police station or call 911. You may have a person of your choice ACCOMPANY YOU when you make the complaint and at other stages in the process. Try to get as much information as possible before proceeding.

Once you have made your complaint, a police investigator will take charge of your file. He or she will investigate and will see if there is sufficient evidence to recommend that the criminal and penal prosecuting attorney lay charges. The attorney will then decide whether or not to authorize the police to lay criminal charges. If criminal charges are laid, the professional or practitioner will be summoned to appear. He could be arrested and questioned. Then he will have to appear before a judge and defend himself.

For more information on the various stages of the criminal process, consult the *Information Guide for Sexual Assault Victims*, available at the Groupe d'aide et d'information sur le harcèlement sexuel au travail, at **514.526.0789**.

* The meaning of sexual assault in this guide is not limited to physical harm as interpreted under the *Criminal Code*, but also includes harassment and offensive words of a sexual nature.

› Penalties

Penalties for sexual assault vary from case to case. Examples of penalties imposed on a professional or practitioner found guilty of sexual assault include a fine, a suspended sentence with probation, a conditional sentence of imprisonment (served in the community), or an unconditional imprisonment sentence.

› Advantages and Limits

Advantages

- The more guilty professionals and practitioners that are sentenced, the more others will be discouraged from engaging in such behaviour. There is the principle of deterrence at work;
- This method reveals the name of the assailant, which can alert his other victims and potential victims.

Warning

These measures can be complicated, costly, and difficult to bear. It is best to get all the information, prepare yourself well, and find someone to accompany you throughout. It is also possible that the outcome will not live up to your expectations. Find out about the pros and cons of each of these measures. It is recommended that you be advised and accompanied by competent persons who thoroughly understand the problem. This section is a summary of measures that can be undertaken and does not represent the range of procedures available.

Limits

- The victim is obliged to testify in open court. Unless a publication ban or broadcast ban is in effect, the victim's identity and the substance of her testimony could be made public. Requests for a publication ban must be made by the attorney, and such requests are generally well received. Various means are used to make it easier for victims to testify and their identity is usually kept confidential;
- Establishing sufficient proof is difficult since it must be shown "beyond a reasonable doubt" that the professional or practitioner committed the crime;
- For any sexual assault, it must be proven that the victim did not consent. This is particularly difficult to prove when, for example, sexual contact took place outside the professional's office, or when the victim says that she was in love with the professional.

EVEN IF A CRIMINAL COURT FINDS THE PROFESSIONAL OR PRACTITIONER NOT GUILTY, THIS DOES NOT MEAN THAT YOU ARE NOT THE VICTIM OF A SEXUAL ASSAULT OR THAT THE JUDGE DID NOT BELIEVE YOU.

4 Civil Suits

A civil suit allows for the possibility of compensation for the harm that you have suffered. However, you cannot seek financial compensation by more than one means. For example, if you launch a civil suit, you cannot claim an indemnity from the IVAC program, except in special cases. Nonetheless, you can begin civil proceedings even if you have registered a complaint with a professional order or a practitioners' association. It is advisable to consult a lawyer in all cases.

It is advisable to consult a lawyer before undertaking any action for compensation from a professional or practitioner for the harm he has caused you. The lawyer will determine whether your suit falls within the prescribed time period. He or she will be able to advise you on the appropriateness of sending a demand letter or of launching a civil suit. The demand letter is neither obligatory nor indispensable. In consulting with the lawyer, it is useful to have the specific details on the facts that form the basis of the claim. In some cases, it is possible to come to a negotiated agreement with the professional. If no agreement is possible, the matter could go to court.

Warning

These measures can be complicated, costly, and difficult to bear. It is best to get all the information, prepare yourself well, and find someone to accompany you throughout. It is also possible that the outcome will not live up to your expectations. Find out about the pros and cons of each of these measures. It is recommended that you be advised and accompanied by competent persons who thoroughly understand the problem. This section is a summary of measures that can be undertaken and does not represent the range of procedures available.

› Penalties

The sole purpose of the civil suit is to obtain financial compensation for the victim. A professional or practitioner found liable will have to pay a sum of money, but may continue to practice if he is not also subject to disciplinary sanctions. The amount of compensation varies from case to case. You may claim financial compensation for bodily harm, psychological consequences, costs incurred for physical or psychological services, loss of income from work, loss of earning ability, etc.

› Advantages and Limits

Advantages

- The main advantage is the possibility of financial compensation for the victim.

Limits

- The victim is obliged to testify in open court. Unless there has been publication ban or a broadcast ban, the victim's identity and the substance of her testimony could be made public;
- Sexual assault* may be difficult to prove in the absence of corroborating witnesses. The burden of proof rests with the victim who must testify and prove all the facts of the case in the presence of the professional or practitioner who will be defending his case;
- Civil courts cannot order the professional or practitioner to cease practising. They can only award damages and interest to the victim;

* The meaning of sexual assault in this guide is not limited to physical harm as interpreted under the *Criminal Code*, but also includes harassment and offensive words of a sexual nature.

- Damages may be difficult to assess and prove in court as they are largely psychological;
- For claims greater than $3,000, the court costs and lawyers' fees may exceed the amount of compensation awarded because of the frequent need for the services of experts;
- The amount of time required by a civil action can be significant. It may take months to obtain a judgment;
- There are few reported judgments for cases of sexual assault by a health care professional. It is therefore difficult to determine the chance of succeeding and the amount of possible awards;
- A victim cannot launch a civil suit and also claim indemnity as a victim of a crime from IVAC because these two recourses have the same goal, that is to say compensating the victim for the damage suffered.

What to Do if You Know a Victim

Your reaction to a victim's confiding in you will have an important effect on her. Know which attitudes can help or harm the victim.

HELPFUL ATTITUDES

LISTEN, BELIEVE, BE OPEN TO the victim

Sexual assault is an experience that is very painful and difficult for the victim to talk about. Your openness will help her put in words what happened to her, will help her to feel less alone, and to begin to understand what happened to her.

RELIEVE the victim's GUILT

Because of ingrained prejudices, the victim often feels guilty about the assault. By helping the victim understand that she is not responsible for the assailant's behaviour, you can help her overcome feelings of shame and guilt and find the means to deal with them.

Respect the victim's CHOICES and the PACE

Do you tend to offer advice or tell the victim what to do? The victim is in the best position to decide what is best for her and the best time to act. You can accompany and support her in her endeavours without pushing or overprotecting her.

"When my parents started to believe me, it helped me to feel better".[22]

"David said that he felt very relieved to be listened to and taken seriously. He was able to see that he had been abused, that he had done nothing to encourage the doctor, and that, anyway, the doctor was solely and completely responsible for ethical behaviour in the doctor-patient relationship".[22]

Your reaction
CAN MAKE
A DIFFERENCE!

HARMFUL ATTITUDES

BLAMING the victim, making her feel GUILTY, holding her RESPONSIBLE

Asking a victim what she "did" or how she "was dressed" at the time of the assault is blaming the victim. This type of questioning assumes that she provoked the assault and is responsible for it. Judgment and blame do the victim enormous harm. Faced with such reactions, the victim will be silent and remain alone with the problem. Do not forget that the victim is not responsible for the assailant's behaviour.

NOT BELIEVING the victim, accusing her of LYING

Very often, victims keep silent for fear of not being believed or of being judged. It is rare that anyone would derive satisfaction from "playing the victim". Remember there is only an estimated 2% of accusations that are false.

MINIMIZING the assault, accusing the victim of MAKING UP stories or of EXAGGERATING the problem

Remember that 90% of clients who had sexual contact with a health care professional have suffered negative effects. Too many sexual assaults by health care professionals are ignored. It is time to take this problem seriously; it concerns society as a whole.

DEFENDING THE ASSAILANT or JUSTIFYING his behaviour

Too often, excuses are sought for the assailant and the victim of sexual assault is held responsible. The assailant is responsible for his behaviour. Would you even think of accusing a victim of theft of being responsible for the theft?

THESE ATTITUDES DO NOT HELP TO PREVENT AND PUT A STOP TO SEXUAL ASSAULT. THEY HELP THE ASSAILANT AND NOT THE VICTIMS.

What Health Care Professionals Can Do

BELIEVE, SUPPORT and LISTEN to the victim

It can not be said often enough: believing the victim and listening to her does a great deal of good. By trusting the victim and explicitly offering your support, you encourage her to talk about the assault and perhaps begin the process of healing.

RECOGNIZE the health care professional's GREAT INFLUENCE over the client

Professionals, male or female, aware of their power, can be that much more vigilant and take measures to avoid abusing this power. They can develop attitudes that encourage the empowerment of the client with respect to her own health.

TAKE ACTION AGAINST A COLLEAGUE who has sexual or intimate contact with his clients

As more and more colleagues take action, the odds of putting an end to these assaults increase. Action can take various forms:

- letting the offending professional know that his behaviour is a crime;
- informing your superior of the offence;
- reporting the assailant to his professional order.

INCREASE AWARENESS among health care TRAINEES and STUDENTS

Trainees and students are also victims of teachers and professionals. Set the stage for a free discussion informing them and increasing their awareness of the problem in a respectful manner, without innuendo. Informed future professionals will be all the more vigilant on behalf of their clients and of themselves.

DISCUSS the matter with your team

The more this subject figures on team meeting agendas, the more you contribute to the prevention of the offence, to alerting your colleagues, and eventually, to let guilty and potentially offending professionals know that this offence will not be tolerated.

"SURVIVORS OF SEXUAL ABUSE SHOW REMARKABLE COURAGE WHEN THEY ARE ABLE TO TELL THEIR STORIES. PHYSICIANS MUST LEARN FROM THE COURAGE OF THESE SURVIVORS. WE SHOULD SUPPORT THE COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO AS THEY TRY TO FACE THE PROBLEM. WE MUST FIND THE INTEGRITY, NOT ONLY TO SPEAK UP AGAINST PERPETRATORS, BUT TO CENSURE OTHER ORGANIZATIONS THAT DENY THE REALITY OF SEXUAL ABUSE. WE MUST LEARN ABOUT THE DYNAMICS OF SEXUAL ABUSE BY ASKING OUR PATIENTS ABOUT IT, HEARING THEIR REPLIES, AND BY SUPPORTING THEM. THE VICTIMS OF SEXUAL ABUSE HAVE BEEN IN THEIR OWN DARK PRISON LONG ENOUGH — LET'S HELP THEM INTO THE LIGHT".

Dr. Carole Clapperton, president, Ontario College of Family Physicians[7]

What Professional Orders Can Do

PUBLICLY RECOGNIZE the PROBLEM

Professional orders must admit that this problem exists, that it is important, and that action must be taken to counter it. The more professional orders send clear, strong signals to that effect, the less tempting such assaults will seem to unethical professionals. The more people are made aware of the problem, the greater the likelihood of victims finding help, support and comfort.

"THERE IS AN UNDERSTANDABLE NEED TO PERCEIVE ALL HEALTH CARE PROVIDERS AS WISE, SAFE AND TRUSTWORTHY EVEN WHEN SOME HAVE NONE OF THESE CHARACTERISTICS. WE ARE OFTEN MORE COMFORTABLE IN THE STATE OF DENIAL WIDELY SHARED IN OUR COMMUNITY AT LARGE — THAT SEXUAL ABUSE OF PATIENTS HAPPENS SOMEWHERE ELSE AND THAT IT IS NOT PERVASIVE".[5]

INCREASE MEMBERS' AWARENESS

The more health care professionals' awareness is increased, the more the problem will be taken seriously. Members will feel more justified in breaking the code of silence and taking action against a colleague who is an assailant or on behalf of a client who is a victim.

CREATE A FUND TO HELP VICTIMS

Professional orders should create a fund, as has been done in Ontario, to finance a consultation and treatment service for victims of sexual assault by a health care professional.

What Government Can Do

INCREASE PUBLIC AWARENESS of the problem

It is the government's responsibility to increase public awareness and to counter the sexist myths and prejudices about sexual assault, especially those committed by health care professionals or persons in a position of authority. The greater the public awareness, the more it can help put an end to this scourge and provide support for its victims.

IMPROVE THE COMPLAINTS PROCESS as well as the REGULATIONS forbidding sexual contact between health care professionals and clients

Very few victims make a complaint: it is estimated that only 4 to 8% of victims of psychotherapists do so.[29] In addition, very few complaints to professional orders or civil suits or criminal proceedings result in a verdict of guilt and an appropriate penalty. Many experts, notably the former *Protecteur du citoyen*, barrister Daniel Jacoby,[30] are of the opinion that professional orders are in conflict of interest. In order to avoid this problem, some American states have set up a paragovernmental organization charged with dealing with complaints. The government of Québec should study alternatives that would enable it to improve the complaints process.

"Particularly in the past four to five years, the proverbial pendulum has swung back in favour of a tangible bias against patients: so much so that many lawyers, including myself, cannot recommend that patients ever go to the college".[5]

TAKE ACTION on the matter of health care professions not governed by a professional order

There are 45 health care professions which must follow the rules set out in the *Professional Code*. But the others, such as psychotherapists or naturopaths, are not subject to any form of regulation. Members of these professions can more easily evade any control or penalties in cases of sexual assault. Some non-regulated professions have established mechanisms for complaints and penalties. Such is the case with, for example, sex therapists and massage therapists, but is not the case for all associations. Effective measures of control must be studied and implemented.

Work towards EQUALITY OF THE SEXES

The social, economic, political, cultural and familial inequalities experienced by women facilitate their sexual exploitation. To attack the root of the problem of sexual assault, conditions must be created to favour the attainment of DE FACTO EQUALITY between men and women. As well, sexist advertising, pornography and any use of women as sex objects must end.

Work towards EQUALITY FOR ALL WOMEN and all UNDERVALUED GROUPS

The best prevention is still the improvement of socio-economic and political conditions for those who are in precarious situations, dependent and isolated; factors which contribute to sexual violence.

"FORCE AND VIOLENCE ARE MERELY [...] THE EXPRESSION OF AN UNEQUAL RELATIONSHIP WHERE THE DOMINANT GROUP HAS PROPERTY RIGHTS OVER THE DOMINATED GROUP. USUALLY, THE GREATER THE SOCIAL INEQUALITY IN A SOCIETY, THE GREATER THE USE OF VIOLENCE".[26]

RESOURCES to help you

Special groups and people

For support and someone to accompany you in your undertakings

- Sexual Assault Centres — CALACS
  For contact information on your local CALACS:
  514.529.5252 — www.rqcalacs.qc.ca
- Your local CSSS-CLSC
- Crime Victims Assistance Centre — CAVAC
  1.866.532.2822 — www.cavac.qc.ca

To lodge a complaint

- Dial 911
- Contact your local police
- Contact the Centre d'assistance et d'accompagnement aux plaintes — CAAP, (for assistance with complaints relating to public health services and someone to accompany you) 1.877.767.2227

For contact information on a specific professional order

- Office des professions du Québec
  1.800.643.6912 — www.opq.gouv.qc.ca

To claim an indemnity

- Direction de l'indemnisation des victimes d'actes criminels (IVAC)
  1.800.561.4822 — www.ivac.qc.ca

For further referrals

- Association québécoise Plaidoyer-Victimes (AQPV)
  514.526.9037 — www.aqpv.ca

Readings to Guide You

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- *Information Guide for Sexual Assault Victims*, Table de concertation sur les agressions à caractère sexuel de Montréal, 2008
- «Les abus sexuels commis par des thérapeutes », *Les Cahiers de PV — Antenne sur la victimologie*, Association québécoise Plaidoyer-Victimes, 2007
- *Women, Abuse and Trauma Therapy: An Information Guide*, Centre for Addiction and Mental Health, 2004
- *Sexual Abuse by Health Professionals: A Personal Search for Meaning and Healing*, P. Susan Penfold, 1998
- *You Must Be Dreaming*, Barbara Noel, 1992
- *J'ai fait l'amour avec mon thérapeute*. Hélène Lapierre et Marie Valiquette, 1989

Online Resources

www.advocateweb.org
www.therapyabuse.org
www.kspope.com
www.soutien-victimes.com

End notes

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