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## Professional Standards and Guidelines Regarding Sexual Misconduct in the Physician-Patient Relationship

This document is a physician **standard** and **guidelines** approved by the Council of the College of Physicians and Surgeons of Nova Scotia.

A **standard** reflects the minimum professional and ethical behavior, conduct or practice expected by the College of Physicians and Surgeons of Nova Scotia. Physicians licensed with the College are required to be familiar with and comply with the College standards.

**Guidelines** contain recommendations endorsed by the College of Physicians and Surgeons of Nova Scotia. The College encourages its members to be familiar with and to follow its guidelines whenever possible and appropriate.

### Preamble

Exploitation of a patient is professional misconduct. Sexualized behaviour with a patient is exploitation. Sexualized behaviour with a former patient may be exploitation.

This standard reflects ethical responsibilities of physicians set out in the [Canadian Medical Association's Code of Ethics](#). In particular, the following sections of the Code are reflected:

1. Consider first the well-being of the patient.
2. Practice the profession of medicine in a manner that treats patients with dignity and as a person worthy of respect.
13. Do not exploit patients for personal advantage.

The following principles which form the basis of this professional standard are:

- (a) Trust is the basis of the patient-physician relationship;
- (b) The patient is considered to be the vulnerable individual in the professional relationship;
- (c) Power imbalance exists in the patient-physician relationship;

- (d) Transference may develop as a result of the power imbalance;
- (e) Sexualized behaviour in the patient-physician relationship is never acceptable;
- (f) A breach of sexual boundaries has potential for significant harm to the patient;
- (g) The physician cannot provide objective care when a sexualized relationship exists;
- (h) The onus is always on the physician to maintain professional boundaries with a patient and not to exploit the patient in any way; and
- (i) The nature of a fiduciary relationship makes a consensual sexual relationship between physician and patient impossible.

A “sexual boundary” violation describes a range of behaviours in which professional boundaries are crossed when sexual actions are allowed to enter into a physician-patient relationship.

Any finding of a sexual boundary violation by a physician within a physician-patient relationship will result in a disciplinary sanction. Physicians should be mindful that terminating the physician-patient relationship does not eliminate the possibility of a sexual boundary violation.

## **Professional Standards**

### 1) Standards in a Physician-Patient Relationship

- a) Physicians must respect professional boundaries in their interactions with their patients and must not sexually interact with their patients nor exploit them in any way.

### 2) Duty to Report

- a) If a physician has reasonable grounds to believe that another physician may be guilty of sexual misconduct with a patient, the physician must notify the College of Physicians and Surgeons of Nova Scotia and immediately do the following:
  - (i) Inform the patient that all physicians have a duty to notify the College of Physicians and Surgeons about alleged sexual misconduct by other physicians;
  - (ii) Inform the patient that he or she may make a written complaint to the College;
  - (iii) With the consent of the patient, the physician will provide the name of the patient and the physician involved to the College; and
  - (iv) If the patient withholds consent to be named, the physician is limited to notifying the College of the alleged incident and the name of the physician involved.

## Guidelines

The following guidelines assist in meeting the professional standards.

### 1) Professional Misconduct

Professional misconduct in the physician-patient relationship includes, *but is not limited to* the following:

- a) Voyeurism as may be expressed by inappropriate disrobing or draping practices that reflect a lack of respect for the patient's privacy;
- b) Inappropriate comments about or to the patient, including making sexual comments about the patient's body or clothing;
- c) Inappropriate comments about the patient's sexual orientation or gender identification;
- d) Making comments about the patient's potential sexual performance during an examination or consultation, except when the examination or consultation is for the purpose of addressing issues of sexual function or dysfunction, and the comments are relevant to the management of that patient's problem;
- e) Requesting details of sexual history or sexual preference in any situation when this is inappropriate;
- f) Initiation by the physician of inappropriate conversation regarding the sexual problems, preferences or fantasies of the physician or patient;
- g) Failure to obtain permission to perform an examination of breasts, genitals, or anus;
- h) Examination of breasts, genitals, or anus when not clinically indicated or performed in a non-standard manner;
- i) Performing a pelvic examination, anal-rectal examination, or examination of external genitalia without wearing gloves;
- j) Inappropriate body contact, including hugging of a sexual nature and kissing;
- k) Touching or massaging breasts, genitals or anus, or any other sexualized body part for any purpose other than appropriate physical examination or treatment; and
- l) Physician-patient sex, whether consented to or initiated by the patient, and any conduct with a patient that is sexual or may be reasonably interpreted as sexual. Such activities may include, but are not limited to, the physician encouraging the patient to masturbate in the physician's presence, masturbation by the physician of himself or herself or the patient, and contact between the mouth, genitals, or anus of the physician and the mouth, genitals, or anus of the patient.

## 2) Precautions in Practice

Consideration should be given to the following:

### a) Patient Undressing:

- (i) A physician should provide complete privacy for a patient to undress and to dress;
- (ii) A patient should be provided with an adequate gown or drape; and
- (iii) The physician should not assist with removing or replacing the patient's clothing, unless the patient is having difficulty and consents to such assistance.

### b) Communications:

- (i) A physician should be careful to ensure that any remarks or questions that are asked cannot be construed as demeaning, seductive or sexual in nature; and
- (ii) When sensitive subjects, such as sexual matters, have to be discussed, the physician should explain why the questions have to be asked, so that the intention cannot be misconstrued.

### c) Documenting Sexualized Behaviour:

- (i) Physicians should document any sexualized behaviour by the patient.

### d) Undue Touching:

- (i) Hugging and kissing a patient is considered high risk behaviour that can be misinterpreted. Any touching that is not part of the physical examination must be of a type that cannot be misconstrued.

### e) Cultural Preferences:

- (i) A physician should be aware and be mindful of the particular cultural preferences in the diverse patient population.

### f) Attendants

- (i) Although attendants are not mandatory, a physician should carefully consider whether an attendant would contribute to an individual patient's feeling of comfort and security. Also, an attendant may protect the physician from unfounded allegations. If a patient asks to have an appropriate support person in the room, that request must be honoured. Signage indicating that an attendant is available or a printed policy regarding the provision of attendants is a good practice.

g) Dual Roles:

- (i) Physicians should not use a patient as a confidante or for personal support, invite the patient to accompany them to social events, discuss the physician's sex life or relationships or engage in other similar behavior that is outside of the physician-patient relationship.

h) Non-sexual boundaries:

- (i) A physician should avoid crossing non-sexual boundaries such as self-disclosure of personal information, as these may accumulate and take the physician down the “slippery slope” into the realm of sexual misconduct.

i) Unusual Office Practices:

- (i) A physician should not ask the patient to come in at odd hours, or to meet at his or her home or some other unusual place.

## Resources

Physicians in situations of uncertainty are encouraged to contact the Canadian Medical Protection Association, the College of Physicians and Surgeons of Nova Scotia or Doctors Nova Scotia.

Canadian Medical Protective Association  
[Recognizing boundary issues, 2014](#)

## Acknowledgements

In developing this standard, the College incorporated information provided in the policies of the Colleges of Physicians and Surgeons of Alberta, British Columbia and Ontario.

## Document History

Approved by the Council of the College of Physicians and Surgeons of Nova Scotia: **December 9, 2016**

This document was reviewed and approved with minor changes by the Council of the College of Physicians and Surgeons of Nova Scotia: **September 29, 2000, March 10, 2006, December 10, 2010**

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