

Protecting Patients From Sexual Abuse and Sexual Misconduct: Standards for Registered Nurses and Nurse Practitioners

(Not in effect until approved)

Purpose

This standard applies to registered nurses and nurse practitioners, herein referred to as **REGISTRANTS**¹. The purpose of this standard is to outline expectations for registrants and the **THERAPEUTIC RELATIONSHIP** with **PATIENTS** to protect patients from **SEXUAL ABUSE** and **SEXUAL MISCONDUCT**. In the therapeutic relationship, the registrant holds **POWER** by virtue of their professional role and access to, and awareness of, the patient's private health information. The obligation of establishing and maintaining professional boundaries lies with the registrant, not the patient. The [Health Professions Act](#) (HPA) does not recognize patient consent as a valid defence because of the inherent power imbalance. Further, the HPA does not make a distinction between workplace or 'after hours' settings when referring to the nurse-patient (therapeutic) relationship.

For the purposes of this standard, the individual receiving **PROFESSIONAL SERVICES** from the registrant is NOT considered a patient in relation to sexual abuse or sexual misconduct if the registrant is their **SPOUSE, ADULT INTERDEPENDENT PARTNER** or if they are in an ongoing, pre-existing sexual relationship with the registrant. Also, an individual is not considered a patient after the conclusion of **EPISODIC CARE**.

A finding of sexual abuse by the Hearing Tribunal against a registrant (whether during episodic care or during the provision of ongoing professional services and up to a year following the date of the last clinical encounter) mandates cancellation of their practice permit, and the registrant is never permitted to apply for reinstatement/registration.

A finding of sexual misconduct by the Hearing Tribunal against a registrant (whether during episodic care or during the provision of ongoing professional services and up to a year following the date of the last clinical encounter) mandates a minimum of a suspension of their practice permit, with the possibility of cancellation.

Criteria

To meet this standard, registrants must meet the following criteria.

All registrants must

1. NOT **SEXUALIZE** any interaction with a patient.

¹ Words and phrases displayed in BOLD CAPITALS upon first mention are defined in the Glossary.

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2. NOT request details of a patient's sexual or personal history unless the information is pertinent to the patient's care.
 3. NOT engage in a sexual relationship or sexual acts described in the definition of sexual abuse with a patient or with any person with whom a patient has a significant interdependent relationship (e.g., parent, guardian, child or significant other).
 4. NOT engage in a sexual relationship or sexual acts with a former patient whom the registrant provided **PSYCHOTHERAPEUTIC** care or treatment to (whether episodic or not).
 5. Consider the following factors before entering into a sexual relationship with a former patient
 - 5.1. Whether there is a risk of a continuing power imbalance by considering:
 - a. the duration of the therapeutic relationship,
 - b. the sensitivity of private information the registrant has access to, and
 - c. the **VULNERABILITY** of the patient.
 - 5.2. The length of time that has passed since the last clinical encounter.
 - 5.3. Whether the therapeutic and professional relationship existed for a lengthy period of time.
 - 5.4. The nature of the care provided:
 - a. whether a former patient who was provided professional services is likely to require the registrant's services again in the future, and
 - b. the type, intensity and duration of the professional service.
 - 5.5. The vulnerability of the patient during the course of the therapeutic relationship:
 - a. how mature and vulnerable the former patient is, and
 - b. whether the former patient has impaired decision-making.
 6. When in doubt about whether or when a therapeutic relationship has ended or whether the individual is still their patient, must seek advice by contacting the College of Registered Nurses of Alberta (CRNA) or their professional liability insurance provider.
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Ongoing Care

All registrants providing care beyond episodic care (whether ongoing or time-limited) must

7. Acknowledge that the therapeutic relationship with a patient remains a professional relationship for one year following the last clinical encounter.
8. NOT engage in sexual acts described in the definition of sexual abuse with a former patient for one year after the date of the last clinical encounter.
9. Be aware that sexual conduct may still be considered inappropriate and unprofessional conduct after the one-year period has passed.

Episodic Care

An individual is not considered a patient after the conclusion of episodic care. All registrants providing episodic care must

10. NOT engage in the type of activity described in the definition of sexual abuse or sexual misconduct while providing episodic care.
11. Be aware that sexual conduct may still be considered inappropriate and unprofessional conduct after the conclusion of episodic care if there is a risk of an ongoing power imbalance.

Duty to Report

The registrant

12. Must report to the complaints director of the appropriate regulatory college, where, while acting in their professional capacity, the registrant has reasonable grounds to believe the actions of a regulated member of any health profession constitutes sexual abuse or sexual misconduct.
13. Is not required to report information regarding the sexual conduct of that other regulated member if it was obtained in the course the registrant providing professional services to that other regulated member.

Glossary

ADULT INTERDEPENDENT PARTNER – The relationship between two persons who are adult interdependent partners of each other, formerly referred to as common-law. The three ways people can become adult interdependent partners are: cohabiting for 3 years, cohabiting and having a child together, or entering into an adult interdependent partner agreement. (*Adult Interdependent Relationships Act*, 2002)

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EPISODIC CARE – A single clinical encounter with the patient for a defined health-care need, where neither the registrant nor the patient has the expectation of continuing care and the therapeutic and professional relationship.

PATIENT(S) – Refers to the individual to whom a registrant provides a professional service. Factors which may contribute to the determination of whether an individual is considered a registrant's patient include

- the registrant has provided a professional service for the patient;
- the registrant has contributed to a health record or file for the patient; or
- the patient has consented to a professional service provided by the registrant.

POWER – The power of the registrant comes from the professional position and the access to the private knowledge about the patient.

PROFESSIONAL SERVICE – “A service that comes within the practice of a regulated profession” (HPA, 2000). This refers to activities listed in the legislated scope of practice statement in Schedule 24, Section 3 of the HPA (2000, pp. 302-303).

PSYCHOTHERAPEUTIC – Planned and structured psychological, psychosocial and interpersonal interventions designed to affect behaviour, mood and/or emotional responses to various stimuli.

REGISTRANT(S) – Includes registered nurses (RNs), graduate nurses, certified graduate nurses, nurse practitioners (NPs), graduate nurse practitioners and RN or NP courtesy registrants on the CRNA registry.

SEXUAL ABUSE – “The threatened, attempted or actual conduct of a registrant towards a patient that is of a **SEXUAL NATURE** and includes any of the following conduct:

- (i) sexual intercourse between a registrant and a patient of that registrant;
- (ii) genital to genital, genital to anal, oral to genital, or oral to anal contact between a registrant and a patient of that registrant;
- (iii) masturbation of a registrant by, or in the presence of, a patient of that registrant;
- (iv) masturbation of a registrant's patient by that registrant;
- (v) encouraging a registrant's patient to masturbate in the presence of that registrant;
- (vi) touching of a sexual nature of a patient's genitals, anus, breasts or buttocks by a registrant” (HPA, 2000, pp. 13-14).

SEXUAL MISCONDUCT – “Any incident or repeated incidents of objectionable or unwelcome conduct, behaviour or remarks of a sexual nature by a registrant towards a patient that the registrant knows or ought reasonably to know will or would cause offence or humiliation to

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the patient or adversely affect the patient's health and well-being but does not include sexual abuse" (HPA, 2000, p. 14).

SEXUAL NATURE – "Does not include any conduct, behaviour or remarks that are appropriate to the service provided" (HPA, 2000, p. 14).

SEXUALIZE – To attribute sexual qualities or characteristics to something.

SPOUSE – A person to whom one is married.

THERAPEUTIC RELATIONSHIP – A relationship established and maintained with a patient by the registrant, through the use of professional knowledge, skills and attitudes, in order to provide professional services expected to contribute to the patient's health outcomes.

VULNERABILITY – Susceptibility to health problems, harm or neglect that could either be caused or influenced by physical, psychological or sociological factors. It is situational based on an individual's experiences. (Heaslip, 2013)

References

Adult Interdependent Relationships Act, SA 2002, c A-4.5. <https://open.alberta.ca/publications/a04p5>

Health Professions Act, RSA 2000, c H-7. <https://open.alberta.ca/publications/h07>

Heaslip, V. (2013). Understanding vulnerability. In V. Heaslip & J. Ryden (Eds.), *Understanding vulnerability: A nursing and healthcare approach* (pp. 10-12). Wiley-Blackwell.