



# The College of Physicians and Surgeons of Prince Edward Island

14 Paramount Dr.

Charlottetown, PE C1E 0C7

Phone: 902-566-3861 Fax: 902-566-3986

Website: [www.cpspei.ca](http://www.cpspei.ca)

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## *Boundaries*

### Definitions:

**Boundary:** Defines the limit of a safe and effective professional relationship between a physician and a patient. There are both sexual boundaries and non-sexual boundaries within a physician-patient relationship.

**Boundary Violation:** Occurs when a physician does not establish and/or maintain the limits of a professional relationship with their patient.

**Patient:** In general, a factual inquiry must be made to determine whether a physician-patient relationship exists, and when it ends. The longer the physician-patient relationship and the more dependency involved, the longer the relationship will endure.

However, for the purposes of this policy, a person is a physician's patient if there is direct interaction and **any** of the following conditions are met:

- the physician has charged or received payment from the person (or a third party on behalf of the person) for a health care service provided by the physician,
- the physician has gathered clinical information, provided a diagnosis, provided medical advice, treatment, or counselling,
- the physician has contributed to a health record or file for the person,
- the person has consented to the health care service recommended by the physician, or
- the physician prescribed the person therapy or a drug for which a prescription is needed.

In addition, the physician-patient relationship endures for one year from the date on which the person ceased to be the physician's patient.

**Episodic Care:** Refers to a clinical encounter between patient and physician when neither the patient nor the physician have expectations of an ongoing clinical relationship. Examples include: walk-in clinic, Emergency Room visit and in some cases Specialist referrals.

### Policy:

1. Physicians **must** establish and maintain appropriate boundaries with their patients.

### **Sexual Boundary Violations**

2. Physicians **must not** engage in sexual relations with a patient, touch a patient in a sexual manner or engage in behaviour or make remarks of a sexual nature towards a patient.
3. To help ensure sexual boundaries are maintained and that sexual boundary violations do not occur, physicians **must**:
  - a. **Not** make any sexual comments or advances towards a patient.

- b. **Not** respond sexually to any form of sexual advance made by a patient.
- c. Explain to patients in advance, the scope and rationale of any examination, treatment, or procedure and if asking questions regarding sexual matters why they are being asked.
- d. Obtain consent before proceeding with an examination.
- e. Only touch a patient's breasts, genitals, or anus when it is medically appropriate, and use appropriate examination techniques when doing so.
- f. Use gloves when performing pelvic, genital, perineal, perianal, or rectal examinations.
- g. Show sensitivity and respect for a patient's privacy and comfort by:
  - i. Providing privacy when patients dress or undress.
  - ii. Providing patients with a gown or drape during the physical examination or procedure if clothing needs to be removed, and only exposing the area specifically related to the physical examination or procedure.
  - iii. Ensuring that the gown or draping adequately covers the area of the patient's body that is not actively under examination.
  - iv. During an examination, only assisting patients with the adjustment or removal of clothing or draping if the patient agrees or requests the physician to do so.
- h. **Not** ask or make comments about a patient's sexual history, behaviour, or performance except where the information is relevant to the provision of care.
- i. **Not** make any comments regarding their own sex life, sexual preferences, or fantasies.
- j. **Not** socialize or communicate with a patient for the purpose of pursuing a sexual relationship.
- k. Use their professional judgment when using touch for comforting purposes. Supportive words or discussion may be preferable to avoid misinterpretation.

### **Third Party Attendance at Intimate Examinations**

- 4. Regardless of the gender of the physician and/or the patient, physicians **must** give patients the option of having a third party present during an intimate examination, including bringing their own third party if the physician does not have one.
- 5. If the patient wants a third-party present during an intimate examination, and a third party is unavailable or there is no agreement on who the third party should be, physicians **must**:
  - a. Give patients the option to delay or reschedule the examination or be referred to another physician if the examination is not urgently needed, or
  - b. Explain the risks of delaying the examination if the examination is urgently needed.
- 6. Physicians also have the option to request the presence of a third party during an intimate examination. If doing so, physicians **must** explain to the patient who the third party is. If the patient declines, physicians **must** consider whether to proceed with the examination based on the best interests of the patient, including whether the examination is urgently required.

### **Sexual Relations after the Physician-Patient Relationship has Ended**

- 7. Under this Policy engaging in any of the following within **one year** after the date upon which an individual ceased to be the physician's patient will constitute sexual abuse:
  - a. sexual relations with a patient, and/or
  - b. sexual behaviour or making remarks of a sexual nature towards their patient.
- 8. Where psychotherapy that is more than minor or insubstantial has been provided, physicians **must not** engage in sexual relations or engage in sexual behaviour or make remarks of a sexual nature towards their patient for a minimum of **five years** after the date upon which the individual ceased to be the physician's patient.
- 9. Even after the one or five year time period has passed, it may still be inappropriate for a physician to engage in sexual relations with a former patient. Examples would include long term psychotherapy by a Family Physician

or by a Psychiatrist. Prior to engaging in sexual relations with a former patient, a physician **must** consider the following factors:

- a. the length and intensity of the former professional relationship,
- b. the nature of the patient's clinical problem,
- c. the type of clinical care provided by the physician,
- d. the extent to which the patient has confided personal or private information to the physician, and
- e. the vulnerability the patient had in the physician-patient relationship.

### **Sexual Relations between Physicians and Persons Closely Associated with Patients**

10. It may be inappropriate for a physician to engage in sexual relations with a person closely associated with a patient. A physician may be found to have committed an act of professional misconduct if they do so. Prior to engaging in sexual relations with a person closely associated with a patient, a physician **must** consider the following factors:

- the nature of the patient's clinical problem,
- the type of clinical care provided by the physician,
- the length and intensity of the professional relationship between the physician and the patient,
- the degree of emotional dependence the individual associated with the patient has on the physician, and
- the degree to which the patient is reliant on the person closely associated with them.

### **Physician-Learner and Physician-Co-worker**

11. Physicians must be aware of and never exploit the power-imbalance in a physician-learner or physician-co-worker relationship. Physicians must not make sexual comments or gestures toward a learner or co-worker or enter a close personal or sexual relationship with a learner or co-worker while directly or indirectly responsible for mentoring, teaching, supervising, or evaluating that individual.

### **Mandatory Duty to Report Sexual Abuse**

12. Physicians **must** make a report in writing to the Registrar of the College to whom an alleged abuser belongs, if:

- they have reasonable grounds, obtained in the course of practising the profession, to believe that another member of the same or a different regulated health college has sexually abused a patient; and/or
- they have reasonable grounds to believe that a member of a regulated health college practising in the facility has sexually abused a patient.

### **Non-Sexual Boundaries**

13. Physicians' obligations to establish and maintain appropriate boundaries with patients are not limited to sexual interactions. Physicians **must** always establish and maintain appropriate boundaries with patients, including with respect to social or financial/business matters and **must not** exploit the power imbalance inherent in the physician-patient relationship.

14. Physicians **must** consider the impact on the physician-patient relationship and on other patients in their practice when engaging with a patient in a non-clinical context (social or financial/business relationships).

### **Episodic Care**

15. A physician-patient relationship is formed when a physician is seeing a patient for episodic care and is therefore subject to Legislation (Medical Regulations) and the College's Policies.

16. Sexual relations with a former patient after the completion of episodic care may still be considered inappropriate depending on the circumstances of the relationship.

### **Applicable Legislation:**

The **Medical Practitioners Regulations 34(3),34(4),34(5)** defines sexual abuse as any sort of sexual conduct by a member toward or with a patient, whether by:

- (a) a remark, gesture, or other behaviour of a sexual nature toward the patient, or by subjecting the patient to a position or state of undress, which appears intended to be erotic, seductive or demeaning;*
- (b) touching, of a sexual manner; or*
- (c) violating behaviour, namely sexual intercourse, other physical sexual relations including genital to genital, genital to anal, oral to genital, or oral to anal contact, masturbation by or of either party or encouragement of the patient to masturbate in the presence of the member.*

*Exception: Notwithstanding subsection (3), sexual conduct by a member toward or with a patient is not sexual abuse where:*

- (a) the member has provided a medical service in circumstances of urgency or necessity to a person who is not normally a patient of the member and who has an already established sexual relationship with the member: or*
- (b) the doctor-patient relationship has been formally terminated and there is no expectation that any further medical care will be provided by the member to the other person.*

*Exception does not apply: Notwithstanding clause 4(b) sexual conduct toward or with a former patient:*

- (a) is sexual abuse when the former patient was, while receiving medical care from the member, or is currently, a minor: or*
- (b) may be found to be sexual abuse where the former patient*
  - (i) was, while receiving medical care from the member, or is currently, suffering from a judgement impairing disorder, or*
  - (ii) received psychotherapy or psychiatric counselling from the member*

### **Document History:**

Approved by the Council of the College of Physicians & Surgeons of Prince Edward Island: **February 28, 2022**