



Standard of Practice: Boundary Violations (2021)

A **Standard of Practice** is the minimum standard of professional behavior and ethical conduct expected by the College on a specific issue.

Boundary Violations

Preamble

A boundary is an accepted social, physical and/or psychological space between people. Boundaries create appropriate therapeutic distances between physicians and patients, and clarify their respective roles and expectations.

All physicians have a fiduciary responsibility to avoid exploiting the trust and dependence of current and former patients. It is the responsibility of physicians to ensure that appropriate professional boundaries are maintained at all times.

Definition of “Patient”

“Patient” – an individual who has formed a professional relationship with a physician. Indicators include where the physician has engaged in one or more of the following activities:

1. gathered clinical information for the purpose of making an assessment;
2. provided medical advice, treatment, counselling or a diagnosis for the individual;
3. authored a medical record for the individual;
4. charged or received payment for medical services to the individual;
5. prescribed a drug to the individual; or
6. provided other services which are typically associated with a physician-patient relationship.

The College has issued a Standard of Practice which details the specific and limited circumstances in which a physician may provide care to a member of their family, and/or someone with whom they are in an intimate relationship, so long as the personal relationship began before the physician treated the individual. This Standard of Practice on Boundary Violations is not intended to prevent a physician from being able to treat family members of others close to them within the limitations set out in that Standard of Practice. Physicians should refer to the Standard of Practice: *Physician Treatment of Self, Family Members or Others Close to Them* (as amended) for more information.

Standard of Practice

Physicians are expected to maintain clear professional boundaries with patients.

The College considers any violation of professional boundaries between patients and treating physicians as an extremely serious matter. It is the responsibility of physicians to ensure that appropriate professional boundaries are maintained at all times. It is also the responsibility of physicians to recognize that patient participation in boundary violations does not lessen physicians' responsibilities to avoid boundary violations.

I. Sexual Boundary Violations

Sexualized contact or behavior of any kind is unacceptable in the physician-patient relationship. Due to the power imbalance inherent in a physician-patient relationship, the patient is never able to provide consent. Sexualized contact or behaviour is detrimental to the physician-patient relationship, harms individual patients, and erodes the public's trust in the medical profession.

To ensure sexual boundaries are maintained and violations do not occur, physicians **must not**:

- engage in or attempt to engage in sexual intercourse or sexual touching with a patient;
- engage in sexual activity in the presence of a patient;
- invite or encourage a patient to engage in sexual activity in the presence of the physician;
- invite or encourage a patient to engage in sexual activity to be recorded for the physician or accept such recorded material;

- accept any form of sexual advance made by a patient;
- socialize or communicate with a patient for the purpose of developing an intimate relationship;
- terminate a physician-patient relationship for the purpose of pursuing an intimate relationship with the patient;
- enter into an intimate relationship with a person with whom a patient has a significant interdependent relationship. (examples include, but are not limited to: parent/guardian of a minor patient, significant other of a patient, substitute

decision maker of an incompetent patient);

- make comments, ask questions, or act in a way which reflects a lack of respect for a patient's dignity or privacy;
- make sexualized comments about a patient's body, appearance, or clothing;
- engage in any behaviour, gesture, expression or comment that is sexualized, seductive, or sexually suggestive to a patient;
- make comments to a patient regarding their own sexual experiences or preferences;
- criticize, sexualize or comment unnecessarily on a patient's sexuality, sexual identity, sexual experiences, sexual history, or gender identity.
- ask or make comments about a patient's sexual history or performance except where it is pertinent to the medical care being provided;
- request the intimate or personal details of a patient's history, especially sexual history, unless related to the patient's care;

- fail to provide privacy when a patient dresses or undresses;
- fail to provide a gown or drape during a physical examination or procedure if clothing needs to be removed;
- assist a patient with the adjustment or removal of clothing or draping unless the patient agrees or requests the physician to do so;

- utilize examination procedures which reflect a lack of respect for a patient's dignity and privacy;
- examine or touch a patient's genital area, anal area, or breasts when it is not medically necessary;
- examine or touch a patient's genital area, anal area, or breasts without first obtaining the informed consent of the patient;
- examine or touch a patient's genital area or anal area without using gloves;
- touch a patient in a sustained manner without legitimate medical reason; or

- engage in other conduct not specifically identified above but which nonetheless, viewed from the perspective of the patient, intrudes upon a patient's physical and/or emotional space and is contrary to the spirit and intention of this Standard of Practice as a whole.

For the purposes of the above noted "Sexual Boundary Violations", an individual remains a "patient" for a reasonable period after the date the individual ceased to be under a physicians' care. The College will presume that a doctor-patient relationship will persist for a minimum of 1 year from the date the patient ceased to be under the physician's care unless there is an indication otherwise. Exceptions to this presumption may include circumstances where all of the below criteria are met:

- episodic care was provided;
- a reasonable person would not expect that care would extend beyond the

- episode; and
- there is minimal risk of exploitation of any trust and dependence of the patient.

Even after the above noted 1 year time period has passed, it may still be inappropriate for a physician to engage in a sexual relationship with a former patient. The following factors must be taken into consideration in this assessment:

- length and nature of the physician-patient relationship;
- extent to which the patient has confided personal and sensitive information;
- whether psychotherapy or psychiatric care was provided; and
- vulnerability that the patient had in the physician-patient relationship.

II. Personal Boundary Violations

Physicians are required to act in the best interest of their patients. Physicians must therefore never place their own interest above those of their patients. By maintaining appropriate personal boundaries, physicians ensure a therapeutic physician-patient relationship is not compromised.

Living and practising in a small community may increase the likelihood that physicians will be invited to or engage in social events and activities with patients. While avoiding friendship and declining every invitation is not necessary, the responsibility lies with the physician to be aware of the increased risk associated with managing social relationships with patients, including the potential for distorted professional judgment and/or unreasonable patient expectations, which can be difficult to navigate.

To ensure personal boundaries are maintained and that personal boundary violations do not occur, physicians **must not**:

- accept significant gifts or other significant financial benefits from a patient;
- promote their own personal or religious beliefs to a patient in the context of the physician-patient relationship;
- lend money to, or borrow money from, a patient;
- enter into financial or legal obligations for or on behalf of a patient (other than obligations related to the professional services provided by a physician);
- directly solicit to a patient to make donations to charities, political parties or other organizations to which they may be affiliated; or
- engage in other conduct not specifically identified above, including a business or personal transaction, with a patient which nonetheless, viewed from the perspective of a reasonable person, intrudes upon the patient's personal boundaries and is contrary to the spirit and intention of this Standard of Practice as a whole.

For the purposes of the above noted "Personal Boundary Violations", an individual is considered a "patient" while the individual is under a physician's care.

III. Duty to Report

In accordance with s. 41 of the *Medical Act*, if a physician has knowledge (from direct observation or objective evidence) that another physician has committed a boundary violation, that physician has an ethical and legal obligation to notify College.

IV. Disciplinary Measures

The College maintains full discretion over what it considers a boundary violation and what the appropriate penalty will be for each case.

Sexual boundary violations are recognized by College as being amongst the most severe categories of professional misconduct. When an allegation of a sexual boundary violation has been filed against a physician, a third party chaperone may be requested or required by the College for clinical encounters with patients. Where such misconduct is admitted or proven, it should be anticipated that severe penalties will be imposed, including substantial suspension from practice or, in the most serious cases, revocation of licence.

V. Advice

Physicians are encouraged to seek guidance from the Canadian Medical Protective Association or an advisor of their choice to discuss the risks associated with boundary violations.

Acknowledgements

CPSBC (2020) Sexual Misconduct (Practice Standard)
CPSBC (2020) Non-Sexual Boundary Violations (Practice Standard)

CPSSK (2020) Sexual Boundaries (Policy)

CPSNS (2020) Sexual Misconduct by Physicians (Professional Standard)

CPSA (2019) Boundary Violations: Sexual (Standard of Practice)
CPSA (2019) Boundary Violations: Personal (Standard of Practice)

CPSO (2019) Boundary Violations (Policy)

CPSM (2019) Standards of Practice of Medicine – Good Medical Care

CMPA (2014) Recognizing Boundary Issues
CMPA (2020) Criminal and sexual impropriety matters
CMPA Good Practices Guide: Respecting Boundaries

Document History

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