

# Standards of Practice

# Sexual Abuse and Sexual Misconduct



## Standard

This Standard of Practice is specific to addressing Sexual Abuse and Sexual Misconduct as defined in s. 1(1) of the *Health Professions Act*. This Standard of Practice establishes who is considered a **patient** for the purpose of a complaint of unprofessional conduct in relation to Sexual Abuse and Sexual Misconduct and the performance requirements of the College of Physiotherapists of Alberta members.

The physiotherapist abstains from conduct, behaviour or remarks directed towards a patient that constitutes **sexual abuse** or **sexual misconduct**.

## Expected outcome

A patient can expect **physiotherapy services** will be free from conduct, behaviour or remarks of a **sexual nature**, and the physiotherapist will maintain professional boundaries appropriate to the **therapeutic relationship** in all interactions.

## Performance expectations

The physiotherapist:

- Clearly and thoroughly explains any physiotherapy service which could potentially be perceived to be sexual in nature, taking all reasonable steps to confirm the patient's understanding of the service and its rationale, and obtaining informed **consent** prior to engaging in the service.
- Abstains from all forms of conduct towards a patient that constitutes sexual abuse for the duration of the therapeutic relationship, which extends for one year (365 days) from the date of the last documented physiotherapy service provided.
- Abstains from conduct, behaviour, or remarks directed towards a patient that constitutes sexual misconduct for the duration of the therapeutic relationship, which extends for one year (365 days) from the date of the last documented physiotherapy service provided.
- Abstains from commencing an intimate or sexual relationship with a patient for the duration of the therapeutic relationship, which extends for one year (365 days) from the date of the last documented physiotherapy service provided.
- Recognizes that due to the nature of **physiotherapy practice**, there is always an inherent power imbalance between the patient and the physiotherapist, and due to this inherent power imbalance, sexual relationships are prohibited for the duration of the therapeutic relationship, which extends for one year (365 days) from the date of the last documented physiotherapy service provided, even if the patient consents to the sexual relationship.
- Reports all instances where the physiotherapist has reasonable grounds to believe that the conduct of another **regulated member** of any College constitutes sexual abuse or sexual misconduct to the Complaints Director of the other regulated member's College.

- Recognizes conduct which constitutes sexual abuse or sexual misconduct as defined in the *Health Professions Act*, but which is not related to a patient as defined in the Sexual Abuse and Sexual Misconduct Standard of Practice, is not subject to this Standard. However, such conduct is subject to the Standards of Practice for Physiotherapists in Alberta and may still be considered unprofessional conduct under the *Health Professions Act*.

**Adult Interdependent Partner** is, subject to the Adult Interdependent Relationships Act, "a person is the adult interdependent partner of another person if:

- a) the person has lived with the other person in a relationship of interdependence
  - (a.1) for a continuous period of not less than 3 years, or
  - (a.2) of some permanence, if there is a child of the relationship by birth or adoption, or
- b) the person has entered into an adult interdependent partner agreement with the other person under section 7."

**Adult Interdependent Relationship** means the relationship between two persons who are adult interdependent partners of each other.

**Episodic care** refers to a single encounter with a patient focused on a presenting concern(s), where neither the physiotherapist nor patient have the expectation of an ongoing care relationship. The individual is considered a patient for the duration of the episode of care. A physiotherapist who engages in the type of activity described in the definition of sexual abuse or sexual misconduct while providing episodic care will be considered to have committed sexual abuse or sexual misconduct.

**Patient:** An individual is a patient of a physiotherapist when they are a recipient of physiotherapy services and a therapeutic relationship is formed. This occurs when a physiotherapist has engaged in one or more of the following activities:

- Gathered clinical information to assess an individual
- Contributed to a health record or file for the individual
- Provided a diagnosis
- Provided physiotherapy advice or treatment
- Charged or received payment from the individual or third party on behalf of the individual for physiotherapy services provided
- Received consent from an individual for recommended physiotherapy services

A patient is deemed discharged and no longer a patient if there have been no physiotherapy services provided for one year (365 days).

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For the purposes of sexual abuse and sexual misconduct provisions in the Health Professions Act, an individual is not considered a patient if a current sexual, spousal, or adult interdependent partner relationship exists between the individual and the physiotherapist at the time the physiotherapist provides physiotherapy services.

OR

The physiotherapist has provided episodic care to a patient where neither the physiotherapist nor the patient have the expectation of an ongoing care relationship,

AND

48 hours have elapsed between the episode of care and the start of the sexual relationship or communication for the purpose of starting the sexual relationship.

**Physiotherapy practice**, as defined in Schedule 20 s. 3 of the Health Professions Act, is when physiotherapists do one or more of the following:

- a) assess physical function,
- b) diagnose and treat dysfunction caused by a pain, injury, disease or condition in order to develop, maintain and maximize independence and prevent dysfunction,
  - 1) engage in research, education and administration with respect to health services delivery and the science, techniques and practice of physiotherapy, and
- c) provide restricted activities authorized by the regulations.

**Physiotherapy services** are “services provided by or under the direction of a physiotherapist. This includes client assessment and intervention, and related communication with and reporting to various parties for the purposes of delivering patient care.”

**Regulated member** refers to an individual registered with a regulatory organization governed under the Health Professions Act, including physiotherapists.

**Sexual abuse** is defined in the Health Professions Act, and “means the threatened, attempted or actual conduct of a regulated member towards a patient that is of a sexual nature and includes any of the following conduct:

- a) Sexual intercourse between a regulated member and a patient of that regulated member;
- b) Genital to genital, genital to anal, oral to genital, or oral to anal contact between a regulated member and a patient of that regulated member;
- c) Masturbation of a regulated member by, or in the presence of, a patient or that regulated member;
- d) Masturbation of a regulated member’s patient by that regulated member;
- e) Encouraging a regulated member’s patient to masturbate in the presence of that regulated member;
- f) Touching of a sexual nature of a client’s genitals, anus, breasts or buttocks by a regulated member.”

**Sexual misconduct**, as defined in the Health Professions Act, “means any incident or repeated incidents of objectionable or unwelcome conduct, behaviour or remarks of a sexual nature by a regulated member towards a patient that the regulated member knows or ought reasonably to know will or would cause offence or humiliation to the patient or adversely affect the patient’s health and well-being but does not include sexual abuse.”

**Sexual nature** does not include conduct, behaviour, or remarks that are appropriate to the service provided.

**Spouse** is defined as “a party to a marriage.” (Family Law Act, 46(g)) or “A legal marriage partner. This term includes both opposite and same-sex relationships but does not include common-law partnerships.”

**Therapeutic relationship** refers to the relationship that exists between a physiotherapist and a patient during the course of physiotherapy services. The relationship is based on trust, respect, and the expectation that the physiotherapist will establish and maintain the relationship according to applicable legislation and regulatory requirements and will not harm or exploit the patient in any way.

Due to the nature of physiotherapy practice, there is always an inherent power imbalance between the patient and their physiotherapist. Because of the existence of an inherent power imbalance, sexual relationships are prohibited for the duration of the therapeutic relationship even if the patient consents to the sexual relationship.

The therapeutic relationship extends from the time of initial professional contact between the physiotherapist and the patient until one year (365 days) from the date of the last documented physiotherapy service.

## Related Standards

- Consent
- Communication
- Legislative Responsibilities
- Professional Boundaries