Sexual Boundaries in the Patient-Physician Relationship

Preamble
This document is a guideline of the Board of the College of Physicians and Surgeons of British Columbia.

Introduction
Physicians must maintain professional boundaries in their interactions with their patients and not exploit them in any way. The following is a general discussion of the issues pertinent to situations where the professional patient-physician relationship may be compromised by sexualized behaviour.

College’s Position

- **Trust** is the basis of the patient-physician relationship.
- The patient is considered to be the **vulnerable** individual in the professional relationship in which assistance and treatment are sought from a professional individual with knowledge and training to make diagnoses and treatment decisions.
- **Power imbalance** exists in the patient-physician relationship.
- **Transference** may develop as a result of the power imbalance.
- Sexualized behaviour in the patient-physician relationship is **never acceptable**.
- A breach of sexual boundaries has potential for significant **harm** to the patient.
- The physician **cannot provide objective care** when a sexualized relationship exists.
- The **onus is always on the physician** to maintain professional boundaries with a patient and not to exploit the patient in any way.
- The nature of a **fiduciary relationship** makes a consensual sexual relationship between physician and patient impossible.
Guiding Ethical Principles

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

Inappropriate Behaviour in the Patient-Physician Relationship

The following are examples of behaviour that are considered inappropriate:

- altering or removing a patient’s clothing while an examination is taking place without express patient consent
- not allowing the patient the privacy to undress or dress and not providing appropriate gowns or drapes
- sexually demeaning or suggestive comments
- requests for “dating”
- sexualized touching, fondling, hugging, kissing, and petting
- sexual intercourse

It is not unusual for a patient to consider the behaviour of a physician to be sexually motivated, even in circumstances where the physician had not consciously considered the behaviour to be sexualized. This most frequently occurs during examinations conducted without adequate explanations or without expressed patient consent.

Precautions in Practice

Consideration should be given to the following:

- 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.
- 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.
- 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.
- Although chaperones are not mandatory, a physician should consider carefully whether a chaperone would contribute to an individual patient's feeling of comfort and security. Also, a chaperone 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 a chaperone is available or a printed policy regarding the provision of chaperones may be helpful.
• The scope of the examination and the reasons for examination should be explained to the patient.

• A physician must provide complete privacy for a patient to undress and to dress.

• A patient must be provided with an adequate gown or drape.

• The physician should not assist with removing or replacing the patient's clothing, unless the patient is having difficulty and consents to such assistance.

• A physician should be aware and be mindful of the particular cultural preferences in the diverse patient population.

• A physician should avoid crossing non-sexual boundaries such as dual roles and self-disclosure, as these may accumulate and take the physician down the “slippery slope” into the realm of sexual misconduct.

• Every physician should minimize personal vulnerability by appropriate recognition and attention to personal illness, stressors, emotional neediness and professional isolation.

• When any questions or concerns arise, the physician should feel free to contact the College for advice or direction.

Ethical Duty to Report

As indicated in the Health Professions Act (Section 32.4), and subject to the requirements outlined below, physicians have statutory responsibilities regarding the reporting of sexual misconduct by another registrant to the College.

Subject to the patient’s consent, the physician has an ethical responsibility to report to the College if a patient discloses information that leads the physician to believe that another physician may have acted improperly with the patient. To assist in such instances, the following guidelines are provided:

• The physician must inform the patient that such alleged behaviour by any physician is unacceptable to the College and the medical profession.

• The physician must provide the patient with information on how to file a complaint with the College.

• If the patient does not wish to file a formal complaint immediately, then the physician must offer to file a third party report with the patient's written consent.

• If the patient does not give permission to proceed, then the physician has fulfilled the ethical duty. The physician should document the event, indicating that the patient does not wish a complaint or third party report to be made to the College.

Adjudication of Sexual Misconduct Complaints

All allegations of sexual misconduct must be carefully investigated and reviewed by the College.
Complaint Process and Procedure

Each situation is considered on its own merit, carefully taking into account factors such as:

- The nature of the patient-physician relationship.
- The duration of the patient-physician relationship.
- The patient’s vulnerability:
  - the presence of a disorder likely to impair judgment or hinder independent decision-making
  - psychotherapy in the patient-physician relationship
  - age under 19
- Physician factors:
  - previous sexual misconduct
  - degree of exploitation
  - impairment
  - actual or threatened bodily harm or violence

For more information on the complaint process and procedure on concerns of sensitive or intimate nature, please visit the College website.

Termination of a professional relationship in order to pursue a sexual relationship has always been considered to be unethical.

For more information, registrants may log in to the College Library section of the website for more resources.

See also Sensitive Examinations

Updated October 2009