

# Practice Guideline- Professional Boundaries and the Prevention of Sexual Abuse

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## Introduction

The prevention of sexual abuse of patients/clients by kinesiologists is one of the ways that the College works to protect the public. Standards have been developed in order to assist kinesiologists in understanding their role to practise professionally.

Sexual abuse is the most serious of boundary violations by a kinesiologist and can lead to damaging short and long-term consequences for the patient/client. Kinesiologists who sexually abuse patients/clients face severe penalties by the College, including a revocation of their licence to practise.

All kinesiologists must understand the nature of the professional relationship, what constitutes a boundary violation and sexual abuse, and work towards preventing sexual abuse.

This guideline provides further explanation of the College's Practice Standard- Professional Boundaries. It provides guidance on the professional relationship and how to establish maintain professional boundaries to prevent sexual abuse. The content is intended to help understand the factors, complexities and nuances that exist within the professional relationship and how neglecting/failing to establish and maintain appropriate professional boundaries can lead to sexual abuse.

## The professional relationship

The components of a professional relationship between you and the patient/client are respect and trust, professional intimacy and power.

### Respect and trust

These are the foundations of a successful professional relationship based on the patient's/client's physical and emotional needs. The patient/client must feel respected and trust your ability to deliver services.

## Professional intimacy

There is a degree of personal closeness that may not exist in other relationships. This intimacy may come in the forms of physical closeness and/or touching of a clinical nature, disclosure of personal and private information, varying degrees of undress and witnessing of emotional behaviours on the part of the patient/client. This intimacy is never sexual in nature, but is appropriate in the context of delivering patient/client-centred care or services.

## Power

The professional intimacy, along with your knowledge and expertise, place you in a position of power. As a health care professional, you must remember that you always have more power in the professional relationship. You must be sensitive to the perceptions of your patients/clients when providing services. The patient/client may have a heightened sense of vulnerability within this relationship and thus is more susceptible to abuse, whether real or perceived.

## Sexual abuse

Kinesiologists must be aware of the meaning of sexual abuse, and they must understand that they assume the responsibility to prevent it from occurring and that they must respond appropriately when it occurs.

The *Health Professions Procedural Code* (the Code) of the *Regulated Health Professions Act, 1991* (RHPA) outlines acts that constitute sexual abuse:

- S. 1(3) (a) *Sexual intercourse or other forms of physical relations between the member and the patient/client*
- (b) *Touching of a sexual nature of the patient/client by the member*
- (c) *Behaviour or remarks of a sexual nature by the member towards the patient/client*

### *Exception*

- (4) *For the purposes of subsection (3), "Sexual nature" does not include touching, behaviour, or remarks of a clinical nature appropriate to the services being provided.*

The College has a zero tolerance policy toward sexual abuse. Sexual activity between a patient/client and a kinesiologist is strictly prohibited under any circumstances, including a consensual relationship. A sexual relationship with a patient/client is not considered consensual in a professional context because of the existence of the power imbalance. It is a fundamental breach of the professional relationship and a betrayal of the patient's/client's trust. The professional relationship is based on the patient/client's best interests. Engaging in a sexual relationship is using the professional relationship to the interests of the kinesiologist.

## Establishing and maintaining professional boundaries

Every kinesiologist has a personal responsibility for establishing and maintaining boundaries and the professional relationship; it is the kinesiologist who is accountable for the occurrence of any abuse within the professional relationship not the patient/client.

Some elements of establishing a professional relationship are as follows:

- Introducing yourself to the patient/client, explaining your professional designation and your professional background.
- Ascertaining the patient's/client's preferred form of address (e.g. by their first or last name).
- Being on time for appointments, well-groomed and dressed professionally.
- Recognizing the patient's/client's cultural, social, linguistic or religious background and making appropriate adjustments in behaviour and communication to respect the differing boundaries among different backgrounds.
- Listening to the patient/client, or caregiver, in an open and non-judgmental manner and validating their concerns.
- Speaking in a polite and objective manner; refraining from over use of slang and voicing opinions about certain lifestyles, current events, or other controversial issues.
- Being aware of body language, such as appropriate eye contact. Refraining from excessive physical contact that is unnecessary to the treatment.
- Discussing confidentiality of personal health information with the patient/client.
- Providing sufficient information regarding treatment options to allow the patient/client to make informed choices.
- Obtaining consent on treatment matters. Consent is continuous throughout the treatment and where you may need to touch the patient/client for a clinical purpose (refer to the Practice Guideline- Consent).
- Telling a patient/client that you are going to touch him/her and explain the clinical purpose (Please see next section for further information on this aspect of treatment).
- Continuous explanation of the patient's/client's treatment progress, changes in treatment, etc., in a manner that the patient/client understands, always keeping in mind if the patient/client has linguistic or conceptual limitations.
- Monitoring for comments, attitudes, or behaviours from patients/clients that may challenge the efficacy of the professional relationship.
- Being aware of any pre-existing conditions or vulnerabilities of the patient/client that may require heightened care in maintaining boundaries.
- Being aware of the treatment environment, such as a patient's/client's home, which may be more informal and require increased diligence on your part, and
- Ensuring the practice environment is safe and that communication between colleagues cannot be misinterpreted by the patient/client as unprofessional or sexual in nature.

This list is not exhaustive, but is to be used as a guide to prompt you to analyze the situation in which you are providing. Boundaries to the professional relationship are dependent on the patient/client, the type of treatment and the practice setting. Boundaries also vary across social and cultural lines, and you must take efforts to learn what the boundaries are for each patient/client. The boundaries may also change depending on the length of the professional relationship, a change in the patient's/client's condition, a change in the treatment course and/or a change in the practice setting. The longer the professional relationship continues, the greater the power imbalance may become. If you ever find yourself in a situation that could be deemed unprofessional, you should consult a colleague, inform a superior or contact the College for further guidance.

### **Touching of a clinical nature**

Kinesiology often involves physical contact between a patient/client and the kinesiologist. A kinesiologist may be providing some manual release, assessing range of motion, feeling for a

musculoskeletal injury, guiding exercises, etc. Some physical contact may also be required in more sensitive areas of the body. Whenever treatment requires any kind of physical contact, especially of sensitive areas, you should be aware of the potential misinterpretation and misunderstanding of this type of contact by the patient/client. Kinesiologists can greatly reduce this risk through some or all of the following precautions:

- Assessing whether or not the physical contact is necessary for the efficacy of the treatment.
- Explaining to the patient/client how and where you intend to touch them, and why. This includes ensuring that they understand the clinical benefits to you touching them versus the risk of not touching them, such as being able to feel if a muscle is fully engaging, or ensuring proper technique during an exercise to avoid injury.
- Ask the patient/client if they are comfortable with this course of action. Obtain consent. Consent may be implied or express. Express consent is either verbal or written and is as simple as the patient/client saying “yes”. Implied consent may be if they hold their ankle up after you ask to examine it. Deciding between express and implied consent will depend on the nature of the touching. For sensitive areas, express consent should be obtained.
- Demonstrating on yourself where you will touch.
- Limiting the duration of the physical contact.
- Documenting the clinical reasoning for the physical touching and that consent was obtained.
- Upon initial intake and assessment of a new patient/client, explaining that treatment can involve physical touching. This may be helpful to gauge a patient’s/client’s comfort level with touching. It does not negate the need to discuss individual incidents of touching, particularly if they are in a more sensitive area.

The extent of these various precautions will depend on the nature and duration of the physical contact and the patient’s/client’s comfort with the proposed physical contact. For example, asking to look at a patient/client’s ankle to assess mobility and where the client’s response is simply to lift their ankle towards you may not require specific documentation in the record. However, recommending manual release in the buttocks region may require express consent and a brief note in the record.

### **Breaching the professional relationship: Possible warning signs**

The following is a list of signs that may indicate that boundaries might have been crossed. This list is not exhaustive:

- Spending time with a patient/client that is in excess of their health care needs.
- Scheduling irregular appointment times or longer appointment times with a patient/client.
- Dressing differently when seeing a particular patient/client.
- Using suggestive verbal or body language or flirting with a patient/client.
- Physically touching the patient/client in a manner unnecessary for the treatment.
- Asking a patient/client for personal information that is not related to their health care needs, such as asking if the patient/client is dating anyone.
- Answering questions of a similar nature as above from the patient/client.
- Self-disclosure to the patient/client about personal problems or situations.

- Providing a patient/client with personal contact information and/or accepting the personal contact information from the patient/client.
- Contacting and conversing with a patient/client that is not necessary to the treatment of the patient/client.
- Accepting or requesting access to personal social media pages such as Facebook, Twitter, LinkedIn or other personal blog sites.
- Reducing or waiving professional fees.
- Receiving or giving gifts, especially those that are expensive or of a personal nature.
- Meeting socially with the patient/client even if there is no physical or sexual contact.
- Frequently thinking about the patient/client in personal terms, and
- Being hesitant to discuss activities with a patient/client to friends, family and colleagues (except for reasons of confidentiality).

If one or more of these signs are present, you must be prepared to acknowledge personal feelings about a patient/client and, if needed, modify the behaviour immediately before a more serious breach occurs. You should seek counsel from peers, an employer or the College. This may avoid an actual occurrence of abuse, and may require you to end the clinical relationship. You should keep in mind that most often a breach of the professional relationship can begin in a seemingly innocent manner with comments or disclosures that can escalate. It is important that you be mindful of these warning signs, either in yourself or from the patient/client to avoid further progression. You must be vigilant to the subtle changes in behaviour within the professional relationship that may be an indication of subsequent breaches.

In some cases, it is the patient/client that takes the initiative to change the relationship. It is important for you to be aware of when the relationship dynamic might be changing. Such changes in the relationship may lead to, or be perceived as, sexual abuse. In cases where you feel the patient/client is attempting to cross the boundaries of the professional relationship, you must explain the professional relationship to the patient/client, even if you have already done so. You must be sensitive to the fact that addressing this type of issue with the patient/client may make them feel even more vulnerable. Such communication should be done as sensitively as possible. You must be prepared for an adverse reaction by the patient/client and, if the relationship continues, the patient/client may feel an increased vulnerability. You must reassure the patient/client that care will continue in a professional manner. Any discussions of this nature with the patient/client should be documented and disclosed to an employer to protect you from any bad faith allegations. You might consider having a colleague or employer present for this discussion or for future treatment in order to create a safer environment for both yourself and the patient/client.

### **Social, romantic or sexual relationships with a patient/client**

Engaging in a social relationship with a patient/client while providing services is not permitted. This is considered a breach of the Practice Standard- Professional Boundaries. If you are engaged in a sexual relationship with a patient/client, this is considered sexual abuse and subject to mandatory revocation of the licence to practise for five years.

You are also not permitted to engage in a sexual relationship with a patient/client for a period of at least one year after the termination of the professional relationship.<sup>1</sup> Even after this one year period, it may still not be acceptable for you to commence a sexual relationship with the patient/client if a

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<sup>1</sup> This is a new legislative amendment and the College does not have the authority to shorten this period. This period applies to all kinesiologists and all patients/clients, regardless of the nature or length of the clinical relationship.

power imbalance continues to exist. The patient/client may feel pressured into such a relationship or feel that you are exploiting the former professional relationship for your own gain. You should be very careful in this regard, and seek professional advice on the issue and consider how a reasonable kinesiologist would perceive the situation when initiating any further contact.

You should also refrain from becoming socially, romantically or sexually involved with a member of the patient's/client's family. This type of behaviour, while not explicitly prohibited by the RHPA, may make the patient/client feel uncomfortable. Or, it may make the patient/client feel that your interests are being put ahead of theirs. If the patient/client has a substitute decision maker, you are prohibited from entering into a relationship with that person. There may be a power imbalance between you and the substitute decision maker. The professional relationship extends to the substitute decision maker and, as such, crossing professional boundaries may affect the substitute decision maker's ability to put the patient's/client's interest first and make informed consent on treatment matters.

It is not advisable to treat a member of your family. A family member can include your spouse or partner, parent, child, sibling, grandparent or grandchild; a parent, child, sibling, grandparent or grandchild of your spouse or partner; or another individual to whom you have a personal or emotional involvement that may make you unable to exercise objective professional judgment in the treatment of the person. You may be permitted to treat a family member if another health care professional is not readily available, if it is an emergency situation, or for minor, episodic care. You should limit the length of the treatment and transfer care of the family member as soon as possible.<sup>2</sup>

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<sup>2</sup> Refer to the College's *Practice Guideline: Treating Family Members and Other Close Personal Relations*.