



# **Standards of Practice Sexual abuse and sexual misconduct**

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## Introduction

Regulated members of the Alberta College of Pharmacy must maintain a high standard of professional conduct in caring for patients across their continuum of care, including maintaining a professional relationship with each patient. In this context, patients are likely to feel genuinely cared for and have confidence, respect, and trust in regulated members.

Regulated members are required to gather personal and health information in the course of providing professional services to patients. In the context of the professional relationship formed between regulated members and patients there may be an imbalance of power. For example, clinical pharmacists may, as part of their professional practice, prescribe, dispense, or administer life-saving or life-altering drugs to patients. It is critical that regulated members recognize the potential for this imbalance of power and maintain appropriate professional boundaries with each patient, taking special care when dealing with vulnerable patients,<sup>1</sup> like minors, addicted patients or patients with diminished capacity. In particular, each patient should feel safe and protected from sexual misconduct and sexual abuse when receiving professional services from a regulated member.

The College recognizes that regulated members have personal lives and that there are circumstances where there is no power imbalance and it may be appropriate for regulated members to have personal relationships with patients or former patients, including sexual relationships. The College also recognizes that in some practice settings regulated members may have limited contact with patients and that a regulated member may not be able to identify patients when encountered outside the regulated member's practice (for example, where a regulated member's professional services for a patient are limited to compounding a drug for a patient in a hospital pharmacy).

To this end, the College, through the *Health Professions Act* (HPA) as amended by "*An Act to Protect Patients*," has developed these standards of practice to ensure professional boundaries are defined and maintained, and to protect patients from sexual abuse and sexual misconduct by pharmacists and pharmacy technicians.

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<sup>1</sup> Code of Ethics Principle 3

## Definitions

Throughout the standards

1. **Activity of daily living** means an activity that individuals normally perform on their own behalf to maintain their health and well-being, and includes
  - (a) routine and invasive self-care activities, including but not restricted to the removal of slivers and the cleaning of wounds; and
  - (b) specifically taught procedures, which generally result in predictable and stable responses, including but not restricted to catheterization, maintenance of drainage tubes, and administration of drugs by injection;
2. **Adult interdependent partner** means an adult interdependent partner as defined in the *Adult Interdependent Relationships Act*;
3. **Episodic professional service** means a professional service provided during a single encounter with a patient
  - (a) to address a minor condition where the professional service is restricted to professional advice about or the provision of a Schedule 2 or 3 drug, unscheduled medication, or a health care product, aid, or device that is not ordered under a prescription, or
  - (b) in a circumstance where neither the regulated member nor patient have the expectation that the regulated member will provide any further professional services to the patient;
4. **Minor** means a person under the age of 18 years;
5. **Patient** means any person to whom a regulated member provides a professional service and includes a parent or guardian of a patient who is a minor;
6. **Power imbalance** means the power a regulated member has over a patient due to the professional position of the regulated member including the regulated member's ability to withhold or alter the professional services that the patient requires and the regulated member's awareness of and ability to access private information and health information of the patient;
7. **Professional service** means care that falls within the scope of practice of a regulated member to a patient;
8. **Regulated member** means
  - (a) a clinical pharmacist,
  - (b) a provisional pharmacist,
  - (c) a courtesy pharmacist,
  - (d) a student pharmacist,
  - (e) a pharmacy technician,
  - (f) a provisional pharmacy technician, or
  - (g) a courtesy pharmacy technician;
9. **Sexual relationship** means a relationship involving sexual intimacy that includes conduct, behaviour, or remarks of a sexual nature;

- 10. Sexual nature** includes any conduct, behaviour, or communications involving or relating to touching of breasts, genitals or anal area, masturbation, genital to genital, genital to anal, oral to genital, or oral to anal contact, sexual intercourse, but does not include any conduct, behaviour, or communications that are appropriate to the professional service being provided by a regulated member, and
- 11. Vulnerable patient** means a patient who is or may be for any reason unable to take care of themselves, or unable to protect themselves against significant harm or exploitation such as a patient who is a minor, a patient with diminished mental capacity or impaired decision making skills, an economically disadvantaged patient, a patient suffering from addiction or a patient experiencing homelessness.

## Standards

### Prohibition on sexual relationships with patients

1. A regulated member must not enter into or have a sexual relationship with a patient.
2. A regulated member must not communicate with or solicit a patient for the purpose of entering into a sexual relationship.
3. Without limiting a regulated member's obligations under the *Health Information Act*, a regulated member must not use any personal information or health information obtained in the course of providing a professional service to pursue a sexual relationship with a patient or a former patient.

### Limits on physical contact of a sexual nature

4. A regulated member must not engage in any physical contact with a patient that is of a sexual nature.

### Communication required before appropriate physical contact

5. If an appropriate professional service for the patient requires physical contact between a regulated member and a patient, the regulated member must first
  - (a) explain to the patient why the physical contact is clinically necessary;
  - (b) indicate to the patient the nature, purpose, and the likely duration of the physical contact;
  - (c) ensure that the patient is offered appropriate privacy for the physical contact that occurs; and
  - (d) receive informed consent prior to the physical contact, including consent as to the room or other space within which the regulated member will be providing the professional service that involves physical contact.

### Limits on words and behaviour of a sexual nature

6. A regulated member must not engage in any behaviour, either physical or verbal, with a patient that could reasonably be perceived to be of a sexual nature, including
  - (a) making sexually suggestive comments or gestures; or
  - (b) requesting details of a patient's sexual history, unless relevant to the professional service that the regulated member is performing.

### Limits on providing professional services to spouses, adult interdependent partners, and persons in existing sexual relationships

7. A regulated member may provide a professional service to a spouse, an adult interdependent partner, or other person with whom the regulated member is in an existing sexual relationship, but only if
  - (a) the professional service is an episodic professional service;
  - (b) the professional service, in the context of the personal relationship, constitutes an activity of daily living;or

- (c) another regulated member or another appropriate regulated health professional is not readily available to provide the professional service.

## Limited circumstances in which regulated members may enter into a sexual relationship with a patient

- 8. Despite Standards 1, 2, 4, and 6 a regulated member may enter into a sexual relationship with a patient or communicate with a patient for the purpose of entering a sexual relationship only if
  - (a) the regulated member did not know, or could not reasonably have known, despite the exercise of due diligence, that the patient was a patient of the regulated member at the time the regulated member entered into the sexual relationship or communicated with a patient for the purpose of entering a sexual relationship; or
  - (b) the regulated member only provided an episodic professional service to the patient and
    - (i) the patient is not a vulnerable patient, and
    - (ii) more than 48 hours have passed since the episodic professional service was provided to the patient by the regulated member.

## Obligation to first terminate professional relationship if regulated member intends to enter a sexual relationship with a patient

- 9. A regulated member who intends to enter into a sexual relationship with a patient must first terminate the professional relationship
  - (a) in compliance with the Standards of Practice for Pharmacists and Pharmacy Technicians,<sup>2</sup> and
  - (b) receive voluntary consent to the termination of the professional relationship from the patient.
- 10. A regulated member must not terminate a professional relationship with a vulnerable patient for the purpose of entering into a sexual relationship with that vulnerable patient.

## Limits on entering into sexual relations with former patients

- 11. Where an individual has ceased to be a patient of a regulated member for any reason, including where the regulated member has terminated a professional relationship under Standard 9 above, a regulated member may enter into a sexual relationship with that former patient, but only if
  - (a) there is no ongoing power imbalance between the regulated member and the former patient arising from the former professional relationship;
  - (b) sufficient time has passed since the last time a professional service was provided by the regulated member, having regard for the nature and extent of the professional relationship between the regulated member and the former patient;
  - (c) the former patient knows and understands that the professional relationship has ended;
  - (d) the former patient has consented and is capable of providing consent; and

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<sup>2</sup> SPPPT 1.11.1

- (e) the former patient was an adult at the time the regulated member provided professional services to the former patient, or, if the former patient was a minor at the time the regulated member provided the professional services, the former patient is now an adult and more than two years have passed since the regulated provided any professional service to the former patient.
12. For the purpose of Standard 11(b) if a regulated member provided the former patient with professional services for a substance use disorder, like an addiction to narcotics or an addiction to another drug or substance where there is an inherent power imbalance, the regulated member must not have a sexual relationship with that former patient until at least two years have passed from the last time that the regulated member provided any professional service to that former patient.

## **Mandatory duty to report sexual abuse and sexual misconduct**

13. A regulated member who has reasonable grounds to believe the conduct of another regulated member or another regulated health professional constitutes sexual abuse or sexual misconduct has a duty to report such conduct to the complaints director of the College or the college applicable to the other regulated health professional.
14. A regulated member may, but is not obligated to, make a report under Standard 13 if the information about the conduct of the regulated member was obtained in the course of providing professional services to that other regulated member or regulated health professional.