

REGULATORY PRACTICE NOTICE

Sexual Misconduct

REGULATORY PRACTICE NOTICES are published by the College to clarify NSCCT's professional practice expectations. **Information provided here is intended to supplement and support the *CCPA Code of Ethics (2020)* and the *CCPA Standards of Practice (2021)*** by providing additional information that will help individual registrants navigate complex practice issues in a manner consistent with these standards. Counselling Therapists must rely on their knowledge, skill and judgement to determine when and how to apply a particular standard, being mindful that *registrants are ultimately responsible for their own actions.*

Regulatory Practice Notices are developed by the Policy and Procedures Committee in consultation with the Ethics and Practice Standards Committee. It is important to note that these publications may also be used to inform the professional conduct process.

[RPN-01.0: Sexual Misconduct](#) is a companion piece in support of [Policy P-01.0: Zero Tolerance for Sexual Misconduct](#)

The purpose of this *Practice Notice* is to outline the practice, behavioural and reporting expectations of all Registered Counselling Therapists and Candidates regarding sexual misconduct.

Introduction

The Nova Scotia College of Counselling Therapists (NSCCT) has a duty to protect the public interest. This mandate drives the College's work to proactively prevent sexual misconduct and to respond robustly to complaints of sexual misconduct by registrants when it occurs.

Registered Counselling Therapists (RCTs) owe a duty of care to clients to safeguard their well-being and ensure their physical and emotional safety. Sexual misconduct betrays that duty of care, causing harm not only to the victim of abuse, but to all Nova Scotians. Sexual misconduct erodes public trust in the profession and undermines the integrity and credibility of all Counselling Therapists who provide safe, competent and ethical care.

Trust is a core element of the client-therapist relationship. In order to maintain trust, counselling therapists have a responsibility to maintain professional therapeutic boundaries. Preventing boundary violations is an ethical responsibility which rests exclusively with the therapist and is not diminished by the perceived or actual behaviour of a client.

The client-therapist relationship is also inherently unequal. A power imbalance exists by virtue of, 1) the client’s reliance on the professional knowledge and skills of the counselling therapist, 2) the therapist’s access to intimate information about the client, and 3) the therapist’s perceived general position of authority. A violation of professional boundaries is a breach of trust. ***The College considers sexual misconduct to be the most egregious form of boundary violation that can occur in the client-therapist relationship.***

Regulatory Context

The *Counselling Therapists Act* (2011) empowers and obligates the College to establish and enforce ethical and practice standards for Registered Counselling Therapists in the Province of Nova Scotia in order to protect the public interest. The College has adopted the CCPA Code of Ethics and the CCPA Standards of Practice for this purpose. The College also has the authority to augment (but not lessen) the prohibitions on sexual contact or harassment described in these prescriptive documents.

Sexual misconduct by a Registered Counselling Therapist toward a client (or interdependent relations* of a client) constitutes professional misconduct as defined in the *Counselling Therapists Act*. Sexual misconduct toward a colleague or any other person constitutes conduct unbecoming as defined in the *Act*. Complaints regarding sexual misconduct by a registrant of the College will be subject to assessment, investigation and disposition according to relevant statutes by the Complaints Committee or Professional Conduct Committee.

*Interdependent relations include (but are not limited to) the spouse/partner, child, sibling, parent or grandparent of a client.

Applicable Standards

This table contains the core standards directly relevant to issues of sexual contact or harassment contained in the code of ethics and practice standards adopted by the College and which are applicable to all Registered Counselling Therapists and Registered Counselling Therapist-Candidates licensed to practice counselling therapy in the Province of Nova Scotia.

Note: These standards are not diminished by work-setting or employment policies.

CCPA Code of Ethics	CCPA Standards of Practice	NSCCT Augmentation
A11. Sexual Harassment Counsellors/therapists do not condone or engage in sexual harassment in the	Sexual Harassment Counsellors/therapists do not condone or engage in sexual	

<p>workplace, with colleagues, students, supervisees, clients, or others. These encounters may be verbal, pictorial, written comments (including but not exclusive of texting, messaging, taking photos, making posts and comments on websites, Twitter, or other platforms), gestures, unwanted sexual images, or physical contacts of a sexual nature.</p>	<p>harassment. Sexual harassment includes unwelcome sexual advances, sexual solicitation, unnecessary touching or patting, compromising invitations, the unwelcome telling of sexually explicit jokes, the display of sexually explicit materials, suggestive sexual comments and other verbal and physical behaviour directed towards a person by an individual who knows or ought reasonably to know that such behaviour is unwanted, offensive, or contributes to an unpleasant or hostile working environment.</p> <p>Counsellors/therapists are expected to conduct themselves according to a high standard of ethical behaviour that prohibits actions such as sexual harassment. When counsellors/therapists are aware of sexual harassment, they act on their responsibility to address concerns about the ethical conduct of another professional.</p>	
<p>B12. Sexual Contact with Clients Counsellors/therapists avoid any type of sexual contact with clients and they do not counsel persons with whom they have or have had a sexual or intimate relationship. Counsellors/therapists do not engage in sexual contact with former clients within a minimum of three years* after terminating the counselling/therapeutic relationship.</p> <p>If the client is clearly vulnerable, by reason of emotional or cognitive disorder, to exploitative influence by the counsellor/therapist, this prohibition is not limited to the three-year period but extends indefinitely. Counsellors/therapists, in all such circumstances, clearly bear the burden to ensure that no such exploitative influence has occurred and seek documented consultation[‡] for an objective determination of the client’s ability to</p>	<p>Sexual Contact with Clients CCPA and all allied professional organizations, have an ethical prohibition against sexual involvement with clients. Sexualizing the counsellor/therapist-client relationship is always inappropriate regardless of the client’s behaviour, or any counselling/therapy ideology or personal belief system that might be invoked to justify such behaviour. This prohibition also means that counsellors/therapists refrain from counselling/providing therapy to individuals with whom they have been sexually intimate, and it extends to former clients unless certain specific conditions are met.</p> <p>Counsellors/therapists are prohibited from being sexually intimate with former clients even after the three-year period* following</p>	<p>*The NSCCT Board of Directors has determined that a minimum mandatory post-counselling period of <u>five-years</u> will apply to all registrants.</p>

<p>freely enter a relationship or have sexual contact without impediment.</p> <p>The consultation[≠] must be with a professional with no conflict of interest with the client or the counsellor/therapist. This prohibition also applies to electronic interactions and relationships.</p>	<p>counselling/therapy termination unless:</p> <ul style="list-style-type: none"> • counselling/therapeutic contact was brief and non-intensive; • the client is not vulnerable to exploitation by virtue of their mental health status; • no knowledge is used from the counselling/therapy experience with the client to re-establish contact; and, • the possibility of a post-termination relationship did not originate in the counselling/therapy relationship. <p>Counsellors/therapists who establish intimate relationships with former clients three years* after counselling/therapy termination have the responsibility to demonstrate that there was no exploitation and no advantage taken because of the prior counselling/therapy relationship. In such circumstances, counsellors/therapists should always seek consultation and have the burden to ensure that no such exploitation influences occur.</p> <p>Counsellors/therapists understand that a client's response to touch and references to sexual issues can be influenced by gender, cultural and religious background, and personal sexual history, including any traumatic sexual experiences.</p> <p>The following guidelines assist counsellors/therapists in avoiding boundary violations with respect to intimate and sexual matters in their counselling/therapy:</p> <ul style="list-style-type: none"> • Be vigilant about setting and maintaining counsellor/ 	
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	<p>therapist-client boundaries in counselling/therapy.</p> <ul style="list-style-type: none"> • Seek out consultation or supervision whenever a sexual attraction to a client is likely to interfere with maintaining professional conduct. • Avoid making sexualized comments about a client’s appearance or physical attributes. • Be alert and sensitive to client differences and vulnerabilities with respect to their sexuality. • Avoid exploring client sexual history or sexual experiences unless it is germane to the goals of counselling/therapy for the client. • Avoid disclosures about the counsellor/therapist’s sexual experiences, problems, or fantasies. • Respond to any seductive or sexualized behaviour on behalf of clients in a professional manner consistent with the goals of counselling/therapy and seek consultation or supervision when needed. 	
<p>G11. Sexual Contact with Students and Trainees Counsellor/therapist educators do not engage in intimate contact of a romantic and/or sexual nature with current students/trainees/ supervisees. They embark on such relationships with former students/ trainees/supervisees only after thoughtful and thorough consideration of the potential influence of power and privilege imbalances and the potential for perceived or actual pressure or coercion, lack of objectivity, exploitation, and harm.</p>	<p>Sexual Contact with Students and Trainees Since power differences between counsellor/therapist educators/trainers and counsellor/therapists-in-training contribute to increased vulnerability, sexual relationships are prohibited. A sexual relationship can be pursued after the education/training relationship has been terminated when the following can be demonstrated:</p>	

	<ul style="list-style-type: none"> • remnant power and privilege dynamics do not compromise the voluntariness of the former counsellor/therapist-in-training’s participation; • there is no possibility of the formal educational relationship recommencing; • the former student/trainee does not feel pressured or coerced into engaging in the sexual relationship; • there are no additional associated vulnerabilities that could compromise the former student’s free and consensual participation in a sexual relationship; • no foreseeable exploitation or harm would come to the former student/trainee by virtue of engaging in the sexual relationship. <p>The onus of making such determinations lies solely upon the counsellor/therapist educator who must execute an objective and carefully considered decision-making process that is supported by relevant consultation.</p>	
<p>G12. Sexual intimidation or Harassment of Students or Trainees* Counsellor/therapist educators are attentive to any potential for sexual intimidation or harassment of students/trainees/supervisees, including unnecessary queries related to gender identity, sexual orientation, and sexual behaviour. They do not engage in nor ignore sexual intimidation or harassment, which may be evidenced directly or indirectly, in person or using technology (including, but not restricted to, social media, text messaging, email</p>	<p>Sexual intimidation or Harassment of Students or Trainees* Sexual intimidation or harassment in all forms is a serious offence that results in immediate and long-term physical, social, and emotional consequences. Offences of this nature can be implicit or explicit, planned, or spontaneous, and perpetrated in-person or through technology. The offender’s intent, even if avowedly benign, does not in any way excuse or diminish the wrongness of the act or the effects</p>	<p>*Trainees include Registered Counselling Therapist-Candidates (RCT-Cs)</p>

<p>transmission, and telecommunication). Counsellor/therapist educators promote prevention through education and expressed expectations and take an active role in intervention when concerns arise.</p>	<p>of the offence. Offending behaviour of this nature will sometimes be denied or minimized according to inappropriate claims such as:</p> <ul style="list-style-type: none"> • the act was an attempt at humour; • the offended person is oversensitive; • the offended person was flirtatious; • the offending person was experiencing mental health concerns at the time of the offence; • the offending person was intoxicated at the time of the offence; and, • the offended person did not protest or resist the offender’s behaviour. <p>Justifications, such as these, are indefensible and thus do nothing to absolve instances of wrongdoing. Counsellor/therapist educators are also morally and ethically obligated to support students/ trainees who identify that they have experienced sexual intimidation or harassment, and strive to use disciplinary skills and knowledge to foster a safe learning environment for all.</p>	
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Key Concepts and Definitions

Sexual Misconduct is sexual, sexually demeaning, or seductive behaviour that is physical, verbal or non-verbal, made in-person or through written or electronic means, by a counselling therapist toward a current client, former client, vulnerable former client or toward a colleague who does not consent.

Sexual misconduct includes, but is not limited to the following forms of behaviour:

- Failing to provide privacy to a current client to dress or undress, except as may be necessary in emergency situations

- Failing to provide a current client with a gown or draping, except as may be necessary in emergency situations
- Removing the current client's clothing, gown or draping without consent or emergent medical necessity
- Rubbing against a current or vulnerable former client for sexual gratification
- Hugging, touching, fondling or caressing a current or vulnerable former client in a sexual manner
- Dressing or undressing in the presence of a current client
- Suggesting or discussing the possibility of a dating, a romantic or sexual relationship with a current or vulnerable former client
- Terminating the therapeutic relationship for the purpose of dating or pursuing a romantic or sexual relationship
- Soliciting a date with a current or vulnerable former client either in person or through written or electronic means
- Discussing the counselling therapist's sexual history, preferences or fantasies with a current or vulnerable former client
- Any behaviour, communication, gestures or expressions that may reasonably be interpreted by a current or vulnerable former client as seductive or sexual
- Making statements regarding a current client's body, appearance, sexual history or sexual orientation other than for legitimate therapeutic purposes
- Sexually demeaning behaviour, including but not limited to any verbal or physical contact which may reasonably be interpreted as demeaning, humiliating, embarrassing, threatening or harmful to a current or vulnerable former client
- Posing, photographing or filming the body or anybody part of a current or vulnerable former client for the purposes of sexual gratification or distribution
- Showing a current or vulnerable former client sexually-explicit materials other than for legitimate clinical purposes
- **Sexual abuse** is a subset of sexual misconduct which includes, but is not limited to:
 - Sexual intercourse between the counselling therapist and a current or vulnerable former client
 - Genital to genital, genital to anal, oral to genital, or oral to anal contact between the counselling therapist and a current or vulnerable former client
 - Masturbation of a current or vulnerable former client
 - Masturbation of the counselling therapist by, or in the presence of, a current or vulnerable former client
 - Encouraging a current or vulnerable former client to masturbate in the presence of the counselling therapist
 - Touching of the current or vulnerable former client's genitals, anus, breasts, or buttocks in a sexual manner
- Any conduct or behavior with a sexual connotation, character or quality with any person, which the counselling therapist knows or ought reasonably to know would be objectionable, unwelcome, cause offence or humiliation to the person, or adversely affect the person's health and well-being.

Client-Therapist Relationship is a purposeful, goal-directed relationship between a client and a counselling therapist based on trust, respect, and client need.

Client refers to current, former and former vulnerable clients and also includes a parent, guardian, spouse, partner, child or any substitute decision-maker of the individual receiving counselling therapy.

Current Client is a person with whom the counselling therapist has formed an ongoing client-therapist relationship. The following factors should be considered in determining if a client-therapist relationship has been formed:

- if the therapist has provided counselling therapy to the client
- if the therapist has contributed to a health record or file of the client
- if the client has consented to counselling therapy
- other factors relevant to the circumstances of the individual or the counselling therapist

**Counselling therapists must
never engage in sexual
behaviour with a current client.**

Former Client is a person with whom the client-therapist relationship has ended.

Counselling therapists considering engaging in any form of sexual behaviour with a former client must consider the following:

- ongoing risk to the former client
- risk of a continuing power imbalance
- length of time that has passed since the last professional encounter
- nature of therapy provided:
 - type, intensity and duration of therapy provided
 - likelihood of the client requiring further services from the counselling therapist in the future
- extent of the personal health/mental health information accessible by the counselling therapist
- vulnerability of the client
- maturity of the client
- the client's decisional capacity and decision-making ability

A client's vulnerability in the client-therapist relationship is based on the power imbalance that exists between the therapist and the client. Given the power imbalance in the relationship there will always be a degree of vulnerability that exists for the former client. A period of time

must pass to lessen the vulnerability. NSCCT requires that a minimum of five years lapse prior to the occurrence of any sexual behaviour.

Counselling therapists considering engaging in any sexual behaviour with a former client must consider all of the former client's circumstances. Failure to appropriately do so or to engage in such activity prior to the passing of at least 5-years may result in a finding of professional misconduct or conduct unbecoming the profession.

Note: Clients seen in an episodic setting are not considered to be former clients. Episodic settings are those where counselling therapists provide a single clinical encounter with the client in order to meet a defined need, in which neither the therapist or client have the expectation of continuing care or establishing a client-therapist relationship.

Vulnerable Former Client is a person who is no longer a current client, and who requires ongoing protection from sexual misconduct given their continued vulnerability. For some individuals, their degree of vulnerability is such that they will always be considered vulnerable.

A client's informed consent is always required prior to providing counselling therapy. The client's inherent vulnerability and the power differential between the and client means that current or vulnerable former clients are never in a position to consent to sexual touching or sexual relations.

A current or vulnerable former client's consent is not a defence to an allegation of sexual misconduct.

Note: It is well recognized that counselling therapy encompasses a wide range of theoretical approaches and a variety of modalities, which, when used as appropriate by properly educated and experienced therapists, offer established therapeutic benefit. In the client-therapist relationship, conduct, behaviour and comments that are rooted in accepted therapeutic practice do not constitute sexual misconduct. The counselling therapist must ensure that clients understand the reason certain actions are to be performed, as well as when and how they are to be performed. Clients must also understand the relevance and clinical importance of questions of a sexual nature, as well as how their responses will inform the therapeutic plan.

Informed Consent is the ongoing process of giving permission or making choices about care. It is based on both a legal doctrine and an ethical principle of respect for an individual's right to sufficient information to make decisions about treatment.

Professional Boundaries are the lines which separate professional counselling therapy interventions from any behaviour which, well intentioned or not, could reduce the effectiveness of therapy or cause harm to the client.

Boundary Crossing is an intentional, controlled, and time-limited transgression of an established professional boundary that is done for a specific therapeutic purpose.

Boundary Violation occurs when a counselling therapist's crossing of an established professional boundary exploits the professional relationship to meet the needs of the therapist at the expense of the client. **Sexual misconduct is an egregious form of boundary violation.**

Professional Misconduct includes such conduct or acts relevant to the profession that, having regard to all the circumstances, would reasonably be regarded as disgraceful, dishonourable or unprofessional (*Counselling Therapists Act, 2011*)

Conduct Unbecoming the Profession by a Registered Counselling Therapist or a Registered Counselling Therapist-Candidate is conduct outside the practice of counselling therapy (i.e., in a personal or private capacity) that tends to bring discredit upon the counselling therapy profession.

Duty to Report Sexual Misconduct

Article A8 of the CCPA *Code of Ethics* (2021) states:

- Counsellors/therapists have an obligation when they have serious doubts as to the ethical behaviour of another helping professional, whether that individual is a CCPA member or a member of another professional body, to respectfully address the concern and seek an informal resolution with the counsellor/therapist, when feasible and appropriate. When an informal resolution is not appropriate, legal, or feasible, or is unsuccessful, counsellors/therapists report their concerns to the relevant professional body. Counsellors/therapists consider whether there are any legally mandatory reporting obligations regarding the conduct of the helping professional to take appropriate action.

Following from *Article A8*, all registrants of the College have a duty to report when they have reasonable grounds to suspect that the behaviour of a registrant of the College, registrant of any regulated health profession or unregulated healthcare provider, constitutes sexual misconduct. **When such reasonable grounds exist, a registrant of the College must:**

- Report to NSCCT and to their employer (where applicable) when they have reasonable grounds to suspect sexual misconduct by any registrant of the College;

- Report to the employer and appropriate regulatory body when they have reasonable grounds to suspect sexual misconduct by a registrant of another health profession;
- Report to the employer when they have reasonable grounds to suspect sexual misconduct by an unregulated healthcare provider.

Failure to report sexual misconduct is a breach of the *Code of Ethics* and may therefore constitute professional misconduct as defined in the Act.

Navigating Away from Sexual Misconduct

Among complaints made by clients against RCTs and RCT-Cs, approximately 25% involve sexual misconduct. It is therefore essential that all counselling therapists, 1) are familiar with what sexual misconduct involves and what NSCCT ethics and practice standards require, 2) recognize signs and circumstances that have the potential to lead to sexual misconduct, and 3) adopt strategies to avoid sexual misconduct. The following is a sample of these strategies:

- recognize the power imbalance that is inherent in *every* client-therapist relationship
- perform an early and ongoing inventory of the impact of this power imbalance, including each client's particular vulnerabilities and the risk to the client of undue influence, harm or exploitation
- regularly review the signs and management of transference and counter-transference
- understand the professional boundaries of the client-therapist relationship
- use boundary crossings only when necessary and only when both you and the client have a full understanding of the therapeutic goal and the risks of the boundary crossing
- approach your practice reflectively and take regular stock of your own feelings and emotions as these relate to sexual or romantic impulses
- "check yourself" for behaviour which may indicate you are approaching or have crossed a professional boundary, such as the examples list here:
 - touching hands or arms (this might be a sign of care but could also be "testing the waters" to see how far the relationship can go)
 - using names such as sweetie, darling, girl, or other pet names with the client
 - physically blocking movements or standing in the client's way
 - "accidentally" (but on purpose) brushing up against the client
 - staring or looking over the client's body up and down
 - following or paying excessive attention
 - telling lewd jokes or sharing stories of about sexual experiences

- repeatedly asking about their sex life when it has no relevance to the clinical session
- making sexual gestures, remarks or facial expressions
- making an effort to "dress to impress" the client
- communicating outside the session without direct clinical or administrative purpose
- purposely attending places that you think the client might be; using information gained to have "accidental" encounters
- be observant in recognizing when any of the above examples are exhibited by a client; act appropriately to curtail the behaviour...recalling that client consent or "they came on to me" is not a defense for sexual misconduct
- reach out to a trusted colleague (or supervisor) for advice if you or your client are showing signs that a boundary is a risk
- "check yourself" often to ensure addictions or mental health issues are not affecting your professional/ethical judgment; seek help if required
- reach out to the College if you have any concerns

Summary

Sexual misconduct by a counselling therapist is an egregious breach of the trust upon which the client-therapist relationship is built. Any form of sexual misconduct:

- undermines therapeutic goals
- causes harm to the client
- places the counselling therapist in professional and legal jeopardy
- is a breach of the *Code of Ethics (2020)* and *Standards of Practice (2021)*
- will be pursued robustly by the College
- will be reported to law enforcement as required
- diminishes the integrity of the profession
- damages public confidence in the profession

For these reasons counselling therapists need to work diligently to develop the knowledge, skills and attitudes necessary to prevent sexual misconduct in their practice and the profession. This **Regulatory Practice Notice** has been developed to support you in this task and to further the College's public interest mandate.

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