



## **Sexual Misconduct by Counselling Therapists**

### **Introduction**

The Nova Scotia College of Counselling Therapists (NSCCT) has a duty to protect the public from harm and to regulate the profession of counselling therapy in the public interest. This mandate drives the College's work to proactively prevent sexual misconduct and to respond robustly to allegations of sexual misconduct by registrants when it occurs. Counselling therapists 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 victims of abuse, but to the public in general. 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 alliance. In order to maintain trust, counselling therapists have a responsibility to maintain professional therapeutic boundaries. The therapeutic alliance 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. Preventing boundary violations is an ethical responsibility which rests exclusively with the counselling therapist and is not diminished by the perceived or actual behaviour of a client. Sexual misconduct is a gross violation of trust and professional boundaries.

It is 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. Registrants are referred to *Regulatory Practice Notice: Sexual Misconduct*, NSCCT Zero Tolerance for Sexual Misconduct the *CCPA Code of Ethics*, and the *CCPA Standards of Practice* for further information related to this standard.

## STATEMENT OF STANDARD

### 1.0 General Prohibition

- 1.1 Sexual misconduct by a counselling therapist is prohibited
- 1.2 Sexual misconduct constitutes professional misconduct
- 1.3 Sexual misconduct may, as circumstances determine, constitute conduct unbecoming the profession
- 1.4 Sexual misconduct may involve behaviour by a counselling therapist toward a current client, a former client, a vulnerable former client, interdependent relations of a client, colleagues, students, or trainees
- 1.5 This standard is not diminished by work setting or employment policies
- 1.6 In the case where there is a discrepancy between this standard and the CCPA Code of Ethics or Standards of Practice, this standard shall apply
- 1.7 No conduct constitutes sexual misconduct if the conduct is clinically appropriate to the professional services being provided by the registrant.
- 1.8 Registrants must cooperate with any regulatory body or committee of a regulatory body with respect to any regulatory process related to this standard.

### 2.0 Definitions

- 2.1 **Sexual misconduct** is any actual, threatened, or attempted sexualized behavior or remarks by a registrant toward a client, or in a client's presence, including but not limited to, the following acts or omissions by the registrant:

- 2.1.1 Making sexually suggestive, flirtatious, or demeaning comments about a client's body, clothing, or sexual history, orientation or preferences.
- 2.1.2 Discussing the registrant's sexual history, sexual preferences, or sexual fantasies with a client.
- 2.1.3 Any behaviour, communication, gestures, or expressions that could be reasonably interpreted by the client as sexual.
- 2.1.4 Rubbing against a client for sexual gratification.
- 2.1.5 Removing the client's clothing, gown, or draping without consent or emergent medical necessity.
- 2.1.6 Failing to provide privacy while the client is undressing or dressing, except as may be necessary in emergency situations.
- 2.1.7 Dressing or undressing in the presence of a client.
- 2.1.8 Posing, photographing, or filming the body or any body part of a client for the purpose of sexual gratification.
- 2.1.9 Showing a client sexually explicit material
- 2.1.10 Requesting or making advances to date or have a sexual relationship with a client, whether in person, through written or electronic means.
- 2.1.11 Hugging, touching or kissing a client in a sexual manner
- 2.1.12 Fondling or caressing a client.
- 2.1.13 Providing a client with a noxious or intoxicating substance for the purposes of inducing compliance for sexual contact
- 2.1.14 Terminating the professional-client relationship for the purpose of dating or pursuing a romantic or sexual relationship.
- 2.1.15 Sexual abuse.

**2.2 Sexual abuse** is a form of sexual misconduct. The following acts between a registrant and a client constitute sexual abuse:

- 2.2.1 Sexual intercourse.
- 2.2.2 Genital to genital, genital to anal, oral to genital, or oral to anal contact.
- 2.2.3 Masturbation of a registrant by a client or in the client's presence.
- 2.2.4 Masturbation of a client by a registrant.
- 2.2.5 Encouraging the client to masturbate in the registrant's presence.
- 2.2.6 Sexualized touching of a client's genitals, anus, breasts, or buttocks.

**2.3 Client** means an individual who is the recipient or intended recipient of healthcare services from a counselling therapist, and, where the context requires, includes a substitute decision maker for a recipient or intended recipient of healthcare services, and includes a current, former or vulnerable former client.

**2.4 Current client** means 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:

- 2.4.1 If the counselling therapist has provided or is intending to provide services to a person as an individual or as a member of a group
- 2.4.2 If the therapist has contributed to a health record or file of a person
- 2.4.3 If a person has consented to counselling therapy
- 2.4.4 Other factors relevant to the circumstances of the individual or to the counselling therapist

**2.5 Former client** means an individual with whom the client-therapist alliance has formally or informally ended

**2.6 Vulnerable former client** means a person who is no longer a current client and who requires ongoing protection from exploitive influence by a counselling therapist due to cognitive, emotional or substance use disorder

**2.4 Interdependent relation** means, but is not limited to, a spouse, romantic partner, child, sibling, parent, grandparent, or guardian of a client.

### **3.0 Specific Prohibitions**

**3.1** A counselling therapist must never engage in behaviour that could reasonably be considered sexual misconduct with a current client or their interdependent relations

3.1.1 A current client's consent is not sufficient defence for an allegation of sexual misconduct

**3.2** A counselling therapist must never engage in behaviour that could reasonably be considered sexual misconduct with a former client within five (5) years from the last counselling therapy service provided

3.2.1 A counselling therapist considering engaging in any form of sexual behaviour with a former client after the five-year prohibited period must consider:

- (a) ongoing risk to the former client
- (b) risk of a continuing power imbalance of the therapy provided

- (c) the type, intensity and duration of the services provided
- (d) length of time that has passed since the last professional encounter
- (e) likelihood of the client requiring further services from the counselling therapist in the future
- (f) extent of the personal health information accessible by the counselling therapist
- (g) vulnerability of the former client
- (h) maturity of the former client
- (i) the client's decisional capacity and decision-making ability

3.2.2 Counselling therapists are prohibited from being sexually intimate with former clients even after the five-year period following the termination of counselling therapy unless:

- (a) the therapeutic contact was brief and non-intensive
- (b) the client is not vulnerable to exploitation by virtue of their mental health status
- (c) no knowledge obtained through the counselling therapy relationship is used to maintain or reestablish contact with the client
- (d) the possibility of a post-counselling relationship did not originate in the counselling therapy relationship.

3.2.3 A counselling therapist considering engaging in any form of sexual behaviour with a former client after the five-year prohibited period

- (a) bears the burden to demonstrate that no exploitative influence has occurred
- (b) is responsible to obtain objective professional consultation documenting the client's ability to freely enter a relationship or have sexual contact without impediment.

**3.3** A counselling therapist must never engage in behaviour that could reasonably be considered sexual misconduct with a vulnerable former client

3.3.1 This prohibition is not limited to the five-year period (s.3.2) but extends indefinitely

3.3.2 A vulnerable former client's consent is not sufficient defence for an allegation of sexual misconduct

- 3.4** A counselling therapist must never engage in behaviour that could reasonably be considered sexual misconduct with an interdependent relation of a current client
- 3.5** A counselling therapist must not provide counselling therapy services to individuals with whom they have previously been sexually intimate.
- 4.6** Counselling therapists in an educational role do not engage in intimate contact of a romantic or sexual nature with current students, clinical trainees, or post-graduate candidates
  - 3.6.1** Counselling therapists engage in intimate contact of a romantic or sexual nature with former students, clinical trainees, or post-graduate candidates only after careful consideration of the potential lingering influence of imbalances of power and privilege and the potential for perceived or actual pressure or coercion, lack of objectivity, exploitation, and harm.
  - 3.6.2** The burden of responsibility for ensuring the absence of undue influence and the learner's ability to freely enter a relationship or have sexual contact without impediment lies exclusively with the counselling therapist educator.

## **5.0 Duty to report**

- 5.1** Having reasonable grounds to believe another registrant of NSCCT has engaged in sexual misconduct a registrant must report to the Registrar
- 5.2** Having reasonable grounds to believe that a registrant of another regulated health profession has engaged in sexual misconduct a registrant must report to the Registrar of the relevant regulatory body
- 5.3** Having reasonable grounds to believe that a regulated or non-regulated employee has engaged in sexual misconduct a registrant must report the relevant employer or employing institution
- 5.5** Failure to report sexual misconduct as outlined above may constitute professional misconduct
- 5.6** Registrants are immune from action for reporting alleged sexual misconduct when done in good faith.

## **6.0 Mandatory sanctions sought by the Regulator**

- 6.1** The regulator recognizes the exclusive and unrestricted authority of the Professional Conduct Committee to determine findings and order penalties in all cases within their jurisdiction
- 6.2** As party to a professional conduct hearing, the Regulator will request the following:
  - 6.2.1** Where the Professional Conduct Committee makes a finding of sexual misconduct that amounts to sexual abuse, the Regulator will seek a permanent revocation of the respondent's registration and license to practice counselling therapy
  - 6.2.2** Where the Professional Conduct Committee makes a finding of sexual misconduct that does not constitute sexual abuse, the Regulator will seek a licensing sanction, as defined in the Act and regulations, against the respondent that is commensurate with the relevant circumstances
  - 6.2.3** Where the Professional Conduct Committee makes a finding of conduct unbecoming the profession related to s. 1.3 of this standard, the Regulator will seek a licensing sanction, as defined in the Act and regulations, against the respondent that is commensurate with the relevant circumstances

**END**

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