

# 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 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.

## **Scope of this guideline**

This guideline provides further explanation of the College's Practice Standard - Professional Boundaries. It provides guidance on the professional relationship and how to establish and 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. Neglecting/failing to establish and maintain appropriate professional boundaries can lead to sexual abuse.

## **The professional relationship**

The components of a professional relationship between a kinesiologist and their patients/clients 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 the kinesiologist's ability to deliver services.

## Professional intimacy

There is a degree of personal closeness between a kinesiologist and their patient that may not exist in non-healthcare or other professional relationships. This intimacy may include 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 appropriate in the context of delivering patient/client-centred care or services, but is never sexual in nature.

## Power

The professional intimacy, along with the kinesiologist's knowledge and expertise, places the kinesiologist in a position of power. As a health care professional, kinesiologists must remember that they always have more power in the professional relationship. Sensitivity to the patient's subjective perceptions is essential 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, understand that they assume the responsibility to prevent it from occurring and 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.*

### *Exception, spouses*

- (5) *If the Council has made a regulation under clause 95 (1) (0.a), conduct, behaviour or remarks that would otherwise constitute sexual abuse of a patient by a member under the definition of "sexual abuse" in subsection (3) do not constitute sexual abuse if,*
  - a) the patient is the member's spouse; and*
  - b) the member is not engaged in the practice of the profession at the time the conduct, behaviour or remark occurs.*

The professional relationship between a patient/client and a kinesiologist is based on the patient's/client's best interests. It is a fundamental breach of the professional relationship and a betrayal of the patient's/client's trust. The College has a zero tolerance policy toward sexual abuse. With the exception of circumstances set out in the legislation above, sexual activity, including consensual sexual activity, between a patient/client and a kinesiologist is strictly prohibited.

## **Establishing and maintaining professional boundaries**

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

Practices for establishing an appropriate professional relationship include:

- 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, preferred pronouns).
- 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 their caregiver, in an open and non-judgmental manner and validating their concerns.
- Speaking in a polite and objective manner; refraining from overuse of slang or voicing opinions about certain lifestyles, current events, and other controversial issues.
- Communication with colleagues cannot be misinterpreted by the patient as unprofessional or sexual in nature.
- 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 necessary for continuing treatment throughout the clinical plan and treatment modalities (refer to the Practice Guideline-Consent).
- 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.
- Awareness 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 professional diligence, and
- Ensuring a safe practice environment that validates respect for the patient and their trust.

This list is not exhaustive, but is to be used as a guide to prompt ongoing reflection and intervention or correction if necessary. Appropriate application of professional boundaries depends on the patient/client, the type of treatment and the practice setting. Boundaries also vary across social and cultural lines, and kinesiologists must take efforts to learn each patient's/client's unique boundaries. 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. A kinesiologist should consult with a supervisor, colleague or the College in the event of any uncertainty regarding professional boundaries.

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

Kinesiology often involves physical contact between a patient/client and the kinesiologist. A kinesiologist may be providing manual therapeutic modalities, 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, kinesiologists should be aware of the potential for misinterpretation and misunderstanding of this type of contact of 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 the kinesiologist intends to touch them, and why. This includes ensuring that they understand the clinical benefits to touching them versus the risk of not touching them.
- Ask the patient/client if they are comfortable with this course of action. Obtain consent. Consent may be implied or explicit. Explicit consent is either verbal or written and may be as simple as the patient/client saying “yes”. Implied consent may be if they hold their ankle up after being asked to do so for the purposes of examination. Deciding between explicit and implied consent to touch will depend on the nature of the touching. For sensitive areas, explicit consent should be obtained.
- Performing a self-demonstration regarding the location and nature of any touch before touching the patient.
- 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 comfort level with touching. It does not negate the need to discuss individual incidents of touching, particularly if they may involve a more sensitive area.

### **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 exceeds 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 accounts on platforms 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, the kinesiologist must be prepared to acknowledge personal feelings about a patient/client and, if needed, modify the behaviour immediately before a more serious breach occurs. Counsel may be sought from peers, an employer or the College. This may avoid an actual occurrence of abuse, and may require the clinical relationship to be discontinued. Keep in mind that a breach of the professional relationship can begin with innocent comments or disclosures that then escalate. Kinesiologists should be mindful of these warning signs and avoid further progression. Kinesiologists must be mindful of 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 to be aware of changes in the relationship dynamic. Such changes in the relationship may lead to, or be perceived as, sexual abuse. In cases where it is presumed that the patient/client is attempting to cross the boundaries of the professional relationship, explain the professional relationship to the patient/client, even if previously done so. 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. Be prepared for an adverse reaction by the patient/client and, if the relationship continues, increased vulnerability on the part of the patient/client. The patient/client should be reassured 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 mitigate any bad faith allegations. The presence of a colleague or employer during this discussion or during future treatment may create a safer environment for both kinesiologist and 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. A sexual relationship with a patient/client who is not the kinesiologist's spouse, is considered sexual abuse and subject to mandatory revocation of the kinesiologist's certificate of registration for five years.

Due to the potential for power imbalances, kinesiologists should refrain, where possible, from becoming socially, romantically or sexually involved with a patient's/client's close personal relations. This type of behaviour may make the patient/client feel uncomfortable or, it may make the patient/client feel that the kinesiologist's interests are being put ahead of theirs. 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.

A sexual relationship with a patient/client is forbidden 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 never be acceptable or appropriate for a kinesiologist to have a sexual relationship with the patient/client if a power imbalance continues to exist. The patient/client may feel pressured into the relationship or feel that the professional relationship is being exploited for the kinesiologist's gain. If you suspect or notice that romantic feelings are developing between you and a patient (or a close personal relation of the patient), you should immediately seek professional guidance on the issue, considering how a reasonable person would perceive the situation, and initiate discharge and transfer of care planning as soon as possible.

## **Conclusion**

It is not advisable for a kinesiologist to treat a member of their family, even where doing so is permissible, or not specifically forbidden, by legislation and/or regulation. A family member can include a spouse or partner, parent, child, sibling, grandparent or grandchild; a parent, child, sibling, grandparent or grandchild of one's spouse or partner; or another individual with whom the kinesiologist has a personal or emotional involvement that may affect the ability to exercise objective professional judgement regarding that person. A kinesiologist may choose to treat a family member if another health care professional is not readily available, in an emergency situation, or for minor, episodic care. Such treatment should be limited in length and care should be transferred as soon as possible.<sup>2</sup>

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<sup>1</sup> This is a legislative requirement and the College does not have the authority to shorten this period. This period applies in all circumstances where sexual abuse may occur. As per the spousal exception, this one year period does not apply where the patient is the kinesiologist's spouse.

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