

Section 7

BOUNDARY ISSUES IN THE PATIENT-DOCTOR RELATIONSHIP

Across time and culture there has been recognition of the exceptional power given to physicians by patients and the potential for misuse of that power. A chiropractor, as a fiduciary, provides help and care for the patient.⁷² The patient is protected from abuses of power by the ethics and character of the chiropractor and the prescribed boundaries and roles that define professional behavior.

Boundaries define the expected psychological, physical and social distance between patients and practitioners. They are derived from ethical treatise, cultural morality and jurisprudence.⁷³ Boundaries form protection for the patient so that professional care occurs safely within the unique form of social intimacy of the patient-doctor relationship. Specific to this relationship, “The health and welfare of the patient shall always be the first priority of Chiropractic physicians.”¹⁶

Unprofessional conduct by a chiropractic physician, includes, but is not limited to: “Engaging in any conduct or verbal behavior with or towards a patient that may be reasonably interpreted by the patient as sexual, seductive or demeaning;”⁷⁴ proof of actual injury need not be established.”⁷⁴

Patients who are in pain or who are ill are vulnerable to psychological regression. Transferential dynamics are common in clinical encounters where patients are dependent and physically and emotionally more vulnerable. It is common for patients to be emotionally and/or physically attracted to professionals who care for them. When alerted, physicians should take extra steps to define or clarify the professional relationship. “The chiropractor is the one who must recognize and set the boundaries between the care and compassion appropriate to the chiropractic treatment and the emotional responses that may lead to sexual misconduct.”⁷⁵ The power differential inherent in the patient–doctor relationship makes true consent to sexual contact by the patient impossible.^{72,76}

With the exception of pre-existing consensual relationships, it is clearly unethical to have sexual contact or a romantic relationship with a patient concurrent with the patient-doctor relationship.^{70,76-91} There is a range of opinions with respect to the ability of the patient-doctor relationship to change after care has ended. Some suggest a sexual relationship may never be appropriate⁷⁰, while others indicate an interim period ranging from three months to one year between termination and initiation of a personal intimate relationship.^{77,81}

Even those authorities who indicate that sexual or romantic relationships with former patients may be ethical, prohibit the physician from the following:

- using or exploiting trust, knowledge, or influence of emotions derived from the previous professional relationship;
- using privileged information to meet their personal or sexual needs; and
- abusing authority or power derived from the previous professional relationship.^{74,86}

Where there may be a question as to the status of the patient, i.e. current or former, some licensing boards have chosen to adopt more subjective criteria to determine if sexual misconduct

has occurred. Following are some of the areas of consideration likely to be evaluated by a licensing board to determine the current status of the patient:

- evidence of termination procedures;^{73,74}
- circumstances of cessation or termination;^{74,92}
- time passage since therapy termination;^{74,92}
- nature and duration of therapy;^{73,74,92}
- former client's personal history and/or current mental status;⁹²
- statements and/or actions made by the physician during the course of care suggesting or inviting the possibility of a post termination relationship;⁹²
- likelihood of adverse impact on the person and/or others;⁹²
- transfer of patient's care to another physician;⁷⁴
- the nature of the patient's chiropractic problem;⁷⁴
- extent to which the patient has confided personal and/or private information to the chiropractor;⁷⁴
- degree of emotional dependence on the chiropractor;⁷⁴
- extent of chiropractor's knowledge about the patient;⁷⁴
- any other relevant information.⁷³

Consequences of sexual misconduct for patients of health care professionals have been documented to include:

- distrust and anger toward physicians;
- delays in seeking health care;
- increased depression, shame, guilt;
- psychosomatic symptoms;
- post-traumatic stress disorder (panic attacks, flashbacks, extreme guilt and self-destructive feelings).^{81,93}

Consequences of sexual misconduct extend beyond the patient to potentially affect the patient's family, the doctor's family, the doctor's staff, other patients, the community and the profession.⁸¹ Consequences of sexual misconduct for the chiropractor may include Board sanctions such as license suspension or revocation, probation, chaperone requirements and mandated counseling. Additionally, civil suits or criminal prosecution, extortion or retaliation are possible consequences of unprofessional conduct.

See Appendix C for strategies that may prevent boundary violations and/or allegations of sexual misconduct.