COLLEGE OF DENTURISTS OF ONTARIO

Guide to Standard of Practice: Professional Boundaries

How do I define professional boundaries?

A denturist must be careful to act as a professional health care provider, and not as a friend, to patients. Becoming too personal or too familiar with a patient is confusing to patients and will make them feel uncomfortable. Patients will be uncertain as to whether the professional advice or services are motivated by something else other than the best interests of the patient. It is also easier to provide professional services when there is a "professional distance" between them. It is a delicate balance between maintaining a suitable professional distance and being engaged with the patient. Being too distant or being too close can both compromise the patient's care.

Maintaining professional boundaries is about being reasonable in the circumstances.

A denturist should consider whether an action is a legitimate part of their role. What would a reasonable person think if they looked in on your interaction with a patient? Is the conduct appropriate?

What are boundary violations?

A boundary violation is the point at which the denturist-patient relationship changes from professional to personal. They can be one-offs or cumulative, expected or unexpected, accidental or intentional; initiated by the denturist, the patient or a third party.

What is the definition of sexual abuse?

Section 1(3) of the Health Professions Procedural Code states:

"sexual abuse" of a patient by a member means,
(a) sexual intercourse or other forms of physical sexual relations between the member and the patient,
(b) touching, of a sexual nature, of the patient by the member, or
(c) behaviour or remarks of a sexual nature by the member towards the patient.

Examples of sexual abuse can include but are not limited to:

- Telling a patient a sexual joke;
- Hanging a calendar on the wall with sexually suggestive pictures (e.g., women in bikinis, a "fire fighters" calendar);
- Non-clinical comments about a patient's physical appearance (e.g., "you look sexy today"); and
- Dating a patient is sexual abuse.

Touching, behaviour or remarks of a clinical nature is not sexual abuse. For example, touching the mouth and face of a patient will often be clinically necessary (and, as discussed above, must be done only after receiving informed consent).

What are the potential consequences for findings of sexual abuse of patients?

In addition to the orders outlined in Section 51(2) of the Health Professions Procedural Code, under the RHPA, Section 51(5), states that if a panel finds a member has committed an act of professional misconduct by sexually abusing a patient, the panel shall do the following:

- Reprimand the member;

- Suspend the member's Certificate of Registration if the sexual abuse does not consist of or include specific acts (identified below);
- Revoke the member's Certificate of Registration if the sexual abuse consisted of, or included, any of the following:

    i. Sexual intercourse.

    ii. Genital to genital, genital to anal, oral to genital or oral to anal contact.

    iii. Masturbation of the member by, or in the presence of, the patient.

    iv. Masturbation of the patient by the member.

    v. Encouraging the patient to masturbate in the presence of the member.

    vi. Touching of a sexual nature of the patient's genitals, anus, breasts or buttocks.

    vii. Other conduct of a sexual nature prescribed in regulations made pursuant to clause 43 (1) (u) of the Regulated Health Professions Act, 1991.

What is the definition of a patient?

Ontario Regulation 260/18: Patient Criteria Under Subsection 1 (6) of the Health Professions Procedural Code (the "Code") states:

1. 1. An individual is a patient of a member if there is direct interaction between the member and the individual and any of the following conditions are satisfied:

i. The member has, in respect of a health care service provided by the member to the individual, charged or received payment from the individual or a third party on behalf of the individual.

ii. The member has contributed to a health record or file for the individual.

iii. The individual has consented to the health care service recommended by the member.

iv. The member prescribed a drug for which a prescription is needed to the individual.

2. Despite paragraph 1, an individual is not a patient of a member if all of the following conditions are satisfied:

i. There is, at the time the member provides the health care services, a sexual relationship between the individual and the member.

ii. The member provided the health care service to the individual in emergency circumstances or in circumstances where the service is minor in nature.

iii. The member has taken reasonable steps to transfer the care of the individual to another member or there is no reasonable opportunity to transfer care to another member.

Section 1(6) of the Health Professions Procedural Code specifies that a patient includes an individual who was a member's patient within one year (or such longer period as described) from the date on which the individual ceased to be the member's patient and that meets the criteria outlined above.

Can I have a relationship with a former patient?

Denturists are not permitted to have a romantic relationship with a former patient for a minimum of one (1) year from the date the denturist-patient relationship ended. This period of one year is the minimum requirement, not a maximum.

If after the minimum one year waiting period a denturist wishes to enter into a romantic relationship with a former patient, it is advisable to proceed with caution and consider:

1) The *duration* of the therapeutic relationship – the longer the relationship, the more likely it may considered to be inappropriate.
2) The patient's *vulnerability* – the more vulnerable the patient, the more likely it is that having a relationship may be considered an abuse of power.
3) *Continuing care* for other member's of the former patient's family – the combination of personal and professional relationships may be considered inappropriate.

Am I allowed to treat my spouse?

The RHPA clearly prohibits health care practitioners from engaging in sexual relationships or other forms of affectionate or sexual behaviour with patients. Until October 2021 **denturists were prohibited from having any sexual relationship with any patients, including spouses.**

Effective October 21, 2021, there is an exception made for the spouse of a denturist. Accordingly, denturists are now permitted to treat their "spouse" as defined in section 1(6) Health Professions Procedural Code.[1] This exception is not retroactive and any denturist who treated their spouse prior to October 21, 2021, could still be found to have sexually abused a patient.

Regardless of this spousal exception, it is still considered sexual abuse if the conduct, behaviour or remarks made towards a member's spouse occurs during the practice of the profession.

It is important to remember that patients are legally unable to consent to sexual activity with a denturist.

Behaviours, gestures and/or remarks that may reasonably be perceived by patients as romantic, sexual, exploitive and/or abusive are considered to be sexual abuse.

What is self-disclosure?

When a practitioner shares personal details about his or her private life, it can confuse patients. Patients might assume that the practitioner wants to have more than a professional relationship. Self-disclosure suggests that the professional relationship is serving a personal need for the practitioner rather than serving the patient's best interests. Self-disclosure can result in the practitioner becoming dependent on the patient to serve the practitioner's own emotional needs, which is damaging to the relationship.

What consequences may I face if I violate professional boundaries with other staff?

Denturists may be found guilty of professional misconduct for sexual harassment of staff or boundary violations with staff if the conduct would reasonably be regarded by denturists as disgraceful, dishonourable, unprofessional or unethical, as set out in the Professional Misconduct Regulation.

Denturists may also face criminal charges.

How do I identify and address risks to safe practice such as harassment and sexual abuse?

Harassment involves aggressive pressure and/or intimidation. If a denturist notices harassment or abuse, sexual or otherwise, they should intervene immediately to stop the interaction. If the denturist is concerned about safety, they should notify the police immediately. The denturist must record the interaction in the patient record and the steps they took to address the issue(s). If the interaction involved

[1] 1(6) "spouse", in relation to a member, means,
(a) a person who is the member's spouse as defined in section 1 of the *Family Law Act*, or
(b) a person who has lived with the member in a conjugal relationship outside of marriage continuously for a period of not less than three years.

another denturist or another regulated health practitioner, a mandatory report to the practitioner's regulator is required.

Why is the patient-denturist relationship unequal? How do I mitigate this inequality?

The practitioner-patient relationship involves a power imbalance in favour of the denturist. The fundamental concept of both our legal and health care systems is that patients should have control over their bodies and their healthcare. In part, this balances the power of the practitioner. Patients are seeking the denturist's expertise and are dependent upon them to provide professional services.

It is advisable, except in exceptional circumstances, to not treat family members or other relatives. Despite a denturists' intentions to deliver the best possible care, clinical objectivity may be compromised.

What are dual relationships?

A dual relationship is where the patient has an additional relationship with the practitioner other than just as a patient (e.g., where the patient is a relative of the practitioner).

Any dual relationship has the potential for the other relationship to interfere with the professional one (e.g., being both the individual's practitioner and employer). It is best to avoid dual relationships whenever possible.

Where the other relationship came before the professional one (e.g., a relative, a pre-existing friend), referring the patient to another practitioner is the preferred option. Where a referral is not possible (e.g., in a small town, where there is only one practitioner), special safeguards are essential (e.g., discussing the dual relationship with the patient and agreeing with the patient to be formal during visits and never talk about the issues outside of the office) and extra vigilance is required. Confidentiality must be maintained both inside and outside the practice and denturists must be cognizant not to violate privacy.

Becoming a personal friend with a patient is a form of a dual relationship. Patients should not be placed in the position where they feel they must become a friend of the practitioner in order to receive ongoing care. Practitioners bear the sole responsibility to not allow a personal friendship to develop during professional visits. It is difficult for all but the most assertive of patients to communicate that they do not want to be friends.

What is meant by "personal space"?

Personal space refers to someone's comfort zone. The size of this zone differs from person to person. It is important that you are aware of this space and act accordingly.

What if someone misunderstands or misinterprets my remarks, gestures or behaviours?

Everyone has personal opinions. Practitioners are no exception. However, practitioners should not use their position to push their personal opinions (e.g., religion, politics or even diet) on patients. Similarly, strongly held personal reactions (e.g., that a patient is unpleasant and obnoxious) should not be shared. Disclosing personal reactions does not help the professional relationship.

Communication is verbal and non-verbal, and it is affected by context, tone, word choice and body language. People come from various backgrounds and your actions and conversations take place in the context of those backgrounds.

Comments or actions may be seen as inappropriate boundary crossings or violations.

Do not tell sexually suggestive jokes, make comments about a patient's or staff member's body, appearance or clothing, make inquiries about intimate aspects of the lives of patients or staff members and/or disclose intimate aspects of your life.

It is important to remember that just because someone discloses something personal to you about their life does not give you permission to reveal detailed personal information about your own life.

Additionally, people perceive touch differently depending on their personal backgrounds. It is the patient's perception of the interaction and not your intention that is the most important to remember.

It is considered inappropriate to hug or kiss a patient. Touching can be easily misinterpreted. A patient can view an act of encouragement by a practitioner (e.g., a hug) as an invasion of space or even a sexual gesture. Extreme care must be taken in any touching between practitioners and their patients.

The nature and purpose of any clinical touching must always be explained first and the patient should always give consent before the touching begins. Instruments or materials should never be placed on the patient's chest. Cultural sensitivities should be respected. The presence of a third party should be permitted and even offered where appropriate. The touching must always have a clinical relevance that is obvious to the patient.

Who is responsible for preventing sexual abuse from happening?

It is always the responsibility of the practitioner to prevent sexual abuse from happening. If a patient begins to tell a sexual joke, the practitioner must stop it. If the patient makes comments about the appearance or romantic life of the practitioner, the practitioner must stop it. If the patient asks for a date, the practitioner must say no (and explain why it would be inappropriate). If the patient touches the practitioner in a way that might be viewed as sexual touching (e.g., a kiss), the practitioner must stop it.

How do I document patient interactions in the patient record?

Proactive documentation serves the patient's interests and yours.

You should document any boundary crossing or violations by the patient and/or yourself, including if you have instinctively used touch to comfort a severely distressed patient or if a patient has made sexual comments or advances or has crossed boundaries – include your observations and note anyone else that was present.

How does this Standard apply to my workplace environment?

Abuse and harassment of staff members is a serious issue. As a regulated health professional, you are obligated to maintain a professional workplace that does not include sexually suggestive jokes, posters, pictures and/or documents that could be offensive to patients or staff.

You should be mindful of patient perceptions regarding the conversations that you have with staff members during treatment and around other patients.

Can I have video or photographic recording equipment in my clinic?

Using video or photographic recording equipment for security, assessment, treatment and educational purposes must be done with expressed informed consent from the patient accordance with the Standard of Practice: Informed Consent. You must secure, store and destroy this media in accordance with the Standard of Practice: Record Keeping; and collect, use and/or disclose this media in accordance with the Standard of Practice: Confidentiality & Privacy.

What are a member's mandatory reporting obligations regarding sexual abuse of patients?

Section 85.1(1) of the Health Professions Procedural Code requires members to file a mandatory report if the member has reasonable grounds, obtained in the course of practising the profession, to believe that another member of the same or a different College has sexually abused a patient.

The report must be filed in writing with the Registrar of the College of the member who is the subject of the report, and filed within 30 days after the obligation to report arises, unless you believe on reasonable grounds that the member will continue to sexually abuse the patient or will sexually abuse other patients and there is urgent need for intervention, in which case the report must be filed immediately.

The report must contain:

(a) the name of the person filing the report;
(b) the name of the member who is the subject of the report;
(c) an explanation of the alleged sexual abuse;
(d) if the grounds of the person filing the report are related to a particular patient of the member who is the subject of the report, the name of that patient, subject to the consent of the patient.

The name of a patient who may have been sexually abused must not be included in a report unless the patient, or if the patient is incapable, the patient's representative, consents in writing to the inclusion of the patient's name.

What are some suggestions for preventing sexual abuse?

- Do not engage in any form of sexual behaviour or comments around a patient.
- Intervene when others, such as colleagues and other patients, initiate sexual behaviour or comments.
- Do not display sexually suggestive or offensive pictures or materials. Monitor the advertising posters, calendars and magazines used in the clinic.
- If a patient initiates sexual behaviour, respectfully but firmly discourage it.
- Monitor warning signs. For example, avoid the temptation to afford special treatment to certain patients, such as engaging in excessive telephone conversations or scheduling visits outside of office hours. Be cautious about connecting with patients on social media.
- Unless there is a very good reason for doing so, avoid meetings outside of the office.
- Do not date patients.
- Avoid self-disclosure.
- Avoid comments that might be misinterpreted (e.g., "You are looking good today").
- Do not touch a patient except when necessary for assessing or treating them. Before touching a patient, explain the nature of the touching first, the reason for the touching and be very clinical in one's approach (e.g., wear gloves).
- Do not place instruments or materials on a patient's chest.
- Be sensitive when offering physical assistance to patients who may not be mobile. Ask both whether and how best to help them before doing so.
- Avoid hugging and kissing patients.
- Be aware and mindful of cultural, religious, age, gender and other areas of differences. If in doubt ask if one's proposed action is acceptable to the patient.
- Do not comment on a patient's appearance or romantic life.
- Sufficiently document any clinical actions of a sexual nature and ensure that any incidents or misunderstandings are fully and immediately recorded.

How does the concept of professional boundaries apply to social media and the internet?

Professional boundaries concepts apply across all media, including social media platforms. For example, it would be inappropriate to use information gained from patient records to identify and find a patient on social media or on the internet out of personal curiosity.

Practice Scenario

Dayna, a denturist, is providing a denture for Penelope. Penelope is having difficulty deciding whether to marry her boyfriend and talks to Dayna about this issue a lot during their visits. To help Penelope make up her mind, Dayna decides to tell Penelope details of her own doubts in accepting the proposal from her first husband. Dayna tells of how those doubts had long-term consequences, gradually ruining her first marriage as both she and her husband had affairs. Penelope is offended by Dayna's behaviour and stops

coming for adjustments even though she still needs them. Eventually Penelope stops wearing the denture. Dayna's self-disclosure was inappropriate and unprofessional.

Practice Scenario

Steve, a denturist, tells a colleague about his romantic weekend with his wife at Niagara-on-the-Lake for their anniversary. Steve makes a joke about how wine has the opposite effect on the libido of men and women. Samantha, a patient, is sitting in the reception area and overhears. When being treated by Steve, Samantha mentions that she overheard the remark and is curious as to what Steve meant by this, as in her experience, wine helps the libido of both partners. Has Steve engaged in sexual abuse?

Steve clearly has crossed boundaries by making the comment in a place where a patient could overhear it. However, the initial comment was not directed towards Samantha and was not meant to be heard by her. It would certainly be sexual abuse for Steve to continue the discussion with Samantha. Steve should apologize for making the comment in a place where Samantha could hear it. Steve needs to state his focus is on Samantha's treatment.

Practice Scenario

Mr. Smith, an elderly man, makes a follow up appointment to see his denturist Elyse. Mr. Smith explains that he doesn't need additional denturism care – he is lonely and is looking for companionship, someone to have coffee with and accompany him on walks around his neighbourhood. Elyse feels badly for Mr. Smith but understands that meeting outside of the clinic for non-denturism reasons may be considered a professional boundary violation. She explains that the violating this boundary would compromise the patient-denturist relationship and possibly, her clinical objectivity. Elyse suggests that Mr. Smith contact his local senior centre to inquire about activities or groups that he can join. Elyse also makes a note of the conversation, and the advice she provided in Mr. Smith's patient record.

Legislative References

O. Reg. 854/93: Professional Misconduct, paragraph 8 http://www.ontario.ca/laws/regulation/930854

Regulated Health Professions Act, 1991

Health Professions Procedural Code

O. Reg. 260/18: Patient Criteria Under Subsection 1 (6) of the Health Professions Procedural Code

References

Standard of Practice: Professional Boundaries

Important Legal Principles Practitioners Need to Know, Jurisprudence Handbook, College of Denturists of Ontario, 2019.