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NSRRT Standard on Sexual Misconduct and Sexual Abuse of Clients

Introduction

The Nova Scotia Regulator of Respiratory Therapy (NSRRT) regulates the practice of Respiratory Therapy by setting the standards for the profession and ensuring compliance with provincial acts and related laws. Our mandate is to protect the public by promoting the provision of safe, competent, ethical, and clinically appropriate care by our **registrants**. The Standards of Practice (Standards) outline the framework for legal and professional practice for all NSRRT registrants, in all categories of registration, regardless of their role, job description, or area of practice. Registrants are professionally accountable to practise in accordance with these Standards.

The NSRRT Sexual Misconduct and Sexual Abuse Standard sets out the legal and professional expectations for registrants in relation to clients. In the event of a complaint against a registrant, the NSRRT may refer to this publication to determine whether appropriate standards of practice and professional responsibility have been met and/or maintained by registrants. The NSRRT is committed to fair, respectful and professional complaints processes. Information related to the complaints process can be found at <https://NSRRT.com/concerns-about-an-rt>. Registrants may contact the Registrar if they have questions on how to comply with this standard.

Purpose

This Standard is intended to:

1. Establish the NSRRT's standards regarding sexual misconduct;
2. Inform Respiratory Therapists (RTs) of their accountabilities with regards to conduct that constitutes sexual misconduct, including reporting responsibilities;
3. Inform the public on what they can expect when receiving care from an RT; and
4. Outline the approach to be taken by the NSRRT when addressing allegations of sexual misconduct and other relevant conduct.

Standard

Within the **therapeutic relationship**, Respiratory Therapists (RTs) must act with honesty, integrity, and respect appropriate **professional boundaries** with **clients**. Clients can expect that RTs treat them with integrity while maintaining professional boundaries. Professional boundaries are characterized by respectful, trusting, and ethical interactions with clients that are free of sexual misconduct.

1. Performance Requirements

- 1.1. A registrant must not engage in **sexual misconduct**.
- 1.2. The duty to maintain professional boundaries is the responsibility of the registrant, not the client.
- 1.3. Registrants must always obtain **informed consent** prior to performing an intervention that requires physical contact or requires discussions of sexual or intimate matters, when clinically relevant.
- 1.4. Registrants must refrain from the following **sexualized conduct** with current **clients** and former or **vulnerable former clients**:
 - 1.4.1. Making sexually suggestive, flirtatious, or demeaning comments about the client's body, clothing, sexual history, orientation, or preferences.
 - 1.4.2. Discussing the registrant's sexual history, sexual preferences, or sexual fantasies with a client.
 - 1.4.3. Any behaviour, communication, gestures, or expressions that could be reasonably interpreted by the client as sexual.
 - 1.4.4. Rubbing against a client for sexual gratification.
 - 1.4.5. Removing the client's clothing, gown, or draping without consent or emergent medical necessity.
 - 1.4.6. Failing to provide privacy while the client is undressing or dressing, except as may be necessary in emergency situations.
 - 1.4.7. Dressing or undressing in the presence of a client.
 - 1.4.8. Posing, photographing, or filming the body or any body part of client for the purpose of sexual gratification.
 - 1.4.9. Showing clients sexually explicit materials.
 - 1.4.10. Requesting or making advances to date or have a sexual relationship with a client, whether in person, through written or electronic means.
 - 1.4.11. Hugging, touching, or kissing a client in a sexual manner.
 - 1.4.12. Fondling or caressing a client.
 - 1.4.13. Terminating the therapeutic relationship for the purpose of dating or pursuing a romantic or sexual relationship.
 - 1.4.14. Sexual abuse.

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

- 1.5.1. Sexual intercourse
- 1.5.2. Genital to genital, genital to anal, oral to genital, or oral to anal contact.
- 1.5.3. Masturbation of a registrant by a client or in the presence of a client.
- 1.5.4. Masturbation of a client by a registrant.
- 1.5.5. Encouraging the client to masturbate in a registrants presence.
- 1.5.6. Sexualized touching of a client's genitals, anus, breasts, or buttocks.

1.6. Sexual misconduct and sexual abuse constitute **professional misconduct**.

- 1.7. Consent is not a defence to an allegation of sexual misconduct involving a client. A client cannot consent to any sexual interaction with a registrant.
- 1.8. No conduct constitutes sexual misconduct if the conduct is clinically appropriate to the professional services being provided by the registrant.

1.9. Registrant's must not engage in any sexualized conduct toward any other person, including a client's **family member** or support person or former client, other healthcare team member, employee, learner, or others, which the registrant 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.

This includes but is not limited to:

- 1.9.1. Sexual abuse; and
- 1.9.2. Discriminatory comments on the basis of sex and gender, including about a person's appearance, manner of dress, gender identity, sexual orientation, or sexual preferences.

1.10. Sexualized misconduct by a registrant that is entirely unconnected to the registrant's professional practice may constitute **conduct unbecoming** if the sexualized misconduct tends to bring discredit upon the profession.

2. Exemptions for Treatment of a Spouse/Intimate Partner or Family Member

2.1. Registrants may treat their **spouse/Intimate Partner** or a family member who is not a spouse/intimate partner with an awareness of the potential for impaired professional judgement. With regards to sexual misconduct and the treatment of a spouse/intimate partner or family member:

- 2.1.1. A registrant who has a consensual sexual relationship with a spouse/intimate partner must not engage in sexual conduct, remarks, or behaviour during or in the context of the professional healthcare practice.
- 2.1.2. The registrant must ensure that informed consent is obtained from their spouse/intimate partner or family member in a manner consistent with any other client, ensuring the individual is fully aware of the professional boundaries during treatment.

- 2.1.3. Registrants must document the treatment relationship with their spouse/intimate partner or family member as thoroughly as they would with any

other client, maintaining clear records to ensure transparency and professional conduct.

2.1.4. Allegations of sexual misconduct by a spouse/intimate partner or family member are subject to the same regulatory processes as all sexual misconduct allegations.

3. Mandatory Duty to Report

3.1. Every registrant has a mandatory duty to report:

3.1.1. To the Registrar if the registrant has reasonable grounds to believe that another registrant has engaged in sexual misconduct.

3.1.2. To the regulatory body of another health profession if the registrant has reasonable grounds to believe that a registrant of that profession has engaged in sexual misconduct; and

3.1.3. An employer if the registrant has reasonable grounds to believe that a regulated or unregulated employee has engaged in sexual misconduct.

3.2. Every registrant has a responsibility to cooperate with any regulatory body or committee of a regulatory body with respect to any regulatory process related to this standard.

4. Relationship with former client

4.1. A registrant must not enter into an intimate or sexual relationship with a former client unless 6 months has passed since the last professional service was provided.

4.2. Factors that must be considered before entering into a relationship with a former client even when a 6 month time period has passed may include:

4.2.1. The number of times that the registrant and the client had a professional interaction.

4.2.2. The duration of the professional relationship.

4.2.3. The nature of the professional interaction.

4.2.4. Whether the former client is vulnerable.

4.2.5. Such other factors relevant to the particular circumstances.

5. Penalties for Abusing a Client

5.1. Allegations of Sexual Misconduct will be referred to the Complaints Committee and may be referred on to the Professional Conduct Committee for a hearing.

5.2. Where an allegation of sexual abuse has been made against a registrant, the NSRRT will report the matter to the police.

5.3. If a registrant is found guilty of professional misconduct or conduct unbecoming that constitutes sexual abuse, the NSRRT will seek revocation of the registrant's license.

5.4. Where there is a finding of professional misconduct or conduct unbecoming arising from a finding of sexual misconduct that does not constitute sexual abuse, the NSRRT will seek a licensing sanction against the registrant commensurate with the relevant circumstances. A licensing sanction creates a disciplinary record for the registrant, and can include one or more of the following:

- 5.4.1. Practice conditions or restrictions;
- 5.4.2. Suspension of license for a period of time; and
- 5.4.3. Revocation of license.

Glossary

Client: means the individual who is the recipient or intended recipient of health care services from a registrant, and, where the context requires, includes a substitute decision maker for the recipient or intended recipient of health care services, and includes a vulnerable former client.

Conduct Unbecoming: Conduct in a registrant's personal or private capacity that tends to bring discredit to the profession by calling into question the honesty, trustworthiness, or competence as a registrant of society. (Adapted from the Nova Scotia Barrister's Society document "Conduct Unbecoming" <https://nsbs.org/wp-content/uploads/2020/02/ConductUnbecoming.pdf>

Family Member: An individual with whom a registrant has a close personal relationship through blood, marriage, domestic partnership, or adoption. This includes, but is not limited to immediate family, extended family, other relatives.

Former Client: A former client is defined as an individual whom the registrant provided professional services to, but the therapeutic relationship has ended.

Vulnerable Former Client: Defined as patient who is no longer a current client, but who requires particular protection from sexual misconduct for reasons of ongoing vulnerability. For some former clients, their degree of vulnerability is such they always will be considered vulnerable former clients. For other former clients, their degree of vulnerability will lessen with the passage of time from the termination of the therapeutic relationship.

(<https://cpsns.ns.ca/resource/sexual-misconduct-by-physicians/>)

Informed Consent: Informed consent means the process of giving permission or making choices about care. The information relating to the treatment must be received and understood by the client.

Intimate Partner: Refers to formal partnerships, such as marriage, as well as informal partnerships, including dating relationships and unmarried sexual relationships ([2013 WHO Publication: Global and regional estimates of violence against women: prevalence and health effects of intimate partner violence and non-partner sexual violence](https://www.who.int/publications/item/9789241549011))

Registrant: Refers to a Respiratory Therapist who is, or was, registered with the NSRRT. For the purpose of this document, registrant refers to Registered Respiratory Therapists (RRTs), Graduate Respiratory Therapists (GRTs) & Respiratory Therapists practicing as Anesthesia Assistants (AAs).

Professional Boundaries: Professional boundaries set the limitations around relationships between clients, healthcare providers, employees, learners, and others to ensure the delivery of safe, ethical, client-centered care. Professional boundaries are characterized by respectful, trusting, and ethical interaction with clients that are free of abuse, sexual abuse, sexual assault, and sexual harassment. (*adapted from [College of Physical Therapists of Alberta \(2007\). Therapeutic Relationships Establishing and Maintaining Professional Boundaries.](#)*)

Professional Misconduct: As per section 1(ab) of the *Respiratory Therapists Act*:

“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.

Sexual Abuse: Sexual abuse is a form of sexual misconduct. It includes any sexual act done by a registrant to a client.

Sexualized conduct: Any conduct including threatened, attempted, or actual conduct, behaviour, or words of a registrant, with a sexual connotation, character, or quality.

Sexual misconduct: Any actual, threatened, or attempted sexualized behavior or remarks by a registrant towards a client or in a client’s presence. Sexual misconduct constitutes professional misconduct.

Spouse: A person with whom the registrant is in a conjugal relationship for a continuous period of no less than two years, or who is legally married to the registrant (Parenting and Support Act)

Therapeutic Relationship: The therapeutic relationship refers to the connections/interactions of registrants with clients.

Note:

*The NSRRT has no authority to investigate alleged acts of sexual harassment perpetrated by clients. Registrants are advised to file a report with employers or law enforcement.

Resources:

Supports are available for victims/survivors of sexual violence. Please see a list of resources available below:

1. Adults in Crisis Provincial Helpline 1-877-521-1188
2. Be the Peace Institute <https://www.bethepeace.ca/get-help>
3. Break the Silence Nova Scotia <https://breakthesilencens.ca/>
4. Legal Advice for Sexual Assault Survivors Program 211
5. List of Sexual Assault Centres across Nova Scotia
<https://novascotia.ca/coms/svs/sexual-assault-centres/>
6. Mi'kmaq Crisis and Referral Line 1-855-379-2099
7. The Sexual Assault and Harassment Phone Line 1-902-425-1066
8. Transition House Association of Nova Scotia <https://thans.ca/>