

The Nova Scotia Board of Examiners in Psychology

GUIDELINES

SEXUAL MISCONDUCT BY PSYCHOLOGISTS

Preamble

The Nova Scotia Board of Examiners in Psychology (NSBEP) has established guidelines to serve as an appropriate standard of practice in dealing with issues surrounding sexual intimacies between clients and providers of psychological services. The Board has considered a number of issues in establishing these guidelines (please refer to Appendix I which contains a review of relevant sections from the Canadian Code of Ethics for Psychologists and the Standards of Professional Conduct).

Of critical importance is whether the psychologist¹ exploits a professional relationship “to unethically further personal, political or business interests. This includes, but is not limited to: ... taking advantage of trust or dependency to encourage or engage in sexual intimacies...”(Canadian Code of Ethics for Psychologists, III, 31).

When a power imbalance exists in the relationship between the client and the psychologist, especially if the client is considered in some way vulnerable, the psychologist is subject to the strict duty of acting only in the utmost good faith towards the client. Psychologists must not benefit from a client’s vulnerable status.

Finally, the potential for a conflict between the interests of the client and those of the psychologist is intensified when psychologists engage in dual/multiple relationships with clients. Psychologists should refrain from entering into any relationship with a client that reasonably might impair their objectivity or otherwise interfere with the effective performance of their functions as a psychologist, or that might harm or exploit the client.

I PROHIBITION AGAINST SEXUAL INTIMACIES WITH CLIENTS OF PSYCHOLOGICAL SERVICES

The Nova Scotia Board of Examiners in Psychology holds that sexual intimacies of any kind are unethical between a psychologist and any person over whom they have supervisory, evaluative or other authority such as students, supervisees, employees, research participants and clients or patients. Although psychologists may have professional relationships with individuals other than those listed (as with certain consulting relationships) those individuals are not

¹ Please note that for the purpose of these guidelines only and unless otherwise indicated, all references to psychologists include individuals on the Candidate Register of the Nova Scotia Board of Examiners in Psychology.

typically vulnerable to potential exploitation by the psychologist. In determining if the prohibition against sexual contact should apply in such cases, the psychologist should consider the ethical issues raised in the Preamble and in Appendix I in the course of making a decision on this matter.

This prohibition holds even if the client initiates or consents to sexual intimacies with a psychologist. It is the responsibility of the psychologist to ensure that this behaviour does not occur. The behaviours that are prohibited under this principle include:

- (a) Sexual intercourse or other forms of physical sexual relations between the psychologist and the client.
- (b) Touching, of a sexual nature (i.e. intended touching of intimate parts or clothing covering such parts), of the client by the psychologist, and
- (c) Behaviour or remarks of a sexual nature by the psychologist towards the client that are demeaning, seductive or exploitive.

II POST-TERMINATION RELATIONSHIPS

The Nova Scotia Board of Examiners in Psychology adopts the following standard (American Psychological Association, Ethical Principles of Psychologists and Code of Conduct, 1992):¹

Psychologists do not engage in sexual intimacies with a former therapy patient or client for at least two years after cessation or termination of professional services.

Because sexual intimacies with a former therapy patient or client are so frequently harmful to the patient or client, and because such intimacies undermine public confidence in the psychology profession and thereby deter the public's use of needed services, psychologists do not engage in sexual intimacies with former therapy patients and clients even after a two-year interval except in the most unusual circumstances. The psychologist who engages in such activity after the two years following cessation or termination of treatment bears the burden of demonstrating that there has been no exploitation, in light of all relevant factors, including (1) the amount of time that has passed since therapy terminated, (2) the nature and duration of the therapy, (3) the circumstances of termination, (4) the patient's or client's personal history, (5) the patient's or client's current mental status, (6) the likelihood of adverse impact on the patient or client and others, and (7) any statements or actions made by the therapist during the course of therapy suggesting or inviting the possibility of a post-termination sexual or romantic relationship with the patient or client.

Although this standard explicitly makes reference to therapy clients, it shall also apply to other users of psychological services under the conditions noted above

¹The standard noted above has also been incorporated directly into the NSBEP Standards of Professional Conduct.

(i.e. a continuing vulnerability of the client that is exploited by the provider, a continuing conflict of interest between the needs of the client and those of the provider). The Board further suggests that psychologists considering engaging in sexual intimacies with former clients engage in a decision-making process with the client as well as with a colleague in order to avoid violating this standard.

III REPORTING OF OFFENSES

1. Complaints to the Registrar of the Nova Scotia of Examiners in Psychology

Individuals who believe that they have been subjected to some form of sexual misconduct by a psychologist may make a formal, written complaint to the Registrar, following procedures described elsewhere (The Nova Scotia Psychologist, 1992, Volume 7, No. 5. Pp. 29-30; the Psychologists Act 1980 and Regulations). Because of the particularly sensitive nature of the information to be reviewed, many individuals may be reluctant to pursue a complaint. The Board is committed to facilitating the complaints process by ensuring that reasonable steps are taken to support individuals through the process of pursuing a complaint.

Psychologists who are members of the Association of Psychologists of Nova Scotia (APNS) and who face allegations of professional misconduct may choose to access the "Peer Support Program". As part of this program, psychologists may consult certain designated psychologists for assistance in preparing for and dealing with complaints lodged against them.

2. Complaints to Psychologists about other Psychologists

a) By the Complainant

The Board has established the following as an appropriate standard of practice to be followed when a psychologist is informed by a complainant of an allegation of sexual misconduct by another psychologist:

- (i) Inform the complainant that sexual contact between a client of psychological services and a psychologist is unethical and strictly prohibited by the professions.
- (ii) Assist the client in a decision-making process that involves a review of all options available to him or her and includes a review of the likely benefits and risks of each option as well as the likely consequences of inaction.
- (iii) Inform the client of the procedures to be followed in the event he/she wishes to pursue a complaint.

- (iv) Assist the client in pursuing the complaint where appropriate either by providing support directly or by referring the client to other existing services.

Given that all psychologists are required to follow these procedures when informed by a complainant, special care should be taken to document the process accurately.

b) By individuals other than the complainant

The board has established the following as an appropriate standard of practice to be followed when a psychologist is informed by an individual other than the complainant of sexual misconduct by another psychologist:

- (i) Inform the individual that sexual contact between a user of psychological services and a psychologist is unethical and strictly prohibited by the profession.
- (ii) Inform the individual of the procedures to be followed in the event that the alleged victim wishes to pursue a complaint.
- (iii) Pursue further action as appropriate.

3. Complaints to Psychologists about other Professionals

In some cases a psychologist may be informed of alleged sexual misconduct by another professional. In general, the standards described in 2 (a) or 2 (b) should be followed. This may mean that psychologists will have to inform themselves about the complaints policies and procedures of other regulated professions in order to assist the complainant.

IV DISCIPLINARY ISSUES

The Board takes the position that there is one single category of offense-sexual intimacy with a client of psychological services – that constitutes sexual misconduct. A range of penalties may be administered and include:

- issuance of a reprimand.
- suspension of the registration until conditions imposed by the Board are met.
- Cancellation of the registration with public disclosure of the reasons for the cancellation.

The Board will maintain a publicly available list of psychologists who have been removed from the Register along with the reasons for removal.

The Board will judge the individual circumstances in each case to arrive at a decision on the appropriate penalty. Issues to be considered in arriving at such a decision will include but are not limited to: nature of the sexual contact, duration of the sexual relationship, nature of the professional relationship between client and provider and degree of vulnerability of the client.

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Nova Scotia Board of Examiners in Psychology

APPENDIX I

**Inappropriate Sexual Conduct:
Relevant Sections of Code of Ethics and Standards of Professional
Conduct**

Re: Sexual Activities

Standards of Professional Conduct (SPC)

SPC Principle 9 states:

A registrant does not seek specific benefit or advantage from relations with a client.

This broad statement of principle can be used to deal with situations of soliciting, even if never having sexual relations with a client, as well as situations where sexual intent was ambiguous, e.g. asking for a date.

SPC 9:1

A psychologist shall not have sexual relations with a client.

This is the clearest and broadest statement. Note that “client” is broadly defined, and includes recipients of any psychological service, including assessment, intervention, teaching, research, consultation, program development and supervision; as well as third party purchasers and parents or guardians of children who receive service.

SPC 9:4

This section of the Standards of Professional Conduct is directly referenced in the body of these guidelines. Section 9:4 makes clear that even after a two year period following the cessation of or termination of treatment, sexual intimacies would be justifiable in only the most unusual circumstances.

Canadian Code of Ethics for Psychologists (CE)

CE, II.27

Be acutely aware of the power relationship in therapy and, therefore, not encourage or engage in sexual intimacy with therapy clients, neither during

therapy or, nor for the period of time following therapy during which the power relationship reasonably could be expected to influence the client's personal decision making.

CE 11.28

Not encourage or engage in sexual intimacy with students or trainees with whom the psychologist has an evaluative or other relationship with direct authority.

CE III.31

Not exploit any relationship established as a psychologist to further personal, political, or business interests at the expense of the best interests of their clients, research participants, students, employers, or others. This includes but is not limited to: ...taking advantage of trust or dependency to encourage or engage in sexual intimacies (e.g., with clients not included in 11.27, with clients' partners or relatives, with students or trainees not included in Standard 11.28, or with research participants.

Re: Sexual Harassment

The clearest and strongest statement is: CE, 1.4

CE,1.4

Abstain from all forms of harassment, including sexual harassment.

The following two standards may also be relevant.

CE, 11.2

Avoid doing harm to clients, research participants, employees, supervisees, students, trainees, colleagues, and others.

CE, 1.2

Not engage publicly (e.g., in public statements, presentations, research reports, or with clients) in degrading comments about others, including demeaning jokes based on such characteristics as culture, nationality, ethnicity, colour, race, sex, gender or sexual orientation.

Standards for Providers of Psychological Services (SPPS)

SPPS 2.2.2

All providers within a psychological service unit shall support the legal and civil rights of the user.

Concerns regarding the safe-guarding of users include, but are not limited to issues related to gender, age bias, sexual harassment ...

Re: Conflict of Interest

There may be circumstances not explicitly covered by the above statements (e.g. having a secret affair with a client's spouse). However, they probably would come under Conflict of Interest. Specifically:

CE, III.33

Avoid dual or multiple relationships (e.g., with clients, research participants, employees, supervisees, students or trainees) and other situations that might present a conflict of interest or that might reduce their ability to be objective and unbiased in their determinations of what might be in the best interests of others.

CE, III.34

Manage dual or multiple relationships that are unavoidable due to cultural norms or other circumstances in such a manner that bias, lack of objectivity, and risk of exploitation are minimized...

CE, III.35

Inform all parties, if a real or potential conflict of interest arises, of the need to resolve the situation in a manner that is consistent with Respect for the Dignity of Persons (Principle I) and Responsible Caring (Principle II), and take all reasonable steps to resolve the issue in such a manner.

Re: Reporting Others' Misconduct

The most relevant is:

CE, IV.13

Uphold the discipline's responsibility to society by bringing incompetent or unethical behaviour including misuses of psychological knowledge and techniques, to the attention of appropriate authorities, committees, or regulatory bodies, in a manner consistent with the ethical principles of this

Code, if informal resolution or correction of the situation is not appropriate or possible.

However, a limitation on the foregoing is:

CE, I.45

Share confidential information with others only with the informed consent of those involved, or in a manner that the persons involved cannot be identified, except as required by law, or in circumstances of possible serious physical harm or death.

In most circumstances this mean the psychologist may report only with the victim's consent.