



## **NLCB Policy on Sexual Impropriety-SI01**

### **A Policy Regarding the Requirements of Doctors of Chiropractic to Maintain Appropriate Professional Boundaries with Respect to Patients**

#### **Intent**

To set forth the requirements for Chiropractors in the province of NL with respect to the maintenance of appropriate boundaries as it pertains to Sexual Impropriety and the doctor/patient relationship.

#### **Legislative Authority of NLCB**

The Newfoundland and Labrador Chiropractic Board (NLCB) is entrusted with regulation of the practice of Chiropractic in NL to ensure that the interest and protection of the public remains paramount. One of the essential mandates as it relates to this role is the creation and enforcement of policies that relate to both the care that is expected from licensed chiropractors, as well as the manner in which the doctor-patient relationship is managed and protected. In accordance with this mandate, it is essential that information be available to the public that outlines the expectations with respect to professional boundaries and that this information be clear and defined for the benefit of both patients and chiropractors. As such, this policy serves to further define Section 10(o) of the *Chiropractors Regulations, 1996* which states:

#### **Code of conduct**

**10.** Improper conduct shall include the following conduct:

(o) sexual impropriety with a patient;

#### **Description of policy**

This policy outlines conduct or activities which may lead to a chiropractor being in contravention of section 10 (o) of the Chiropractor's Regulations and further defines important terms as they pertain to the professional relationship between chiropractors and patients. This

includes terms such as patient, sexual impropriety, spouse and other terms that relate to the doctor/patient relationship.

### **Professional Boundaries with Patients**

Chiropractors must maintain professional boundaries with patients at all times. Professional boundaries in patient care are physical and emotional limits of the therapeutic relationship between the patient and the chiropractor. The chiropractor's responsibility is always to act in the patient's best interest and to manage the boundaries within the doctor-patient relationship. Additionally, chiropractors must recognize that each patient's boundaries will be unique to their own experiences, including their culture, age, values or previous experiences of trauma. This should always be considered by the chiropractor throughout the doctor-patient relationship and during all interactions. Violations of sexual boundaries with respect to the doctor patient relationship are among the most serious breaches of a health professional's code of conduct. As such, sexualized contact or sexualized behavior of any kind between a chiropractor and a patient is unacceptable. Due to the power imbalance inherent in the chiropractor-patient relationship, the patient is never able to provide consent and therefore as long as a doctor-patient relationship can be considered to exist, any form of sexualized behavior with a patient is considered Sexual Impropriety and is therefore prohibited.

### **Definition of a Patient**

For the purposes of this policy and the investigation of complaints of sexual impropriety, an individual is considered to be a patient for a minimum of twelve months after the last clinical encounter. An individual is considered a patient where a chiropractor:

- gathered clinical information, assessed, or examined the patient for the purpose of providing a diagnosis and/or developing a plan of management/treatment
- provided advice, treatment or another professional service that would be considered chiropractic as defined in the Chiropractors Act 2009 or corresponding regulations
- provided letters of consultation, or referral to, or accepted these from other health professionals or engaged in written communications or statements which referred to an individual as a patient
- issued a formal letter of discharge

Notwithstanding the aforementioned, an individual may still be considered to be a patient for a longer duration than 12 months in circumstances where information suggests that the doctor-patient relationship is likely still a factor in the relationship. Instances where this may occur include but are not limited to:

### **Length and nature of the doctor-patient relationship**

- In certain instances, a patient may have been under the care of a chiropractor for an extended period of time, even decades, and in these instances, it may not be reasonable

to expect that the doctor-patient relationship has terminated following an absence from care of only 12 months. In particular, if this absence was simply in relation to the lack of need for clinical care during that period or the patient has a history of periodic absence from care coupled with a resumption of care when required, the doctor-patient relationship may be considered to still exist.

### **Vulnerability of the patient**

- Due to the existence of an inherent power imbalance that typically occurs in a doctor-patient relationship, especially when the patient has confided personal or sensitive information to the chiropractor that may further enhance the power imbalance, it may never be appropriate to consider that the doctor-patient relationship has terminated. This is especially relevant in instances where the patient was a minor during the period where they were under clinical care or in instances where the individual under care is physically or emotionally vulnerable, has diminished decision-making ability or other factors exist which increase the risk of patient exploitation such as addictions or homelessness. In the above instances, the doctor-patient relationship should be considered to exist indefinitely.

### **Sexual Impropriety**

The term “impropriety” is a broad term that encompasses behaviour that would be deemed to be inappropriate or unsuitable based on the specifics of a situation. In the case of sexual impropriety as it relates to the situation where a doctor-patient relationship exists, the definition is no less broad. It encapsulates situations that range from inappropriate comments or suggestions to sexual assault/abuse of a patient. In the context of the chiropractor-patient relationship, sexual impropriety includes:

- Engaging in or attempting to engage in sexual intercourse or sexual touching with a patient;
- engaging in sexual activity in the presence of a patient;
- Inviting or encouraging a patient to engage in sexual activity in the presence of the chiropractor;
- inviting or encouraging a patient to engage in sexual activity to be recorded for the chiropractor or accepting such recorded material;
- accepting any form of sexual advance made by a patient or socializing/communicating with a patient for the purpose of developing an intimate relationship;
- terminating a chiropractor-patient relationship for the sole purpose of pursuing an intimate relationship with the patient;

- entering into an intimate relationship with a person with whom a patient has a significant interdependent relationship. (examples include, but are not limited to: parent/guardian of a minor patient, spouse/common-law partner of a patient, decision maker of an incompetent patient);
- making comments, asking questions, or acting in a way which reflects a lack of respect for a patient's dignity or privacy;
- making sexualized comments about a patient's body, appearance, or clothing;
- engaging in any behaviour, gesture, expression or comment that is sexualized, seductive, or sexually suggestive to a patient;
- making comments to a patient regarding the chiropractor's own sexual experiences or preferences;
- criticizing, sexualizing or commenting unnecessarily on a patient's sexuality, sexual identity, sexual experiences, sexual history, or gender identity.
- asking or making comments about a patient's sexual history or performance except where it is pertinent to the care being provided;
- requesting the intimate or personal details of a patient's history, especially sexual history, unless it is directly related to the patient's presenting complaint or clinically relevant to the patient's care;
- failing to provide privacy when a patient dresses or undresses;
- failing to provide an appropriate gown or drape during a physical examination or procedure if clothing needs to be removed;
- assisting a patient with the adjustment or removal of clothing or draping unless the patient first requests and agrees for the chiropractor to do so and this assistance is necessary due to a legitimate physical limitation;
- utilizing examination procedures which reflect a lack of respect for a patient's dignity and privacy;
- examining or touch a patient's genital area, anal area, or breasts when it is not medically necessary;
- examining or touch a patient's genital area, anal area, or breasts without first obtaining the informed consent of the patient;
- examining or touch a patient's genital area or anal area without using gloves;

- touching a patient in a sustained manner without legitimate clinical reason; or
- engaging in other conduct not specifically identified above but which, nonetheless viewed from the perspective of the patient, intrudes upon a patient's physical and/or emotional space and is contrary to the spirit and intention of this policy as a whole.

### **Engaging in an intimate relationship with a former patient**

There may be instances where a Chiropractor becomes connected through social networks with an individual who would, for the most part, be considered a patient by most of the parameters set forth in this policy with the exception of the requirement to have been under the care of the chiropractor at some point in the preceding 12 months. While an absence from care of more than 12 months does not automatically terminate the chiropractor/patient relationship, there may be instances where the doctor-patient relationship may not in fact be in place. This should be determined on a case-specific basis, however as all complaints of sexual Impropriety are taken very seriously, it is recommended that, before a chiropractor engages in any form of non-clinical relationship with a former patient, both parties formally acknowledge in writing that the doctor -patient relationship has terminated. The date of termination of the clinical relationship must also be documented, and a copy of this written acknowledgement must be placed in the former patients file in the event that it may need to be produced at a later date.

### **Treatment of Spouse/Partner**

This policy is not intended to address the particular nature of a relationship that occurs between a chiropractor and their spouse or partner. Although it is understood that in some circumstances there may be a need for a chiropractor to provide care to a person with whom they have a pre-existing intimate relationship, it must be recognized that care of this nature comes with some unique challenges that the chiropractor should always be conscious of. For more information on considerations for chiropractors when providing care for family members or others who are close to them please consult [NLCB Policy TFM-01](#)

**This policy has an effective date of December 7, 2022. In the event of a conflict between the Chiropractic Act, 2009 or corresponding regulations and this policy, the Chiropractic Act, 2009 and regulations shall prevail.**