

*****DRAFT - NOT FOR FILING*****

4734-9-06 Sexual misconduct.

- (A) A patient is any person who is the recipient of a professional service rendered by a chiropractic physician. A doctor-patient relationship is any relationship between a chiropractic physician and a patient wherein the chiropractic physician provides professional services to the patient. An individual is considered a patient until thirty days have elapsed from the date the doctor-patient relationship was formally terminated in accordance with rule 4734-8-07 of the Administrative Code. An individual remains a patient until the doctor-patient relationship is terminated regardless if the individual is not actively receiving professional services from a chiropractic physician. Sexual contact between a chiropractic physician and a former patient after termination of the doctor-patient relationship may still constitute sexual misconduct if the contact is the result of the exploitation of trust, knowledge, or influence of emotions derived from the doctor-patient relationship.
- (B) The doctor-patient relationship requires the chiropractic physician to exercise the utmost care that he or she will do nothing to exploit the trust and dependency of the patient. A chiropractic physician shall make every effort to avoid other types of relationships that impair his or her professional judgment or risk the possibility of exploiting the confidence placed in them by a patient.
- (C) Sexual misconduct is any verbal or physical action or behavior, or expression of thoughts or feelings, or gestures that are sexual or that reasonably may be construed by a patient as sexual or conduct that exploits the doctor-patient relationship in a sexual manner, regardless of consent of the patient.
- (D) Sexual misconduct includes, but is not limited to:
- (1) Failure to provide privacy for disrobing and/or failure to provide proper gowns;
 - (2) Failure to explain the necessity of performing any procedure that involves exposure or contact with the pelvic area, genitals, rectum, male prostrate, or female breast. In the event the patient is a minor, the explanation shall be given to the parent or legal guardian. The chiropractic physician must ensure that the patient comprehends the necessity for such examination;
 - (3) Failure to have a third party present while performing any examination that involves exposure or contact with the pelvic area, genitals, rectum, male prostrate or female breast without the patient's signed consent;
 - (4) Subjecting a patient to exposure or contact with the pelvic area, genitals, rectum, male prostrate or female breast in the presence of a third party without the patient's consent;
 - (5) Examining or touching a patient's genitals without the use of gloves;
 - (6) Conduct that may reasonably be interpreted as intended for the sexual arousal or gratification of the chiropractic physician, patient, or both;
 - (7) Inappropriate sexual comments about or to a patient about the patient's body, underclothing, or sexual orientation;
 - (8) Requesting a date or romantic relationship with a patient;
 - (9) Initiating or participating in a conversation with a patient regarding the chiropractic physician's own sexuality, including sexual problems, preferences, or fantasies;

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- (10) Initiating conversation with, or requesting details of, a patient's sexuality, including history, sexual problems, sexual fantasies or sexual preferences that are unnecessary and/or not related to the patient's legitimate needs;
 - (11) Making sexual comments about a patient's body or underclothing, making sexualized or sexually demeaning comments to a patient, criticizing the patient's sexual orientation, or making comments about potential sexual performance;
 - (12) Participation in acts of sexual nature that is recorded on film, in print, or in an electronic medium;
 - (13) Kissing or fondling of a sexual nature;
 - (14) Touching any body part that has sexual connotation for the licensee or the patient for any purpose other than for the patient's legitimate health care need;
 - (15) Encouraging a patient to masturbate in the presence of the chiropractic physician or masturbation by the chiropractic physician in the presence of a patient;
 - (16) Sexual acts involving vaginal or anal intercourse, oral to genital, oral to anal, and/or oral to breast contact;
 - (17) Sexually demeaning conduct or conduct which demonstrates a lack of respect for the patient's privacy;
 - (18) Offering to provide or providing chiropractic or acupuncture services in exchange for any prohibited conduct outlined in this rule.
- (E) The initiation of, consent to, or participation in sexual misconduct with a chiropractic physician by a patient does not change the nature of the conduct or negate the prohibitions contained in this rule.
- (F) Sexually intimate acts and relationships that exist between life partners or in a marriage do not preclude the chiropractic physician from providing the partner or spouse with professional services.