

Standard 4:

ENSURING PROFESSIONAL BOUNDARIES WITH PATIENTS AND PREVENTION OF SEXUAL ABUSE AND SEXUAL MISCONDUCT

THE MLT MUST ADHERE TO THE LEGISLATED AND PROFESSIONAL REQUIREMENTS GOVERNING PATIENT RELATIONSHIPS

4.1 The MLT must understand and adhere to legislated standards regarding sexual abuse and sexual misconduct. Specifically:

(i) **Sexual Abuse** is defined in section 1(1) (nn.1) of the HPA as:

“the threatened, attempted, or actual conduct of a regulated member towards a patient that is of a sexual nature and includes any of the following conduct:

- *sexual intercourse between a regulated member and a patient of that regulated member.*
- *genital to genital, genital to anal, oral to genital, or oral to anal contact between a regulated member and a patient of that regulated member.*
- *masturbation of a regulated member by, or in the presence of, a patient of that regulated member.*
- *masturbation of a regulated member's patient by that regulated member.*
- *encouraging a regulated member's patient to masturbate in the presence of that regulated member.*
- *touching of a sexual nature of a patient's genitals, anus, breasts, or buttocks by a regulated member.”*

(ii) **Sexual Misconduct** is defined in section 1(1)(nn.2) of the HPA as:

“any incident or repeated incidents of objectionable or unwelcome conduct, behaviour or remarks of a sexual nature by a regulated member towards a patient that a regulated member knows or ought reasonably to know will or would cause offence or humiliation to the patient or adversely affect the patient's health and wellbeing but does not include sexual abuse.”

- (iii) For purposes of this Standard, an individual is a **patient** of an MLT if ANY of the following circumstances exist:
- (a) The MLT has provided a health service to the individual on an ongoing or episodic basis.
 - (b) The MLT has provided a health service regardless of whether the MLT charged or received payment from the individual or a third party on behalf of the individual.
 - (c) The MLT has knowingly contributed to a written or electronic health record or file for the individual.
 - (d) The individual has consented to the health service to be performed by the MLT.
 - (e) The MLT has collected and analyzed biological samples, performed quality control procedures, and communicated results that have been critically evaluated to ensure accuracy and reliability.

“Client” is defined in the Glossary of Terms in the CMLTA Standards of Practice. “Patient” is defined as above; therefore, the terms ‘patient’ and ‘client’ are not interchangeable.

- (iv) An individual who is currently engaged in a sexual relationship with an MLT is **not a patient** if ALL of the following circumstances exist:
- (a) There is, at the time the MLT provides the health services, an ongoing sexual relationship between the MLT and the individual, including but not limited to, spouse or adult interdependent partner (as defined in section 3(1) of the *Adult Interdependent Relationships Act* SA 2002, C A-4.5).
 - (b) The MLT provides the health service to the individual in emergency circumstances or in circumstances where the health service is minor in nature.
 - (c) The MLT has taken reasonable steps to transfer the care of the individual to another MLT or appropriate healthcare provider or there is no reasonable opportunity to transfer care to another MLT or appropriate healthcare provider.

4.2 The MLT will take full responsibility to establish and maintain professional boundaries with patients.

- (i) An MLT shall never engage in sexual abuse of a patient or engage in sexual misconduct towards a patient.
 - (a) For purposes of the sexual abuse and sexual misconduct provisions of the HPA, an individual continues to be a patient, as set out in 4.1 (iii), of the MLT for one (1) year after the MLT has provided the services to that patient.
 - (b) An MLT who engages in the type of conduct described in sections 1(1) (nn.1) and (nn.2) of the HPA within one (1) year after the MLT has provided ongoing or episodic services to that patient can be found by a CMLTA Hearing Tribunal to have committed unprofessional conduct in terms of 'sexual abuse' and/or 'sexual misconduct'.
 - (c) A patient's consent or willingness to participate in a sexual relationship is not a defense for inappropriate behavior, sexual abuse, or sexual misconduct and does not affect the applicability of this Standard.

4.3 An MLT will obtain the patient's consent when the provision of a health service relates to the collecting of biological samples and involves conduct, touching, behaviour, or remarks of a clinical nature that may be misinterpreted to be of a sexual nature. [HPA section 1(1) (nn.3).]

- (i) An MLT must obtain consent including providing an explanation of the clinical nature and purpose of the health service prior to proceeding.

4.4 If an MLT has reasonable grounds to believe that the conduct of another regulated member of the CMLTA or any other HPA regulatory college constitutes sexual abuse or sexual misconduct, the MLT must report that conduct to the appropriate Complaints Director [HPA section 127.2(1)].