



NOVA SCOTIA COLLEGE OF
Dietitians AND
Nutritionists

Sexual Abuse and Sexual Misconduct Standard

The Nova Scotia College of Dietitians and Nutritionists (NSCDN) is the regulatory body for the profession of dietetics in Nova Scotia. In the public interest, the NSCDN regulates dietitians and nutritionists to practice in a safe, ethical and competent manner.

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This Standard of Practice addresses Sexual Abuse and Sexual Misconduct in dietetic practice. This Standard of Practice includes mandatory minimum requirements as per section 10 of the *Regulated Health Professional General Regulations*. This standard describes the practice, behavioural and reporting expectations of all dietitians in relation to sexual misconduct.

The Sexual Misconduct Standard of Practice for Dietitians sets out the legal and professional expectations of dietitians regardless of the dietitian's role or practice setting.

Dietitians are also accountable to the NSCDN Standards of Practice and Code of Ethics.

The therapeutic dietitian-client relationship is based on trust, respect and protecting the client's dignity, autonomy and privacy regardless of the context or duration of the relationship. Within the therapeutic dietitian-client relationship, dietitians are required to always maintain professional boundaries to ensure the therapeutic dietitian-client relationship is safe and respected.

In the dietitian-client relationship, dietitians hold a position of power by virtue of:

- Having professional knowledge and skills that the client relies on
- Having access to the client's personal health information
- Being in a position of authority

Given the power differential, the duty to maintain professional boundaries always lies with the dietitian and not the client. A violation of professional boundaries is a breach of trust. Sexual misconduct by a dietitian towards a client violates professional boundaries and constitutes professional misconduct.

Sexual misconduct by a dietitian towards a colleague constitutes professional misconduct. Sexual misconduct by a dietitian towards others may constitute conduct unbecoming the profession.

Dietitians in Nova Scotia have a legal duty to report when a health care provider has engaged in professional misconduct or conduct unbecoming the profession.

The purpose of this standard is to outline the practice, behavioural and reporting expectations of all dietitians regarding sexual misconduct.

STANDARD 1

Dietitians must not engage in sexual misconduct.

INDICATORS

The dietitian must:

- a. maintain the therapeutic and professional boundary with a current, former or vulnerable former client (see definitions on page 5 and 6).
- b. always obtain informed consent prior to performing an intervention that requires physical contact or requires discussions of sexual or intimate matters, when clinically relevant.
- c. not engage in any sexual behaviours with a current client or any individual with whom a current client has an interdependent relationship (e.g. parent, guardian, child, spouse, partner or the client's substitute decision maker).
- d. not communicate with and solicit a current or vulnerable former client in person or through written or electronic means for the purpose of entering into a dating, sexual or romantic relationship.
- e. not use any personal or health information obtained in the context of the dietitian-client relationship to pursue a dating, sexual or romantic relationship with a current, former client or vulnerable former client.
- f. not engage in any form of sexual behaviour, or behaviour that could reasonably be perceived as sexual in nature with a current or vulnerable former client.
- g. not engage in any sexual behaviours with a former client for a minimum of one year from the date the professional relationship was terminated unless professional service was provided as part of episodic care only, in which case, the professional relationship ended when the episode of care was concluded.
- h. not engage in conduct or behavior with a sexual connotation, character or quality with any person, which the dietitian 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.

STANDARD 2

Registrants are required to report sexual misconduct if they have reasonable grounds to believe that the conduct of a regulated health care professional or an unregulated care provider constitutes sexual misconduct and must cooperate with any regulatory body or committee of a regulatory body with respect to any regulatory processes related to sexual misconduct.

INDICATORS

A dietitian must:

- a. report to NSCDN and the employer when they have reasonable grounds to suspect that the conduct of a dietitian constitutes sexual misconduct.
- b. report to the employer and the appropriate regulatory body when they have reasonable grounds to suspect that the conduct of another regulated health professional constitutes sexual misconduct.
- c. report to the employer when they have reasonable grounds to suspect that the conduct of an unregulated care provider constitutes sexual misconduct.
- d. cooperate with any regulatory body or committee of the regulatory body's regulation process regarding sexual misconduct.

Key Concepts

Sexual misconduct is any actual, threatened, or attempted sexualized behavior or remarks by a registrant towards a client or in a client's presence, including but not limited to, the following acts or omissions by the registrant:

- Making sexually suggestive, flirtatious, or demeaning comments about a client's body, clothing, or sexual history, orientation or preferences
- Discussing the registrant's sexual history, sexual preferences, or sexual fantasies with a client
- Any behaviour, communication, gestures, or expressions that could be reasonably interpreted by the client as sexual
- Rubbing against a client for sexual gratification
- Removing the client's clothing, gown, or draping without consent or emergent medical necessity
- Failing to provide privacy while the client is undressing or dressing, except as may be necessary in emergency situations
- Dressing or undressing in the presence of a client
- Posing, photographing, or filming the body or any body part of a client for the purpose of sexual gratification
- Showing a client sexually explicit material
- Requesting or making advances to date or have a sexual relationship with a client, whether in person or through written or electronic means
- Hugging, touching or kissing a client in a sexual manner
- Fondling or caressing a client
- Terminating the professional-client relationship for the purpose of dating or pursuing a romantic or sexual relationship
- Sexual abuse

No conduct constitutes sexual misconduct if the conduct is clinically appropriate to the professional services being provided by the registrant.

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

- Sexual intercourse
- Genital to genital, genital to anal, oral to genital, or oral to anal contact
- Masturbation of a registrant by a client or in the client's presence
- Masturbation of a client by a registrant
- Encouraging the client to masturbate in the registrant's presence
- Sexualized touching of a client's genitals, anus, breasts, or buttocks

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.

A client may no longer be considered a current client if care was provided in an episodic setting, such as a visit to the emergency department or a one time assessment.

The dietitian's spouse or intimate partner is not considered a client for the purposes of this standard.

Former Client means an individual is considered a former client when the dietitian-client relationship has ended and a period of one year has passed. Dietitians considering engaging in any sexual behaviour with a former client must consider the following:

- Ongoing risk to the former client
- Risk of a continuing power imbalance
- Length of time that has passed since the last clinical/professional encounter
- Nature of the care provided:
 - type, intensity and duration of the dietetic care
 - likelihood of requiring dietetic care from the dietitian in the future
- Extent of the personal health information accessible by the dietitian
- Vulnerability of the client
- Maturity of the client
- Client's decision-making ability

A client's vulnerability in the dietitian-client relationship is based on the power imbalance that exists between the dietitian and the client. Given the power imbalance in the dietitian-client relationship there will always be a degree of vulnerability that exists for the former client. A period of one year must pass to lessen the vulnerability.

Vulnerable former client is an individual who is no longer a current client, and who requires particular protection from sexual misconduct given their ongoing vulnerability. For some individuals, their degree of vulnerability is such that they will always be considered vulnerable even when their care has ended.

If the dietitian-client relationship was predominantly psychosocial nutrition interventions, the client will always be considered a vulnerable former client. This includes but is not limited to nutrition interventions as a result of an eating disorder diagnosis. For other individuals, their circumstances may change such that they are no longer considered a vulnerable former client.

Factors that may increase the likelihood of a former client being vulnerable include:

- Nature of the care provided:
 - type, intensity and duration of the dietetic care
 - likelihood of requiring dietetic care from the dietitian in the future
- Client's impaired decision-making ability
- Age and maturity of the client
- Other factors relevant to the client's circumstances

Glossary

Colleague: any individual that works in the dietitian's workplace. This includes but not limited to other dietitians, health care providers, students and support staff.

Conduct Unbecoming the Profession: conduct in a registrant's personal or private capacity that tends to bring discredit upon registrants or the dietetics profession.

Episodic Setting: settings where dietitians provide a single clinical encounter with the client for a defined health-care need, where neither the dietitian nor the client have the expectation of continuing the care or the dietitian-client relationship.

Informed Consent: process of giving permission or making choices about care. It is based on both a legal doctrine and an ethical principle of respect for an individual's right to sufficient information to make decisions about care, treatment and involvement in research.

Intimate partner: someone in a close personal relationship for a period of one year or more that is romantic, emotional, or sexual, regardless of marital status.

Dietitian-Client Relationship: relationship that is established and maintained by the dietitian using professional knowledge, skills and attitudes in order to provide dietetic care that is expected to contribute to the client's well-being. It is central to all dietetic practice.

Professional Boundaries: set limits and clearly define the therapeutic behaviour of dietitians from any other behaviours, well-intended or not, that could lessen the benefits of client care. They also ensure the safe interaction of professionals and clients within the professional client care relationship.

Professional Misconduct: conduct or acts relevant to the profession that, having regard to all the circumstances, would reasonably be regarded as disgraceful, dishonorable or unprofessional

Spouse: a person with whom the registrant is in a conjugal relationship for a continuous period of no less than one year, or who is legally married to the registrant.