



COLLEGE OF
LICENSED PRACTICAL NURSES
OF ALBERTA

STANDARDS OF PRACTICE FOR LICENSED PRACTICAL NURSES ON BOUNDARY VIOLATIONS

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INTRODUCTION

The College of Licensed Practical Nurses of Alberta (CLPNA) has the authority under the *Health Professions Act* (HPA) to carry out its activities and govern registrants¹ in a manner that protects and serves the public interest.

Under the *Health Professions Act* (HPA), there are two situations that would require the permanent cancellation of the health professional's registration and practice permit. These situations are proven allegations of **sexual abuse**², and the **procurement** or performance of **female genital mutilation** (FGM). Where a health professional has engaged in **sexual misconduct**, the minimum penalty that must be imposed on the **Licensed Practical Nurses** (LPNs) is a suspension of their practice permit.

These standards of practice define who is a **patient** for the purposes of the sexual abuse and sexual misconduct provisions of the HPA. When an LPN is found to have engaged in sexual abuse by a Hearing Tribunal, the Hearing Tribunal must order cancellation of the LPN's registration and practice permit. In cases of sexual misconduct, the Hearing Tribunal must order a suspension of the LPN's practice permit, but may order more severe sanctions, including cancellation. When a registration or practice permit is cancelled due to a finding of sexual misconduct, the LPN cannot apply for reinstatement until at least 5 years have elapsed from the date that the decision of unprofessional conduct was made by the Hearing Tribunal. The HPA also requires the CLPNA to list an LPN's discipline history for sexual abuse and sexual misconduct on the CLPNA website.

A patient's agreement to engage in sexual relations is never considered "consent" in the context of the LPN-patient relationship. The LPN is in a position of power and trust; therefore, a consensual sexual relationship with a patient is never possible. Even if the patient agrees to sexual relations with the LPN, this conduct is considered sexual abuse under the HPA.

A complaint raised about sexual relations with a patient will be treated as a complaint about sexual abuse or sexual misconduct by the CLPNA regardless of whether the patient had agreed to such a relationship. An LPN who has any questions about these standards is encouraged to consult with the CLPNA Professional Practice Team.

¹In this document, "registrant" has the same meaning as "regulated member" in the *Health Professions Act*.

²Key terms or phrases that were listed under the Definitions are bolded upon first reference in the standards.

Standards of Practice and the HPA

Under the HPA, registrants must adhere to their profession's standards of practice. Standards of practice provide the minimum standard of behaviour that LPNs are expected to meet in their nursing practice. LPNs should always strive to practice above the minimum standards. Standards of practice are enforceable under the HPA and a breach of a standard of practice is considered unprofessional conduct that could result in disciplinary action. For the purposes of these standards of practice, findings of sexual abuse, female genital mutilation, or sexual misconduct have mandatory penalties.

STANDARD 1: The LPN-Patient Relationship

For the purposes of the sexual abuse and sexual misconduct provisions in the HPA, an individual is considered to be an LPN's patient while receiving a professional nursing service provided by the LPN and for a minimum of one year from the last day professional nursing services were provided.

An LPN–patient relationship comes into existence when:

An individual is considered a patient when the LPN provides a professional nursing service, or when

- the LPN has issued billings or received payment in connection with a healthcare service provided to that patient,
- the LPN has contributed to a patient record or file for that patient, or
- the patient has consented to receive a professional nursing service to be provided by the LPN.

Sexual abuse:

1. An LPN must not engage in behaviour towards a patient that can be considered sexual abuse. A sexual relationship between an LPN and a patient is considered sexual abuse. Sexual intercourse or sexual touching as described in the definition of sexual abuse is considered sexual abuse.
 - A finding of sexual abuse results in permanent cancellation of the LPN's registration and practice permit with no opportunity to be reinstated.

Sexual misconduct:

2. An LPN must not engage in behaviour towards a patient that is objectionable or unwelcome, including acting in a manner, or making remarks of a **sexual nature**, that the LPN knows, or ought reasonably to know, will cause offence or humiliation or adversely affect the patient's health and well-being. This behaviour is considered sexual misconduct.
 - A finding of sexual misconduct will result in a minimum of suspension of a practice permit. A Hearing Tribunal will determine the length of the suspension and can impose more severe sanctions including cancellation of registration and practice permit.

When the LPN-patient relationship ends:

3. It is the LPN's responsibility to ensure that termination of the LPN-patient relationship is communicated to the patient; that the termination is documented at the time of discharged from care in the patient's record; and that a minimum of one year from the last day of providing professional nursing services has occurred before engaging in a sexual relationship with a former patient.
4. If the LPN has a sexual relationship with the patient before the one year is over, this behaviour will be considered sexual abuse and the LPN's registration and practice permit will be subject to cancellation.
5. Where applicable, an LPN must also ensure that any transfer of care is communicated to the patient and is documented in the patient's record.

When the LPN provides a professional nursing service (episodic care) to a patient:

There are circumstances where an LPN may provide nursing services to a patient for a particular health issue and neither the LPN nor the patient has the expectation of continuing care and an ongoing LPN-patient relationship. This is considered to be **episodic care**. The individual is not considered to be a patient *after* the completion of the episodic care. However, an LPN-patient relationship is formed *during* the provision of the episodic care. An LPN who engages in sexual activity as listed in the definitions of sexual abuse and sexual misconduct during the provision of episodic care will be considered to have committed sexual abuse or sexual misconduct.

6. The LPN providing episodic care must:
 - collect and document any relevant history;
 - assess and provide nursing interventions as appropriate;
 - inform the patient that the LPN will not provide continuing care beyond addressing the patient's defined healthcare need; and
 - document the nursing encounter on the patient's health record so that other care providers can access the documentation.

Although an individual is not considered to be a patient after the completion of the episodic care, sexual relations may still be considered unprofessional conduct with the sanctions to be determined by a Hearing Tribunal.

7. The LPN must weigh the following factors when considering engaging in sexual relations with an individual to whom they have provided episodic care:
 - the risk of a power imbalance;
 - the nature of the individual's health concern;
 - the type of healthcare provided by the LPN;
 - whether sufficient time has passed since providing the professional nursing service;
 - the extent to which the individual has confided personal or private information to the LPN; and
 - the vulnerability of the individual.

NOTE

An LPN who is uncertain about the appropriateness of entering into a sexual relationship with an individual to whom they have provided episodic care should consult with the CLPNA Professional Practice Team or their legal counsel.

STANDARD 2: Prohibited Sexual Conduct and Female Genital Mutilation

1. An LPN must not engage in the following conduct:
 - sexual abuse;
 - procurement or performance of female genital mutilation;
 - conduct that may result in a conviction for a **sexual criminal offence**; or
 - sexual misconduct.

Sexual abuse:

2. An LPN must not threaten, attempt, or engage, in any of the following conduct with a patient:
 - sexual intercourse;
 - genital to genital, genital to anal, oral to genital, or oral to anal contact between an LPN and a patient of that LPN;
 - masturbation of an LPN by, or in the presence of, a patient of that LPN;
 - masturbation of an LPN's patient by that LPN;
 - encouraging an LPN's patient to masturbate in the presence of that LPN; or
 - touching of a sexual nature of a patient's genitals, anus, breasts, or buttocks.

Female genital mutilation:

3. An LPN must not procure or perform the excision, infibulation, or mutilation, in whole or in part, of the labia majora, labia minora, clitoral hood or clitoris of a person, except
 - where a surgical or other procedure is performed by a regulated health professional
 - for the benefit of the physical health of the person, or
 - for the purpose of the person having
 - normal reproductive function,
 - normal sexual appearance, or
 - normal sexual function; or
 - where:
 - there is no resulting bodily harm to the person, and
 - the person is at least 18 years of age.

NOTE

A finding of sexual abuse, procurement or performance of female genital mutilation, or a conviction for a sexual criminal offence may result in permanent cancellation of the LPN's registration and practice permit with no opportunity to be reinstated.

Sexual Criminal Offences:

4. An LPN must not engage in conduct that may result in a criminal conviction for offences in the following sections of the *Criminal Code* (Canada);
 - section 151 (sexual interference)
 - section 152 (invitation to sexual touching)
 - section 153 (sexual exploitation)
 - section 153.1 (sexual exploitation of person with disability)
 - section 155 (incest)
 - section 162 (voyeurism)
 - section 162.1 (publication of an intimate image without consent)
 - section 163.1 (child pornography)
 - section 171.1 (making sexually explicit material available to child)
 - section 172.1 (luring a child)
 - section 172.2 (communication to commit a sexual offence against child)
 - section 173 (indecent acts)
 - section 271 (sexual assault)
 - section 272 (sexual assault with a weapon, threats to a third party or causing bodily harm)
 - section 273 (aggravated sexual assault)
 - section 286.1 (obtaining sexual services for consideration)
 - section 286.2 (material benefit from sexual services)
 - section 286.3 (sex trafficking)

Sexual misconduct:

5. An LPN must not:
 - make sexual comments or gestures toward a patient;
 - give and share sexually explicit content with a patient;
 - photograph or record anything of a sexual nature of a patient;
 - request details of a patient's sexual or personal history unless related to the patient's care; or
 - socialize or communicate with a patient for the purpose of pursuing a sexual relationship.

NOTE

A finding of sexual misconduct will result, at a minimum, in a suspension of a practice permit. A Hearing Tribunal will determine the length of the suspension and can impose more severe sanctions including cancellation of registration and practice permit.

STANDARD 3: Sexual Relations with Former Patients

Sexual relations between LPNs and former patients raise concerns about breach of trust and power imbalance. As provided in Standard 1, an individual is considered to be an LPN's patient for the purposes of the sexual abuse and sexual misconduct provisions in the HPA for a minimum of one year from the last day professional nursing services were provided. However, there are circumstances when it is *never* appropriate for the LPN to engage in a sexual relationship with a former patient.

1. Where the LPN provided nursing care as part of the patient's **psychotherapeutic treatment**, the LPN must never engage in a sexual relationship with a former patient. In these circumstances, a sexual relationship at any time between the LPN and a former patient would constitute sexual abuse as defined in the HPA, and a Hearing Tribunal will impose cancellation of registration and practice permit.
2. Where the LPN provided nursing interventions to a patient that are not considered psychotherapeutic treatment, such as giving information and providing advice to enhance personal development, providing emotional support or guidance on lifestyle choices, one year may still not be sufficient time for a sexual relationship with a former patient to be considered appropriate.
3. To determine the appropriateness of a sexual relationship between an LPN and a former patient, the LPN must weigh the following factors:
 - the nature of the patient's health issue;
 - the risk of a continuing power imbalance;
 - whether sufficient time has passed since providing the last professional nursing service, given the nature and extent of the nurse-patient relationship;
 - the length and intensity of the former LPN-patient relationship;
 - the extent to which the patient has confided personal or private information to the LPN; and
 - the vulnerability the patient has in the LPN-patient relationship.
4. For the purposes of Standard 3.2, a breach of this standard is not considered to be sexual abuse but may be considered unprofessional conduct with the sanctions to be determined by a Hearing Tribunal.

NOTE

An LPN who is uncertain about the appropriateness of entering into a sexual relationship with a former patient should consult with the CLPNA Professional Practice Team or their legal counsel.

STANDARD 4: Sexual Relations with Individuals Closely Associated with the Patient

1. Sexual relations between LPNs and individuals closely associated with the patient may also raise concerns about breach of trust and power imbalance. The LPN must weigh the following factors when considering engaging in sexual relations with a person closely associated with a patient:
 - the nature of the patient's health concern;
 - the type of healthcare provided by the LPN;
 - the length and intensity of the LPN-patient relationship;
 - the degree of emotional dependence the individual associated with the patient has on the LPN; and
 - the degree to which patient is reliant on the person closely associated with them.
2. A breach of this standard is not considered to be sexual abuse but may be considered unprofessional conduct with the sanctions to be determined by a Hearing Tribunal.

NOTE

An LPN who is uncertain about the appropriateness of entering into a sexual relationship with an individual closely associated with the patient or former patient should consult with the CLPNA Professional Practice Team or their legal counsel.

STANDARD 5: Providing Professional Nursing Services to Partners

1. For the purposes of the sexual abuse provisions in the HPA, a person receiving professional nursing services from an LPN is not considered to be a patient if the LPN is their **spouse**, their **adult interdependent partner**, or if the person was in an ongoing pre-existing sexual relationship with the LPN.
2. However, it may be considered to be unprofessional conduct for an LPN to provide professional nursing services to a spouse, adult interdependent partner or a person with whom they are in a pre-existing sexual relationship unless:
 - the care is considered personal care of the type that can reasonably be provided to family members, or
 - the professional nursing service was provided by the LPN to the individual in an emergency situation, and there was no reasonable opportunity to transfer care to another qualified healthcare professional.

STANDARD 6: Reporting

Mandatory reporting:

1. The following conduct by an LPN is subject to mandatory reporting:
 - in respect of the LPN themselves (*Self-reporting*);
 - a finding of unprofessional conduct,
 - a finding of **professional negligence**,
 - a criminal charge, and
 - a **criminal conviction**;
 - in respect of other **regulated health professionals** (Reporting other regulated health professionals);
 - sexual abuse
 - sexual misconduct, and
 - procurement or performance of female genital mutilation; and
 - in respect of unregulated health providers (*Reporting unregulated health providers*),
 - abuse as defined in sections 1(2) and 1(3) of the *Protection for Persons in Care Act*.

Self-Reporting by LPNs:

2. An LPN must report, in writing, the following decisions made against them to the CLPNA Registrar as soon as reasonably possible:
 - a finding of unprofessional conduct made by another regulatory college in Alberta that the LPN is a regulated member of;
 - the LPN must also provide a copy of that decision to any other regulatory college they are registered with;
 - a finding of unprofessional conduct from regulatory colleges of a similar profession in other jurisdictions;
 - the LPN must also provide a copy of the decision to the CLPNA Registrar;
 - a finding of professional negligence made against the LPN; and
 - any charges and convictions for a **criminal offence** on or after April 1, 2019.

Reporting other regulated health professionals:

3. An LPN must report the conduct of other regulated health professionals if, in the course of the LPN acting in their professional capacity, the LPN has **reasonable grounds** to believe that the conduct of another regulated member of any college constitutes sexual abuse or sexual misconduct. The LPN must report the conduct to the complaints director of that regulated member's profession.

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Reporting unregulated health providers:

4. An LPN must also report the following:
 - if an unregulated healthcare provider's conduct constitutes sexual abuse or sexual misconduct, the LPN must report that conduct to the healthcare provider's employer or the police; and
 - LPNs are required to comply with the mandatory reporting provisions in other legislation such as the *Protection for Persons in Care Act* and HPA and under this Standard of Practice.

Failure to report:

5. If an LPN fails to comply with mandatory reporting provisions, a Hearing Tribunal may find that the LPN engaged in unprofessional conduct.

STANDARD 7: Education on Sexual Abuse and Sexual Misconduct

The HPA requires all health profession regulatory colleges establish a **Patient Relations Program**. The Patient Relations Program includes, but is not limited to, education for regulated health professionals on measures for preventing and addressing sexual abuse of and sexual misconduct towards patients by regulated members.

1. An LPN must:
 - successfully complete any education requirements established by the CLPNA's Patient Relations Program for LPNs regarding preventing and addressing sexual abuse of and sexual misconduct towards patients by LPNs and other regulated health professionals; and
 - apply educational guidelines established by the CLPNA regarding the conduct of LPNs towards patients.

STANDARD 8: Other Types of Boundary Violations

Other Types of LPN Boundary Violations

In addition to Standards 1 to 7, which focus on sexual abuse and sexual misconduct, the CLPNA requires that all types of boundary violations be avoided. For example, entering into a close personal relationship with a patient can be a boundary violation. All boundary violations may give rise to allegations and findings of unprofessional conduct.

1. An LPN must maintain professional boundaries in the LPN-patient relationship at all times. Boundary violations:
 - can be related to behaviours between an LPN and a patient in areas such as cultural insensitivity, gift giving or receiving, emotional or financial abuse, and
 - may occur physically and verbally.
2. An LPN must maintain professional boundaries with their colleagues and co-workers. Boundary violations:
 - can be related to behaviours between an LPN and a co-worker in areas such as an incident or repeated incidents of objectionable or unwelcome conduct, behaviour or remarks and sharing of unwanted sexually explicit content of a sexual nature by an LPN towards a colleague that the LPN knows or ought reasonably to know will or would cause offence or humiliation.

DEFINITIONS

For the purposes of these Standards of Practice, the following words and phrases mean:

Adult Interdependent Partner:

A personal partnership as defined in the *Adult Interdependent Relationships Act*: In Alberta, two people are considered adult interdependent partners if they have made a legal agreement to become partners (i.e., share their lives, are emotionally committed to one another, and function as an economic and domestic unit); they have lived together for a continuous period of three years or more; or if they have lived together for less than three years but are in a relationship of some permanence, and there is a child of the relationship by either birth or adoption.

Criminal Offence:

A criminal offence is any offence that would appear on a criminal record check, including offences under

- (i) the *Criminal Code* (Canada);
- (ii) the *Cannabis Act* (Canada);
- (iii) the *Controlled Drugs and Substances Act* (Canada);
- (iv) the *Firearms Act* (Canada);
- (v) Parts III and IV of the *Food and Drugs Act* (Canada);
- (vi) the *National Defence Act* (Canada), where the offence is prosecuted by indictment or is a service offence for which the offender was punished by
 - (A) a fine of more than \$5000,
 - (B) detention for more than 6 months,
 - (C) dismissal from His Majesty's service,
 - (D) imprisonment for more than 6 months, or
 - (E) a punishment that is greater than imprisonment for less than 2 years in the scale of punishments set out in section 139(1) of the *National Defence Act*;

Episodic Care:

Episodic care is defined as an encounter with a patient for a defined professional nursing service, where neither the LPN nor the patient has the expectation of continuing care and an ongoing LPN-patient relationship.

Female Genital Mutilation (FGM):

As defined in section 1(1)(m.1) of the *Health Professions Act*, female genital mutilation is the excision, infibulation or mutilation, in whole or in part, of the labia majora, labia minora, clitoral hood or clitoris of a person, except where valid consent is given, and

- (i) a surgical or other procedure is performed by a regulated member under this Act for the benefit of the physical health of the person or for the purpose of that person having normal reproductive functions or normal sexual appearance or function; or
- (ii) the person is at least 18 years of age and there is no resulting bodily harm.

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Licensed Practical Nurse (LPN):

A person registered on a register listed in Section 2 of the Licensed Practical Nurses Profession Regulation or a former member of CLPNA.

Patient:

For the purposes of a complaint made in relation to sexual abuse, sexual misconduct, or female genital mutilation, patient is defined in these Standards of Practice as an individual to whom the nurse provides a professional nursing service. See Standard 1 for other situations where an individual may be considered a patient.

Patient Relations Program:

A mandatory program required by the *Health Professions Act* that must include, in addition to other things, education for regulated health professionals on measures for preventing and addressing sexual abuse of and sexual misconduct towards patients by regulated members.

Procurement (of FGM):

To persuade, induce, prevail upon, facilitate, or cause a person to undergo female genital mutilation. However, an LPN does not procure female genital mutilation by only providing advice in respect of the excision or infibulation of the labia majora, labia minora, clitoral hood or clitoris of a person where the advice is in respect of

- potential benefits to the physical health of the person;
- obtaining normal reproductive or sexual function; or
- obtaining normal sexual appearance.

Professional Nursing Service:

A professional service as defined in the *Health Professions Act* means a service that comes within the practice of a regulated profession and for LPNs includes the application of nursing knowledge, skills and judgment to assess patients' needs and the provision of nursing care for patients and families.

Psychotherapeutic Treatment:

Interventions intended to treat the underlying condition or to provide ongoing support and guidance to an individual with a substantial disorder of thought, mood, perception, orientation or memory that grossly impairs the individual's judgment, behaviour, capacity to recognize reality, or ability to meet the ordinary demands of life.

Reasonable Grounds:

There is enough credible evidence to lead a person of ordinary and prudent judgment to the suspicions and belief that he or she holds.

Sexual Abuse:

As defined in section 1(1)(nn.1) of the *Health Professions Act*, sexual abuse is the threatened, attempted or actual conduct of a regulated health professional towards a patient that is of a sexual nature and includes any of the following conduct:

- (ii) sexual intercourse between an LPN and a patient of that LPN;
- (iii) genital to genital, genital to anal, oral to genital, or oral to anal contact between an LPN and a patient of that LPN;
- (iv) masturbation of an LPN by, or in the presence of, a patient of that LPN;
- (v) masturbation of an LPN's patient by that LPN;
- (vi) encouraging an LPN's patient to masturbate in the presence of that LPN;
- (vii) touching of a sexual nature of a patient's genitals, anus, breasts or buttocks by an LPN.

Sexual Criminal Offence:

A conviction under the following sections of the *Criminal Code* (Canada) is a sexual criminal offence: sections 151, 152, 153, 153.1, 155, 162, 162.1, 163.1, 171.1, 172.1, 172.2, 173, 271, 272, 273, 286.1, 286.2 or 286.3. A conviction for a sexual criminal offence may result in permanent cancellation of a practice permit.

Sexual Misconduct:

As defined in section 1(1)(nn.2) of the *Health Professions Act*, sexual misconduct includes:

- an incident or repeated incidents of objectionable or unwelcome conduct;
- behaviour; or
- remarks

of a sexual nature by an LPN towards a patient that the LPN knows or ought reasonably to know will or would cause offence or humiliation to the patient or adversely affect the patient's health and well-being but does not include sexual abuse.

Sexual Nature:

As defined in section 1(1)(nn.3) of the *Health Professions Act*, sexual nature does not include any conduct, behaviour or remarks that are appropriate to the service provided.

Spouse:

A spouse of an LPN is the person legally married to the LPN, except

- a spouse who is living separate and apart from the LPN if
 - o the LPN and spouse have separated in accordance with a written separation agreement; or
 - o their support obligations and family property have been dealt with by a court order.

Legislation and Regulations

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Appendix 1

Relevant Sections of the *Health Professions Act*

55(1) Within 30 days after being given a complaint or treating information as a complaint, the complaints director must give notice to the complainant of the action taken with respect to it.

(1.1) In addition to complying with subsection (1), the complaints director must, immediately after receiving a notice or complaint alleging the procurement or performance of female genital mutilation or treating information as a complaint alleging the procurement or performance of female genital mutilation, report the matter to a law enforcement agency.

(1.2) If a regulated member is convicted of a criminal offence related to the procurement or performance of female genital mutilation, the complaints director must, immediately after being informed of the conviction, notify the registrar of the regulated member's conviction. (1.3) The registrar must cancel a regulated member's practice permit and registration immediately after receiving a notification under subsection (1.2) or section 127.1(4) of the regulated member's conviction.

(1.3) The registrar must cancel a regulated member's practice permit and registration immediately after receiving a notification under subsection (1.2) or section 127.1(4) of the regulated member's conviction.

(2) The complaints director

- (a) subject to subsections (2.1) and (2.2), may encourage the complainant and the investigated person to communicate with each other and resolve the complaint,
- (a.1) may, with the consent of the complainant and the investigated person, attempt to resolve the complaint,
- (b) subject to subsections (2.1) and (2.2), may make a referral to an alternative complaint resolution process under Division 2,

(2.2) Subsection (2)(a), (a.1) and (b) do not apply in respect of a notice or complaint alleging the procurement or performance of female genital mutilation.

96.2(1) If a governing body of a similar profession in Canada or the United States has determined that the conduct of a regulated member in that other jurisdiction constitutes unprofessional conduct, the registrar must

- (a) cancel the regulated member's practice permit and registration if, in the opinion of the registrar, the conduct that decision was based on constitutes the procurement or performance of female genital mutilation or constitutes sexual abuse, or
- (b) suspend the regulated member's practice permit for a specified period of time if, in the opinion of the registrar, the conduct that decision was based on constitutes sexual misconduct.

(2) If the registrar is satisfied that the registrar has sufficient evidence that a governing body of a similar profession in another jurisdiction, other than in Canada or the United States, has determined that the conduct of a regulated member in that other jurisdiction constitutes unprofessional conduct, the registrar must

continued

- (a) cancel the regulated member's practice permit and registration if, in the opinion of the registrar, the conduct that decision was based on constitutes the procurement or performance of female genital mutilation or constitutes sexual abuse, or
- (b) suspend the regulated member's practice permit for a specified period of time if, in the opinion of the registrar, the conduct that decision was based on constitutes sexual misconduct.

127.2(1) If in the course of a regulated member acting in the regulated member's professional capacity the regulated member has reasonable grounds to believe that the conduct of another regulated member of any college constitutes the procurement or performance of female genital mutilation or constitutes sexual abuse or sexual misconduct, the regulated member must report that conduct to the complaints director.

(2) A report under subsection (1) is not required if information respecting the conduct of that other regulated member was obtained in the course of the regulated member providing professional services to that other regulated member.

133.1(1) A council must develop and propose standards of practice

- (a) setting out who is considered to be a patient for the purposes of the college's regulated members,
- (b) respecting when a sexual relationship may occur between a regulated member or former member and a patient, and
- (c) respecting when a person who is a spouse of or in an adult interdependent relationship with a regulated member may also be a patient.

(2) Factors that must be considered by a council under subsection (1)(b) and (c) include

- (a) whether there is or was a power imbalance between the regulated member and the patient, and if any existed, whether there is minimal risk of a continuing power imbalance between the regulated member and the patient,
- (b) the nature and extent of the professional relationship between the regulated member and the patient, and if relevant, whether sufficient time has passed since the last time professional services were provided to the patient by the regulated member,
- (c) whether the regulated member knew or ought to have known that the patient is or was the regulated member's patient at the time the sexual relationship was established,
- (d) whether the regulated member has provided the patient with psychotherapeutic treatment, and
- (e) whether the patient is in need of urgent care.

(3) A college must provide, for review and comment, a copy of the proposed standards of practice developed under this section to

- (a) its regulated members,
- (b) the Minister, and
- (c) any other persons the council considers necessary.

(4) After a college has reviewed and considered comments received from a review described in subsection (3), and made any amendments that the college considers necessary to the proposed standards of practice, the council must submit any standards of practice developed under this section to the Minister for final approval.

(5) A council may not adopt any standards of practice under this section unless the standards of practice have been approved by the Minister.

(6) The Minister may set timelines for the development, proposal, review, comment and approval of standards of practice developed under this section.

(7) The Regulations Act does not apply to standards of practice adopted under this section.

(8) A college must ensure that copies of standards of practice adopted under this section are readily available to the public and regulated members, and the copies may be distributed in the manner directed by the council.

(9) Standards of practice referred to in subsection (1) must be adopted by a council and come into force on or before March 31, 2019.

(10) On or after April 1, 2019, the process set out in section 133 applies to proposed amendments to standards of practice adopted by a council under this section.

133.2(1) A council must develop and propose standards of practice respecting female genital mutilation.

(2) Section 133 applies in respect of the adoption of standards of practice under this section as if the standards of practice were adopted under section 133.

(3) Standards of practice referred to in subsection (1) must be adopted by a council within 12 months after the later of

- (a) the coming into force of this section, and
- (b) the coming into force of the schedule to this Act that governs the college



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