



# Standards of Practice for Health Care Aides on Sexual Abuse, Sexual Misconduct, and Female Genital Mutilation

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College of LPNs and HCAs of Alberta

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## INTRODUCTION

The College of Licensed Practical Nurses and Health Care Aides of Alberta (CLHA) has the authority under the *Health Professions Act* (HPA) to carry out its activities and govern Health Care Aides (HCAs)<sup>1</sup> in a manner that protects and serves the public interest. Part of protecting the public involves informing HCAs that sexual abuse, sexual misconduct, and female genital mutilation (FGM) are never acceptable practices.

Under the HPA, the CLHA is required to have standards of practice describing the situations when an HCA is considered to have **engaged** in “sexual abuse,” “sexual misconduct,” or “**procuring**” FGM. This **unprofessional conduct** requires mandatory **penalties** under the HPA, which may include permanently cancelling a practice permit. This means that if you are found guilty of sexual abuse, sexual misconduct, or procuring or performing FGM, you may never be able to practice as an HCA again.

### Sexual abuse and sexual misconduct

Under the HPA and these standards of practice, HCAs must not have a sexual relationship with a **client**.<sup>2</sup> There are some situations where a sexual relationship with a client will not be considered sexual abuse. These situations include:

- a) when there is a **pre-existing** and **ongoing sexual relationship** between the HCA and client;
- b) at least one year has passed since the client last received care from the HCA; or
- c) if the HCA is the only person working on site, and they have a relationship with the client (e.g., in some rural or remote areas).

Even in these situations, a sexual relationship with a client or a **former client** may still be a professional boundary violation under the *Standards of Practice for Health Care Aides on Professional Boundaries*.

### Female genital mutilation (FGM)

HCAs must not perform, participate, or help with FGM as stated in the HPA and these standards of practice.

More information can be found in the *Standards of Practice for Health Care Aides on Professional Boundaries* and the *Health Care Aide Professional Responsibility and Accountability* policy.

Terms found in the glossary are **bolded** where they appear for the first time in this document.

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<sup>1</sup> In this document, “HCA(s)” has the same meaning as “regulated member(s)” in the *Health Professions Act*.

<sup>2</sup> The term “client” is used throughout this document in place of the term “patient.”

## STANDARD 1: SEXUAL ABUSE, SEXUAL MISCONDUCT, AND FEMALE GENITAL MUTILATION

HCA's will not

- a) engage in sexual abuse;
- b) engage in sexual misconduct; or
- c) perform, participate, or help with female genital mutilation.

### Sexual abuse

1.1. As defined in the HPA, an HCA engages in sexual abuse when the HCA threatens to, attempts to, or does engage in conduct towards a client that is of a **sexual nature** and includes any of the following actions:

- a) sexual intercourse between the HCA and the client;
- b) genital to genital, genital to anal, oral to genital, or oral to anal contact between the HCA and the client;
- c) masturbation of the HCA by, or in the presence of, the client;
- d) masturbation of the client by the HCA;
- e) encouraging the client to masturbate in the presence of the HCA; or
- f) touching of a sexual nature of the client's genitals, anus, breasts, or buttocks by the HCA.

### Sexual misconduct

1.2. As defined in the HPA, an HCA commits sexual misconduct when the HCA takes any action or repeated actions of unacceptable conduct, unacceptable behaviour, or says something of a sexual nature towards a client that the HCA knows or **should reasonably know** would cause **offence** or **humiliation** to the client or impact the client's health and well-being.

**NOTE:** *These standards of practice use plain language to help HCA's better understand the definitions of "sexual abuse" and "sexual misconduct" in the HPA.*

### Female genital mutilation

1.3. As defined in the HPA, an HCA procures female genital mutilation when the HCA performs, participates, or helps with 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

- a) a surgical or other procedure is performed by a regulated member under the HPA 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
- b) the person is at least 18 years old, and there is no resulting bodily harm.

## **Unprofessional conduct towards any client may be a professional boundary violation**

1.4. The actions described in this standard of practice against any person, including former clients, may also be a **professional boundary violation**. More information about boundary violations can be found in the *Standards of Practice for Health Care Aides on Professional Boundaries*.

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## STANDARD 2: HCA-CLIENT RELATIONSHIP

An HCA must know when a client relationship begins and ends.

### Beginning of an HCA-client relationship

2.1. An HCA-client relationship begins when:

- a) the client **consents** to receiving **professional services** from the HCA,
- b) the HCA provides professional services to the client,
- c) the HCA adds information or charts in the client record, or
- d) the HCA bills the client for the service,

whichever happens first.

### Ending an HCA-client relationship

2.2. For these standards of practice, an individual stops being a client and becomes a former client of the HCA when at least one year has passed since:

- a) the client consented to receiving professional services from the HCA,
- b) the HCA provided professional services to the client,
- c) the HCA added information to the client record, or
- d) the HCA billed the client for the service,

whichever happens last.

## STANDARD 3: EXEMPTED SEXUAL RELATIONSHIPS

Except where **exempted** under this standard of practice, any **sexual relationship** between an HCA and a client is sexual abuse. Although an exempted relationship will not be considered sexual abuse, it may still be a professional boundary violation depending on the circumstances.

### Sexual relationships with former clients

3.1. If one year has passed since a client relationship ended, the client is now considered a former client. If a sexual relationship forms between an HCA and a former client, it is not sexual abuse or sexual misconduct, but it may still be a professional boundary violation.

### Spousal relationships

3.2. A sexual relationship between an HCA and a client is not sexual abuse or sexual misconduct if the client is in a pre-existing **spousal relationship** with the HCA before the professional service was provided, but it may still be a professional boundary violation.

### Pre-existing sexual relationships

3.3. A sexual relationship between an HCA and a client is not sexual abuse or sexual misconduct if the sexual relationship is a pre-existing and ongoing sexual relationship, but it may still be a professional boundary violation.

### Exemption for practice where avoiding sexual relationships is impossible or difficult

- 3.4. A sexual relationship between an HCA and a client is not sexual abuse if:
- a) it is **impossible or difficult** for the client to receive professional services from a person other than the HCA, and
  - b) it is unlikely that there will be a **power imbalance** between the HCA and the client.

**NOTE:** HCAs who have questions about these standards of practice should contact the CLHA Practice Team.

## STANDARD 4: SUPPORTING FEMALE GENITAL MUTILATION CLIENTS

When an HCA knows that a client has had FGM in the past, the HCA must provide **trauma-informed care**.

**NOTE:** *As stated under Standard 1(c), an HCA must not perform, participate, or help with FGM. A violation of Standard 1(c) results in the mandatory cancellation of an HCA's practice permit. Performing FGM is a **criminal offence** of aggravated assault where (a) FGM is performed on a person under 18 years of age, OR (b) the performance of FGM results in **bodily harm**.*

### Trauma-informed care approach

4.1 An HCA must provide trauma-informed care to clients who have had FGM. A trauma-informed care approach includes care that:

- a) is **holistic** and avoids judging or making inappropriate statements about FGM;
- b) is respectful, sensitive, and non-judgmental;
- c) uses **open-ended questions** and **active listening**;
- d) avoids using words that can make the client feel **victimized**, blamed, or shamed;
- e) uses words the client feels comfortable with;
- f) avoids showing shock, disgust, or anger during communication with the client;
- g) keeps the privacy and **dignity** of the client during interactions;
- h) provides the client with resources as directed by another health care professional; and
- i) uses **gender-neutral** and **culturally sensitive** terms when interacting with the client.

## DEFINITIONS

This glossary explains some of the terms used in these standards.

**Active listening:** when you pay attention to what is being communicated verbally and nonverbally, focusing not just on the content of the message but also on the person's emotions and body language.

**Adult interdependent partner:** 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 one group); they have lived together for 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.

**Bodily harm:** an injury to a person that interferes with their health or comfort.

**Client:** an individual to whom an HCA provides a professional service.

**Common-law partner:** a person who lives with the HCA and meets at least one of the following criteria:

- the HCA and the person have been in a relationship for at least twelve months, or
- the person is the parent of the same child as the HCA.

**Consent:** agreement to what is being done by another person, such as the client approving of the proposed actions or care of the HCA and the healthcare team.

**Criminal offence:** an action prohibited by the Criminal Code or another law of Canada that establishes the action as punishable by the law as a criminal offence or a serious service offence.

**Culturally sensitive:** to be aware, understand, and respect the values and beliefs of other cultures.

**Dignity:** the right of a person to be valued and respected.

**Engaged:** to be involved in something.

**Exempted:** to not have to do something others must do.

**Excision:** the action of removing or cutting something out during surgery.

**Former client:** if one year has passed since a client relationship ended, the client is now considered a former client

**Gender-neutral:** applicable to, common to, or suitable for any gender.

**Holistic:** care that addresses the physiological, psychological, sociological, emotional, relational, and spiritual aspects of human beings.

**Humiliation:** to make someone feel ashamed or embarrassed.

**Impossible or difficult:** due to the situation or setting, a client has no choice but to receive care from a specific HCA, or it would be very hard to receive care from a different HCA.

**Infibulation:** “the narrowing of the vaginal opening through the creation of a covering seal. The seal is formed by cutting and repositioning the labia minora, or labia majora, sometimes through stitching, with or without removal of the clitoral prepuce/clitoral hood and glans.”

**Mutilation:** destroying or damaging a body part of a person.

**Offence:** when someone feels hurt or upset about something done to them by someone else.

**Ongoing sexual relationship:** an agreed relationship of a sexual nature between an HCA and another individual, where the relationship involves regular sexual activities, and both the HCA and the person know that the relationship has not ended.

**Open-ended questions:** questions that cannot be answered using “yes” or “no.”

**Penalties:** punishment or discipline for breaking a rule, standard, or law.

**Power imbalance:** when an HCA has more power or influence than their client because of the client’s vulnerability and the professional knowledge an HCA has. When a power imbalance is present, the client will often defer to the professional’s expertise.

**Pre-existing:** to exist at an earlier time than something.

**Procuring:** performing, participating, or helping in any way with an FGM procedure for or to someone.

**Professional boundary violation:** breaching professional behavioural expectations that create and keep a relationship safe for the client and the HCA.

**Professional service:** defined in the HPA as a service that falls within the practice of an HCA. This includes one or more of the following:

- assist and support activities of daily living to provide basic personal care and health services,
- participate in client education and promotion of client wellness across the lifespan,
- assist in teaching a Health Care Aide certificate program approved by the Council,
- teach Health Care Aide techniques and practices to practitioners in the workplace, and
- provide restricted activities provided by the regulation.

**Sexual nature:** any action, comment, or behaviour may be considered sexual nature if it includes sounds, words, images, or gestures that a reasonable person would understand as sexual. Sexual nature does not include touching, behaviour, or comments of a clinical nature that are appropriate to the professional service being provided.

**Sexual relationship:** a relationship between two people that involves sexual, physical, or emotional intimacy.

**Should reasonably know:** the knowledge an HCA should have depending on the situation.

**Spousal relationship:** is a common-law partner, a spouse, or an adult interdependent partner.

**Spouse:** a person legally married to an HCA. This does not include a spouse living separately and apart from the HCA if the HCA and the spouse have separated with a written separation agreement or have had their support obligations and family property division determined under a court order.

**Trauma-informed care:** an approach to care that includes communication about the physical, social, and emotional impacts of trauma on clients (and their families).

**Unprofessional conduct:** actions and behaviours that reflect poorly on the HCA profession and may result in disciplinary action under the HPA.

**Victimized:** when someone is mistreated or taken advantage of.

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