

# **Professional Boundaries and Sexual Misconduct: A Guide for Physiotherapists and the Public**

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This statement has been prepared to provide guidance to physiotherapists and to inform the public of the expected standard of conduct in situations involving a potential breach of a professional boundary or actual sexual misconduct by a physiotherapist. It must be read in conjunction with the *Physiotherapists Registration Act (Tas.) 1999* (the Act) and other relevant policies or statements used by the Board from time to time.

## ***The role of the Physiotherapist's Registration Board of Tasmania***

The main function of the Physiotherapists Registration Board of Tasmania (the Board) is to act in the public interest, which means protecting the public from unqualified or incompetent physiotherapists and to ensure that public health is promoted. All physiotherapists practising in Tasmania must be registered with the Board.

One specific role of the Board is to receive, assess and investigate complaints about the professional conduct of registered physiotherapists. Other roles include monitoring the standard and provision of services provided by physiotherapists and prosecuting offences against the Act.

## ***The physiotherapist/patient relationship***

The public and health professions in general have an expectation that the therapeutic context in which physiotherapy is provided is a safe one for patients. The appropriate professional relationship between a physiotherapist and a patient is one where the health of the patient is the primary concern. It is the responsibility of physiotherapists to ensure that they behave ethically at all times and maintain professional boundaries with their patients, their immediate family members, carers and significant others. Professional boundaries are legal and interpersonal limits deemed appropriate by members of the same profession who are of good repute and competence.

The physiotherapist/patient relationship is not one of equality. It relies upon the ability of the patient and their family to have absolute confidence and trust in the physiotherapist. Most patients perceive a power differential in this relationship simply by seeking the assistance and guidance of a physiotherapist. This power imbalance can lead some patients to depend emotionally on their physiotherapist. Accordingly, they are often vulnerable, especially when their physiotherapy care makes it necessary for them to reveal themselves intimately, physically or emotionally to their physiotherapist. Any exploitation of this relationship for the gratification of the physiotherapist is an abuse of power and is outside the boundaries of the therapeutic relationship. A sexual or improper emotional relationship developed in the course of treatment, even if the patient is a consenting adult, is also likely to cloud the physiotherapist's judgment and make him or her less objective.

## ***Sexual relationships between physiotherapists and their patients***

If a physiotherapist abuses a patient's trust by crossing the professional boundary, he or she is acting unprofessionally and is liable to investigation and disciplinary action by the Board.

Allegations of indecent assault can also be reported to the police for criminal investigation and prosecution.

The Board adopts and applies the standard expressed by the Medical Council of Tasmania in that it is professional misconduct for a physiotherapist to engage in a sexual relationship with a current patient or to engage in such a relationship with a person who was a current patient at the time of the alleged conduct. The Board takes the view that in certain circumstances it may also be professional misconduct for a physiotherapist to enter into a sexual relationship with a former patient. In the case of a current patient, the nature and duration of the physiotherapist/patient relationship together with any evidence of breach of trust, misuse of power and exploitation of vulnerability will determine the severity of any sanction to be applied. In the case of a former patient, the same factors as described above will determine whether any subsequent personal relationship is ethically appropriate.

Consent by the patient to the sexual or improper emotional relationship is not an acceptable defence to an allegation of professional misconduct or unprofessional conduct in such circumstances.

The termination of the professional relationship between the physiotherapist and the patient prior to the commencement of a sexual or improper emotional relationship is not of itself determinative of a lack of professional misconduct. However, it may be raised as an exonerating or mitigating factor by the physiotherapist. In all cases, the test is whether the sexual or improper emotional relationship exploited the client and put their health at risk. A lack of actual damage suffered by the patient as a result of the relationship may be relevant. However, the key determinative factor will be the presence of a reasonable risk of jeopardising the patient's interests.

Other relevant factors in determining the liability of a physiotherapist in professional misconduct in these circumstances will include:

- Whether the complaint was made by the patient or someone with an interest in retribution, personal spite or malice against the patient such as a disgruntled spouse, partner or former lover of the patient;
- Where the length of time, venue and circumstances of the professional relationship between the physiotherapist and patient were, on the facts, nothing more than a vehicle for introducing the parties; and
- Whether the sexual relationship developed in the context of a small or remote community where there may be very real barriers to interacting outside of a professional relationship.

If a patient seeks a sexual or improper emotional relationship with his or her physiotherapist, the physiotherapist must inform the patient that it cannot happen. The physiotherapist must maintain a strict boundary between actions taken for the good of the patient and actions intended to gratify their own sexual desires. It will therefore often be necessary for the physiotherapist to terminate the professional relationship and advise the patient to seek another physiotherapist in such situations.

### ***The signs of good physiotherapy practice***

Patients should be able to expect the following professional behaviours from physiotherapists:

- A physiotherapist should always explain to their patient what is about to occur in the physiotherapy examination and ensure they understand and agrees to the procedure;
- A physiotherapist should allow the patient to undress for examination in private and, where appropriate, should provide suitable covering during any examination;

- A physiotherapist should always ask the patient's permission if anyone else, including physiotherapy students, are to be present during an examination; and
- A physiotherapist should treat all patients equally regardless of their sexual orientation.

A physiotherapist should not:

- Discuss his or her own sexual problems or desires with a patient;
- Make unnecessary comments about a patient's body or clothing or make other sexually suggestive comments;
- Ask unnecessary questions about sexual performance or sexual history unless this is relevant to the patient's problem and the physiotherapist has explained why it is necessary to discuss the matter including the possible consequences to the proposed treatment in not providing this information;
- Making sexual advances or attempting to enter into a sexual relationship with a current patient;

Make unnecessary or inappropriate physical contact with a patient's body, including touching of any part of the patient's body when the patient has indicated that he or she does not want to be touched.

### ***What are the signs of crossing the professional boundary?***

Professional boundaries are crossed when any interaction of a sexual nature occurs between a physiotherapist and a patient. This does not include behaviour within the normal scope of practice such as non-erotic physical contact intended to promote healing, supportive physical gestures and social contact that does not confuse the patient or lead them to believe that a sexual relationship is possible.

Some of the danger signs include:

- Patients requesting or receiving non-urgent appointments at unusual hours, especially when other staff are not present;
- Patients or physiotherapists inviting each other out;
- Patients revealing intimate details or physiotherapists requesting intimate details of their patient's life during a professional consultation;
- The use of inappropriate language.

### ***Reporting a sexual relationship between a physiotherapist and a patient***

If a patient feels uneasy or uncomfortable about the conduct of his or her physiotherapist, it should be regarded as a warning sign that something may be wrong and that professional boundaries may have been crossed.

Patients should trust their own judgment, respecting their own feelings and when in doubt talk to someone – a friend, family member or other health care professional. Raising the issue with the physiotherapist concerned may be a useful step in helping to clarify the situation or to prevent a problem from progressing.

It is simple to contact the Board to ask for help if there is a belief that professional boundaries have been crossed. The Board's telephone number is 03 6224 9331 or the complaints may be sent in writing to GPO Box 792, Hobart Tas 7001 8007.

A physiotherapist who becomes aware that another practitioner has behaved improperly and unprofessionally by engaging in sexually exploitative or abusive behaviour toward a current or former patient should take appropriate action including reporting the behaviour to the Board.

## **Complaints procedure**

All formal complaints about physiotherapists must be made to the Board in writing clearly identifying the practitioner and the complainant and providing appropriate particulars. Any complaints made to the Board are investigated in a serious and confidential way.

Following a preliminary investigation, the Board may determine that the complaint will be heard before a disciplinary committee as described in the Act. The disciplinary committee undertakes a full investigation and, once concluded, prepares a report outlining its findings and recommendations (including recommendations as to costs) for the Board. The Board considers this report as well as any subsequent submissions made by the physiotherapist in question. The Board then has the discretion to take any actions including those specifically described in s.48 of the Act.

In serious cases of unprofessional conduct or professional misconduct involving a breach of professional boundaries the Board has the power to cancel or suspend a physiotherapist's registration. In less serious cases, the Board may impose conditions, limitations or restrictions on the physiotherapist's registration; impose a fine; require the physiotherapist to undergo counselling or undertake further education; caution the physiotherapist or issue a reprimand.

## **Acknowledgements**

- *Statement on Sexual Relationships between Health Practitioners and Their Patients*, Physiotherapists Board of Queensland, October 2005.
- *Medical Practitioners & Sexual Misconduct*, Medical Council of Tasmania Policy Paper No.4, February 2001.

**More information about the Board can be found at the Board's website:  
[www.physioboard.tas.gov.au](http://www.physioboard.tas.gov.au).**