

COMMUNICATION WITH PATIENTS



Guideline G-001

Patient Relations Committee

Approved by Council: December 4, 2015 (replaced current G-001: Prevention of Sexual Abuse of Patients)

Amended: September 15, 2016, February 6, 2018

Note to readers: In the event of any inconsistency between this document and the legislation that affects chiropractic practice, the legislation governs.

INTENT

To advise members of the importance of communication with patients as a fundamental component of the doctor/patient relationship.

OBJECTIVES

To emphasize the importance of:

- verbal and non-verbal communication with the patient in the doctor/patient relationship;
- effectively communicating and touching a patient in a sensitive, therapeutically and culturally appropriate manner;
- avoiding any boundary crossings and grooming behaviour and preventing any sexual abuse of a patient.

DESCRIPTION OF GUIDELINE

Proper communication between the member and a patient is essential in establishing a trusting doctor/patient relationship. The following guideline describes the importance of appropriate communication in all aspects of the doctor/patient relationship.

Verbal Communication

A member can help enhance the trust and care in the doctor/patient relationship by using appropriate communication practices in all verbal interactions with the patient at all times. A member shall ensure that the way he/she verbally conveys information to the patient is understandable and comfortable for the patient, by:

- using language associated with chiropractic care that is clear and comprehensible to the patient;
- using charts and diagrams to help explain elements of chiropractic care and overcome any conceptual difficulties;

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- being particularly sensitive to patients with any language difficulties, and using an interpreter when necessary;
- talking directly to a patient when working with an interpreter or any support staff;
- encouraging the patient to ask any questions to clarify any misunderstandings and providing clear and concise answers;
- being honest, straightforward and tactful;
- demonstrating respect and empathy for the patient;
- acknowledging and legitimizing any fears, embarrassment or discomfort of the patient; and
- avoiding any misunderstandings by asking the patient to verify the intended message, and if appropriate, asking the patient to repeat it in his/her own words.

Non-Verbal Communication

The non-verbal component of communication can convey a great deal to patients at all times. A member shall ensure they use appropriate non-verbal communication with patients, by:

- maintaining appropriate eye contact with the patient;
- adopting appropriate facial expressions and body language that are consistent with the verbal communication;
- listening attentively to the patient; and
- acknowledging the communication from the patient.

Professional verbal and non-verbal communication with the patient can greatly enhance the doctor/patient relationship by:

- assisting the patient in making informed health care decisions;
- increasing the patient's confidence in the member;
- creating an environment that is relaxed, cooperative and avoids conflict; and
- increasing the patient's understanding of the care provided.

Communication Relating to Touching for Examination and Treatment

Members are reminded that procedures requiring touching of the patient may be open to misinterpretation. Ensuring that the patient understands at all times what is being done and why will greatly enhance the doctor/patient relationship.

A member shall use professional and appropriate care when touching a patient, by:

- obtaining proper consent consistent with Standard of Practice S-013: Consent, which includes an explanation of why, where and when the patient is to be touched and an informed agreement from the patient, prior to touching a patient;
- continuously checking for the patient's level of understanding and consent throughout the care provided;
- acknowledging that consent to touching may be withdrawn at any time during a procedure;
- providing reassurance and explanations during all professional encounters;
- involving the patient in some aspects of the procedure, such as moving him/herself in response to clear instructions;
- avoiding causing any unnecessary distress or embarrassment to the patient;
- respecting the patient's dignity and personal space;
- using firm, appropriate pressure when touching the patient to give reassurance and produce a relaxed response;
- using gloves for reasons relating to quality assurance, hygiene and decreased intimacy, when appropriate;
- demonstrating particular awareness when palpation involves a sensitive area (e.g., breast, gluteal and inner thigh) and when appropriate, palpating carefully with the patient's guidance, participation and consent; and
- demonstrating sensitivity to patients with cultural or religious considerations.

Privacy with Respect to Touching

A member shall demonstrate respect for a patient's privacy and dignity, by:

- allowing the patient independence and enough time and privacy while disrobing;

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- informing the patient to only remove clothing that would materially impede a thorough physical examination of the spinal column and pelvis, or any local area the member may wish to examine (e.g., shoulder) and ensuring the patient puts on a gown opening to the back;
- ensuring the patient, who must necessarily be partially unclothed for therapeutic reasons, is as comfortable as possible;
- using appropriate gowning methods to maintain the respect for a patient's privacy and dignity; and
- requesting the patient's permission for students or staff to observe.

Communication by Email, Texting, Social Media and Other Electronic Methods

A member is expected to comply with all existing legal, regulatory and professional obligations when engaging in electronic communication with a patient. A member shall ensure that any electronic communication is:

- private and confidential, in accordance with privacy legislation and CCO standards of practice;
- secure from loss, tampering, interference or unauthorized use or access;
- done only with the authorization or direction of the patient; and
- recorded in the patient health record and available in hard copy.

Avoiding Boundary Crossings and Grooming Behaviour Violations and Prevention of Sexual Abuse of Patients

Members are reminded that CCO has a policy of zero tolerance and no act of sexual abuse, as defined by the *Regulated Health Professions Act, 1991 (RHPA)* is acceptable. Sexual abuse, as it is defined in the *RHPA*, includes:

- (d) sexual intercourse or other forms of physical relations between the member and the patient,
- (e) touching, of a sexual nature, of the patient by the member, or
- (f) behaviour or remarks of a sexual nature by the member towards the patient.

For the purposes of subsection (3), "sexual nature does not include touching, behaviour or remarks of a clinical nature appropriate to the service provided."

Members are reminded that the sexual abuse of a patient may be preceded by certain grooming behaviour or boundary crossings. Examples of this include:

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- sharing intimate details of the member's personal life with the patient;
- probing patients for inappropriate personal information;
- giving or receiving extravagant gifts from the patient;
- becoming involved with a patient's personal life;
- influencing a patient to change his/her will or other testamentary instrument;
- excessive complimenting and/or flirting with a patient;
- assuming patients' values are the same as their own (e.g., patients could feel pressured to support their chiropractors' causes for fear of receiving inferior care)
- initiating non-clinical touch with a patient or clinical touch without consent;
- offering unsolicited advice regarding non-clinical issues;
- engaging in other business ventures with a patient that may be in a conflict of interest with providing chiropractic care;
- engaging in certain social activities with a patient, such as getting a drink at a bar; and
- engaging in texting, emailing or social media communication that is unrelated to chiropractic care;

In assessing whether grooming behaviour or a boundary crossing may be occurring, a member shall consider the following:

- Is this in my patient's best interest?
- Whose needs are being served?
- Could this action affect my services to the patient?
- Could I tell a colleague about this?
- Could I tell my spouse about this?
- Am I treating this patient differently than others?
- Is this patient becoming special to me?

A member shall avoid grooming behaviour and boundary crossings or any behaviour that may lead to the potential sexual abuse of a patient.

LEGISLATIVE CONTEXT

Health Professions Procedural Code, Schedule 2 to the Regulated Health Professions Act, 1991

Sexual Abuse of a patient

Section 1(3): In this Code, “sexual abuse” of a patient by a member means,

- (g) sexual intercourse or other forms of physical relations between the member and the patient,
- (h) touching, of a sexual nature, of the patient by the member, or
- (i) Behaviour or remarks of a sexual nature by the member towards the patient.

Exception

Section 1(4): For the purposes of subsection (3), “sexual nature does not include touching, behaviour or remarks of a clinical nature appropriate to the service provided.

Definition of Patient

Section 1(6): For the purposes of subsections (3) and (5), “patient”, without restricting the ordinary meaning of the term, includes,

- (a) an individual who was a member’s patient within one year or such longer period of time as may be prescribed from the date on which the individual ceased to be the member’s patient, and
- (b) an individual who is determined to be a patient in accordance with the criteria in any regulations made under clause 43 (1) (o) of the *Regulated Health Professions Act, 1991*; (“patient”)

Statement of purpose, sexual abuse provisions

1.2 The purpose of the provisions of this Code with respect to sexual abuse of patients by members is to encourage the reporting of such abuse, to provide funding for therapy and counselling for patients who have been sexually abused by members and, ultimately, to eradicate the sexual abuse of patients by members.

Register

Section 23(2): The Register shall contain the following:

- (7): The result, including a synopsis of the decision, of every disciplinary and incapacity proceeding, unless a panel of the relevant committee makes no finding with regard to the proceeding.

Section 23(11): The Registrar shall refuse to disclose to an individual or to post on the College’s website information required by paragraph 7 of subsection (2) if,

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- (a) a finding of professional misconduct was made against the member and the order made was only a reprimand or only a fine, or a finding of incapacity was made against the member;
- (b) more than six years have passed since the information was prepared or last updated;
- (c) the member has made an application to the relevant committee for the removal of the information from public access because the information is no longer relevant to the member's suitability to practise, and if,
 - (i) the relevant committee believes that a refusal to disclose the information outweighs the desirability of public access to the information in the interest of any person affected or the public interest, and
 - (ii) the relevant committee has directed the Registrar to remove the information from public access; and
- (d) the information does not relate to disciplinary proceedings concerning sexual abuse as defined in clause (a) or (b) of the definition of "sexual abuse" in subsection 1 (3).

Orders relating to sexual abuse

Section 51(5): If a panel finds a member has committed an act of professional misconduct by sexually abusing a patient, the panel shall do the following in addition to anything else the panel may do under subsection (2):

- 3. Reprimand the member.
- 4. Revoke the member's certificate of registration if the sexual abuse consisted of, or included, any of the following,
 - i. Sexual intercourse
 - ii. Genital to genital, genital to anal, oral to genital, or oral to anal contact,
 - iii. Masturbation of the member by, or in the presence of, the patient,
 - iv. Masturbation of the patient by the member,
 - v. Encouraging of the patient by the member to masturbate in the presence of the member,
 - vi. touching of a sexual nature of the patient's genitals, anus, breasts or buttocks,
 - vii. other conduct of a sexual nature prescribed in regulations made pursuant to clause 43 (1) (u) of the *Regulated Health Professions Act, 1991*.

Statement re: impact of sexual abuse

Section 51(6): Before making an order under subsection (5), the panel shall consider any written statement that has been filed, and any oral statement that has been made to the panel, describing the impact of the sexual abuse on the patient.

Same

Section 51(7): The statement may be made by the patient or by his or her representative.

Notice to member

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Section 51(8): The panel shall not consider the statement unless a finding of professional misconduct has been made.

Section 51(9): When a written statement is filed, the panel shall, as soon as possible, have copies of it provided to the member, to his or her counsel and the College.

Application for Reinstatement

Section 72(1): A person whose certificate of registration has been revoked or suspended as a result of disciplinary or incapacity proceedings may apply in writing to the Registrar to have a new certificate issued or the suspension removed.

Section 72 (3): An application under subsection (1), in relation to a revocation for sexual abuse of a patient, shall not be made earlier than,

- (a) five years after the date on which the certificate of registration was revoked; or
- (b) six months after a decision has been made in a previous application under subsection (1).

NOTE TO MEMBERS

Guideline G-001: Communication with Patients should be read in conjunction with:

- The sexual abuse provisions of the *RHPA*
- Standard of Practice S-013: Consent
- Standard of Practice S-014: Prevention of Sexual Abuse of Patients
- Policy P-003: Principle of Zero Tolerance