

WAC 246-924-358 Sexual misconduct. (1) The following definitions apply to this section:

(a) "Health care information" means any information, whether oral or recorded in any form or medium that identifies or can readily be associated with the identity of, and relates to the health care of, a patient or client.

(b) "Key party" means immediate family members and others who would be reasonably expected to play a significant role in the health care decisions of the patient or client and includes, but is not limited to, the spouse, domestic partner, sibling, parent, child, guardian and person authorized to make health care decisions of the patient or client.

(c) "Legitimate health care purpose" means activities for examination, diagnosis, treatment, and personal care of patients or clients, including palliative care, as consistent with community standards of practice for the profession. The activity must be within the scope of practice of psychology.

(d) "Patient" or "client" means an individual who receives psychological services from a psychologist.

(2) A psychologist shall never engage, or attempt to engage, in sexual misconduct with a current patient, client, or key party, inside or outside the health care setting. Sexual misconduct shall constitute grounds for disciplinary action. Sexual misconduct includes, but is not limited to:

(a) Sexual intercourse;

(b) Touching the breasts, genitals, anus or any sexualized body part;

(c) Rubbing against a patient or client or key party for sexual gratification;

(d) Kissing;

(e) Hugging, touching, fondling or caressing of a romantic or sexual nature;

(f) Dressing or undressing in the presence of the patient, client or key party;

(g) Removing patient or client's clothing or gown or draping without emergent medical necessity;

(h) Encouraging masturbation or other sex act in the presence of the psychologist;

(i) Masturbation or other sex act by the psychologist in the presence of the patient, client or key party;

(j) Suggesting or discussing the possibility of a dating, sexual or romantic relationship after the professional relationship ends;

(k) Terminating a professional relationship for the purpose of dating or pursuing a romantic or sexual relationship;

(l) Soliciting a date with a patient, client or key party;

(m) Discussing the sexual history, preferences or fantasies of the psychologist;

(n) Any behavior, gestures, or expressions that may reasonably be interpreted as seductive or sexual;

(o) Making statements regarding the patient, client or key party's body, appearance, sexual history, or sexual orientation other than for psychological service purposes;

(p) Sexually demeaning behavior including any verbal or physical contact which may reasonably be interpreted as demeaning, humiliating, embarrassing, threatening or harming a patient, client or key party;

(q) Photographing or filming the body or any body part or pose of a patient, client, or key party, other than for psychological service purposes; and

(r) Showing a patient, client or key party sexually explicit photographs, other than for psychological service purposes.

(3) Sexual misconduct also includes sexual contact with any person involving force, intimidation, or lack of consent; or a conviction of a sex offense as defined in RCW 9.94A.030.

(4) A psychologist shall not:

(a) Offer to provide psychological services in exchange for sexual favors;

(b) Use health care information to contact the patient, client or key party for the purpose of engaging in sexual misconduct;

(c) Use health care information or access to health care information to meet or attempt to meet the psychologist's sexual needs.

~~((4))~~ (5) After the termination of the psychology services, the psychologist shall not engage, or attempt to engage, in the activities listed in subsection (2) of this section with a patient or client for five years or with a key party for two years.

~~((5))~~ (6) A psychologist shall never engage, or attempt to engage, in sexual misconduct with a former client, patient or key party even after the period of time described in subsection ~~((4))~~ (5) of this section if:

(a) There is a significant likelihood that the patient, client or key party will seek or require additional services from the psychologist; or

(b) There is an imbalance of power, influence, opportunity, and/or special knowledge of the professional relationship.

~~((6))~~ (7) When evaluating whether a psychologist is prohibited from engaging, or attempting to engage, in sexual misconduct, the board will consider factors, including but not limited to:

(a) Documentation of a formal termination and the circumstances of termination of the psychological services;

(b) Transfer of care to another health care provider;

(c) Duration of the psychological services;

(d) Amount of time that has passed since the last psychological services were provided to the patient or client;

(e) Communication between the psychologist and the patient or client between the last psychological services rendered and commencement of the personal relationship;

(f) Extent to which the patient's or client's personal or private information was shared with the psychologist;

(g) Nature of the patient's or client's mental health condition during and since the professional relationship; and

(h) The patient's or client's emotional dependence and vulnerability.

~~((7))~~ (8) Initiation or consent by patient, client or key party does not excuse or negate the psychologist's responsibility.

~~((8))~~ (9) These rules do not prohibit providing psychological services in case of emergency where the services cannot or will not be provided by another psychologist.

~~((9))~~ (10) Psychologists must not accept as therapy patients or clients persons with whom they have engaged in sexual contact or activity.