



## Ohio Administrative Code Rule 4734-9-06 Sexual misconduct.

Effective: September 1, 2021

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(A) A patient is any person who is the recipient of a professional service rendered by a licensee. A doctor-patient relationship is any relationship between a licensee and a patient wherein the licensee provides professional services to the patient. An individual is considered a patient until thirty days have elapsed from the date the doctor-patient relationship was formally terminated in accordance with rule 4734-8-01 of the Administrative Code. An individual remains a patient until the doctor-patient relationship is terminated regardless if the individual is not actively receiving professional services from the licensee. Sexual contact between a licensee and a former patient after termination of the doctor-patient relationship may still constitute sexual misconduct if the contact is the result of the exploitation of trust, knowledge, or influence of emotions derived from the doctor-patient relationship.

(B) The doctor-patient relationship requires the licensee to exercise the utmost care that they will do nothing to exploit the trust and dependency of the patient. Licensees shall make every effort to avoid other types of relationships that impair their professional judgment or risk the possibility of exploiting the confidence placed in them by a patient.

(C) Sexual misconduct is any verbal or physical action or behavior, or expression of thoughts or feelings, or gestures that are sexual or that reasonably may be construed by a patient as sexual or conduct that exploits the doctor-patient relationship in a sexual manner, regardless of consent of the patient.

(D) Sexual misconduct includes, but is not limited to:

(1) Failure to provide privacy for disrobing and/or failure to provide proper gowns;

(2) Failure to explain the necessity of performing any procedure that involves exposure or contact with the pelvic area, genitals, rectum, prostate, or breast. In the event the patient is a minor, the explanation shall be given to the parent or legal guardian. The licensee must ensure that the patient



comprehends the necessity for such examination prior to performing the procedure;

(3) Failure to have a third party present while performing any examination that involves exposure or contact with the pelvic area, genitals, rectum, prostate or breast without the patient's signed consent;

(4) Subjecting a patient to exposure or contact with the pelvic area, genitals, rectum, prostate or breast in the presence of a third party without the patient's consent;

(5) Examining or touching a patient's pelvic area, genitals, rectum, prostate or breast without gloves;

(6) Conduct that may reasonably be interpreted as intended for the sexual arousal or gratification of the licensee, patient, or both;

(7) Making comments that are not clinically relevant about or to the patient, including, but not limited to, sexual comments about the patient's body, underclothing, or sexual orientation; sexually demeaning comments; or comments about potential sexual performance;

(8) Soliciting a date or romantic relationship with a patient;

(9) Initiating or participating in a conversation with a patient regarding the licensee's own sexuality, including sexual problems, preferences, or fantasies;

(10) Initiating conversation with, or requesting details of, a patient's sexuality, including history, sexual problems, sexual fantasies or sexual preferences when not clinically indicated for the type of health care services rendered;

(11) Participation in acts of sexual nature that is recorded on film, in print, or in an electronic medium;

(12) Kissing or fondling of a sexual nature;

(13) Touching any body part that has sexual connotation for the licensee or the patient for any purpose other than for the patient's legitimate health care need;



(14) Encouraging a patient to masturbate in the presence of the licensee or masturbation by the licensee in the presence of a patient;

(15) Sexual acts involving kissing, genital to genital contact, vaginal or anal intercourse, oral to genital, oral to anal, and/or oral to breast contact;

(16) Sexually demeaning conduct or conduct that demonstrates a lack of respect for the patient's privacy;

(17) Offering to provide or providing chiropractic, animal chiropractic, or acupuncture services in exchange for any prohibited conduct outlined in this rule.

(E) The initiation of, consent to, or participation in sexual misconduct with a licensee by a patient does not change the nature of the conduct or negate the prohibitions contained in this rule.

(F) Sexually intimate acts and relationships that exist between life partners or in a marriage do not preclude the licensee from providing the partner or spouse with professional services.