

WAC 246-915-182 Unprofessional conduct—Sexual misconduct. (1)

A physical therapist or a physical therapist assistant shall not engage, or attempt to engage, in sexual misconduct with a current patient, client, or key party, as defined in WAC 246-16-020, 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 except as consistent with accepted community standards of practice for examination, diagnosis and treatment and within the health care practitioner's scope of practice;
- (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) Examination of or touching genitals without using gloves;
- (g) Not allowing a patient or client privacy to dress or undress except as may be necessary in emergencies or custodial situations;
- (h) Not providing the patient or client a gown or draping except as may be necessary in emergencies;
- (i) Dressing or undressing in the presence of the patient, client or key party;
- (j) Removing patient or client's clothing or gown or draping without consent, emergent medical necessity, or being in a custodial setting;
- (k) Encouraging masturbation or other sex act in the presence of the health care provider;
- (l) Masturbation or other sex act by the physical therapist or physical therapist assistant in the presence of the patient, client or key party;
- (m) Suggesting or discussing the possibility of a dating, sexual, or romantic relationship after the professional relationship ends;
- (n) Terminating a professional relationship for the purpose of dating or pursuing a romantic or sexual relationship;
- (o) Soliciting a date with a patient, client, or key party;
- (p) Discussing the sexual history, preferences or fantasies of the physical therapist or physical therapist assistant;
- (q) Any behavior, gestures, or expressions that may reasonably be interpreted as seductive or sexual;
- (r) Making statements regarding the patient, client, or key party's body, appearance, sexual history, or sexual orientation other than for legitimate health care purposes;
- (s) 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;
- (t) Photographing or filming the body or any body part or pose of a patient, client, or key party, other than for legitimate health care purposes; and
- (u) Showing a patient, client, or key party sexually explicit photographs, other than for legitimate health care purposes.

(2) 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.

- (3) A physical therapist or physical therapist assistant shall not:
- (a) Offer to provide health care 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 physical therapist's or physical therapist assistant's sexual needs.
- (4) A physical therapist or physical therapist assistant shall not engage, or attempt to engage, in the activities listed in subsection (1) of this section with a former patient, client or key party within two years after the provider-patient/client relationship ends.
- (5) After the two-year period of time described in subsection (4) of this section, a physical therapist or physical therapist assistant shall not engage, or attempt to engage, in the activities listed in subsection (1) 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 physical therapist or physical therapist assistant; or
 - (b) There is an imbalance of power, influence, opportunity, or special knowledge of the professional relationship.
- (6) When evaluating whether a physical therapist or physical therapist assistant 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 provider-patient relationship;
 - (b) Transfer of care to another health care provider;
 - (c) Duration of the provider-patient relationship;
 - (d) Amount of time that has passed since the last health care services to the patient;
 - (e) Communication between the physical therapist or physical therapist assistant and the patient or client between the last health care services rendered and commencement of the personal relationship;
 - (f) Extent to which the patient's personal or private information was shared with the physical therapist or physical therapist assistant;
 - (g) Nature of the patient's or client's health condition during and since the professional relationship;
 - (h) The patient's or client's emotional dependence and vulnerability; and
 - (i) Normal revisit cycle for the profession and service.
- (7) Patient, client, or key party initiation or consent does not excuse or negate the physical therapist's or physical therapist assistant's responsibility.
- (8) These rules do not prohibit:
- (a) Providing health care services in case of emergency where the services cannot or will not be provided by another health care provider;
 - (b) Contact that is necessary for a legitimate health care purpose and that meets the standard of care appropriate to that profession; or
 - (c) Providing health care services for a legitimate health care purpose to a person who is in a preexisting, established personal relationship with the physical therapist or physical therapist assistant

where there is no evidence of, or potential for, exploiting the patient or client.

[Statutory Authority: RCW 18.74.023 and chapter 18.74 RCW, RCW 18.340.020. WSR 18-15-067, § 246-915-182, filed 7/17/18, effective 8/17/18. Statutory Authority: RCW 18.74.023. WSR 08-17-026, § 246-915-182, filed 8/13/08, effective 8/13/08. Statutory Authority: RCW 18.74.023(3), 18.74.025, 18.130.050(1), and 18.130.180(24). WSR 04-08-102, § 246-915-182, filed 4/6/04, effective 5/7/04.]