

**WAC 246-812-480 Sexual misconduct.** (1) A denturist shall not engage, or attempt to engage, in sexual misconduct with a current patient, 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, except as consistent with accepted community standards of practice for examination, diagnosis, and treatment within a denturist's scope of practice;
- (c) Rubbing against a patient 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 privacy to dress or undress, except as may be necessary in emergencies or custodial situations;
- (h) Not providing the patient a gown or draping except as may be necessary in emergencies;
- (i) Dressing or undressing in the presence of the patient or key party;
- (j) Removing patient's clothing, 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 denturist;
- (l) Masturbation or other sex act by the denturist in the presence of the patient 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 or key party;
- (p) Discussing the sexual history, preferences, or fantasies of the denturist;
- (q) Any behavior, gestures, or expressions that may reasonably be interpreted as seductive or sexual;
- (r) Making statements regarding the patient 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 or key party;
- (t) Photographing or filming the body or any body part or pose of a patient or key party, other than for legitimate health care purposes; or for the educational or marketing purposes with the consent of the patient or key party; and
- (u) Showing a patient 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 listed in RCW 9.94A.030.

(3) A denturist shall not:

- (a) Offer to provide health care services in exchange for sexual favors;
- (b) Use health care information to contact the patient or key party for the purpose of engaging in sexual misconduct; or

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

(4) A dentist shall not engage or attempt to engage in the activities listed in subsection (1) of this section with a former patient or key party within two years after the provider-patient or provider-client relationship ends.

(5) After the two-year period of time described in subsection (3) of this section, a dentist 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 or key party will seek or require additional services from the dentist; or

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

(6) When evaluating whether a dentist has engaged or has attempted 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 dentist;

(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 dentist and the patient 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 dentist;

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

(h) The patient's emotional dependence and vulnerability; and

(i) Normal revisit cycle for the profession and service.

(7) Patient or key party initiation or consent does not excuse or negate the dentist'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 dentist;

(b) Contact that is necessary for a legitimate health care purpose and that meets the standard of care appropriate to the dentist 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 dentist, and where there is no evidence of, or potential for, exploiting the patient.

[Statutory Authority: RCW 18.30.065. WSR 20-04-028, § 246-812-480, filed 1/28/20, effective 2/28/20. Statutory Authority: Chapter 18.30 RCW and 2013 c 171. WSR 14-24-033, § 246-812-480, filed 11/24/14, effective 12/25/14.]