

Case Scenarios on Boundary Violations and Sexual Abuse

1. Off Duty Conduct with Patients

A dentist begins a casual conversation with a patient during her appointment. The patient says she is travelling to Greece. The dentist mentions that he went to Greece recently and tells her he really enjoyed his trip. Later that evening, the dentist uses the patient's e-mail address registered with the dental practice to send her photos of himself from his last trip to Greece and to provide recommendations on sites to visit. The patient e-mails the dentist back and asks if they can meet for coffee to discuss his recommendations further, and the dentist agrees. When they meet for coffee, the patient mentions that she will be posting pictures on her Instagram account while travelling. The dentist asks if he can follow her on Instagram so he can see her pictures when she's in Greece. The patient agrees, and the dentist provides his personal account name on Instagram. They follow each other.

Questions to Consider:

1. Was it appropriate for the dentist to e-mail the patient?
2. What should the dentist have considered when the patient asked to meet for coffee?
3. What should the dentist have considered before befriending the patient on social media?

Answer Key:

Dentists are responsible for maintaining appropriate boundaries with their patients at all times, including outside of work hours. While the dentist may have had good intentions to offer helpful recommendations to his patient for her trip, it was not appropriate for the dentist to e-mail the patient for a reason not relating to dental care without her consent. In addition, sending personal photographs of himself may be considered a boundary violation.

Even though it was the patient that asked the dentist to meet her for coffee, it was the dentist's responsibility to consider the implications that meeting would have on the therapeutic dentist-patient relationship. In many cases, dentists may feel it is best to decline social invitations from patients and explain that it would be beyond the scope of their professional relationship to meet.

In addition, the dentist should have considered that befriending the patient on social media using a personal Instagram account could blur boundaries and lead to a boundary violation.¹

These kinds of events can quickly lead to other events that are more likely to violate boundaries and result in an unprofessional dentist-patient relationship. Dentists must engage in risk management from the very beginning of the relationship, to ensure appropriate professional boundaries are maintained.

2. Comments of a Sexual Nature

An oral and maxillofacial surgeon has conducted a jaw surgery on a patient for a significant overbite. The patient disclosed to the surgeon before her surgery that she has felt very self-conscious about her overbite and how it makes her feel physically unattractive. At her 1-year follow-up appointment,

¹ See the [Practice Advisory on Professional Use of Social Media](#) (March 2018).

the surgeon tells the patient that her jaw looks great and makes sexualized comments about her overall appearance to make her feel good about getting the surgery done.

Question to Consider:

1. Was it appropriate for the surgeon to make sexualized comments?
2. Can the comments be considered as sexual abuse as defined in the Health Professions Procedural Code under the *Regulated Health Professions Act, 1991*?
3. What could the surgeon have said instead?

Answer Key:

Making sexualized comments about a patient's appearance can be considered as "remarks of a sexual nature" which is part of the definition of "sexual abuse" under the Regulated Health Professions Act, 1991.²

It is important for dentists to monitor their comments on a patient's appearance so that they do not constitute boundary violations or sexual abuse, even if they are intended to be compliments. This is especially relevant for dentists that may be involved in work that pertains to the appearance of a patient's mouth area. In this case, the surgeon could have commented on the alignment of the patient's jaw from a clinical perspective and could have asked the patient about her satisfaction with the surgery to gauge her feelings about her new appearance.

3. Failing to Report Sexual Abuse

A dentist works in a practice with two other dentists on staff. One of her dentist colleagues discloses that she is in a new relationship that has really improved her mental health. The dentist is happy for her colleague. Later on, she learns from administrative staff that the person her colleague is dating is one of the colleague's patients and that they spent the last weekend together in Florida. The dentist decides not to report this relationship to the College as she does not think that the patient's care would be negatively affected, given that the patient has freely consented to the relationship and her colleague cares for the patient, so would accordingly provide good clinical care.

Questions to Consider:

1. Was it appropriate for the dentist not to report her colleague's relationship?
2. What impact on the patient does the dentist's colleague's behaviour have?
3. Does it matter that the patient might have freely consented to the relationship?

Answer Key:

A sexual relationship with a patient is sexual abuse under the Regulated Health Professions Act, 1991 and dentists have a legal duty to report sexual abuse when there are reasonable grounds to believe that it has occurred.³ They must file a report immediately if there are continued risks to a patient.⁴ In this case, while the dentist may feel happy for her colleague, she has a legal and ethical obligation to report her colleague to the College. Given that administrative staff confirmed that the dentist's colleague was dating the patient, including them travelling together, there was enough information

² s. 1(3) of the *Health Professions Procedural Code* (HPPC), Schedule 2 of the *Regulated Health Professions Act* (RHPA), 1991 S.O. 1991, c.18.

³ s. 85.3(1) of the HPPC, Schedule 2 of the RHPA, 1991.

⁴ s. 85.3(2) of the HPPC, Schedule 2 of the RHPA, 1991.

to constitute reasonable grounds to believe that sexual abuse had occurred.⁵

Dating a patient involves placing a dentist's personal interests over the best interests of the patient and takes advantage of the power imbalance inherent in the dentist-patient relationship. It may also affect clinical objectivity in the therapeutic dentist-patient relationship. Both of these factors put a patient at risk, even if the patient consents to the relationship. Patient consent is never a defence to sexual abuse.

Every dentist must ensure that they follow their duty to report sexual abuse. Failure to do so may result in a finding of professional misconduct under the Professional Misconduct Regulation⁶ of the *Dentistry Act, 1991*.

4. Determining if a Dentist-Patient Relationship Exists

A friend of a dentist recommends someone for the dentist to date. The dentist realizes that the person recommended is a patient he had treated in the past. The dentist only saw the person once to examine their teeth after cleaning, and it has been 6 months since that service was provided. Given the gap in care, the dentist does not perceive the person to be their patient anymore. They proceed with dating immediately.

Questions to Consider:

1. Is the person still the dentist's patient?
2. Was it appropriate for the dentist to proceed with dating the person?

Answer Key:

Under the *Regulated Health Professions Act, 1991*, the person is a patient of the dentist, as the dentist received payment from the person for the service provided (i.e. the cleaning and examination) and contributed to the health record of the person.⁷ In addition, in dentistry, it is common for there to be a gap in care provided to patients and that does not result in a patient no longer being a patient of the dentist. In this case, it had been 6 months since the person last saw the dentist for care, but the person would still be considered a patient of the dentist.

Under the *Regulated Health Professions Act, 1991*, there is a prohibition on becoming involved in a sexual relationship with a patient for at least one year after the dentist-patient relationship has ended.⁸ In this case, the dentist-patient relationship was never terminated so the patient was still a patient during the 6 months since her last treatment. Proceeding with dating the patient would constitute sexual abuse under the *Regulated Health Professions Act, 1991*.⁹

⁵ It should be noted that no legal action or proceeding can be brought against a dentist for making a report in good faith under s. 85.6 of the HPPC.

⁶ O.Reg. 853/93 under the *Dentistry Act, 1991*.S.O. 1991, c. 24.

⁷ O. Reg. 260/18. Patient Criteria Under Subsection 1(6) of the HPPC, Schedule 2 of the RHPA, 1991.

⁸ s. 1(6) of the HPPC, Schedule 2 of the RHPA, 1991.

⁹ s.1(3) of the HPPC, Schedule 2 of the RHPA, 1991.