

1.1 PURPOSE

The purpose of this policy is to clearly define the standard of professional practice expected by the Board with reference to professional relationships.

1.2 SCOPE

This policy applies to any person practising physiotherapy in NSW.

1.3 BACKGROUND

The community expectation of the physiotherapy professional is one of utmost integrity. The community must be confident that personal boundaries will be maintained and that clients are not placed at risk. The onus is on the physiotherapist to behave in a professional manner, regardless of the apparent consensual nature of a relationship. It is unacceptable to seek to blame the client if a sexual relationship develops. Personal involvement with the client may lead to clouding of clinical judgement and therefore is not in the public interest. The rationale for the Board's position includes the following:

- 1.1 The physiotherapist/client relationship depends upon the ability of the client to have absolute confidence and trust in the physiotherapist. It transcends social values and no standard other than the highest can be acceptable.
- 1.2 The physiotherapist is in a unique position regarding physical and emotional proximity. Clients may be required to disrobe and to allow physiotherapists to examine and treat them occasionally in an intimate way. It is imperative that a detailed explanation about these procedures be conveyed to the client at every step, and the client's prior consent be obtained and documented.
- 1.3 The physiotherapist's role is one of authority by virtue of the client seeking assistance and guidance. The physiotherapist/client relationship is therefore not one of equality and exploitation of a client who is vulnerable is an abuse of power.
- 1.4 Breaches of the physiotherapist/client relationship have often caused severe psychological damage to the client.

2 POLICY

- 2.1. It is an absolute rule that a physiotherapist who engages in sexual activity with a client is guilty of professional misconduct or unsatisfactory professional conduct. This encompasses activity that is of a sexual nature that may not be consensual such as inappropriate touching/feeling/examination of the client or lewd or sexually explicit behaviour exhibited by the physiotherapist towards the client.
- 2.2 While not detracting from the fundamental impropriety of such activity, the sanction applied, as a result of a finding of misconduct, may vary according to the circumstances of each case.
- 2.3 Factors to be considered include the degree of dependence in a physiotherapist/client relationship, the age of the client, evidence of exploitation, the duration of the professional relationship and the nature of the services provided.

- 2.4 The termination of the physiotherapist/client relationship prior to sexual activity may be raised as a defence, with regard to 2.1 but its strength will be dictated by consideration of the factors referred to in 2.3, as well as the time lapsed after the end of the professional relationship.
- 2.5 For the purpose of this policy the word 'client' includes people receiving care or attention from a physiotherapist, students and all others who may find themselves placed in a vulnerable position in a physiotherapist/client relationship.
- 2.6 Physiotherapists must report a member of their own or a different health profession to the appropriate Registration Board or HCCC if they believe that person has sexually abused a client or if they have reason to believe that the person is engaging in or has had an inappropriate physical or sexual relationship with a client or has behaved in a sexually explicit manner towards the client.
- 2.7 A physiotherapist must provide the client with a satisfactory explanation of a procedure prior to conducting any examination or treatment that could reasonably be misinterpreted as being sexual.
- 2.8 A physiotherapist should not have pornographic materials of any kind in the work place.

3. PROFESSIONAL STANDARDS

Management practices which may protect both the client and practitioner where applicable include:

- 3.1 Providing clear and specific instructions to clients regarding the extent of disrobing
- 3.2 Providing clear, direct information regarding physiotherapy treatment
- 3.3 Allowing the client clear privacy to disrobe
- 3.4 Ensuring that gowns and shorts are available (and used)
- 3.5 Not exposing more of the client's body part than needed
- 3.6 Having an attendant in the immediate vicinity of the treatment area during treatment sessions
- 3.7 Spending only the necessary time with the clients
- 3.8 Responding more definitely to inappropriate client behaviour (rather than ignoring it) ie gentle confrontation and to be assertive with 'no' behaviours
- 3.9 Changing practitioners if the possibility of an inappropriate relationship arises.

4. REFERENCES AND RELATED MATERIALS

NSW Medical Board Policy on Sexual Misconduct
Policy on Professional Conduct No 4 NSW Physiotherapists Registration Board
Anti-Discrimination Act 1977 (NSW)
Children and Young Persons (Care and Protection) Act 1998
Commonwealth Sex Discrimination Act 1984