

## Understanding and Respecting Professional Boundaries -- Part I

It is understandable that most practitioners would rather read articles on office procedure, treatment techniques, radiology, orthopedics and nutrition rather than on professional boundaries. As good and important as those interests are, any one who attempts to pass over the subjects of professional boundaries and discrimination is predisposing themselves to some potentially serious problems.

### It Can't Happen to Me

You may think or say, "I would never be accused of sexual improprieties or discrimination," but practitioners are highly vulnerable to lawsuits and complaints being filed for just that. You need to study this and the forthcoming articles and formulate written clinic policies on professional relations with patients and staff. By doing this, you will set in motion positive forces that should help lower or keep and/or maintain a low risk management profile as it relates to professional boundaries and discrimination.

### We Live in a Litigious Society

You can't open a newspaper or turn on television or radio without seeing or hearing of lawsuits alleging sexual harassment, unprofessional conduct and/or gender, sexual, age, religious or racial discrimination. The way we interpreted gender and the way relationships existed up until a few years ago between men and women, women and women, men and men, employee and employer, doctor and patient and doctor and employee have dramatically changed. Those who recognize those changes and do what's necessary to live within the letter of the laws of our country will go a long way in preventing problems with staff, patients, boards of examiners and other government regulatory agencies.

What you think of laws regarding professional boundaries does not matter. What matters is what the law states. Your state board of examiners has to carry out government regulations regardless of what your personal beliefs may be.

### Times Have Changed

What was considered the norm in most relationships is no longer the norm. We live with different social, moral, political and legal standards. The doctor of chiropractic who is not up-to-date in the area of risk management on professional boundaries is highly vulnerable to being sued and predisposed to disciplinary actions by the state board of examiners and the courts. How professionals conduct themselves in the eyes of patients, the community, regulatory boards and courts of law is a vital consideration.

### Equal Employment Opportunity Commission (EEOC)

Besides the federal law and court rulings on equal employment opportunities, there are administrative rulings that establish that any person who causes "unwanted and repeated verbal or

physical advances, derogatory statements or sexually explicit remarks, made by someone in the workplace which has an effect of offending or humiliating the recipient" is in violation of EEOC law. This law is further expanded as it applies to health care practitioners. Every board of chiropractic examiners has specific rules and regulations on discrimination and hostility in the workplace, sexual impropriety, misconduct and professional boundaries.

### Sexual Impropriety

Sexual impropriety or sexual misconduct is commonly viewed from one or more of the following:

1. Misconduct involves nonphysical conduct: verbal statements; groping; lewd jokes; frightful environment, etc., which offends or causes humiliation of another person or group. It can include mannerisms or gestures that are inappropriate or offensive.
2. Transgressions: Touching in ways or manners that do not involve sexual contact (unwanted touching) but are considered inappropriate, such as physical examinations and procedures that are not necessitated by the patient's history or symptoms, or are conducted in manners that are not customary.
3. Violation: Involves sexual actions, including consensual masturbation, oral or anal sex and/or genital intercourse.
4. To use a position of power to cause people to do things against their will.

### Power Differential

The courts consider physicians and ministers to be in an unequal or superior power position with patients/staff. That power differential and imbalance can predispose patients/staff to being dominated, especially in accepting hostile work conditions, romantic involvement and/or consensual sex. Even if at the time of the sexual affair the person of less authority consented to sex, the person in authority (doctor) is considered by the courts of law to have violated the responsibilities of hierarchy, have been consistently found guilty by the courts of law and been disciplined by the board of examiners.

The courts have ruled that because of the unequal power status of subordinates, it is difficult for them to say no to requests for dates, romantic advances, etc. This in part is related to the person in authority having control over an employee's employment destiny and a patient's treatment destiny. Again you as the doctor may not see it that way, but that's how the courts view it. You cannot successfully fight what the courts of law have ruled.

### Love Is Not the Issue

Any person in authority in a business relationship who is going to involve subordinate staff in social activities is advised to invite the entire staff. Not doing so can be interpreted as favoritism, unfairness and discrimination and leads to what is often referred to as "ugly duckling" lawsuits. This is especially so when a present/past employee or their attorney interprets the actions that result as if they were passed over in promotions, salaries or benefits.

### Never Ever Date a Patient or Employee

In the same manner, regardless of one's position in a business relationship, never date yourself in potentially romantic compromising relationships. What may be considered a welcome romantic or sexual relationship today can easily turn into an unwelcome relationship or sexual coercion later. If

the person of unequal or subordinate status in that romantic or sexual relationship files a complaint against you, you are in for a long and difficult phase of life. This is especially so as surveys indicate that 90 percent of women feel that they are harassed and discriminated against at work. Boards of examiners have no other course than to investigate complaints made against practitioners. That can take a heavy emotional and financial toll.

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