



# Standards of Practice for Health Care Aides on Sexual Abuse, Sexual Misconduct, and Female Genital Mutilation

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College of LPNs and HCAs of Alberta



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## INTRODUCTION

The College of Licensed Practical Nurses and Health Care Aides of Alberta (CLHA) has the **authority** under the *Health Professions Act* (HPA) to carry out its activities and **govern** Health Care Aides (HCAs)\* in a manner that protects and serves the public interest. Part of protecting the public involves informing HCAs that sexual abuse, sexual misconduct, and female genital **mutilation** (FGM) are never acceptable practices.

Terms found in the definition section are **bolded** where they appear for the first time in this document.

Under the HPA, the CLHA is required to have standards of practice describing the situations when an HCA is considered to have **engaged** in “sexual abuse,” “sexual misconduct,” or “**procuring**” FGM. Under the HPA, this **unprofessional conduct** requires mandatory **penalties** for the HCA, which may include permanently cancelling a **practice permit**. This means that if an HCA is found to have engaged in sexual abuse or procuring or performing FGM, the HCA’s practice permit will be cancelled in accordance with section 82(1.1)(a) of the HPA. If the HCA is found to have engaged in sexual misconduct, the HCA’s practice permit will be suspended for a specified period of time in accordance with section 82(1.1)(b).

### Sexual Abuse and Sexual Misconduct

Under the HPA and these Standards of Practice, HCAs must not have a **sexual relationship** or engage in sexual activities, sexual abuse, or sexual misconduct with a **client**.

Standard 3 specifies the circumstances in which an individual is not considered a client for the purposes of these Standards. Where the individual is not considered to be a client, the **conduct** will not be sexual abuse or sexual misconduct, but may still be a boundary violation under the *Standards of Practice for HCAs on Professional Boundaries*.

### Female Genital Mutilation (FGM)

As stated under Standard 1(c), an HCA must not procure, perform, participate, or help with FGM. A violation of Standard 1(c) results in the mandatory cancellation of an HCA’s practice permit. Performing FGM is also a **criminal offence** of aggravated assault unless (a) it is a surgical procedure performed by a person who is qualified to practice medicine for the benefit of the person’s physical health or for the purpose of that person having normal reproductive functions or sexual appearance or functions or (b) the person is at least 18 years of age and there is no resulting **bodily harm**.

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\* In this document, “HCA(s)” has the same meaning as “regulated member(s)” in the *Health Professions Act*.

## STANDARD 1: SEXUAL ABUSE, SEXUAL MISCONDUCT, AND FEMALE GENITAL MUTILATION

- 1.0 HCAs must not:
- a) engage in sexual abuse;
  - b) engage in sexual misconduct; or
  - c) procure, perform, participate, or help with female genital mutilation.

### Sexual Abuse

- 1.1. As defined in the HPA, an HCA engages in sexual abuse when the HCA threatens to, attempts to, or engages in conduct towards a client that is of a **sexual nature** and includes any of the following actions:
- a) sexual intercourse between the HCA and the client;
  - b) genital to genital, genital to anal, oral to genital, or oral to anal contact between the HCA and the client;
  - c) masturbation of the HCA by, or in the presence of the client;
  - d) masturbation of the client by the HCA;
  - e) encouraging the client to masturbate in the presence of the HCA; or
  - f) touching of a sexual nature of the client's genitals, anus, breasts, or buttocks by the HCA.

### Sexual Misconduct

- 1.2. As defined in the HPA, sexual misconduct occurs when there is any incident or repeated incidents of objectionable or unwelcome conduct, behaviour, or remarks of a sexual nature by an HCA towards a client that the HCA knows or **ought reasonably to know** will or would cause **offence** or **humiliation** to the client or adversely affect the client's health and well-being but does not include sexual abuse.

### Female Genital Mutilation

- 1.3. As defined in the HPA, an HCA procures FGM when the HCA performs, participates, or helps with the **excision, infibulation**, or mutilation, in whole or in part, of the labia majora, labia minora, clitoral hood, or clitoris of a person, except where valid **consent** is given, and:
- a) a surgical or other procedure is performed by a regulated member under the HPA for the benefit of the physical health of the person or for the purpose of that person having normal reproductive functions or normal sexual appearance or function; or
  - b) the person is at least 18 years old, and there is no resulting bodily harm.

### Professional Boundary Violations May Be Unprofessional Conduct

- 1.4. The actions described in this Standard of Practice against any person, including **former clients**, may also be a **professional boundary violation**. More information about professional boundaries can be found in the *Standards of Practice for HCAs on Professional Boundaries*.

### Mandatory Reporting of Sexual Abuse, Sexual Misconduct, and FGM

- 1.5. If any HCA has reasonable grounds to believe that the **conduct** of another regulated member constitutes sexual abuse, sexual misconduct, or FGM, that HCA must report the conduct to the complaints director of the other regulated member's college.

## STANDARD 2: HCA-CLIENT RELATIONSHIP

2.0 An HCA must know when a client relationship begins and ends.

### Beginning of an HCA-Client Relationship

- 2.1. An HCA-client relationship begins on the earliest of any of the following activities:
- a) the client, or their **legally authorized representative**, consents to receiving **professional services** from the HCA;
  - b) the HCA provides professional services to the client;
  - c) the HCA adds information or charts in the client record; or
  - d) the HCA bills the client for the professional services.

### Ending an HCA-Client Relationship

- 2.2. An individual is considered a former client of the HCA when at least one year has passed since the latest of any of the following activities:
- a) the client, or their legally authorized representative, consented to receiving professional services from the HCA;
  - b) the HCA provided professional services to the client;
  - c) the HCA added information or charted in the client record; or
  - d) the HCA billed the client for the professional services.

### Reasons for Ending an HCA-Client Relationship

- 2.3 An HCA-client relationship may be ended if:
- a) the client no longer needs care from the HCA,
  - b) the client asks to end the relationship,
  - c) the HCA takes a leave from work,
  - d) the client makes a complaint to the CLHA Conduct Department about the HCA,
  - e) the HCA's safety is put at risk, or
  - f) restrictions on the HCA's practice permit prevent the HCA from providing the required care.
- 2.4 An HCA-client relationship may never be ended for the purposes of forming or pursuing a sexual relationship with a client.
- 2.5 When applicable, an HCA must ensure that the end of the HCA-client relationship is communicated to the client and is documented in the client's record.

## STANDARD 3: WHEN AN INDIVIDUAL IS NOT CONSIDERED A CLIENT

- 3.0 The following Standards set out specific situations where an individual is not considered a client for the purposes of sexual abuse or sexual misconduct. An HCA may still be found guilty of professional boundary violations in the following situations.

### Former Clients

- 3.1 A client is considered a former client after one year, as set out in Standard 2.2. Engaging in anything of a sexual nature with a former client is not considered sexual abuse or sexual misconduct.

### Spousal Relationships

- 3.2 An individual is not considered a client of the HCA if they were in a **pre-existing spousal relationship** with the HCA before they engaged in any of the activities referred to in Standard 2.1.

### Pre-Existing and Ongoing Sexual Relationship

- 3.3 An individual is not considered a client of the HCA if their sexual relationship was a pre-existing and **ongoing sexual relationship** at the time the HCA engaged in any activities referred to in Standard 2.1.

### Episodic Care

- 3.4 **Episodic care** occurs when the HCA engages in any of the activities referred to in Standard 2.1, and neither the HCA nor the client has an expectation of an ongoing care relationship.
- a) A **therapeutic relationship** is formed for the duration of the episode of care. Any actions taken by an HCA during the episode of care that **violate** these Standards will be considered sexual abuse or sexual misconduct.
  - b) An individual who receives episodic care from an HCA is no longer a client once the episode of care ends. The relationship is **exempt** from the one-year waiting period outlined in Standard 2.2.

### Factors to Consider

- 3.5 HCAs should avoid providing professional services in any of the circumstances set out in Standard 3 unless there is an emergent situation or another HCA or regulated health professional is not readily available to provide the professional service.
- 3.6 An HCA must weigh the following factors when considering engaging in conduct of a sexual nature in the circumstances set out in Standard 3, as this may still be considered a professional boundary violation:
  - a) the risk of a **power imbalance**,
  - b) the nature of the individual's health concern,
  - c) the type of healthcare provided by the HCA,
  - d) whether sufficient time has passed since providing professional services,
  - e) the extent to which the individual has confided personal or private information to the HCA, and
  - f) the **vulnerability** of the individual.



## STANDARD 4: DELIVERING TRAUMA-INFORMED CARE

- 4.0 HCAs must provide **trauma-informed care** to clients who have experienced sexual abuse, sexual misconduct, or FGM.

### Trauma-Informed Care Approach

- 4.1 A trauma-informed care approach includes care:
- a) that is **holistic** and avoids judging or making inappropriate statements;
  - b) that is **respectful**, sensitive, and non-judgmental;
  - c) that uses **open-ended questions** and **active listening** when the client chooses to discuss their experiences;
  - d) where the HCA is careful with their body language and is sensitive to the client's response throughout the care being provided;
  - e) that respects the privacy and **dignity** of the client during interactions;
  - f) that provides the client with resources as directed by another healthcare professional; and
  - g) that uses inclusive, **gender-neutral**, and culturally respectful language when interacting with clients.

## DEFINITIONS

**Active listening:** when you pay attention to what is being communicated verbally and nonverbally, focusing not just on the content of the message but also on the person's emotions and body language.

**Adult interdependent partner:** in Alberta, two people are considered adult interdependent partners if they have made a legal agreement to become partners (i.e. share their lives, are emotionally committed to one another, and function as one group); they have lived together for three years or more; or, if they have lived together for less than three years but are in a relationship of some permanence, and there is a child of the relationship by either birth or adoption.

**Authority:** refers to the power or right to give orders, make decisions, and enforce obedience. It can also refer to the person who is authorized to give orders or make decisions.

**Bodily harm:** means any hurt or injury to a person that interferes with the health or comfort of the person and that is more than merely transient or trifling in nature.

**Client:** an individual to whom an HCA provides a professional service and includes any of the activities referred to in Standard 2.1. The CLHA considers the term "client" to be interchangeable with the terms "patient" or "resident," depending on the work setting.

**Common-law partner:** a person who lives with the HCA and meets at least one of the following criteria:

- the HCA and the person have been in a relationship for at least twelve months, or
- the person is the parent of the same child as the HCA.

**Conduct:** how someone acts or carries themselves.

**Consent:** agreement to what is being done by another person, such as an authorized health professional consenting to supervise the HCA or the client approving of the proposed actions of the HCA. Consent also means an agreement to do something.

**Criminal offence:** an action prohibited by the Criminal Code or another law of Canada that establishes the action as punishable by the law as a criminal offence or a serious service offence.

**Dignity:** the right of a person to be valued and respected.

**Engaged:** to be involved, participate, or show interest in something.

**Episodic care:** refers to a single encounter with a client focused on presenting concern(s) where neither the HCA nor the client have the expectation of an ongoing care relationship. An HCA who engages in sexual abuse or sexual misconduct while providing episodic care will be considered to have committed sexual abuse or sexual misconduct.

**Exempt:** to not have to do something others must do.

**Excision:** the action of removing or cutting something out during surgery.

**Former client:** if one year has passed since an HCA-client relationship ended, the client is now considered a former client, as set out in Standard 2.2.

**Gender-neutral:** applicable to, common to, or suitable for any gender. For example, grandparents, parents, siblings, **spouse**, partner.

**Govern:** to lead, control, or manage an organization or group, often by creating rules and making decisions that guide their actions.

**Holistic:** care that addresses the physiological, psychological, sociological, emotional, relational, and spiritual aspects of the client.

**Humiliation:** to make someone feel ashamed or embarrassed.

**Infibulation:** the narrowing of the vaginal opening through the creation of a covering seal. The seal is formed by cutting and repositioning the labia minora, or labia majora, sometimes through stitching, with or without removal of the clitoral prepuce/clitoral hood and glans.

**Legally authorized representative (LAR):** an individual who, under law, has the ability to act on behalf of another person. The LAR may be a parent, grandparent, or caregiver who has the legal authority to grant consent on behalf of another.

**Mutilation:** destroying or damaging a body part of a person.

**Offence:** when someone feels hurt or upset about something done to them by someone else.

**Ongoing sexual relationship:** an agreed upon, consensual relationship of a sexual nature between an HCA and another individual, where the relationship involves regular sexual activities, and both the HCA and the person know that the relationship has not ended.

**Open-ended questions:** questions that cannot be answered using “yes” or “no.”

**Ought reasonably to know:** the knowledge an HCA should have, depending on the situation.

**Penalties:** punishment or discipline for breaking a rule, standard, or law.

**Power imbalance:** means the power an HCA has over a client due to the HCA's professional position, including their ability to withhold or alter the professional services that the client requires, and the HCA's awareness of and ability to access private information and health information of the client.

**Practice permit:** a current and valid practice permit issued to an HCA by the CLHA. A practice permit may have conditions specific to the HCA in addition to conditions for all HCAs on the same register.

**Pre-existing:** to exist at an earlier time than something.

**Procuring (procure):** performing, participating, or helping in any way with an FGM procedure for or to someone.

**Professional boundary violation:** breaching professional behavioural expectations that create and keep a relationship safe for the client, former client, someone closely connected with a client, the co-worker, and the HCA.

**Professional service:** defined in the HPA as a service that falls within the practice of an HCA. This includes one or more of the following:

- assist and support activities of daily living to provide basic personal care and health services,
- participate in client education and promotion of client wellness across the lifespan,
- assist in teaching a HCA certificate program approved by the Council,
- teach HCA techniques and practices to practitioners in the workplace, and
- provide restricted activities provided by the regulation.

**Respectful:** means treating clients and their families with dignity, considering their personal choices, and ensuring they have control over their own care while keeping their private information safe.

**Sexual nature:** any action, comment, or behaviour may be considered sexual in nature if it includes sounds, words, images, or gestures that a reasonable person would understand as sexual. Sexual nature does not include any conduct, behaviour, or remarks that are appropriate to the professional service being provided.<sup>1</sup>

**Sexual relationship:** a consensual relationship between two people that involves sexual or physical intimacy.

**Spousal relationship:** is a **common-law partner**, a spouse, or an **adult interdependent partner**.

**Spouse:** a person legally married to an HCA. This does not include a spouse living separately and apart from the HCA if the HCA and the spouse have separated with a written separation agreement or have had their support obligations and family property division determined under a court order.

**Therapeutic relationship:** a trusting relationship between a client and an HCA that respects and maintains professional boundaries and contributes to health-related treatment goals. A therapeutic relationship exists for a defined period of time.

**Trauma-informed care:** an approach to care that builds on the understanding that an individual's past and current experiences of trauma can affect their experiences within the medical system.

**Unprofessional conduct:** according to the HPA, unprofessional conduct includes displaying a lack of knowledge, skill or judgment in the provision of professional services; contravening the HPA, code of ethics, or standards of practice; engaging in conduct that harms the integrity of the profession; or any other behaviour that is defined as unprofessional conduct under section 1(1)(pp) of the HPA.

**Violate:** an action that breaks or acts against a law, agreement, principle, or standard.

**Vulnerability:** when a person or group of people need special care or support because of age, disability, risk of abuse, or neglect.

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