



Standards of Practice for Licensed Practical Nurses 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 Licensed Practical Nurses (LPNs)¹ in a manner that protects and serves the public interest. Part of protecting the public involves informing LPNs 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, CLHA is required to adopt standards of practice describing the situations when an LPN is considered to have engaged in “sexual abuse,” “sexual misconduct,” or “**procuring**” FGM. Under the HPA, this **unprofessional conduct** requires mandatory penalties for the LPN, which may include permanently cancelling a practice permit. This means that if an LPN is found to have engaged in sexual abuse or procuring or performing FGM, the LPN’s practice permit will be cancelled in accordance with section 82(1.1)(a) of the HPA. If the LPN is found to have engaged in sexual misconduct, the LPN’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, LPNs 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 Licensed Practical Nurses on Professional Boundaries*.

Female Genital Mutilation

As stated under Standard 1(c), an LPN must not procure, perform, participate, or help with FGM. A violation of Standard 1(c) results in the mandatory cancellation of an LPN'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.

¹ In this document, “Licensed Practical Nurse (LPN)” 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 LPNs 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 LPN engages in sexual abuse when the LPN 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 LPN and the client;
 - b) genital to genital, genital to anal, oral to genital, or oral to anal contact between the LPN and the client;
 - c) masturbation of the LPN by, or in the presence of, the client;
 - d) masturbation of the client by the LPN;
 - e) encouraging the client to masturbate in the presence of the LPN; or
 - f) touching of a sexual nature of the client's genitals, anus, breasts, or buttocks by the LPN.

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 LPN towards a client that the LPN 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 LPN procures FGM when the LPN performs, or facilitates the performance of, 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 of age 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 constitute a **professional boundary violation**. More information on professional boundaries can be found in the *Standards of Practice for Licensed Practical Nurses on Professional Boundaries*.

Mandatory Reporting of Sexual Abuse, Sexual Misconduct, and FGM

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

STANDARD 2: LPN-CLIENT RELATIONSHIP

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

Beginning of an LPN-client relationship

- 2.1. An LPN-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 LPN;
 - b) the LPN provides professional services to the client;
 - c) the LPN adds information or charts in the client record; or
 - d) the LPN bills the client for the professional services.

Ending of an LPN-client relationship

- 2.2. An individual is considered a former client of the LPN 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 LPN;
 - b) the LPN provided professional services to the client;
 - c) the LPN added information or charted in the client record; or
 - d) the LPN billed the client for the professional services.
- 2.3. An LPN-client relationship may never be ended for the purposes of forming or pursuing a sexual relationship with a client.

Sexual Relationships with Former Psychotherapeutic Clients are Permanently Prohibited

- 2.4. Where an LPN has provided psychotherapeutic care to a client as part of professional services, the LPN-client relationship never terminates, for the purposes of determining whether the LPN has engaged in sexual abuse and sexual misconduct.

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 LPN 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 defined 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 LPN if they were in a pre-existing **spousal relationship** with the LPN before they engaged in any of the activities referred to in Standard 2.1.

Pre-Existing and Ongoing Sexual Relationships

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

Episodic Care

- 3.4. **Episodic care** occurs when the LPN engages in any of the activities referred to in Standard 2.1 and neither the LPN 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 LPN 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 LPN 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. LPNs should avoid providing professional services in any of the circumstances set out in Standard 3 unless there is an emergent situation or another LPN or regulated health professional is not readily available to provide the professional service.
- 3.6. An LPN 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 LPN,
- 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 LPN, and
- f) the vulnerability of the individual.

STANDARD 4: DELIVERING TRAUMA-INFORMED CARE

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

Trauma-Informed Care Approach

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 LPN 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 the clients.

DEFINITIONS

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.

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

- the LPN 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 LPN.

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.

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

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

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

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.

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

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

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

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 and the LPN.

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

- applying nursing knowledge, skills, and judgment to assess patients' needs;
- providing nursing care for patients and families;
- teaching, managing, and conducting research in the science, techniques, and practice of nursing; and
- providing restricted activities authorized by regulation.

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.ⁱⁱ

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

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

Spouse: a person legally married to an LPN. This does not include a spouse living separately and apart from the LPN if the LPN 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 LPN 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.

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ⁱ *Health Professions Act*, RSA 2000