

# CHAPTER 9

## Professional Boundaries and Ethics in a Clinical Setting

- **Lesson Purpose**

To give the student a comprehensive review of professional boundaries and ethics in a clinical setting.

- **Lesson Objective**

Upon completion the student will:

- Learn seven principles of ethical standards
- Understand power dynamics in fiduciary relationships
- Learn differences between sexual and non-sexual misconduct
- Learn warning signs for potential problems and proactive prevention

*“To be persuasive, we must be believable,  
To be believable, we must be credible,  
To be credible, we must be truthful.”*

*Edward R. Murrow*

*“Conscience: The inner voice that warns us  
that someone may be looking.”*

*H.L. Mencken*

## CHAPTER 9:

### Professional Boundaries and Ethics

Review pages 279-294 of the textbook for this section of the workbook

## DEFINE YOUR KNOWLEDGE

### Chiropractic Standards

*You represent the profession of chiropractic.*

Patients, clients, healthcare consumers; whatever terminology you use, these are the people you serve. Your contact with these individuals can occur both inside and outside of the chiropractic office. It is important to recognize your position as a role model, referral source, nurturer, and educator for the profession of chiropractic.

### Boundaries

#### Workplace Boundaries

When we refer to workplace boundaries, it can sometimes be a difficult concept to grasp because these boundaries are not something that we can see. Our inability to visualize a boundary does not make it any less important. Boundaries are present whenever a person interfaces with another person. The definition of a boundary is the ability to know where one person ends and where another person begins.

Professional boundaries are important as they define the limits and responsibilities of the people with whom you interact in the workplace. When professional/workplace boundaries are clearly defined, the chiropractic office works more efficiently because redundant work assignments are eliminated and task performance is accountable. When everyone in a practice is made aware of their assigned tasks, healthier workplace environments are created. It then becomes very difficult for someone to blame others for their failed or inadequate performance and proficient and effective job performance can clearly be identified.

#### Establishing Boundaries in the workplace

An individual's professional boundaries can often be defined in a job description, as long as it clearly outlines basic responsibilities and reporting relationships. However, many times job descriptions define work responsibilities broadly. Clarification of an individual's duties and responsibilities will be required before an effective and efficient workplace can be created.

## STUDY TIPS

*To better define professional boundaries find answers to the following questions:*

- *Who gives you your task assignments?*
- *To whom do you report?*
- *Who gives you feedback?*
- *Who prioritizes your work responsibilities?*
- *How are your practice and patient personal information kept secure?*
- *Are you knowledgeable on how to treat all staff members fairly without positive or negative feelings influencing your decisions?*

When professional boundaries and responsibilities have been clearly defined, it is likely a team will function effectively, even in the absence of its leader. When everyone on your team understands what to do, how to do it, and when to do it, team members will feel safe in their roles.

An effective leader understands that failing to define boundaries, having no boundaries, or having inappropriately rigid boundaries can have an unfavorable impact on their practice and employees. In some cases boundaries need to be firm. For example, lying, stealing, or verbally or physically abusing others is never allowed.

It may sound as if the responsibility to create a smooth functioning practice falls solely upon the physician or team leaders; however every team member has a role to play as well. It is the responsibility of every individual team member to be willing to speak up to a colleague or supervisor and clearly define their problem and help find a resolution that works for all involved.

## STUDY TIPS

*Professional boundaries substantially impact the workplace. How well do you as an individual function with your team?*

- *What tone do you use with other people?*
- *What attitude and approach do you use with other co-workers?*
- *Do you have the ability to focus on work objectives even with people you do not like or with whom you are having personal conflict?*
- *Do you have the ability to effectively set limits with others who do not respect workplace boundaries?*

The physician or team leader typically sets the tone for the practice by clearly defining acceptable and unacceptable workplace behavior. Without proper professional and interpersonal boundaries, productivity and the quality of social environment to your team will be affected.

### Boundaries in Patient Care

Boundaries are the framework where the healthcare provider/patient relationship occurs. Boundaries make the relationship professional and safe for the patient, as well as set the parameters within which caring services are delivered. This allows for a safe and therapeutic connection between the CTA and the patient.

The primary concern in establishing and managing boundaries with each patient must be in the best interests of the patient. Except for behaviors of a sexual nature or obvious conflict of interest activity, boundary considerations often are not precise matters of right and wrong. Rather they are dependent upon many factors and require careful consideration of the possible consequences of your actions, always keeping in mind the best interests of the patient.

## STUDY TIPS

### Some areas where boundaries can become unclear:

- **Self-disclosure** – *If a CTA decides to disclose personal information about themselves, they must ensure the information is related to the client’s therapeutic goal. Self-disclosure could shift the focus from the patient to the CTA. It may also confuse the patient in terms of the roles and expectations of the professional relationship.*
- **Gifts** – *CTAs should never offer or accept gifts of more than token value from their clients. Doing so may pressure the other party to reciprocate the gift and affect the quality of care.*
- **Becoming Friends** – *It is often recommended that CTAs do not become friends with their patients. Even if a CTA goes to a special event involving a client, they must use their professional judgment. If a CTA becomes friends with a former client, the power imbalance from the relationship could still influence the patient.*
- **Romantic Relationships** – *CTAs should never engage in dating active patients.*
- **Reflection** – *Think of additional scenarios in which boundaries could be breeched within the workplace.*

Negotiating boundary issues is not always a clear-cut process. While each appropriate response may depend on many factors; it must always be decided in the best interest of the patient.

## Ethics

By the simplest definition, ethics means the sense of right and wrong. Whatever seems conscientiously right is ethical; whatever is not is unethical. But is that always the case? What may be ethical to one individual or group, may not be ethical to others. Moreover, what was not ethical 10 years ago, may be considered ethical today.

More than any other industry, ethics plays a role in healthcare. This is because of the major impact health care providers can have on other's well-being. People in healthcare are placed in situations and circumstances, everyday, which have a direct impact on another person's life. That is why, most healthcare boards or associations have a code of ethics and written policies and procedures on ethical decision making.

### The Importance of Ethics in Business

For a chiropractic practice to achieve long-term stability, the patient and healthcare provider relationship is of utmost importance. The trustworthiness of a business, the level of quality services provided, and the attention to patient care are all part of the business' ethics. High standards when it comes to business ethics leave a long-lasting impression on patients' minds and builds trust, which then leads to patient retention and new business from personal referrals.

Individuals often presuppose that healthcare providers and their practices are ethical because they are typically held to a higher standard. It is the healthcare provider's responsibility to uphold a high standard of ethical business practice. Businesses may experience many challenges and risk longevity without a strong ethical base.

### Examination and Treatment Recommendations

Whether you are a male or female professional CTA it is important for the patient to feel comfortable with the person providing them care. You will need to talk with the patient about important personal healthcare information, in addition to the physical contact necessary to provide the care they need.

### Helpful Things to Remember:

- You should always maintain privacy by using sheets and curtains during the physical exam.
- Develop strategies for different age groups.
- You should always provide care on adolescents with a chaperone in the room.
- If you do not know how best to maintain privacy for a specific procedure, ask your physician!

## Essential Responsibilities

*“It is not MY fault that I never learned to accept responsibility!”  
- unknown*

It is important to be aware as the CTA, you hold the power in the healthcare provider/patient relationship, therefore, you also hold the responsibility to maintain professional boundaries and act ethically when interacting with others. Use the definitions provided in the text and workbook to help better understand the critical areas of responsibility that affect the CTA.

## Consent

**con·sent** \kən- 'sent\ : to give approval, agree

There are many instances where consent may be necessary or requested in the chiropractic practice. In recent years, the issue of patient privacy related to healthcare information has become a national concern. In the same way, particular treatments may require consent. Patient consent is needed for collecting and sharing patient healthcare data, as well as certain procedures; however it is important for every practice to have a clear framework of consent procedures in place.

Patient consent is a process of communication between a patient and healthcare provider that results in the patient’s authorization or agreement. During this process, your patient should have an opportunity to ask questions, so they may have a better understanding and make an informed decision.

**Statutory Requirements** - Know your state laws. Some states require written consent to be obtained for particular treatments.

**Implied Consent** - Implied consent differs from express consent, which is communicated by the spoken or written word. Implied consent is consent that is inferred from signs, actions, or facts, or by inaction or silence. Whether it is as valid as express consent depends on the situation and the applicable law. To protect yourself and your practice in litigation, it is important that the communications process itself be documented.

**Reviewing Consent** – Patients consent needs to be reviewed. A previously signed consent form is not sufficient evidence that a patient has given, or continues to give their consent.

## Verbal and Non-Verbal Communications

### Keys to Communicating with Patients

As you have learned, a key responsibility of the CTA is to communicate and interact closely with patients. Throughout your day you may care for patients in pain, assist with exams, take health histories, apply modalities, or facilitate rehabilitation exercises. Regardless of the task, as patients

disclose personal health information, it is important to remember to always respect their views as it pertains to their healthcare and to listen intently when they communicate with you. In some instances, patients may relay personal information that they may find embarrassing or delicate. Maintain a professional demeanor and always remain objective in these situations.

Health care practitioners have a duty to keep personal healthcare information confidential. All individuals are entitled to confidentiality. Communication between the patient and healthcare provider is strictly confidential. It is important to note that even family members, regardless of good intentions, are not necessarily permitted to access information about a person's health. The federal law known as the Health Insurance Portability and Accountability Act (HIPAA) affects most healthcare providers and defines regulations regarding privacy, access, and disclosure of information. Below are some of the specifications that HIPAA outlines:

- Individuals should normally have access to see and obtain copies of their medical records and request corrections if errors are found.
- Healthcare providers should regularly disclose their practices regarding privacy of personal healthcare information.
- Healthcare providers may share an individual's personal healthcare information; however, only among themselves and access should be restricted to allow only as much as is needed to provide care.
- When it comes to marketing, personal healthcare information may not be released.
- Healthcare providers should take reasonable safety measures to ensure confidential communications with individuals.
- Individuals may file complaints regarding privacy practices of healthcare providers.

Those in the healthcare field are sometimes required by law to disclose certain information, typically due to a condition that may present a risk or danger to others. This includes certain communicable diseases. For example, human immunodeficiency virus (HIV) infection, syphilis, and tuberculosis must be reported to state or local public health agencies. In addition, in some states you must report conditions that may seriously impair an individual's ability to drive, such as recent seizures or mental health conditions, to the Department of Motor Vehicles.

It is also possible that a patient may exhibit behavior or reveal to healthcare providers information that could potentially implicate themselves or another in illegal activity. You must always take these cases very seriously; carefully note the descriptions of events or other pertinent details and notify the proper authorities.

## Sexual Harassment

The EEOC has defined sexual harassment in its guidelines as:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, or
- Submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individual, or
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

**Unwelcome** is the critical word. A victim may consent or agree to certain conduct and actively participate in it even though it is offensive and objectionable. Therefore, sexual conduct is unwelcome whenever the person subjected to it considers it unwelcome. Whether the person in fact welcomed a request for a date, sex-oriented comment, or joke depends on all the circumstances.

**QUID PRO QUO HARASSMENT** is when employment and/or employment decisions for an employee are based on that employee's acceptance or rejection of unwelcome sexual behavior.

**HOSTILE WORK ENVIRONMENT** is a work environment created by unwelcome sexual behavior or behavior directed at an employee because of that employee's sex that is offensive, hostile, and/or intimidating and that adversely affects that employee's ability to do his or her job.

**SEXISM** is an attitude. It is an attitude of a person of one sex that he or she is superior to a person of the other sex.

**SEX DISCRIMINATION** is a behavior. It occurs when employment decisions are based on an employee's sex or when an employee is treated differently because of his or her sex.

**SEXUAL HARASSMENT** is a behavior. It is defined as unwelcome behavior of a sexual nature.

**SUBTLE SEXUAL HARASSMENT** is a behavior but not a legal term. It is unwelcome behavior of a sexual nature that if allowed to continue could create a QUID PRO QUO and/or a Hostile Work Environment for the recipient.



## Social Ethical Guidelines

Many different kinds of conduct—verbal, visual, or physical—that is of a sexual nature may be sexual harassment, if the behavior is unwelcome and if it is severe or pervasive. Here are some more examples:

**VERBAL OR WRITTEN:** Comments about clothing, personal behavior, or a person's body; sexual or sex-based jokes; requesting sexual favors or repeatedly asking a person out; sexual innuendoes; telling rumors about a person's personal or sexual life; threatening a person

**NONVERBAL:** Looking up and down a person's body; derogatory gestures or facial expressions of a sexual nature; following a person

**PHYSICAL:** Assault; impeding or blocking movement; inappropriate touching of a person or a person's clothing; kissing, hugging, patting, stroking

**VISUAL:** Posters, drawings, pictures, screensavers or emails of a sexual nature

Non-sexual conduct may also be considered under sexual harassment, for example, if you are harassed because you are female, rather than male or vice-versa.

## Types of Harassment Behaviors

Below are examples of sexual harassment. Behaviors like these can create a work environment that feels threatening or unsafe. Hostile environment sexual harassment can come from employers and co-workers but this behavior can also be exhibited by your patients.

- Sexual comments about your body
- Sexual advances/propositions/suggestions
- Sexual touching
- Sexual graffiti
- Sexual gestures
- Sexual “dirty” jokes
- Spreading rumors about others' sexual activity
- Touching oneself in a sexual fashion in front of others
- Talking about one's own sexual activities in front of others
- Showing offensive/sexual pictures, stories, objects

The conduct of the harasser must either be severe or it must be pervasive to be sexual harassment. A single incident is probably not sexual harassment unless it is severe. For example, a single incident of rape or attempted rape, in addition to violating criminal laws, would likely be deemed sexual harassment due to the severity of the act. Pervasiveness is also a factor. Although a single unwanted request for a date or one sexually suggestive comment might offend you and/or be inappropriate, it may not be sexual harassment. However, a number of relatively minor separate incidents may add up to sexual harassment if the incidents affect your work environment.

### STUDY TIPS

**Questions to determine whether inappropriate conduct is pervasive are:**

- *How many times did the incidents occur?*
- *How long has the harassment been going on?*
- *How many other people were also sexually harassed?*

### **Sexual harassment is against the law.**

Laws against sexual harassment are designed to protect you from your boss, your co-worker, or patients at work. Men and women, patients or employees, all can be victims of sexual harassment.

#### **Federal Law /State Law**

The federal law prohibiting sexual harassment in the workplace is Title VII of the 1964 Civil Rights Act, as amended. The law makes certain employers responsible for preventing and stopping sexual harassment that occurs on the job. Under Title VII, covered employers must: (1) take reasonable care to prevent sexual harassment; (2) take reasonable care to promptly correct sexual harassment that has occurred. Additionally, most states have a law that makes sexual harassment and other forms of sex discrimination illegal.

#### **Your Duty Versus Your Duty to Report**

As a professional in your field you have learned never to make a sexual advance towards a co-worker or patient. If you believe that a colleague has demonstrated sexual behavior to a co-worker or patient, or has displayed any sexual harassment behaviors you should take appropriate steps without delay.

When you are deciding what to do, remember that every situation is different. You should not hesitate to address the situation so it can be fully investigated. You have the option to use your practice's harassment complaint process, file a charge with a state or federal agency, and/or go to court. It is important to talk with a lawyer or legal services organization like Equal Rights Advocates to discuss your choices. Suspicion of sexual assault or other criminal activity should be reported to the authorities.