

# Always consult legal advice

## SEXUAL MISCONDUCT

Some states also have laws making sexual misconduct subject to lawsuits and even arrest. Practitioners need to be sure about the rules that apply to them, as well as be aware of how their behavior may be perceived by others. For example, in most situations consent will not be an effective defense against sexual misconduct allegations.

The reasons for a client's ability to consent being called into question are:

- The fiduciary trust between clinician and patient
- Exploitation of transference feelings
- The right of the patient to expect clinical needs to be the overriding priority
- Exploitation of the patient's purported inability to resist the therapists' influence
- The alleged "power differential" between any patient and his or her clinician

Recorded history of sexual misconduct travels back to the 4th and 5th centuries B.C. and includes the Hippocratic Oath that states, "I will abstain from intentional wrong-doing and harm, especially from abusing the bodies of man or woman, bond or free." In contrast, Sigmund Freud flagrantly demonstrated sexual misconduct when he excused such behavior by his male colleagues.

For example, Carl Jung, according to historians, became sexually involved with one of his patients by the name of Sabina Spielrein, a 19 year-old medical student. When corresponding with Freud, he stated, "The continued preservation of the relationship (with Sabina) could be rounded out only by sexual acts." As Jung became more desperate when the affair became known he was reassured by his colleague, Freud. Freud wrote to his friend not to blame himself and stated, "It was not your doing, but hers."

Kenneth S. Pope has written extensively on sexual behavior between mental health professionals and their clients. He asserts that sexually abusive psychotherapists are well represented in the mental health profession. As a matter of fact there is nothing new about sexual contact between mental health practitioners and their clients.

Assailian and Ravart have identified two types of sexually offending professionals. They are described as affective or predatory. Affective offenders tend to have unresolved emotional problems and may engage in counter-transference, be depressed, or have substance abuse issues. They may have underlying and unresolved abandonment issues.

Predatory offenders tend to have personality disorders that include narcissistic, borderline or psychopathic features. Predatory offenders have integrated their behaviors to use and exploit others in order to meet their, needs.

Assailian and Ravart have identified seven subtypes within the affective and predatory types. They include:

- 1) Sadistic - Offenders who enjoy using their power and authority to control and dominate the victim, receiving marked pleasure from being cruel and provoking suffering
- 2) Exploitive - Offenders who purposely use their power and authority to fulfill their needs, including the need to dominate and control
- 3) Incidental - Offenders who have impulsively behaved in a sexually inappropriate manner one time
- 4) Narcissistic - Offenders who demonstrate a need for attachment, admiration, approval, validation, love and attention
- 5) Angry - Offenders who persistently sexually harass and offend against women
- 6) Compensatory - Offenders who offend to fulfill unmet needs for closeness, affection and sexual relations
- 7) Interpersonal - Offenders who are motivated to establish a close, intimate and long lasting relationship. The relationship appears to be authentic without clear signs of exploitation or abuse

Risk factors that promote sexual misconduct have been separated into nine groups.

Anyone working in mental health practice has experienced different relationships with clients. Sometimes it is nearly impossible not to form respect and even affection for clients. However, practitioners must work diligently to avoid problems, i.e., either crossing the boundaries of the professional relationship or even appearing to do so.

In addition to other previously discussed actions designed to prevent harm to the client, workers can proactively address this issue by doing the following:

- Limit practice to those populations that do not cause your own needs to surface
- Seek clinical supervision to effectively deal with personal feelings
- Document surroundings and who was present during sessions and visits
- Avoid seeing the client at late hours or in locations that are atypical for routine practice

Reporting sexual misconduct by a colleague is an ethical responsibility of mental health practitioners. Many states have laws that require licensed professionals to report such misconduct, as well as other ethical violations to their State Boards. It is the responsibility of every professional to protect clients by reporting a reasonable knowledge or suspicion of misconduct between the client and colleague.