

Professional boundaries practice standard

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Dental Council
Te Kaunihera Tiaki Niho

Foreword

Standards framework

The Dental Council (the “Council”) is legally required to set standards of clinical competence, cultural competence and ethical conduct to be observed by all registered oral health practitioners (“practitioners”)^a. This means that compliance to the Council’s standards by practitioners is mandatory.

The Council has established a standards framework which defines the ethical principles, professional standards and practice standards that all practitioners must meet.

There are five ethical principles that practitioners must adhere to at all times.

Practitioners must:

- put patients’ interests first
- ensure safe practice
- communicate effectively
- provide good care
- maintain public trust and confidence.

Each of the five ethical principles is supported by a number of professional standards which articulate what a practitioner must do to ensure they achieve the ethical principles. The professional standards are, in turn, supported by practice standards which relate to specific areas of practice that require more detailed standards to enable practitioners to meet the professional standards and ethical principles.

A copy of the standards framework is available on the [Dental Council's website](#).

Compliance

The standards set by the Council are minimum standards which are used by the Council, the public of New Zealand, competence review committees, professional conduct committees, the Health and Disability Commissioner, the Health Practitioners Disciplinary Tribunal and the courts, to measure the competence, performance and conduct of practitioners.

A failure to meet the Council's standards and adhere to the ethical principles could result in Dental Council involvement and may impact on the practitioner’s practice.

Sometimes factors outside of a practitioner’s control may affect whether or not, or how, they can meet the standards. In such circumstances, practitioners are expected to adhere to the ethical principles, demonstrate insight and use their professional judgement to determine appropriate behaviour.

Practitioners must be able to justify their behaviour when this is contrary to the standards, and document their reasons.

^a Oral health practitioners include dentists, dental specialists, dental hygienists, dental therapists, oral health therapists, clinical dental technicians, dental technicians, and orthodontic auxiliaries.

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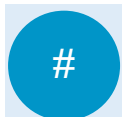
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Introduction

This introduction provides commentary on the professional boundaries practice standard and context for the standards and guidance within it. It does not form part of the practice standard.

The professional boundaries practice standard contains:

- The Dental Council *standards* (the 'standards') for professional boundaries that all registered oral health practitioners ('practitioners') **must** meet. These are presented in the numbered coloured boxes -



The standards that practitioners must meet.

and

- *Guidance* which describes the actions and behaviour that enable practitioners to meet the minimum standards. If a practitioner does not follow the guidance, they must be able to demonstrate to the Dental Council (the 'Council') that they meet the standards.

This is presented in the grey-shaded boxes directly following the relevant standard -

Guidance

- The actions and behaviour that enable practitioners to meet the minimum standards.

Some introductory comments appear throughout the practice standard to give added context to particular standards.

Purpose

The purpose of the professional boundaries practice standard is to set minimum standards for practitioners in identifying and maintaining appropriate professional boundaries between themselves and their patients; and those close to them, including their families and whānau.

The professional behaviour expected of practitioners in relation to their colleagues and the public is covered in the professional standards and guidance of the standards framework.

The standards and guidance in the practice standard relate to areas of practice where there are recognised risks of boundary breaches occurring. However, this is not an exhaustive lists of scenarios—practitioners should use their professional judgement, and be guided by the standards framework's ethical principles and the standards contained in this practice standard to determine an appropriate response.

Understanding and defining professional boundaries

The professional relationship between a practitioner and a patient is a partnership, based on trust and respect, which is focused on meeting the oral health needs and goals of the patient.

The patient must feel safe and be able to trust that the practitioner will provide safe and effective care in the patient's best interests.

A power imbalance exists in this relationship which places the patient in a vulnerable position, with the potential for exploitation or abuse by the practitioner. Inherent characteristics of the professional relationship contribute to this, for example, the practitioner has access to privileged information about the patient, and has knowledge and resources that the patient needs.

To avoid taking advantage of their position within the professional relationship, the practitioner must act with integrity and in good faith to put their patients' interests above their own. It is vital that the practitioner respects and maintains the patient's trust.

'Professional boundaries' may be considered as the limits of appropriate professional behaviour, beyond which the practitioner is no longer putting the patients' interests above their own personal, sexual or financial needs—and there is potential for the patient to be exploited or abused. Clear professional boundaries protect both patients and practitioners, as well as the public, and contribute to safe and effective care.

The influence of context

It is recognised that context will influence what individual patients and practitioners perceive as appropriate or inappropriate behaviour within the professional relationship.

These contextual influences are varied, and may involve resource limitations such as staffing numbers, or absence of regular staff; the setting for interactions—clinical vs non-clinical; and cultural and religious values and practices. It is the practitioner's responsibility to recognise and consider these in identifying and maintaining professional boundaries.

Awareness of the diversity of the population and associated cultural and individual differences, clear communication between the patient and the practitioner, and a sensitivity to non-verbal communication are vital in identifying and maintaining appropriate professional boundaries.

Duty of patient care

The Health and Disability Commissioner Code of Rights provides that every consumer has the right to freedom from discrimination, coercion, harassment and sexual, financial or other exploitation.¹

The New Zealand Human Rights Act (1993) states that sexual harassment is unlawful.

In accordance with the standards framework, practitioners have a responsibility to put their patients' interests first and to maintain their trust and confidence by maintaining appropriate boundaries and providing good care.

Practitioners also have a responsibility to ensure that non-registered team members behave professionally in their interactions with patients and those close to them, including their families and whānau.

¹ Right 2 Health and Disability Commissioner Code of Health and Disability Services Consumers' Rights Regulations 1996.

Boundary breaches

Boundary breaches fall into two broad categories—boundary crossings and boundary violations.²

‘Boundary crossings’ are brief deviations from expected professional behaviour that may be inadvertent or thoughtless, or purposeful when done to support the patient’s care. They are non-exploitative and there is a clear return to the established limits of the professional relationship.

‘Boundary violations’ are breaches of professional boundaries that are harmful or potentially harmful to the patient and their care. They typically involve the misuse of power or the betrayal of trust or respect, and represent exploitation or abuse of the patient.

A breach of sexual boundaries is regarded as a boundary violation in all circumstances.

Acknowledgements

The professional boundaries practice standard is founded on a number of different sources, including the Nursing Council of New Zealand’s *Guidelines: Professional Boundaries*, the College of Dental Surgeons of British Columbia’s *Boundaries in the Practitioner-Patient Relationship*, the New Zealand Medical Council’s *Sexual Boundaries in the Doctor-Patient Relationship*, The Dental Board of Australia’s *Code of conduct for registered health practitioners*, The Nursing and Midwifery Board of Australia’s *A nurse’s guide to professional boundaries*, The General Dental Council’s *Guidance on using social media*, the General Medical Council’s *Maintaining a professional boundary between you and your patient*, and the Aravind et al. journal article *Boundary Crossings and Violations in Clinical Settings*.

² Definitions adapted from: Nursing and midwifery board of Australia. *A nurse’s guide to professional boundaries* (2010). Retrieved from <http://www.nursingmidwiferyboard.gov.au/Codes-Guidelines-Statements/Professional-standards.aspx>; and Aravind et al. *Boundary Crossings and Violations in Clinical Settings* (2012). Retrieved from <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3361837/>

Professional boundaries practice standard

Dental Council
Te Kaunihera Tiaki Niho

1

You must identify and maintain appropriate professional boundaries in your interactions with your patients and those close to them, including their families and whānau.

Guidance

- Recognise the inherent imbalance of power that exists within the professional relationship, and respect the trust placed in you by your patients by putting their interests above your own.
- Recognise that some patients are more vulnerable than others and that in these cases the power imbalance is increased, for example, children, those with a mental illness or disability, and some older people.
- Be aware of your own needs, values and attitudes, and their potential influence on identifying and maintaining appropriate professional boundaries; and respect those of your patients.
- Recognise contextual influences that surround your professional relationships and consider these in identifying and maintaining appropriate professional boundaries, including patients' cultural and religious values and practices.
- Document any boundary crossings made purposefully to support patient care in the patient record.
- Accept responsibility for identifying and maintaining professional boundaries with your patients. It is not acceptable to blame a patient for your boundary violations.
- Manage the risk of boundary crossings and violations occurring by:
 - Having a third person present during patient contact time, when this is feasible

This might be a chairside assistant, the patient's support person, or a chaperone or supervisor who the practitioner wishes to be present who is not the chairside assistant. Note that if you wish to have a chaperone or supervisor present you need to first inform the patient and gain their consent.

While it is understood that having a third person present is not always feasible, it is of particular importance for more vulnerable patients; patients who have received sedation; and patients with a history of boundary crossings or violations.
 - Booking patients during office hours, except when treatment is needed urgently
 - Keeping history taking to relevant personal detail
 - Minimising social interactions with your patients.
- Respect patients' privacy, as required under the Health and Disability Commissioner Code of Rights; make patients aware if you use video surveillance in your practice.
- Recognise that accepting gifts may compromise the professional relationship as it may be interpreted as gaining personal benefit from your position, or taking advantage of a vulnerable patient.

Accepting a token gift from a patient may be within appropriate professional boundaries, however it is more appropriate to receive the gift on behalf of the team members, rather than as an individual.

- Be aware that the giving of gifts to practitioners may be an expectation in some cultures, in some circumstances.

Politely decline all cash gifts and any gift offered that is more than a token gift, and explain to the patient that there is no expectation for them to give a gift for the care you have provided.
- Refrain from giving gifts to patients—they may feel obliged to give something in return, or interpret the gift as an indication of a personal relationship. Small gifts related to the patient's oral care, such as oral care products, may be appropriate.
- Be open about any conflict of interest, and declare any commercial or financial interests you have that might affect the integrity of the professional relationship; this applies equally to online communication.
- Always consider carefully involvement in financial dealings with patients which are not related to provision of oral health services. These may result in financial or personal gain or loss for yourself and/or the patient, which may lead to resentment or dependency that interferes with your ability to put the patient's interests above your own.
- Consult with colleagues or other trusted advisors about difficult or challenging situations, or seek their opinion where it is unclear whether or not certain behaviour would be considered within appropriate boundaries; and document this in the patient's record.

Pre-existing relationships

Pre-existing relationships include, for example, your spouse or partner and other family members, whānau, close friends, business relationships, or other forms of non-professional contact with a patient.

The likelihood of a practitioner having a pre-existing relationship with a patient is increased when working in small, rural or remote communities; or small or discrete communities within large urban centres.

2

You must ensure the integrity of the professional relationship is not compromised when you have a pre-existing relationship with a patient, and refer appropriately if you cannot.

Guidance

- Recognise the potential for boundary confusion, and that the integrity of the professional relationship depends on your ability to be objective; the patient's ability to give full, free and informed consent; and patient autonomy.
- Before entering into a professional relationship, consider the potential challenges, and explain and discuss with your patient:
 - That you are providing care in your professional capacity, as distinct from a personal capacity
 - How important it is that at all times they feel comfortable to provide full information, seek a second opinion, or change practitioners without fear of offending or harming the personal relationship
 - That you will always treat the information provided by them as confidential and for the sole purpose of the professional relationship.
- Establish professional boundaries which distinguish your professional role from your personal relationship.
- Ensure proper assessment occurs, the patient is fully informed of their oral condition and options for care, informed consent is obtained, and adequate records are kept—including clinical photographs and radiographs when indicated.
- Refer the patient to an alternative practitioner if you, or they, feel their ability to provide full, free and informed consent, and/or their autonomy or care is compromised.

3

You must identify and maintain appropriate personal boundaries in your interactions with your patients and those close to them, including their families and whānau.

Guidance

- Avoid taking advantage of your position within the professional relationship to meet your personal needs, for example:
 - Avoid over-sharing of personal information, and sharing your personal problems with your patients to satisfy your own need for sympathy or comfort
 - Avoid sharing your personal beliefs with patients in ways that exploit their vulnerable position or that are likely to cause them distress.
- Avoid developing personal relationships with your patients, or someone close to them. This may compromise the professional relationship in the following ways:
 - The patient may find it difficult to share personal information with you that you need from them in your professional role, which may compromise the quality of care you can provide
 - You may be less objective in your clinical judgement
 - The patient may lose trust in you as a professional if you have used your professional relationship with them to pursue a personal relationship with someone close to them.
- Consider the following in determining the appropriateness of developing a personal relationship with a **former** patient:
 - The duration of the professional relationship and the length of time since the professional relationship ended—generally the longer the duration, and the shorter the time since the end of the professional relationship, the less appropriate a personal relationship is considered to be
 - Whether the patient was particularly vulnerable at the time of the professional relationship, and whether they are still vulnerable
 - Whether the former patient's current decisions and actions might still be influenced by the previous professional relationship between you, when there was an inherent imbalance of power. Are they able to act freely?
 - Are you comfortable with your colleagues knowing about this relationship? Could it be regarded as exploitation or abuse?
 - Are you likely to be caring for the former patient in the future? Are you currently caring for their family members?
- Apply the same considerations to relationships with family members of former patients, or others close to them.

Breach of sexual boundaries

A breach of sexual boundaries comprises any words, behaviour or actions designed or intended to arouse or gratify sexual desires. It incorporates any words, actions or behaviour that could reasonably be interpreted as sexually inappropriate or unprofessional. Examples of behaviour that are considered a breach of sexual boundaries is provided in the Appendix on p18.

In the professional relationship, a breach of sexual boundaries has proven to be harmful to patients and may cause emotional and/or physical harm to both the patient and the practitioner. It is a breach of trust, almost always constitutes sexual harassment, and could involve criminal charges.

4

You must not breach sexual boundaries in your interactions with your patients.

Guidance

- Sexual boundary violations are usually preceded by a progressive series of non-sexual boundary violations, a phenomenon generally described as the 'slippery slope'. Be alert to warning signs that sexual boundaries may be breached; these include:
 - Giving special status to a patient, or when a patient receives or requests non-urgent appointments out of office hours, especially when other staff are not present
 - Inviting each other out socially
 - Expressing an attraction
 - Revealing intimate details of your life to a patient during a professional consultation
 - A patient asking personal questions, using sexually explicit language or being overly affectionate
 - A patient attempting to give you expensive gifts.
- A sexual relationship with a current patient is not acceptable, because:
 - It is a breach of sexual boundaries
 - It can damage the patient's trust in the practitioner, and trust in the profession
 - It can impair clinical judgement and influence decisions about patient care
 - However consensual the relationship might appear to be, it is considered that the patient is not in a position to give their consent freely—due to the inherent power imbalance between the practitioner and the patient.

When someone you have a pre-existing sexual relationship with becomes your patient, for example your spouse or partner, you are reminded of your obligations described in standard 2.

- If a patient pursues a sexual or improper relationship with you, treat them politely and considerately and try to re-establish a professional boundary. If this is not possible, then end the professional relationship with the patient, and refer them to another practitioner for care. Document the relevant facts in the patient file.
- If a breach of sexual boundaries occurs, it is immaterial whether the patient consented to or initiated the breach—the practitioner is considered responsible for maintaining the boundaries of the professional relationship.

- Ending a professional relationship with a patient for the purpose of pursuing a personal or sexual relationship with them or someone close to them is not appropriate.
- Developing a sexual relationship with a former patient is not advisable. The previous professional relationship, where there was a clear imbalance of power, can influence the sexual relationship and put the patient at risk.

In considering whether a sexual relationship with a former patient could be appropriate, apply the same considerations as those given for developing a personal relationship with a former patient; or those close to them (standard 3 guidance).

- Developing a sexual relationship with someone you have met through your professional interactions with a current patient, is not advisable. It may damage the patient's trust and compromise the integrity of the professional relationship.

E- professionalism

Electronic communications, such as social media, email and text messaging, are becoming popular as communication channels for practitioners to communicate with their patients and the public. These platforms are useful tools that can benefit patient care by engaging and informing the public about oral health.

Social media,³ in particular, can present challenges for practitioners in maintaining appropriate professional boundaries, as it can easily blur the boundary between their professional and personal lives. This has the potential to undermine the professional relationship they have with their patients, and the public.

5

You must maintain appropriate professional boundaries when using social media and other forms of electronic communication.

Guidance

- Consistently apply the ethical principles and professional standards of the standards framework when using social media and other forms of electronic communication.
- Protect the privacy and confidentiality of patient information, as required under New Zealand privacy laws.
- Be aware that 'tone' is sometimes hard to communicate through electronic communication such as social media or email, and take extra care to ensure material you post or send cannot be misconstrued.

Social media

- Recognise that your online image can impact upon your professional relationships and the public view of the entire profession.
- Avoid placing any information online, including personal views, photographs or videos, which could compromise the trust placed in you as a professional by your patients, colleagues, and the public.
- Be open about any conflict of interest and declare any financial or commercial interests when you post material online.
- Understand that information you place online is instantly made public. It can be easily accessed by others and shared.
- Presume all information you place online will be there permanently, even if you delete it.
- Maintain patient privacy and confidentiality by not placing any information or content online which could identify them, unless you have their explicit consent. This applies regardless of whether the communication is with other practitioners, with 'friends' on a social networking site, or the public (e.g. a blog).

³ Social media can be described as websites and applications that enable users to create and share content or to participate in social networking. Examples of social media include blogs, online forums, YouTube, Facebook, LinkedIn, Twitter, Snapchat and Instagram.

- Ensure that a patient cannot be identified by the sum of information available online.
- Respect patients' privacy by not seeking out information about them on social media.
- If using social media for your practice, consider developing a social media policy. This might cover who is allowed to post on social media, what material can be posted, and whether social media posts need a second practice member to view them before posting.
- Separate your professional and personal life online as much as possible.
- Recognise that using a different username does not guarantee anonymity.
- Use privacy settings to protect your personal information and content to the extent possible on your personal social media profiles, and review these settings regularly—be aware that privacy settings are not absolute and do not guarantee information and content is fully secure.
- Politely decline personal 'friend requests' from current or former patients, or those close to them, and explain that it would be inappropriate to accept the request as it would be beyond the boundaries of your professional role.

Email

- Check with your patient before sending them information by email, to confirm they are happy to receive information from you in this way. There are security issues specific to the use of email. It can be difficult to verify a person's identity from an email; some families and groups share a common email address; and computers may be accessed by a number of different people.

Text messaging

- Avoid the use of personal text messaging with patients, or those close to them. It may be misinterpreted by the patient that you are pursuing a personal relationship, or unintentionally lead to informal dialogue with the potential for boundary crossings and violations; the same principle applies to phone calls.

6

You must act to protect patients if you become aware of boundary breaches by other practitioners, and inform the Council Registrar of any boundary violations or unresolved boundary crossings.

Guidance

- Make the patient's health and welfare your first concern if you become aware that another practitioner may have, or has, breached professional boundaries, and help the patient to receive the support and assistance they need in the circumstances.
- If the patient wishes to make a complaint against a practitioner, direct them to the Health and Disability Commissioner or their advocacy services, and in cases of alleged sexual boundary breaches—the police.

Boundary crossings

- If you become aware of a colleague's boundary crossing, appreciate that it may have been unintentional, and approach and discuss with them:
 - what you observed (or have been made aware of)
 - the actual or potential impact of their actions on the patient
 - their ethical and professional obligations.
- If the practitioner does not acknowledge the problem, and/or continues or escalates their behaviour, speak to a fellow practitioner or manager for help.
- If the situation is not resolved, inform the Council Registrar.

Boundary violations

- Inform the Council Registrar if you become aware of a boundary violation by another practitioner. This includes all alleged breaches of sexual boundaries.
- Take other action as necessary to protect the patient. This may include reporting the situation to the police if you believe there is a serious and imminent threat to the patient's safety or that of another person.

Appendix

Breaches of sexual boundaries

A breach of sexual boundaries comprises any words, behaviour or actions designed or intended to arouse or gratify sexual desires. It incorporates any words, actions or behaviour that could reasonably be interpreted as sexually inappropriate or unprofessional.

Examples of breaches of sexual boundaries are:

- Requesting details of a sexual nature which are not relevant to the patient's care
- Inappropriate examination of a patient
- Inappropriate draping practices and the use of the chest area as a work surface
- Making inappropriate comments about, or to, the patient, such as making sexual comments about a patient's body or clothing
- Making sexualised or sexually demeaning comments to a patient
- Making irrelevant or inappropriate comments about a patient's sexual orientation
- Any conversation regarding the sexual problems, preferences or fantasies of the practitioner
- Inappropriate touching of a patient's body
- Soliciting a date, romantic relationship or propositioning a patient
- Engaging in online or text communication of a sexual nature with a patient
- Soliciting images of a sexual nature from a patient, whether this be of them, a family member or another person(s)
- Sending images of a sexual nature to a patient
- Obtaining patient sexual acquiesce through inducement. For example, offering treatment, services or drugs for sexual favours
- Sexual actions with a patient (including when initiated by the patient).