Addressing Sexual Misconduct: The Washington Way

WASHINGTON Medical Commission
Licensing. Accountability. Leadership.

Definitions

Sexual Misconduct: Abuse of a client or patient, or sexual contact with a client or patient [1].

As stated in Washington rules, a practitioner engages in sexual misconduct when s/he engages in the following behaviors with a patient or key third party, whether or not it occurred outside the professional setting:

- Sexual intercourse, or genital to genital contact;
- Oral to genital contact;
- Genital to anal contact, or oral to anal contact;
- Kissing in a romantic or sexual manner;
- Touching breasts, genitals or any sexualized body part for any purpose other than appropriate examination or treatment;
- Examination or touching of genitals without using gloves;
- Not allowing a patient the privacy to dress or undress;
- Encouraging the patient to masturbate in the presence of the physician, or masturbation by the physician while the patient is present;
- Offering to provide practice-related services, such as medications, in exchange for sexual favors;
- Soliciting a date;
- Engaging in a conversation regarding the sexual history, preferences or fantasies of the physician.

Key Third Party: Person in a close personal relationship with the patient and includes, but is not limited to spouses, partners, parents, siblings, children, guardians and proxies [2].

Clinical Implications

Sexual Misconduct by practitioners is an abuse of professional power and a violation of patients' trust. An uncomfortable or traumatic experience in a practitioner's office may become a major barrier to seeking health care in the future. Patients may find being physically exposed to more personnel than necessary for their clinical care during childbirth to be a dehumanizing and traumatic experience [3]. Practitioners should be aware of the possibility that a patient's apparent desire for a romantic or sexual relationship with a practitioner may be a manifestation of a transference reaction related to gratitude for clinical care [4,5] .

Questions

How does the power imbalance influence decisions with a case nature of sexual misconduct?

Sexual misconduct between practitioners and patients, or key third parties detracts from the practitioner-patient relationship, exploits the vulnerability of the patient, obscures the practitioner's objective judgment concerning the patient's health care, and is detrimental to the patient's well-being [6]. It is unethical for a practitioner to misuse influence from a professional relationship in pursuing a sexual or romantic relationship with a current or former patient.

Does the way a medical board handles allegations of sexual misconduct affect patient safety?

Yes. A patient's or key third party's consent to, initiation of, or participation in sexual behavior or involvement with a practitioner does not change the nature of the conduct. It is not a defense or a mitigating factor that the patient consented to, proposed, or initiated the sexual contact or romantic relationship. In addition to involving harm to the victim, an episode of sexual misconduct may not be isolated and could indicate a history of misconduct toward other patients or a risk of future misconduct. When imposing sanctions, the Washington Medical Commission (WMC) must first consider what sanctions are necessary to protect the public. Only after this is done may the WMC consider and include sanctions designed to rehabilitate the practitioner.

Methods

Trauma Informed Sexual Assault Investigations

WMC Commissioners, Investigators and Staff Attorneys participate in specialized training where there is a focus on the unique perspective of the victim. This specialized training minimizes the negative impact to the victims by focusing on:

- Sources of investigator bias; and
- Physical changes in our brain induced by trauma;

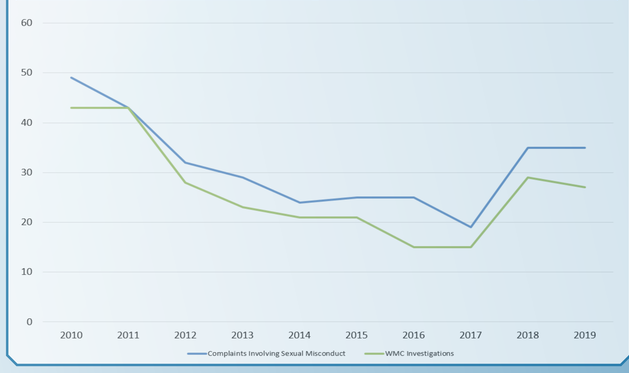
Sexual Misconduct Analysis Review Team (SMART)

SMART consists of twelve WMC members. Six members will be clinical members and six will be public members. When a complaint is authorized for investigation, two SMART members are assigned to serve as reviewing commission members (RCMs), one clinical member and one public member. Both sexes will be represented [7]. This SMART approach changes the way we respond, investigate and interview victims.

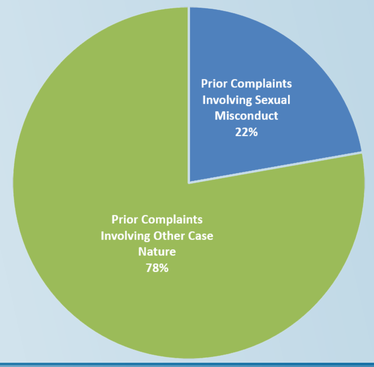
Results

Available data relies heavily on patient reporting, and it is estimated that less than 10% of patients subjected to sexual misconduct report their experience [8].

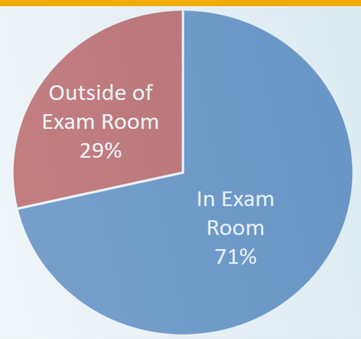
Sexual Misconduct Complaints and Investigations



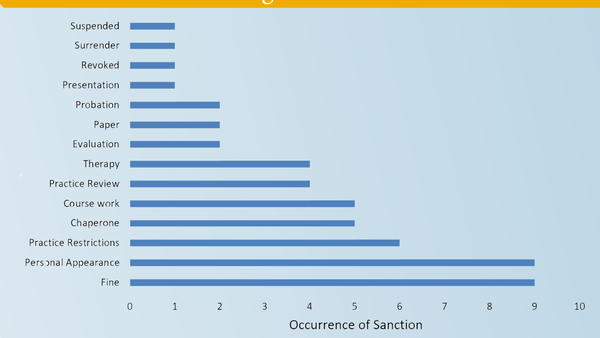
Respondent Prior Complaints



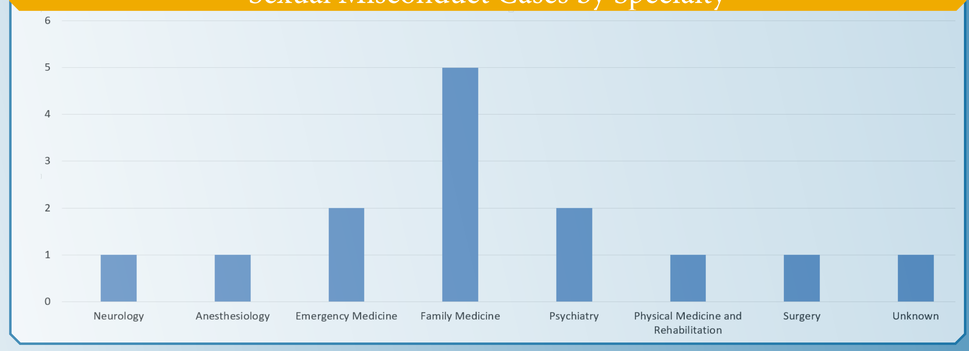
Location of Sexual Misconduct Violation



Sanctions Resulting from Sexual Misconduct



Sexual Misconduct Cases by Specialty



Conclusions

Sexual misconduct is an abuse of professional power, a violation of patient trust and jeopardizes the well-being of patients. Best practices outlined in this poster will help assure patients and the public that practitioners are maximizing efforts to create a safe environment for all patients.

How can the medical board help physicians and physician assistants?

- Incorporate the use of gender restrictions rather than chaperones. Chaperones have proven to be ineffective [9,10] .
- Students and trainees should be educated about the inherent power imbalance in the patient–physician relationship, avoidance of sexually offensive or denigrating language, risk factors for sexual misconduct, and procedures for reporting suspected misconduct[11,12,13]. Relevant elements of the clinical examination should be highlighted specifically when appropriate, including:
  - Draping methods;
  - Explanation of examination to patient;
  - Use of trauma-sensitive language;
  - Solicitation of questions and permission to proceed with an examination;

How can practitioners help themselves?

- Be aware of any feelings of sexual attraction to a patient or key third party. Discuss such feelings with a supervisor or trusted colleague. Under no circumstances should a practitioner act on these feelings, reveal or discuss them with the patient or key third party.
- Be alert to signs that a patient or key third party may be interested in a sexual relationship.
- Transfer care of a patient to another health care provider.
- Respect a patient's dignity and privacy at all times.
- Provide a professional explanation for why certain examinations, procedures, and tests are required for diagnosis and treatment. This can minimize any misperceptions a patient might have regarding the practitioner's intentions and the care being given.

Works Cited

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