Boundaries

Easy to Define, Not Always Easy to See

James T Jennings MD

- Medical Director KPHF
- President KySAM
- BOD FSPHP

Special Thanks To:

- Kevin Kunz, MD, MPH
- Gary D. Carr, MD, FAAFP

Introduction

- Discuss Professional Boundaries
- Current view of Professional Sexual Misconduct
- Define Sexual Misconduct
- Risks: For Patient/For Doctor
- Treatment/Rehabilitation/Monitoring

Man
ON
OFF
Woman
ON
OFF

RULE NUMBER 1

DON’T HAVE SEX WITH YOUR PATIENTS!

Boundaries

Mutually understood, unspoken physical and emotional limits of the professional relationship between the patient and the physician

Boundaries

- The edge of appropriate behavior
- Extremely context dependent
- If you cross it, you've gone outside your field or purpose for being there

(Gabbard 95')

Patient-Physician Relationship

- The essence is trust
- Inherent imbalance of power
- Physicians have more power
- Patient needs come before yours
- You are not allowed personal gain

Boundary Issues

- Dual Relationships
- Self-disclosure
- Physical exam, physical space and physical contact ("touching")
- Verbal interaction
- Fees
- Prescribing
- Collateral contacts
- Appointment times and locations
- Sexual comments or contact
- Workplace Behavior
  - Curbside consults
  - Social contact
  - Dating
  - Unwanted sexual behavior
  - Disrespectful behavior
    - Criticize, yell, curse, throw, etc.

Boundary Crossing vs Violation

- Boundary Crossing – Something outside the scope of your work. May be helpful.
- Boundary Violation – As above; distinguished by context. Always arise from the doctor. Unchecked they are always harmful/exploitive/ destructive.

The Slippery Slope of Boundaries

Clear

Blurred

Confused

Crossed

Transgressed

Violated

Doctor – Patient Relationship

Hippocratic Oath: "… I will come for the benefit of the sick, remaining free of all intentional injustice, of all mischief and in particular of sexual relations with both female and male persons…"

An Alternative View

They call me Dr. Love,
(calling Dr. Love).
I've got the cure you're
thinkin' of.

G. Simmons, P. Stanley 1976

Prevalence

- Male Physicians – 9 – 10%
- Female Physicians- 3%
- Highest risk specialties:

  Psychiatry

  Family Practice/General Practice

  Ob/Gyn

(Gartrell '92)

The Pendulum Swings (M.D.s)

- APA condemned sex with patients-1973
- APA added former patients –1989
- AMA condemned sex with patients-1986
- AMA added most former pts.-1992

  if physician "uses or exploits trust, knowledge, emotions, or influence derived from the previous professional relationship".

AMA Code of Ethics

- "Sexual contact that occurs concurrent with the doctor-patient relationship constitutes sexual misconduct."

FSMB Definition of PSM

- Behavior that exploits the physician-patient relationship in a sexual way. This behavior is non-diagnostic and non-therapeutic, may be verbal or physical, and may include expressions of thoughts and feelings or gestures that are sexual or that reasonably may be construed by a patient or patient surrogate as sexual

(FSMB)

Patient Surrogates

- "those individuals closely involved in the patients' medical decision-making and care and include (1) spouses or partners (2) parents (3) guardians, and/or (4) other individuals involved in the care of and/or decision-making for the patient."

FSMB

Argument Against Doctor-Patient Relationships

- Fiduciary relationship
- Trust relationship
- Power relationship
- Vulnerability
- Confidential Information
- Idealization

(Jorgenson, CDS Review, 8/94)

Power

- "Doctors are in an incredible position of power and professional boundaries must exist. Doctor power has been likened to the authority of parental power where doctors are providers of essential care and patients respond with feelings of gratitude and dependency".

(White, 1994, F.P. Jour.)

Fiduciary Relationships

- A power relationship in which the fiduciary is dominate on the basis of law, status, position, or knowledge.
- The fiduciary places the interest of the ward above their own interest. i.e. Doctor-Pt, priest-parishioner, lawyer-client, policeman-citizen.

Transference and Countertransference

- Transference – "the unconscious assignment to others of feelings and attitudes that were originally associated with important figures."
- Countertransference – The transference reaction of the doctor toward to patient.

Doctors and Patients At Risk

Situations That May Lead to Problems

- Over-familiarity with patients
- Business relationships
- Gift giving and accepting
- Treatment of family and friends
- Social contact with patients
- Inappropriate staff and trainee relationships

Physicians At Risk for Boundary Violations?

- Axis I and II Disorders
- Alcohol and drugs
- Stress and Burnout
- Midlife Crisis
- Isolation
- Developmental Issues
- Counter-transference
- Personal Illness
- Predator

- 85% Male
- 73% 40 – 59 YO
- Increased power disparity
- Personal Crisis

(Enbom/Carnes/Irons/AMA)

Patients at Risk – May Succumb to Advances or May Instigate

- History sexual abuse
- History other trauma
- Borderline personality
- Eating disorder
- Multiple personality disorder
- Low Self Esteem
- Marital Issues
- Addictive Illness
- Transference

Vulnerable Patients May Instigate or Succumb to Boundary Issues

- Impulsivity
- Dependence
- Loneliness
- Childhood trauma
- Low Self-esteem
- Insecurity
- Alcohol or drug use
- Psychiatric disorders
- They are sick and needy!

Over-Familiarity

Once crossed over, hard to return
May lead to further reciprocal intrusions and obligations
May lead to coercion
May cloud clinical judgment
May lead to serious violations (sexual)

Business Relationships

Misuse of information from patients
Personal gain
Unnecessary referrals

Social Contact with Patients

May blur professional boundaries
Urban-Rural Considerations

Staff and Trainees

Office, clinic, hospital
Students, residents

Gift Giving and Receiving

Patient to physician
- small, large, expensive, frequency reciprocity, no free lunch

Physician to patient
- patient sense of obligation may affect communication

Treating Family &Friends

AMA Code of Ethics

Reasons Sexual Misconduct Gaining Attention

- Growing consumer rights movement
- Increased public awareness
- Recent priest scandals
- Medical Profession more proactive
- Lawyers love to target health care

(Searight, 93’, Jour. of F.P.)

Consequences for Doctor and Patient

Between 1989 & 1996 board disciplinary actions for PSM increased 250%.

Sidney Wolfe
Public Citizen

Sexual Contact with Patients

1,600 surveyed, 52% responded

4% dated patients
3% had sex with current patient
3% has sex with former patient
20% knew of colleague dating or intimate with patient

(Bayer, T., et al. A National survey of Physicians' Behaviors regarding Sexual Contact with Patients. South. Med. J. 89(10): 977-982, 1996)

AMA Code on Sexual Contact

- **Current Patients**
  - Constitutes sexual misconduct
  - At a minimum, physician must terminate the patient-physician relationship prior to initiating a dating, romantic or sexual relationship
- **Former Patients**
  - Sexual or romantic relationships with a former patient may be unduly influenced by the previous patient-physician relationship
  - Unethical if the physician uses or exploits trust, knowledge, emotions or influence derived from the previous patient-physician relationship
- **Medical Supervisors and Trainees**
  - Inherent inequalities in status and power
  - Even when consensual are not acceptable
  - Supervisory role must be eliminated to pursue relationship

Sexual Misconduct

- Sexual Impropriety – Behavior, gestures, or expressions that are seductive, sexually suggestive, or sexually demeaning to the patient
- Sexual Violation – Doctor-Patient sex. Any behavior that is sexual or may be reasonable interpreted as sexual.

(FSMB)

Slipping Away

One small step at a time…

- Gradual erosion of neutrality
- Perception of patient treated as "special"
- Socialization outside the practice
- Disclosure of confidential information about other patients
- Physician self-disclosure
- Physical contact
- Patient gains undue influence over physician
- Extended clinic visits
- End of day appointments, special appointments
- Free care
- Extra-therapeutic contacts
- Dating
- Patient-physician sex

Sexual Impropriety - Discipline Considerations

- Patient harm
- Severity
- Culpability of doctor
- Psychotherapeutic Relationship
- Termination of Doctor-Pt.
- Age of patients
- Number of episodes
- Number of patients
- Length of relationship
- Eval/Rec. results

Sexual Violation; Disciplinary Considerations

- Terms & conditions of Probation (Rare)
- Suspension or Revocation of license (Usual)

General Goals of Discipline

- Reinforce a standard or underline the seriousness of an offense.
- Deter the offender
- Deter others
- For justice or to maintain the integrity of the profession

Psychological Sequelae for Patients Who Complained

- Psychologically similar to rape/incest
- Increased depression/guilt
- Increased somatic complaints
- Increased drug/Etoh abuse
- Anger/distrust of men and authority

(Feldman-Simons)

Treatment and Monitoring

Treatment

- Skills training
- Psychodynamic approach
- Cognitive-Behavioral approach
- Addiction-model approach

Treatment

- The ultimate goal of treatment is rehabilitation; not punishment
- Should be guided by a comprehensive, multidisciplinary evaluation

Who Cannot Be Rehabilitated?

- Antisocial
- Profoundly narcissistic
- Profoundly dependent
- Pervasive boundary violations
- Won’t end affair
- Refuses collateral information
- Acts out under structured monitoring

Effectiveness of Treatment and Monitoring

- Most physicians return to monitored practice following treatment and recidivism is extremely low.

Relationship With Past Patient

- Always unethical with therapists/psychiatrists
- May be unethical for other physicians
- Potentially unethical with any fiduciary relationship

Monitoring

"…if a diagnosis of mental illness is made… the monitoring of that physician should be the same as for any other mental impairment."

(FSMB 96')

Monitoring

"Programs similar to those that help other kinds of physician impairment, such as alcohol and drug addiction, should be developed and made available for sexual misconduct offenders."

(AMA Council on Ethical and Jud. Affairs 91')

Monitoring…….

- Group therapy with other recovering professionals if available
- SAA groups, if indicated
- Other 12-Step groups if indicated
- Relapse prevention plan in concert with treatment providers
- Targeted practice limitations, if appropriate

Should Monitoring Be Conducted by the Boards? Some Concerns

- Boards exist for the patient, not the doctor
- Board member turnover
- Tendency toward "cookie-cutter" action
- Board members frequently lack training
- Boards under tremendous pressure in high profile cases
- Tendency toward adverse action in response to therapist/monitor reports

WHAT'S LOVE GOT TO DO WITH IT?

What If It's Love

- Terminate professional relationship
- Avoid contact for extended period (2 yr)
- Consult an objective colleague
- Proceed with extreme caution

IT ISN’T ALL ABOUT SEX

Case Examples True/False

Are These Boundary/Ethics Violations?

CASE #1

- A 59 y/o divorced cardiologist befriends a 37 y/o nurse in the office. She confides in him regarding the breakup of her marriage. He prescribes an antidepressant and is counseling w/ her periodically. During one session she is crying and he hugs her and they kiss. She reports this to the clinic administrator who calls the Med Board.

CASE #2

- At the family reunion, your cousin, whom you see twice per year explains that his neurosurgeon is on vacation, but always gives him the 10 mg Percocet for his back pain. He asks you to get him a prescription for enough to last him for a week until the surgeon returns. "50 should hold me for a week", he says.

CASE #3

- As you are getting your mail, your neighbor tells you that he has his "annual sinus infection" again. He knows that the Zpak always takes care of it. He asks you to call it in for him.

CASE #4

- Sometimes the boundary of Physician/Patient is given up and it becomes Employer/Employee.

"Dr. Conrad Murray to Be Charged in Michael Jackson Death; Involuntary Manslaughter Likely"
January 29th, 2010 7:18 AM

CASE #5

- You are on vacation and your spouse breaks out in a terrible, pruritic rash. The closest physicians office is thirty miles away, and there is an ER twenty-five miles away. You choose to call in a topical steroid cream to the pharmacy that is five miles away.

Lowell's Caution

- "Whatever you may be sure of, be sure of this, that you are dreadfully like other people"

The Bottom Line

The fundamental interaction in health care is the one between patient and physician.

This relationship is essential to quality care, to the healing process and to optimal outcomes.

• Self-Assessment Questions

1. Is this discussion or activity a normal, expected part of medical practice?

2. Will engaging in this activity compromise my relationship with this patient? With other patients? With colleagues? With this institution? With the public?

3. Could this activity cause others to question my professional objectivity?

4. Would I want other patients, other professionals, or the public to know that I engage in such activities?

Pink or Red Flags?

Determine if there are applicable standards.
Consult a trusted, objective peer for their opinion.
Seek assistance from a supervisor or ethics committee.
Consider transferring the patient to another's physician's care.

Did a Violation Occur?

Talk with trusted colleague – don't keep it secret.
Stop behavior, refer patient
Seek help from qualified professional.
Contact practice leadership, or physicians health committee.

What to do Differently Now

Be aware of relevant ethical codes, professional standards, laws.
Remain cognizant of your behavior and how you may be perceived by others.
Monitor gifts, hugs, special accommodations. Make a policy.
Document questionable boundary crossings – by patient and you.
Review your policy for dismissing a patient.

Summary

- Transference/Counter-transference is ubiquitous in all relationships
- Physicians have a fiduciary responsibility to monitor the patient-physician relationship
- This relationship exists both in and outside of the practice venue, and last beyond the end of treatment.
- Know the standards and codes.
- Ask for an opinion or assistance if in doubt.

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