

# Nursing Council of New Zealand

## Draft for Consultation

### DRAFT Professional Boundaries Guidelines August 2011

#### Introduction

The Nursing Council's Code of Conduct for Nurses<sup>1</sup> set standards of professional behaviour that nurses are expected to uphold. It is expected that nurses maintain these standards of conduct within professional practice and, to some extent, within their personal lives. Some aspects of nurses' personal lives may impact on their professional practice. An example of this is a court conviction that may reflect adversely on a nurse's fitness to practise. This Code, together with other professional standards and guidelines provides a framework for safe and responsible nursing practice that protects public safety.

This guideline provides more detailed direction on professional boundaries than the standards set out in the Code. Nurses as professionals are responsible for developing and maintaining their knowledge and understanding of acceptable moral and ethical conduct in the interests of public safety and to use this in their own practice.

This guideline is based on research commissioned by the Australian Nursing and Midwifery Council and the Nursing Council<sup>2</sup>. The background paper<sup>3</sup> will be made available on the Nursing Council's website when the guideline is published. In 2007 two focus groups were held with New Zealand nurses and consumers by the researchers who produced these documents. This guideline also draws on a document produced by the Council for Health Regulatory Excellence (UK) published in January 2008<sup>4</sup>.

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<sup>1</sup> Nursing Council of New Zealand *Code of Conduct for Nurses* November 2009.

<sup>2</sup> ANMC and Nursing Council of New Zealand *A Nurse's Guide to Professional Relationships* February 2010.

<sup>3</sup> ANMC and Nursing Council of New Zealand *Draft Background to the Nurse's Guide to Professional Relationships* 2009.

<sup>4</sup> CHRE *Clear sexual boundaries between healthcare professionals and patients: responsibilities of healthcare professionals* January 2008.

### **Power Imbalance**

The relationship between a nurse and a health consumer is one of unequal power. Health consumers are inherently vulnerable because they require healthcare. Nurses are in a position of power because they have more authority and influence in the health care system, specialist knowledge and access to privileged information. The health consumer does not have access to the same degree of information about the nurse as the nurse does about the health consumer thereby increasing the power imbalance. The nurse may also have a professional relationship with the health consumer's family and others close to that person that may increase the health consumer's vulnerability.

### **Cultural Safety**

Cultural safety has a close focus on understanding the impact of the nurse as a bearer of their own culture, history, attitudes and life experiences, and the response other people make to these factors. Cultural safety also involves balancing of power relationships in the practice of nursing so that every health consumer receives effective treatment and care to meet their needs that is culturally competent and culturally responsive. Different cultures may have different expectations, and understanding of relationships and boundaries. The Council has published guidelines<sup>5</sup> and competencies for cultural competence<sup>6</sup> that are available on its website.

### **Professional Boundaries**

The nurse has the responsibility to be aware of what constitutes appropriate professional practice and to maintain his or her professional and personal boundaries. The health consumer is in an unfamiliar situation and may be unaware of the boundaries of a professional relationship. It is the responsibility of the nurse to assist health consumers to understand the appropriate professional relationship. There is a professional onus on nurses to maintain a relationship based on care plans and goals that are therapeutic in intent and outcome.

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<sup>5</sup> Nursing Council of New Zealand *Guidelines for cultural safety, the Treaty of Waitangi, and Maori health in nursing education and practice* (amended and reprinted July 2011).

<sup>6</sup> Nursing Council of New Zealand *Competencies for registered nurses*, (2011) , Nursing Council of New Zealand *Competencies for enrolled nurses (2011)* and Nursing Council of New Zealand *Competencies for nurse practitioners* 2008.

Nurses also have a professional responsibility to assist colleagues to maintain appropriate professional boundaries. Further guidance on the difference between personal and professional relationships can be found in the background paper (2).

### **Areas where boundaries are breached**

The most common areas where boundaries are breached are

- Accepting gifts or bequests
- Financial transactions or acting as a representative
- Intimate or personal relationships
- Sexual relationships

Issues of abuse, neglect or coercion are outside the scope of this guideline and may be examples of conduct that may amount to professional misconduct or be the subject of criminal proceedings.

### **Gifts**

Gift-giving and receiving gifts is a complex area. Many health consumers and their families and others close to them feel indebted towards those who provided health care. Generally speaking it is not acceptable for nurses to receive gifts from health consumers. A gift has the potential to change the nature of a relationship, depending on its intent and the perception of the donor, recipient and others. Nurses need to consider carefully the implications of receiving any gift, including its value, intent and appropriateness.

There may be situations when refusing a gift may be difficult, impolite or appear to be culturally insensitive. The giving of gifts may be an expectation under certain circumstances or within some cultures. Most organisations have clear policies concerning the receipt of gifts. It is generally the position that nurses should politely decline gifts, although there are some limited circumstances when receiving a gift is acceptable. Generally it is more acceptable for a gift to be given to a group as any provision of good care is by the whole team rather than an individual nurse. Any gift must be openly declared to ensure transparency. Nurses may accept a token gift on behalf of others who provide care. For example, a nurse may accept a box of chocolates from a health consumer to share with other staff.

Decisions about gifts should be guided by the following principles:

- Health consumers should never form the impression that their care is dependent upon gifts or donations of any kind.
- Cash gifts should never be accepted.
- People who wish to give cash may be permitted by the organisation's policy to donate funds to a charity or to add to a fund to purchase items to benefit other patients or the staff as a group.

### **Bequests**

People who have been health consumers who have formed close relationships with particular nurses over time may wish to include the nurse in their Wills in gratitude for care and services provided. This situation is particularly difficult for several reasons. There may be family considerations in that the family may not be supportive of the bequest. The family and the nurse may not even know about the bequest until the Will is read. Family members or colleagues may perceive that the nurse has exerted undue influence on a vulnerable person in their care. For these reasons nurses should not accept a bequest. As with a gift, the best option is to refuse a bequest with a polite explanation or request that it be reassigned to an appropriate charitable organisation or the family and disclose it to managers or senior personnel.

### **Financial transactions or acting as a representative**

Financial transactions may involve actions that result in monetary, personal or other material benefit, gain or profit to the nurse. It is never acceptable for a nurse to borrow money or property from a person who was or is a health consumer. Nor is it acceptable to enter into a business agreement that may result in benefit to the nurse.

For the same reasons as refusing bequests, nurses do not act for people in their care through representation agreements nor do they accept power of attorney responsibilities to make legal and financial decisions on behalf of people in their care. There may occasionally be an exception to this principle when the person is also a relative or close friend and no alternative arrangement can be made. The nurse needs to discuss the situation with both their manager or senior nurse and other family members.

Nurses have access to personal and confidential information about health consumers under their care that may enable them to take advantage of situations that could

result in personal, monetary or other benefits for themselves or others. A nurse could also influence or appear to coerce a health consumer to make decisions resulting in benefit to the nurse or personal loss to that person and it is unacceptable for nurses to take such actions.

### **Preventing Boundary Transgressions**

Nurses can reduce the risk of boundary transgressions by:

- Setting and maintaining the appropriate boundaries within the nurse –health consumer relationship, and helping health consumers understand when their requests are beyond the limits of the professional relationship.
- Developing and following a comprehensive care plan with the health consumer.
- Involving other members of the health care team in meeting the health consumer's needs.
- Ensuring that any approach or activity that could be perceived as a boundary transgression is included in the care plan developed by the health care team (for example, a health care team in a mental health setting may determine that having coffee with a health consumer is an appropriate strategy that all nurses will consistently use when providing care).
- Recognising that there may be an increased need for vigilance in maintaining professionalism and boundaries in certain practice settings (for example, when care is provided in a person's home, a nurse may become involved in the family's private life and needs to recognise when his or her behaviour is crossing the boundaries of the professional relationship).
- Ensuring that the nurse does not interfere with the personal relationships of the health consumer and his/her family members.
- Consulting with colleagues and/or the manager in any situation where it is unclear whether behaviour may cross a boundary of the professional relationship, especially circumstances that include self disclosure or giving a gift to or accepting a gift from a health consumer.

- Documenting individualised information in the person's record regarding instances where it was necessary to consult with a manager or colleague about an uncertain situation.
- Considering the cultural values of the health consumer in the context of maintaining boundaries, and seeking advice from cultural advisors.
- Raising your concern with a colleague if you have reason to believe that they might be getting close to crossing the boundary or that they have crossed a boundary. Sometimes a nurse may not be aware of his/her actions e.g. newly registered nurses from New Zealand or overseas.
- Discuss the nature of a therapeutic relationship with a health consumer if they believe that health consumer is communicating or behaving in a way that indicates they want more than a professional relationship with the nurse.
- Consulting with colleagues or the manager where another colleague appears to have transgressed boundaries or a health consumer is behaving in an inappropriate manner towards a nurse.

### **Touching**

The practice of nursing involves nurses touching persons in their care. Nurses use both "task touch" and "supportive touch". Task touch is used to perform procedures or to assist people with an activity such as bathing, getting dressed or mobilising. Supportive touch is touching the health consumer when there is no physical need. It is used to provide comfort or encouragement and, when used effectively, it has a calming and therapeutic effect on the client. There are also formal touch therapies that have distinct and therapeutic goals.

While it is a therapeutic, human and caring response to a number of situations, such contact has the potential to be misinterpreted by people who are vulnerable. The type, location and amount of touch will vary with the nurse and person's age, gender culture and health condition. Nurses need to carefully assess each situation and determine when supportive touch may be appropriate and welcome. They need to be aware of the health consumer's perception of the meaning of supportive touch. The perception and response of the person's family regarding appropriate touching is also important.

Cultural differences may affect health consumers' perceptions of what is intimate or appropriate and nurse must be sensitive to cultural differences and care for health consumers in a way that respects their culture and wishes and preserves their dignity.

### **Pre-existing relationships**

The category of dual relationships deals with boundary issues which occur when a nurse has a pre-existing relationship with a health consumer, such as being a neighbour, friend, family member, business associate, or teacher. Nurses usually have both casual and close relationships with people in their communities. A dual role exists when a nurse has a personal relationship with someone who requires their professional care, and a professional relationship is established. In these situations the nurse must clarify this new professional relationship with the person in order to provide appropriate nursing care and declare it to the other members of the team.

If possible the nurse should not be the primary nurse or only health practitioner involved in this person's care.

Nurses need to ensure that pre-existing relationships do not undermine the judgment and objectivity in the professional relationship when the person is in their care and may need to take steps to hand over the care to another nurse if practicable.

It is critical that nurses distinguish between 'being friendly' and 'being friends'. To achieve this, clear boundaries have to be established identifying when they are acting in a personal role and when they are acting in a professional role. By establishing these boundaries nurses protect the confidentiality of the health consumer and protect their own personal integrity. If there are difficulties in this the nurse should seek to have the care of that person assigned to another nurse and withdraw because a dual role can be problematic, having the potential to create conflict, a loss of objectivity and harm the person requiring care.

### **Caring for close friends or family**

The problems of a dual role are accentuated when a nurse has to provide care to close friends or family members. It is rarely possible for the nurse to maintain sufficient objectivity about the person to enable a truly professional relationship to develop. However, at times, a nurse may have to care for a friend or family member such as in an emergency, or where they live in small close communities where there

is limited access to nurses to whom they can hand over care and go back to being the friend or family member of the person. When a nurse has no immediate option other than to care for a close friend or family member, care is handed over to another appropriate care provider when it becomes possible. If any nursing care is assigned to the nurse who is a family member this should be documented in the care plan.

Even when there is no alternative for the nurse other than to care for a friend or family member, the overall responsibility for the nursing care should be assigned to another person who only has a professional relationship with the client. The nurse with the personal relationship may play a supportive or secondary role.

### **Working in Small, Rural or Remote Communities**

Dual relationships are of particular concern to nurses who live and work in small communities. There is a natural overlap and interdependence of people living in small, rural or remote communities. When someone from the community requires professional care from the nurse, the nurse needs to clarify the shift from a personal to a professional relationship in an open and transparent way. The nurse has to ensure the person's care needs are first and foremost and they must manage confidential issues appropriately.

Small communities are not limited to rural and remote communities: they also include small or discrete communities within large urban centres (e.g. religious, gay or military communities).

### **Self disclosure**

Self-disclosure occurs when the nurse shares personal information with a health consumer. Self-disclosure may be used in moderation as long as it is focused on the needs of the health consumer. In these situations disclosing personal information may have the therapeutic intent of reassuring, counselling or building rapport with that person. Disclosing personal information that is lengthy, self serving or intimate is not acceptable.

The following principles about self disclosure should guide the nurse-health consumer relationship:



- Self disclosure by the nurse must always be provided for the welfare of the health consumer. It is never acceptable when it is for the purpose of meeting the nurse's needs.
- The nurse should ensure that personal information is directly related to the interests of the health consumer. Where the benefit of the disclosure to that person is unclear, it is best to err on the side of caution and refrain from the disclosure.
- The nurse does not disclose personal information, unless it meets an articulated therapeutic need of the person in their care. Disclosing a personal problem may make the person feel as if their problems or feelings are being diminished or that the person needs to help the nurse.

#### **Excessive disclosure by the health consumer**

If it appears that disclosures are occurring because of unmet needs or difficulties in the health consumer's personal relationships, the appropriate action is to discuss this concern with the health consumer. The nurse can then support the consumer to obtain counselling or other services to deal with personal issues, rather than encouraging the person to form a substitute personal relationship with the nurse.

#### **Signs of Intimate, Personal or Sexual Boundary Transgressions**

On occasion nurses may find themselves sexually attracted to health consumers or their families or carers. It is the nurse's responsibility to ensure that he/she never acts on these feelings and recognises the harm that any such action would cause.

The warning signs of potential boundary transgressions may include:

- undue self-disclosure by revealing aspects of a nurse's feelings and personal life beyond that necessary for care
- becoming emotionally close to a health consumer or regarding the health consumer as someone special
- attempting to see the consumer outside the clinical setting or outside normal working hours or after the professional relationship has ceased
- attempts by the health consumer to see the nurse outside the clinical setting, outside normal working hours or after the professional relationship has ceased
- frequently thinking of the health consumer when away from work

- favouring one health consumer's care at the expense of others
- planning other health consumer's care around the favoured health consumer's needs
- believing only that he/she can meet the health consumer's needs and that other nurses do not understand the health consumer as they do
- keeping secrets with a health consumer e.g. selective reporting of person's behaviour (i.e. negative or positive behaviour)
- communicating in a guarded or defensive manner when questioned regarding interactions or relationships with a health consumer
- receiving gifts or continuing contact with a former health consumer after the care or therapeutic relationship has concluded
- providing the health consumer with personal contact information
- siding with the health consumer regardless of the situation
- a health consumer is only willing to speak with a particular nurse and refuses to speak to other nurses
- ignoring an employer or professional policies when working with a particular person in his or her care
- denying that a person is a person in their care, or was in his or her care in the past
- accessing the health consumer's health record without any clinical justification
- giving or accepting social invitations
- visiting a health consumer unannounced or without a prior appointment
- communicating in a manner that is not clinically focused, including texting or using forms of social media.

#### **Boundary Transgressions – Sexualised Behaviour**

- more physical touching than is appropriate
- sexual context in interactions with the health consumer or in relation to their partners, family and friends
- changing dress style for work when working with a particular health consumer
- participating in flirtatious communication, sexual innuendo or offensive language with a health consumer.

#### **Sexual relationships with health consumers and their families**

Sexual relationships with current health consumers will always be inappropriate. They are unacceptable because they can cause significant and enduring harm to health consumers, damage the consumer's trust in the nurse and the public trust in nurses, impair professional judgment and influence decisions about care and treatment to the detriment of the health consumer's well being. However consensual the relationship appears to be, there is a power imbalance that will always mean that there is the potential for abuse of the nurse's professional position and harm to the health consumer.

It is a reasonable expectation that the professional relationship will not be exploited in any way. This includes not entering into a sexual relationship with a health consumer's partner or member of his or her family, particularly when the nurse is involved in a therapeutic relationship with the health consumer and has met the family members during that relationship.

### **Sexual Relationships with former health consumers and their families**

Relationships with former health consumers or the family of a health consumer will usually be inappropriate however long ago the professional relationship ceased. There is no arbitrary time limit that makes it safe for a nurse to have an intimate or sexual relationship with a person who was formerly in their professional care. The reason for this is that the sexual relationship may be influenced by the previous therapeutic relationship where there was a clear imbalance of power. The nurse must also consider how long the professional relationship lasted and the nature of that relationship in terms of whether there was a significant power imbalance. Other information that should be considered is the vulnerability of the health consumer at the time of the professional relationship and whether that person is still vulnerable; whether they may be exploiting the knowledge they hold because of the previous professional relationship and whether they may be caring for the health consumer or his or her family in the future.

In some limited circumstances it may be appropriate for a nurse to have a social relationship with a person who was formerly in their care where the care that was provided was such that it did not create a significant power imbalance that could impact on the personal relationship. Where the nurse has been the primary caregiver and the relationship was a therapeutic one, or where the nurse was privy to

personal information that could compromise the person if used out of a professional setting, it may never be appropriate for a sexual or intimate relationship to develop.

### **What to do if you become aware of a colleague's boundary transgression**

Every nurse is accountable for their own behaviour and has shared accountability for the behaviour of other healthcare workers. The health consumer's welfare must be the first concern. It is a fundamental collegial obligation that nurses help colleagues to maintain the boundaries of their professional relationships. Since boundary transgressions are usually unintended, a nurse may be unaware that they have crossed a boundary. Under such circumstances, it may be easier for a nurse to address a colleague about a boundary transgression and easier for individual nurses to be approached by a colleague. The issues that a nurse could address with the colleague include:

- what was observed
- how that behaviour was received
- the impact on the client
- the employer's professional practice standards.

If unable to speak to the colleague directly or if the colleague does not recognise the problem the next step is for the nurse to speak to his or her immediate supervisor. The nurse should put the concerns in writing and include the date, time, witnesses and some type of identification of the person concerned. If the situation is not resolved at this level, or if the issue is a serious boundary transgression, further action may be required such as reporting the matter to the appropriate regulatory authority.

Nurses observing the inappropriate conduct of colleagues, whether in practice, management, education or research, have both a responsibility and an obligation to report such conduct to an appropriate authority and to take other action as necessary to safeguard people and public safety. Failure to take steps to prevent harm to a health consumer may lead to disciplinary action being taken against that nurse.

If the nurse is approached by a colleague who has displayed sexualised behaviour to a health consumer the first priority is the safety of the health consumer and the nurse must take the appropriate steps without delay, including informing the employer

and/or regulatory body, or even the police if the nurse has reason to believe that a criminal offence has been committed.

Nurses may be made aware of a colleague's actions by the health consumer, either the person directly affected by the conduct or another health consumer who is aware of it. The nurse should be conscious of how difficult it may have been for the health consumer to come forward with this information. The best course of action in these circumstances is to answer the health consumer's questions, provide information to assist the person in deciding if a breach of professional boundaries has taken place, and inform the health consumer of the avenues for making a complaint if he or she wishes to do so.

Even if the health consumer does not wish to the matter to be pursued but the nurse is of the view that there is a risk to public safety, the nurse must act without delay so that any concerns are investigated and the health consumer protected. If in doubt the nurse should seek advice from a colleague, manager or the appropriate professional or regulatory body.

Decisions on serious professional boundary transgressions can be accessed on the Health Practitioners Disciplinary Tribunal website at [www.hpdt.org.nz](http://www.hpdt.org.nz).

## Glossary

<b>ABUSE</b>	The misuse of power or a betrayal of trust, respect or intimacy between the nurse and a person in their care that the nurse knows may cause, or could be reasonably expected to cause, physical, emotional or spiritual harm to that person.
<b>ACCOUNTABILITY</b>	Being answerable for your decisions and actions.
<b>COLLEAGUES</b>	Includes other nurses, students, other health care workers and others lawfully involved in the care of the person.
<b>COMMUNITY</b>	Refers to New Zealand society as a whole regardless of geographic location and any specific group the individual receiving nursing care defines as community including those identifying as culturally connected through ethnicity, shared history, religion, gender and age.
<b>CULTURE</b>	Culture refers to the beliefs and practices common to any particular group of people. It extends beyond ethnic groups to include age or generation; gender; sexual orientation; occupation and socioeconomic status; ethnic origin or migrant experience; religious or spiritual belief and disability.
<b>CULTURAL SAFETY</b>	Effective nursing care provided to a person or family from another culture, as determined by that person or family. Culture includes, but is not restricted to, age or generation; gender; sexual orientation; occupation and socioeconomic status; ethnic origin or migrant experience; religious or spiritual belief; and disability. The nurse delivering the nursing care will have undertaken a process of reflection on their own cultural identity and will recognise the impact that their personal culture has on their professional practice. Unsafe cultural practice comprises any action which diminishes, demeans or disempowers the cultural identity and wellbeing of an individual.
<b>DUAL RELATIONSHIPS</b>	Where a professional and a personal relationship exist
<b>INTIMACY</b>	Meaningful knowledge and understanding of another based on a relationship of trust; in the relationship between the nurse and a person receiving care, intimacy
<b>NEGLECT</b>	Involves exhibiting behaviours towards persons requiring of receiving care that may be reasonably perceived by that person, nurses or others to be a breach of the professional's duty of care.

<b>OBLIGATION</b>	A binding requirement as to action creating a duty.
<b>PERSONAL RELATIONSHIPS</b>	Social relationships established and maintained by both parties for the purpose of mutual interest and pleasure.
<b>Health consumer</b>	Individual, group or community who works in partnership with nurses to plan and receive nursing care. The term includes patients, residents and/or their families/whanau/ representatives or significant others.
<b>POWER</b>	The capacity to possess knowledge, to act and to influence events based on one's abilities, well being, education, authority, place or other personal attributes and privileges.
<b>PRINCIPLE</b>	An accepted or professed rule of conduct to guide one's thinking and actions.
<b>PROFESSIONAL BOUNDARIES</b>	Those lines which separate the therapeutic behaviour of a professional from behaviour which, whether well intentioned or not, could detract from achievable health outcomes for persons receiving nursing care. Boundaries give each person a sense of legitimate control in a relationship. Professional boundaries are the limits to the relationship of a nurse and health consumer which allow for a safe, therapeutic connection between the nurse and that person (and their nominated partners, family and friends).
<b>PROFESSIONAL RELATIONSHIP</b>	Professional relationships exist only for the purpose of meeting the needs of the health consumer. The professional relationship between a nurse and a health consumer is based on a recognition that the person (or their alternate decision-makers) are in the best position to make decisions about their own lives when they are active and informed participants in the decision-making process.
<b>RESPECT</b>	Regard for persons as fellow human beings with legitimate needs, wishes and beliefs.
<b>RESPONSIBILITY</b>	A charge or duty that arises from one's role or status in a profession or organisation.
<b>SEXUAL MISCONDUCT</b>	Nurses touching persons in their care in a manner that may be reasonably perceived by that person or others to be sexually or otherwise demeaning, seductive, suggestive, exploitative, derogatory or humiliating and touching of an abusive nature; initiating, encouraging or engaging in sexual intercourse or other forms of sexual physical contact with persons requiring or receiving care. It is also often criminal conduct and inevitably leads to a finding of professional misconduct and the removal of a registered professional from the register or roll. Even if the person (or their legal representative) consents, or the person initiates the sexual conduct it is still the nurse's responsibility to maintain the

	professional boundary in the relationship.
<b>THERAPEUTIC RELATIONSHIP</b>	A relationship established and maintained with a person requiring or receiving care by the nurse through the use of professional knowledge, skills and attitudes in order to provide nursing care expected to contribute to the person's health outcomes. See also professional relationship.
<b>TRUST</b>	Reliance on the integrity of a person; the faith placed in another based on one's perceptions of their knowledge, skills and attributes.

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