

# "A Wake-Up Call"

## Allegations of Sexual Misconduct — Can You Defend Yourself?

You have just been accused of professional sexual misconduct. You are directed to contact the board, County Attorney, or your lawyer, and provide a copy of all the "victim's" records immediately to the agency involved. They also tell you that an investigator will be contacting you and getting a statement from you very shortly. Imagine that this scenario is being played out in your office. I will tell you, it is sheer terror, it only gets worse, more expensive and mentally devastating.

**In some states and governmental agencies, if a person PERCEIVES that they have been abused, then that perception is considered fact!** Is it fair? No, but it's a fact, and you must be aware that any allegations of sexual misconduct or child abuse will put you into a completely different category of public opinion. These crimes so offend the public that there is demand for swift justice and correction. Don't expect to get much help out of a defense that the accuser has a very poor reputation, or is a known liar, because that will not be allowed as a defense.

If a doctor is taking sexual improprieties, then that is an issue of just concern, and must be treated in accordance with the State and Federal codes dealing with professional sexual misconduct.

### A person to watch out for:

These four signs seem to be strong indicators of one who could perceive violation and file complaints.

1.) This patient has many varied complaints of pain, illness or stress in their lives, and takes a great deal of time explaining them all. You wonder how a person could have more problems than the person you are taking a history on. Through all of this detail history, you may feel you are sitting in a room with a martyr. This person will take a great deal of time, and need to be counseled and "encouraged" far more than the average patient.

2.) This patient will want you to know all about them, and all of the intimate details in their life (some appropriate, others not), but they will also want to know all about your life, practice, spouse and children. It will seem very innocent and be just a "shooting the breeze" type of atmosphere. The person can be gathering a great deal of information on you (*even if it is only in their subconscious mind*) that can and will be used against you, should the opportunity arise.

3.) Be suspicious of patients bearing gifts, especially those who take up a great deal of your time, and don't seem to be getting well, have many emotional, family, and spousal problems that never resolve, and are just sure that you will be able to fix whatever ails them if just given enough time.

4.) When you treat your patients, I'm sure you give them 100 percent. Somehow this patient has so many problems, pains, and sad experiences that you feel you are going to go above and beyond what you do for others, and give them 150 percent. When that emotional feeling happens, the HOOK is set!! This person has wrapped you into their emotional web, and when you can't get them well, or when you are tired of all the time they are taking and decide to discharge them or refer them elsewhere, you are REJECTING them. Rejection is a very real issue in abuse, and it is one that can trigger many emotions, real or imaginary.

### Characteristics of Doctors who might have allegations made against them:

There is a current term in the secular world called co-dependency. It is felt that a vast number of people in the health care field are co-dependent in nature.

A co-dep person seeks to be approved of, appreciated and loved above all else. They are people pleasers who can't stand the thought of not being liked, or making someone mad. The co-dep doctor will feel guilt if a patient has to take responsibility for their care, or if a person is discharged without achieving the level of results the doctor felt they should be at.

These care givers are so busy pleasing, fixing, controlling, nurturing and trying to be liked by everyone, that they often forget about their professional boundaries. They become enmeshed in their patient's personal problems, sexual problems, marital problems etc.. and will often bring up these topics each visit to see how they are working out. This can be viewed as, and often is very intrusive and voyeuristic.

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Another area of potential problem is when we are listening, talking, and showing compassion to our patients in great emotional and physical pain, we may unintentionally violate their boundaries. What feels to us to be an empathetic hug, gentle touch or hand holding may be a very intrusive boundary violation to the patient. We must remember that we are not their spouse, parent, psychologist, financial advisor or significant other. You are their health care provider. If you feel a need to touch them for reasons other than the adjustment or therapy, get permission from them BEFORE you touch them. If you feel that your patient is in need of professional counseling, refer them out. Be a good resource, and have a list of pastors or mental health professionals who can assist you and your patient, should you need a referral.

I suggest that male doctors allow their female staff persons, wife, or associates to tell them if they feel the doctor is sending out inappropriate messages. Allow them to be honest and tell you if they feel you are being intrusive, overly touchy, or if they have uneasy feelings about the patient.

### **Set up firm boundaries from which you will not deviate.**

1.) Male doctors should have a female attendant with them at all times when seeing a female patient, and that attendant should not be a family member.

2.) When treating a patient of the opposite gender by yourself, you should consider leaving the door partially open.

3.) If you don't have to gown a patient, DON'T. If you do gown a patient, make sure they are covered at all times except when you do the examination. Don't expose any more area than absolutely necessary, and cover them immediately after you are finished.

4.) If you are doing a sensitive examination on the member of opposite gender, make sure you have an attendant who is the same sex as the patient.

5.) Both male and female doctors should be careful when their breasts or genital areas touch a patient.

6.) Make sure that you explain everything to your patients. Tell them about the examination you are about to do, why you have to do it, and what you are looking for. Then ask them if it is okay to do that examination. DO NOT assume that just because they came into your office for treatment, that you have carte blanche privileges in examination and treatment.

7.) Make sure that you document carefully all of your instructions to the patient and your findings. Put everything in your notes. If the patient won't follow your instructions, but keeps coming in faithfully, consider giving them an ultimatum. Either you follow my instructions or I will have to discharge you for not following instructions, and then DOCUMENT that in the record. Make sure you do exactly as you say you are going to do if you give them an ultimatum.

If you accidentally touch a patient in a sensitive area, acknowledge that fact and say you are sorry and document the fact that you accidentally touched a sensitive body part and excused yourself to the patient.

8.) If you are accused by a patient to your face, via letter, by attorney or your professional board, there are some immediate action steps to do. Go to the patient record and record the exact conversation you had with the person to your best recall. Document just the facts, don't embellish the document with your emotionally charged feelings, it won't help, and may hurt you. DO NOT attempt to add anything to your patient record that was not already in the record prior to the accusation. If you do, you will have been tampering with the record, and that act will be used to try and prove that you were covering up an illicit deed. DO NOT attempt to contact that patient via phone, letter or in person to explain or try to rectify the complaint. DO contact a good attorney, and get representation immediately. Treat this as any secular case and go on the offense immediately. Do not try to play nice guy, they won't. Do not talk about the case to others. It is confidential, and should be kept as such. You should have prayed and asked for guidance the very first thing, and you will need to take this issue to God and prayer partners only. Let your attorney fight for you and DON'T compromise what is the truth by accepting a deal to keep you out of the papers or legal problems.

### **Conclusion:**

This tumultuous time is one where precaution is of the utmost importance. Make sure you are preparing your office and staff to protect against allegations of sexual misconduct that can seriously damage your life and reputation. If you aren't documenting as comprehensively as you could be, do so. If you are people pleasing and feel captive by the demands of others, find out why you are afraid to deal with your feelings.

*By, Been Through the Fire*

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