

contact” includes the imposition of a part of the licensee’s body upon a part of the client or patient’s body, sexual penetration, or the insertion or imposition of any object or any part of a licensee or client or patient’s body into or near the genital, anal or other opening of the other person’s body.

“Sexual harassment” means solicitation of any sexual act, physical advances, or verbal or non-verbal conduct that is sexual in nature, and which occurs in connection with a licensee’s activities or role as a provider of nursing services, and that either: is unwelcome, offensive to a reasonable person, or creates a hostile environment, and the licensee knows, should know or is told this; or is sufficiently severe or intense to be abusive to a reasonable person in that context. “Sexual harassment” may consist of a single extreme or severe act or of multiple acts and may include conduct of a licensee with an individual whether or not such individual is in a subordinate position to the licensee.

“Spouse” means either the husband, wife or fiancée of the licensee or an individual in a long-term committed relationship with the licensee.

(c) A licensee shall not engage in sexual contact with a client or patient with whom he or she has a client or patient-nurse relationship. The client or patient relationship is considered ongoing for purposes of this section unless:

1. For a homemaker-home health aide, the last homemaker-home health aide service was rendered more than three months prior;
2. For an advanced practice nurse, registered professional nurse or licensed practical nurse, who is not engaged in psychiatric nursing, the last nursing service was rendered more than three months prior;
3. For an advanced practice nurse who practices psychiatric nursing, the last nursing service was rendered more than two years prior; or
4. For a registered professional nurse or a licensed practical nurse who practices psychiatric nursing, the last nursing service was rendered more than one year prior.

(d) A licensee shall not seek or solicit sexual contact with a client or patient with whom he or she has a client or patient relationship and shall not seek or solicit sexual contact with any person in exchange for nursing or homemaker-home health aide services.

(e) A licensee shall not engage in any discussion of an intimate sexual nature with a client or patient, unless that

discussion is related to legitimate client or patient needs. Such discussion shall not include disclosure by the licensee of his or her own intimate sexual relationships.

(f) A licensee shall provide privacy and examination conditions which prevent the exposure of the unclothed body of the client or patient unless necessary to the nursing or homemaker-home health aide services rendered.

(g) A licensee shall not engage in sexual harassment, whether in a professional setting or outside of the professional setting.

(h) A licensee shall not engage in any activity performed with a patient or client which would lead a reasonable person to believe that the activity serves the licensee’s personal prurient interests or is for the sexual arousal the sexual or gratification of the licensee or client or patient or which constitutes an act of sexual abuse.

(i) Violation of any of the prohibitions or directives set forth in (c) through (h) above shall be deemed to constitute gross or repeated malpractice pursuant to N.J.S.A. 45:1-21(c) or (d), respectively, or professional misconduct pursuant to N.J.S.A. 45:1-21(e).

(j) Nothing in this section shall be construed to prevent a licensee from rendering nursing or homemaker-home health aide services to a spouse, providing that the rendering of such nursing services is consistent with accepted standards and that the performance of nursing or homemaker-home health aide services is not utilized to exploit the client or patient for the sexual arousal or sexual gratification of the licensee.

(k) It shall not be a defense to any action under this section that:

1. The client or patient solicited or consented to sexual contact with the licensee; or
2. The licensee was in love with or had affection for the client or patient.

SUBCHAPTER 9. FORENSIC NURSE—CERTIFIED SEXUAL ASSAULT PROGRAM

Subchapter Historical Note

Petition for Rulemaking.
See: 41 N.J.R. 683(a).