THE PATIENT-PHYSICIAN RELATIONSHIP AND THE SEXUAL ABUSE OF PATIENTS
(UPDATE 2000)

The CMA's policy on the patient-physician relationship and the sexual abuse of patients follows a review of policies and initiatives of its provincial and territorial divisions and other professional associations. The CMA's approach to this policy has been to consider the overall patient-physician relationship in order to understand factors associated with functional and dysfunctional relationships, including those involving sexual abuse. In addition to defining abuse of patients by physicians in general and sexual abuse in particular, this document gives guidelines on such issues as sexual or romantic relationships with current or former patients and provides educational and preventive strategies.

The CMA has prepared this policy to assist physicians in building consensus on key concepts in the patient-physician relationship and the sexual abuse of patients. In preparation it reviewed the policies and initiatives of its provincial and territorial divisions and other professional associations. The CMA wishes to contribute a national and professional perspective on this issue. The CMA's role is to develop educational and preventive approaches that reinforce and promote effective patient-physician relationships, a key factor in quality of care. The CMA's approach to this document has been to consider the overall patient-physician relationship in order to examine the factors associated with functional and dysfunctional relationships, including those involving sexual abuse.

Effective and appropriate patient-physician relationships
An effective and appropriate patient-physician relationship is the foundation of medical practice; it is a therapeutic alliance or partnership based on the physician providing expert opinion, information, options and interventions so that the patient can make informed choices about medical care. Participation by patients in decisions regarding their care is not only a legal and ethical requirement but also good medical practice. A strong, positive patient-physician relationship contributes to an effective therapeutic alliance. Within this alliance the mutual goals of the patient and physician include positive health outcomes, good communication, honesty, flexibility, sensitivity, informed consent and, above all, respect.
Although patients and physicians may share goals their relationships have the potential to be unequal: patients may be vulnerable when they are ill and lack medical knowledge, and physicians are in a position of power because they possess the medical knowledge and skills required to help their patients and they have their patients' trust. Consequently, it is the responsibility of physicians to respect their patients' trust and not exploit them. Physicians are expected to "consider first the well-being of the patient" (CMA Code of Ethics 1996) and to act in a competent, professional manner.

The CMA recognizes that wider political, social and economic conditions affect all aspects of the patient-physician relationship. Physicians are being challenged to accommodate the changing health care environment in Canada, including increasing fiscal restraint, and still provide high-quality care. Society and the health care system must recognize the limitations this imposes on patients and physicians and support them by providing the time and resources necessary to establish effective relationships, communicate adequately, and receive and deliver high-quality care.

Physician sexual abuse of patients
Most patient-physician relationships are mutually positive and beneficial; however, a few are dysfunctional, even abusive. One type of dysfunctional relationship, the sexual abuse of patients by physicians, is of particular grave and urgent concern. Although most physicians do not engage in sexual behaviour with their patients a small but significant number do. Sexual abuse has emerged as a concern not only in patient-physician relationships but also in other client-provider relationships. This concern coincides with increased societal awareness of violence and abuse.

There are many models or ways of understanding and explaining the sexual abuse of patients (see The Patient-Physician Relationship: a Literature Review, CMA, 1993). In one model, violation of the boundaries of the patient-physician relationship is seen to reflect the psychopathologic features of the abusive physician; in another, the wider sociocultural context of the relationship, in which power imbalance and gender-role socialization are important factors, is examined.

Definitions of abuse
The CMA defines physician abuse of patients as any behaviour that transgresses the patient-physician relationship in an exploitive manner by a physician's words or actions. Exploitation implies that physicians are acting for their advantage against their patients' interests. The CMA believes that this general definition of abuse encompasses sexual abuse. The sexual abuse of patients is defined as any behaviour that transgresses the patient-physician relationship in a sexually exploitive manner by a physician's words or actions.

In defining abuse it is important to consider the perspectives of patients and physicians, because each might have a different perception of the boundaries of acceptable behaviour. At the same time, it is vital to recognize that it is the responsibility of physicians to establish and maintain the boundaries or limits of behaviour for themselves and for their patients.

The definition of abuse extends to the relationship between physicians and family members or others whose involvement in the treatment and welfare of a patient includes direct interaction with the physician (e.g., a mother seeking medical advice from her child's physician).
Communication with patients about sexual issues is an appropriate part of quality medical practice. Such practice is not considered sexually abusive. Asking patients about their sexual behaviour, concerns and history is an important component of clinical interviewing and decision making. As well, physicians may perform preventive and diagnostic procedures that involve physical contact with their patients. Detailed history-taking and physical examination are especially important in dealing with areas of general health and with common concerns related to sexually transmitted diseases, family planning and sexual dysfunction. As part of appropriate and sensitive care physicians are encouraged to explain to patients the medical reasons for addressing sexual issues and the procedures for physical examination.

Warmth and caring between patients and physicians are part of appropriate patient-physician relationships. The sensitive concern, support and compassion so vital to a healthy therapeutic alliance may be communicated verbally and with nonexploitive touch such as a hand on a shoulder. This should be viewed as a normal part of the relationship and outside of the definition of sexual abuse.

**Sexual or romantic involvement with current or former patients**
The relationship between a patient and physician begins when a person receives a direct service — advice, diagnosis or treatment — from a physician and ends when the service is no longer required or expected or the professional relationship has been formally terminated by the patient or physician. Patient-physician relationships range from brief and minor to long-term and intensive.

Physicians should never be sexually or romantically involved with their current patients. An area of concern that merits further study is the unique situation of physicians practising in isolated and remote communities, where every member of the community is a potential patient.

The propriety of a physician entering into a sexual or romantic relationship with a former patient should be judged on a case-by-case basis; some factors to be considered include the maturity of the patient, whether the patient has a disorder that is likely to impair his or her decision-making ability, the amount of time that has passed since service ceased, and the nature, intensity and duration of the service. The most important factor is the potential for the physician to exploit the trust, knowledge and dependence that developed during the professional relationship.

**Reporting of sexual abuse**
The CMA believes that sexual abuse never has a place in the patient-physician relationship. Furthermore, when physicians have reasonable grounds to believe that sexual abuse has occurred in any patient-physician or other patient-provider relationship they have an ethical responsibility to protect the patient from harm by taking every reasonable step to ensure that such behaviour is reported to the appropriate authority.

To ensure that their ethical responsibilities have been met, physicians should inform the patient about his or her option to make a report, assist the patient with advice about the reporting process and discuss with the patient the potential impacts of a decision to make or not make a report. If the patient chooses not to make a report physicians should seek permission from the patient to make a report. Physicians should be aware of the legal reporting requirements in their province or territory, which may differ and exceed these responsibilities.
Professional support systems for sexually abused patients
The CMA recognizes the importance of helping patients who have been sexually abused. Physicians should provide professional support to those who have suffered from sexual abuse as well as information about the process of reporting the abuse. The CMA encourages the development of professional support programs for people who have been abused. The medical profession has a responsibility to ensure that treatment is available by encouraging physicians to undertake the necessary training to understand, treat and refer patients who have been sexually abused. Other health care professionals who contribute to the care of such patients should be encouraged to take appropriate training.

Presence of a third party
In the context of preventing sexual abuse the CMA acknowledges the rights of patients and physicians to have a third party present during the patient-physician encounter. It also recognizes that the presence of a third party during an examination does not necessarily protect either the patient or the physician and may be counterproductive in some situations (e.g., individual counselling sessions). The presence and identity of a third party should be mutually acceptable to the patient and physician. Physicians have the right to refuse to conduct an examination, and patients have the right to refuse to be examined if there is no agreement about the presence or identity of a third party.

Regardless of whether a third party is present physicians have a responsibility to establish office policies and practices that minimize the likelihood of abuse. Physicians must respect the privacy of patients and follow appropriate procedures such as draping and ensuring privacy during changing.

Educational and preventive strategies
The medical profession has an important leadership role to play in facilitating the development of strategies to educate patients and physicians about appropriate patient-physician relationships and the prevention of the sexual abuse of patients by physicians. When appropriate, activities at the undergraduate, postgraduate and continuing-medical-education levels should include educational objectives in a number of general areas related to the patient-physician relationship and specific to the issue of the sexual abuse of patients by physicians.

Examples of general areas related to the patient-physician relationship include ethics, communication skills (e.g., how to explain and conduct normal and sensitive physical examinations and how to discuss sexuality), sensitivity to unique patient needs (e.g., related to age, gender and culture), and transference and countertransference behaviours.

Examples of areas specific to the sexual abuse of patients by physicians include the knowledge and understanding of appropriate behavioural boundaries within the patient-physician relationship; the recognition, treatment and reporting of sexual abuse of patients by physicians; the identification of procedures that have a high risk for sexual abuse or misunderstanding; and ways to prevent the sexual abuse of patients, including good communication, patient consent and the presence of a third party during an examination.

To prevent the sexual abuse of patients by physicians, physicians should be encouraged to come forward on their own accord if they are concerned about their behaviour or potential
behaviour. Confidential help lines for physicians and access to professional assistance may encourage early intervention to prevent abuse of patients and help with rehabilitation, if possible. A regulatory environment that does not ensure physicians’ confidentiality as patients is incompatible with this approach to prevention.

Complaints and disciplinary processes
The CMA emphasizes the importance of and need for procedural fairness to both patients and physicians in the complaints and disciplinary processes. Good patient-physician relationships and therapeutic alliances are built on the understanding of patients and physicians that certain minimal standards of procedural fairness will be followed. These standards must be adhered to during all stages of the complaints and disciplinary processes. The knowledge that these standards will be followed assists patients to be confident that they will have the best possible care and helps physicians develop the confidence to provide good care.

Research and evaluation
It is important to advance research into and evaluation of the changing nature of the patient-physician relationship, particularly factors that contribute to functional and dysfunctional elements of the relationship. Areas of research and evaluation could include but are not limited to understanding the therapeutic alliance and the influence of factors such as culture, gender and gender-role socialization; models or ways to explain the sexual abuse of patients and the effectiveness of methods to assess and treat abusers; and the changing demands on physicians and the medical profession and the consequent effects on health care delivery in Canada.

The CMA welcomes ongoing discussion and collaboration with those conducting research into the patient-physician relationship that has potential benefit to the public and the profession.

Areas for further consideration
There are many aspects of the patient-physician relationship that are not dealt with in this document but that the CMA believes should be examined. Some of these include the feasibility of developing specialized clinical-assessment teams to evaluate behavioural patterns in cases of sexual abuse of patients by physicians to provide informed commentary on the complaints and disciplinary processes and, when appropriate, to outline options for rehabilitation and treatment; the advisability of establishing support systems for physicians (and their families) who have been charged with the sexual abuse of patients or who voluntarily identify themselves as potential or actual abusers; procedural fairness and its role in the complaints and disciplinary processes, especially in cases of sexual abuse of patients by physicians; and harassment and abuse of physicians, particularly women, by patients.

In conclusion, this document was written for physicians and the public to foster understanding, provide guidance and consolidate current thinking on the patient-physician relationship and sexual abuse of patients. Recognizing the dynamic nature of these issues and the continually evolving environment in which they exist, the CMA believes that the policy should be examined periodically.