

Statement on Conduct Deserving of Sanction

The College of Audiologists and Speech-Language Pathologists – Newfoundland and Labrador (CASLP-NL) requires that anyone registered with the College take reasonable steps to ensure that they are aware of all information contained in their College's Code of Ethics, Scopes of Practice, Standards of Practice, and Administrative By-laws. Therefore, while providing services to the public, a registrant must at all times conduct her or his practice:

- (a) in a manner that is in keeping with the ethical standards of her or his profession, and
- (b) in accordance with the Code of Ethics, Scopes of Practice and the Standards of Practice, as approved by the Board.

Conduct Deserving of Sanction: Section 34(c) of the *Health Professionals Act* determines conduct deserving of sanction as:

- a. Professional Misconduct
- b. Unprofessional Misconduct
- c. Professional Incompetence
- d. Conduct Unbecoming a Health Professional
- e. Incapacity or Unfitness to Practice as a Health Professional, and
- f. Acting in Breach of this *Act*, the Regulations or the By-laws

PROFESSIONAL MISCONDUCT

Professional misconduct is conduct by an audiologist or speech-language pathologist while directly engaged in the practice of audiology or speech-language pathology; acts that constitute a breach or abuse of the professional/client relationship are considered professional misconduct, as is conduct that demonstrates a lack of integrity. In other words, conduct that is harmful in any way, or that undermines or detracts from the professional caring relationship with and for the client and is not consistent with expected professional standards.

Examples of professional misconduct include, but are not limited to, the following:

- Performing tasks outside the Scope of Practice;
- Failing to maintain a standard of practice of the profession;
- Knowingly performing a task that is detrimental to a patient/client;
- Knowingly participating in patient/client care while in a conflict of interest;
- Knowingly performing therapeutic activities or treatments other than those permitted under approved protocols;
- Contravening a term, condition or limitation imposed on the member's certificate of registration;

- Failing to renew license as required/working without a license;
- Failing to provide notification to licensing body of termination or suspension of employment for cause;
- Failing to provide notification of change of employer;
- Failing to divulge license has been denied or revoked in another jurisdiction;
- Failing to provide certificate of conduct and vulnerable sector check when requested;
- Providing false information on registration application form;
- Failing to take appropriate action or follow policies and procedures in the practice situation designated to safeguard the patient/client;
- Performing new audiology or speech-language pathology techniques or procedures without proper education and training;
- Discontinuing professional services that are needed, without reasonable cause unless:
 - a. the patient or client requests the discontinuation,
 - b. alternative services are arranged, or reasonable attempts have been made to arrange alternative services,
 - c. the patient or client is given a reasonable opportunity to arrange alternative services,
 - d. restrictions in length or type of service are imposed by an agency,
 - e. the patient or client is unwilling or unable to pay and reasonable attempts have been made to arrange alternative services,
 - f. discharge criteria are imposed by the employing agency,
 - g. the member reasonably believes that he or she may be physically or sexually abused by the patient or client and reasonable attempts have been made to arrange alternative services.
- Failing to refer a patient or client to more appropriate service when the member is unable to provide adequate service or failing to refer a patient or client who requires additional services in other professional areas;
- Failing to reveal the exact nature of a treatment used by the member following a patient's or client's request to do so;
- Failing to keep records as required;
- Falsifying a record relating to the member's practice;
- Failing, without reasonable cause, to provide a report or certificate relating to an examination or treatment performed by the member,

to the patient or client or her/his authorized representative after a patient or client or her/his authorized representative has requested such a report or certificate;

- Abandoning, neglecting, or otherwise verbally, emotionally, psychologically or physically abusing a patient/client requiring audiological or speech-language pathology care;
- Causing physical or emotional injury to a patient/client either intentionally or negligently;
- Failing to comply with informed consent policies and/or refusal of treatment;
- Divulging confidential information of a patient/client or family without disclosure;
- Failing to follow prescribed policies related to security and disclosure whether oral, written, by telephone, or electronic transfer of information;
- Failing to safeguard the patient's/client's dignity and right to privacy in providing services;
- Violating the confidentiality of information or knowledge concerning the patient/client;
- Delivering to a patient/client any service for which consent is required by law, without such consent. These services may include therapeutic, preventative, palliative, assessment, treatment or other related services;
- Forging documents relating to the care of patients/clients;
- Falsifying a record, signing or issuing a false document;
- Falsifying data, either patient/client or equipment;
- Recording inaccurately, falsifying or altering a patient/client or health care provider record;
- Making a false or misleading statement;
- Failing to report abuse of concerns for public safety such as illegal or unethical acts;
- Allowing another person to use one's audiology or speech-language pathology license or authorization for practice for any person;
- Impersonating another licensed audiologist or speech-language pathologist;
- Impersonating an applicant, misrepresenting a license or acting as proxy for the applicant, in any audiology or speech-language pathology licensure examination;
- Knowingly participating in potential spread of a communicable disease;
- Practicing audiology or speech-language pathology when unfit to perform procedures and make decisions in accordance with the license held because of physical, psychological or mental impediments;

- Practicing audiology or speech-language pathology when physical or mental ability to practice is impaired by any substance including alcohol or drugs (prescription and/or non-prescription drugs);
- Stealing controlled substances;
- Possessing, obtaining, furnishing or administering drugs to any person, including oneself, except as directed by a person authorized by law to prescribe drugs;
- Failing to operate audiology or speech-language pathology care equipment in an acceptable manner, as determined by CSA/UL standards and/or manufacturers' recommendations.
- Altering quality controls to indicate that equipment is operating within acceptable range;
- Prescribing, dispensing or selling equipment or material for an improper purpose;
- Failing to supervise persons to whom audiology or speech-language pathology functions have been delegated;
- Exercising undue influence on a patient/client, which includes the promotion or sale of services, goods, appliances or drugs, in such a manner as to exploit the patient/client for financial gain for the audiologist or speech language pathologist or of a third party;
- Failing or refusing to comply with the requirements of the Continuing Competence Program or with the Complaints Authorization Committee(CAC), or with person(s) conducting a practice visit;
- Failing to co-operate with the College/Newfoundland and Labrador Council of Health Professionals (NLCHP) during the course of the complaints process. The complaints process includes, but is not limited to, the receipt and assessment of the complaint, the investigation of the complaint and any disciplinary procedures addressing the complaint;
- Failing or refusing to comply with an agreement that is part of a ratified settlement;
- Failing or refusing to undergo an examination to assess capacity to practice;
- Failing or refusing to comply with a notice to attend or a notice to produce;
- Failing or refusing to comply with a request of an investigator;
- Failing to treat a patient/client due to feelings of prejudice, personal or political views;
- Failing to fulfill the terms of an agreement for professional services;
- Signing or issuing, in the member's professional capacity, a document that the member knows contains a false or misleading statement;
- Charging a fee that is excessive in relation to the services charged for;

- Submitting an account or charge for services that is knowingly false or misleading;
- Failing to itemize an account for professional services if requested to do so by the patient/ client/person/agency who is to pay, in whole or in part, for the services;
- Inappropriately using a term, title or designation in respect of the member's practice;
- Inappropriately using a term, title or designation indicating a specialization in the profession;
- Using a name other than the member's name, as set out in the register, in the course of providing or offering to provide services within the scope of practice of the profession.

UNPROFESSIONAL CONDUCT

Unprofessional conduct is defined as conduct that is contrary to the accepted code of conduct of a profession. This includes conduct by an audiologist or speech-language pathologist while directly or indirectly engaged in the practice of audiology or speech-language pathology.

Examples of unprofessional conduct include, but are not limited to the following:

- Conduct/behavior resulting from impairment. Impairment is a condition or circumstance which compromises professional judgment and work effectiveness. It is often a result of complex stressors related to emotional health, mental health, personal relationships, family relationships, physical health, financial difficulties, legal difficulties, substance abuse, employment stressors and burnout;
- Conviction under the Criminal Code of Canada;
- Misrepresenting and enhancing credentials;
- Falsifying research data;
- Falsifying time sheets or pay cards;
- Failing to maintain the acceptable boundaries of a relationship with a patient/client;
- Accepting inappropriate gifts from a patient/client;
- Borrowing money from a patient/client;
- Influencing a patient or client to change his or her will or other testamentary instrument.

PROFESSIONAL INCOMPETENCE

Professional incompetence is defined by a lack of knowledge, skill or judgment or the disregard for the welfare of a member of the public to an extent that demonstrates that the audiologist or speech-language pathologist is unfit to continue to practice in the practice of audiology or speech-language pathology or to provide one or more services ordinarily provided as part of the practice of audiology or speech-language pathology. Professional incompetence is a serious matter as it questions whether an audiologist's or speech-language pathologist's conduct demonstrates that she/he is unfit to continue in some or all of the practices of the profession.

Examples of professional incompetence include, but are not limited to the following:

- failure to maintain professional competency requirements;
- failure to seek consultation and supervision when appropriate;
- acts of negligence;
- engaging in practice outside one's knowledge or skill level.

CONDUCT UNBECOMING A HEALTH PROFESSIONAL

Conduct unbecoming a health professional is defined as conduct by an audiologist or speech-language pathologist outside the practice of audiology or speech-language pathology, such that it harms the standing of the profession in the eyes of the public, and is contrary to the interests of the public served by the profession. Conduct unbecoming a health professional includes behaviors that are disgraceful or dishonorable and include conduct in the personal or private life of the audiologist or speech-language pathologist.

Examples of conduct unbecoming a health professional include, but are not limited to the following convictions under the Criminal Code of Canada:

- assault – sexual aggravated or otherwise;
- attempted murder or murder;
- theft;
- trafficking of drugs; and
- conspiring to commit any of the above.

INCAPACITY OR UNFITNESS TO PRACTICE AS A HEALTH PROFESSIONAL

Incapacity or unfitness to practice as a health professional is defined as an audiologist or speech-language pathologist who practices impaired. Impaired is when a condition or circumstance compromises professional judgment and work

effectiveness. It results from complex stressors related to emotional health, mental health, personal relationships, family relationships, physical health, financial difficulties, legal difficulties, substance abuse, employment stressors and burnout. Being impaired makes the audiologist or speech-language pathologist unable or unfit to carry out her/his professional responsibilities.

ACTING IN BREACH OF THE HEALTH PROFESSIONS ACT (HPA), THE AUDIOLOGISTS AND SPEECH-LANGUAGE PATHOLOGISTS REGULATIONS OR THE BY-LAWS

Acting in breach of the HPA, Audiologists and Speech-Language Pathologists Regulations or the by-laws of the College and/or Council is considered conduct deserving of sanction.

NOTE

Conduct that demonstrates lack of integrity; dishonesty; abuse of power, access and authority; or disregard for the welfare and safety of members of the public, is conduct that cannot be tolerated by a health profession. Every type of conduct that may be the subject of professional misconduct discipline proceedings cannot be defined. This is a living document; amendments and elaborations will continually be made to reflect trends and experiences.

REFERENCES

Conduct Deserving of Sanction, Newfoundland & Labrador College of Respiratory Therapists (2013)

Professional Misconduct: Audiology and Speech-Language Pathology Act, Ontario Regulation 749/93, (1991)

Province of Newfoundland and Labrador: Health Professionals Act, SNL 2010, c.H-1.02