



## POLICY

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**Purpose:** Sexual Misconduct

**Scope:** All programs

**Procedure:** Consistent with patient-rights [14 NYCRR Part 815] and designed to maintain a safe work atmosphere for staff. The sexual-misconduct policy outlines behavioral boundaries between patients and staff, and limits of professional conduct between staff, given a treatment environment. Such policy and procedures facilitate the prevention, reporting, investigation, and resolution of incidents or allegations of staff/patient or staff/staff behavior of a sexual nature.

**Definition:** Sexual misconduct is a form of sex discrimination that violates Title VII of the 1964 Civil Rights Act as amended in 1972 and the New York State Human Rights Law. For purposes of this LSB, 'sexual misconduct', as defined below, covers all aspects of misconduct, harassment, intimidation, relationships, favors, and conduct or innuendo that occur between staff/patients and staff/staff in a treatment setting.

Sexual misconduct in a chemical-dependency treatment program is defined as any non-consensual, intentional, physical conduct of a sexual nature involving patients or staff. Sexual misconduct encompasses a wide range of unwanted and unwelcome behaviors, including sexual assault and rape. Other examples are listed below.

Lack of consent may be inferred from a perpetrator's use of force, threat, or intimidation. Lack of consent can also arise from a perpetrator's situational advantage over a victim's status in the program, or the victim's mental, emotional, or physical incapacity, or impairment of which the perpetrator is or should be aware. An act of abuse is perpetrated by a person who has some responsibility of care for the victim.<sup>6</sup>

Sexual conduct between staff and patients is never appropriate. Staff's sexual conduct with patients, former patients, or subordinate staff interferes substantially with developing and maintaining a safe and healthful therapeutic environment. Consent does not render staff/patient sexual behavior appropriate. Therefore, even with consent, such behavior is sexual misconduct.

Consensual sexual conduct between patients may also be misconduct. Providers must remember that patients in treatment have many different problems. Thus, providers must review individually each occurrence of consensual patient/patient sexual conduct to ensure timely and appropriate therapeutic action, including the provision of victims counseling, relationship counseling, and/or clinical sanctions, as is necessary for the particular patients involved.

Finally, sexual relationships between staff, even when voluntary and consensual, may or may not adversely impact other staff interactions or adversely affect the delivery of treatment services. Therefore, a provider's concern is appropriate, as providers are responsible to protect the therapeutic environment for all staff and patients.

Examples of sexual misconduct include, but are not limited to:

- asking/demanding sexual favors in exchange for a specific term or condition;
- taking sexual advantage of a person's position or status within a program;
- pressuring someone for sexual activity;
- continuing that sexual pressure after an initial rejection;
- making hostile or demeaning comments based on gender or sexual preference;
- touching or grabbing someone in an inappropriate way;
- making sexually-suggestive comments or gestures;
- telling sexual jokes, or acting seductively;
- displaying sexually suggestive or explicit material;
- using others to send/deliver sexual messages in letters, cards, notes, or emails;
- romantic or sexual conversation that is not part of legitimate treatment;
- misrepresenting sexual acts as a part of treatment;
- sexual contact, whether in an office or outside the treatment setting;
- suggestions to have sex or make sexual contact;
- personal intrusions into a person's life for non-professional reasons, such as making phone calls at home, or social visits, or meetings;
- excessive or prying questions about past/present sexual behavior/issues that are unrelated to legitimate professional purposes;
- continuing to ask sexual questions after a patient declines to discuss.

## **POLICY**

1. Odyssey House prohibits sexual misconduct of any staff member. This covers staff/patient or staff/staff relationship. Any reported incident or allegation will be investigated and appropriate actions will be taken, based on the findings, up to and including termination.
2. A staff code of conduct regarding sexual behavior in a therapeutic setting that includes work and clinical boundaries will be distributed to all Odyssey House employees at the time of their hire and be reiterated at the time of orientation.
3. Both staff and patients are supplied with informational material to help recognize sexual misconduct in a work and treatment setting.
4. Staff and patients are encouraged to report any sexual misconduct incidents through a non-threatening, respectful, protective, and confidential mechanism. As part of Odyssey House's corporate compliance plan, we will be implementing

an independent reporting structure where staff can anonymously report complaint, issues or incidents which will be investigated by the HR Department and necessary parties. Clients reporting complaints of sexual misconduct are encouraged to follow the policy for addressing patient concerns or grievances which includes provisions for reporting sexual misconduct (see client reporting policy).

5. All reports of sexual misconduct will be taken seriously, addressed immediately, investigated thoroughly, and resolved fairly. Upon knowledge of an incident, the OASAS Program Manager will be informed within a 24 hour period. Subsequently, additional units such as credentialing or law enforcement will be made aware if the investigation results warrant such an action.
6. Odyssey House recognizes that patients are always victims in staff/patient misconduct. Therefore, provisions of appropriate victims' services, including supportive counseling and information about redress will be provided to any patient that is involved in a reported incident.
7. Odyssey House recognizes that patient/patient sexual involvements can be misconduct in the context of a treatment setting, and that each such situation must be assessed individually, mindful of therapeutic responsibility.
8. Odyssey House recognizes that staff/staff sexual relationships, even if voluntary and consensual, may or may not adversely impact other staff interactions or adversely affect the delivery of treatment services and are therefore discouraged in Odyssey House.
9. Staff and patients will sign a written acknowledgment stating that they have received, reviewed and are aware of all materials and information regarding sexual misconduct and provider policy/procedures.
10. Recurring training regarding the nature and impact of sexual misconduct in a work and treatment environment for staff will be delivered during orientation and recurring patient education will be delivered during client orientation to the program.