**02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION**

**313 MAINE BOARD OF DENTAL PRACTICE**

**Chapter 10: SEXUAL MISCONDUCT**

**Summary:** This chapter sets forth unprofessional conduct that is subject to disciplinary action pursuant to 32 M.R.S. §18325(1)(E) by defining sexual misconduct, setting the range of sanctions applicable to violations of this rule, and identifying the factors the Board should consider in imposing sanctions.

1. **SEXUAL MISCONDUCT DEFINED**
2. Sexual misconduct is defined as an unwanted or offensive act of a sexual nature, which is neither diagnostic nor therapeutic, committed with respect to either a patient or a colleague. It may include but is not limited to:

(1) Deliberate or repeated comments or gestures of a sexual nature;

 (2) Physical contact of a sexual nature, such as intentional touching of a body part for any purpose other than appropriate examination or treatment or when a patient has refused or withdrawn consent; or

 (3) Offering to provide practice-related services, such as providing drugs, in exchange for sexual favors.

1. Sexual misconduct may be established by a single act or by a series of acts. Sexual misconduct may also be established where such acts create a hostile environment of which the dental professional either is, or should be, aware.
2. Sexual misconduct is unprofessional conduct within the meaning of 32 M.R.S. §18325 and Board Rule Chapter 9.
3. **DISCPLINE; RELEVANT FACTORS.** Upon a finding of sexual misconduct, the Board shall consider the following factors in imposing discipline:
4. Patient harm;
5. Severity of impropriety;
6. Culpability of the dental professional;
7. Age of patient or colleague;
8. Physical/mental capacity of patient or colleague;
9. Number of times behavior occurred; and
10. Nature and length of any existing, non-professional relationship.

The above list is not intended to be exclusive.

STATUTORY AUTHORITY:

 32 M.R.S. §§ 18324, 18325(1)

EFFECTIVE DATE:

 April 5, 2020 – filing 2020-081