

# The Sexual Harassment and/or Sexual Assault of Nurses by Patients

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## KEY STATEMENT

The Australian College of Nursing (ACN) believes it is not acceptable for nurses, regardless of gender, to be subjected to sexual harassment and/or sexual assault by patients. ACN expects that nurses, including nursing students, deserve a safe work environment free from sexual harassment and/or sexual assault by patients. ACN calls on providers, governments and industry to take necessary action.

Furthermore, ACN believes that with proactive leadership, nurses should feel safe to speak up when they experience or witness sexual harassment and/or sexual assault by patients, knowing that action will be taken.

## BACKGROUND

The #MeToo movement against the sexual harassment and sexual assault of women has highlighted the all too common experiences of women around the world. This has led to disclosure by other groups including nurses who experience sexual harassment and sexual assault by patients. According to the Australian Bureau of Statistics (ABS) one in two women (53% or 5 million) have experienced sexual harassment in their lifetime.<sup>1</sup> More recently, the Australian Human Rights Commission (AHRC) reported that 72% of Australians have been sexually harassed over their lifetimes, including 85% of Australian women and 56% of Australian men aged over 15. Of these people, 23% of women and 16% of men have experienced workplace sexual harassment in the last year alone.<sup>2</sup>

## PREVALENCE IN NURSING

A review of the nursing literature on violence found 33 studies of sexual harassment against nurses in many workplace settings in most world regions. Across these studies, nurses in the combined samples reported a mean rate of 27.9% who experienced sexual harassment (ranging from 0.7% to 68% of respondents).<sup>3</sup>

A large survey of approximately 7000 American nurses found that 29% had experienced sexual harassment at work.<sup>4</sup> A study of 3,465 US emergency department nurses reported that 70% had been harassed with sexual language and innuendo.<sup>5</sup>

An Israeli study found a significant difference in the experiences of nurses and nursing students with 'severe' types of behaviour experienced by 33% of nurses, in comparison with 23% of nursing students. Women were exposed significantly more often than men to 'mild' and 'moderate' types of sexual harassment, while 35% of men compared to 26% of women were exposed to 'severe' types of harassment. However, women responded significantly more assertively than men to 'severe' sexual harassment<sup>6</sup>.

Prevalence of sexual harassment among Australian nurses is high with 60 percent of female nurses and 34 percent of male nurses having experienced this, with patients as the most common perpetrator.<sup>7</sup>

In a recent study of over 3400 NSW nurses and midwives, 805 (23.7%) reported inappropriate physical or sexual contact and 35 indicated that they had been sexually assaulted.<sup>8</sup>

## REPORTING

Under-reporting of episodes of violence in healthcare has been documented in the literature.<sup>9</sup> The Australian Human Rights Commission estimates that only 17% of people made a formal report or complaint about workplace sexual harassment. A survey of people who did report workplace sexual harassment indicated that they were labelled as troublemakers (19%), were ignored or victimised by co-workers (18%) or resigned (17%).<sup>10</sup> This means that the true extent of sexual harassment in nursing workplaces remains unknown.

## DEFINITION: WHAT IS SEXUAL HARASSMENT?

Sexual harassment is defined as "unwelcome sexual conduct that makes a person feel offended, humiliated and/or intimidated where that reaction is reasonable in the circumstances".<sup>11</sup> Unlike the definition of bullying, sexual harassment behaviours do not need to be repeated or continuous in nature, and a single episode can amount to sexual harassment. Sexual harassment is part of a larger picture of violence in healthcare and sexual harassment and sexual assault are both specifically included in the definition of violence by NSW Health.<sup>12</sup>

Sexual harassment includes a continuum of behaviours that can be verbal and/or physical in nature – from suggestive comments and facial expressions to sexual assault.

Examples of these behaviours include:

- Suggestive comments or jokes;
- Unwelcome physical touching, hugging or kissing;
- Intrusive comments about private life or body;
- Unnecessary familiarity, for example deliberately brushing up against someone;
- Insults or taunts of a sexual nature;
- Accessing sexually explicit internet sites;
- Staring or leering;
- Unwanted requests to go out on dates;
- Requests for sex;
- Emailing pornography or rude jokes;
- Sending sexually explicit texts;
- Displaying posters, magazines or computer screen savers of a sexual nature;
- Behaviour that would also be considered an offence under the criminal law, such as physical assault, indecent exposure, sexual assault, stalking or obscene communications.<sup>13</sup>

### DEFINITION: WHAT IS SEXUAL ASSAULT?

Sexual assault occurs when a person is forced, coerced or tricked into sexual acts against their will or without their consent.<sup>14</sup> Sexual assault is a crime and is not the fault of the nurse.

### THE IMPACT OF SEXUAL HARASSMENT AND/OR SEXUAL ASSAULT

Sexual harassment and/or sexual assault have negative effects on the psychological and physical health of recipients and are associated with symptoms of post-traumatic stress disorder. It is also associated with decreased job satisfaction, lower productivity and increased intent to leave a job/profession as well as job withdrawal or the avoidance of certain work-related activities.<sup>15</sup> A Swedish study identified that individuals who had reported sexual harassment during the last 12 months had a 2.5 times higher risk for a negative impact on mental health.<sup>16</sup>

The impact of sexual harassment and/or sexual assault on nurses is likely to have a negative impact to the quality of care afforded patients and may ultimately compromise patient safety,<sup>17</sup> as well as compromising the individual health and well-being of nurses.

### SEX DISCRIMINATION ACT

Sexual harassment is a legally recognised form of sex discrimination and is unlawful under the Australian Sex Discrimination Act, 1984. The Sex Discrimination Act prohibits sexual harassment in employment. There are three essential elements to make a case for sexual harassment under the Sex Discrimination Act.<sup>18</sup>

These include:

1. The behaviour is **unwelcome**
2. The behaviour is of a **sexual nature**
3. A **reasonable** person would anticipate that in the circumstance the person harassed would be offended, humiliated and/or intimidated.

### WHAT IS A REASONABLE PERSON?

The definition of sexual harassment in the Sex Discrimination Act also requires that a 'reasonable person' must have anticipated that the person who was harassed would be offended, humiliated or intimidated.<sup>19</sup> Factors such as the age, race and ethnicity of a complainant are considered as well as any disability, mental health and psychosocial disorder they may have and the nature of the relationship between the parties.<sup>20</sup> Some of these factors may be problematic in healthcare where nurses are dealing with patients and clients who may be cognitively or otherwise impaired. In these instances, nurses may excuse sexual harassment behaviours, and view them as part of the job. They may make judgement calls based on the perceived intent of the person involved and come to the decision that some patients are not responsible for their actions.<sup>21</sup>

However, a distinction must be made between understanding why these behaviours may occur and tolerating them. It is important to understand that if a person finds a particular behaviour offensive, humiliating or intimidating then it is harassment. This is irrespective of how the harasser or anyone else perceives the behaviour.<sup>22</sup> It is important to note that regardless of the intent of the behaviours, they will have a negative impact on the nurses involved and may also risk compromising patient care. The key here is not blame or intention but rather, the safety of nurses in the workplace.

### ADDRESSING SEXUAL HARASSMENT AND/OR SEXUAL ASSAULT OF NURSES BY PATIENTS

ACN advocates for robust policies to be developed and implemented that ensure the effective prevention of and response to the sexual harassment and/or sexual assault of nurses by patients in Australia.

### RECOMMENDATIONS

1. Health organisations must facilitate an organisational culture of non-tolerance of sexual harassment and/or sexual assault of nurses by patients.
2. Health organisations must develop policies to prevent and respond to sexual harassment and/or sexual assault of nurses, including prompt and effective reporting mechanisms and mandatory training of all staff.
3. Health organisations' Codes of Behaviour, developed in acknowledgement of the core values for patients must condemn sexually inappropriate behaviour.
4. Health organisations must support and encourage nurses to set clear boundaries for acceptable and appropriate behaviour from patients.
5. Health organisations must support and encourage nurses to report episodes of sexual harassment and/or sexual assault by patients so that the true figure is revealed.
6. Health organisation management must lead by example and enable nurses to report unacceptable behaviour without fear of reprisals or management dismissing their claims.
7. Health organisations must educate nurses to be active bystanders and know their responsibilities to respond to a colleague who experiences sexual harassment and/or sexual assault, and to report inappropriate behaviour.
8. Health organisations must provide nurses who have experienced or witnessed sexual harassment and/or sexual assault with timely and appropriate support.
9. Health organisations should ensure staff have access to Work Health and Safety (WHS) Regulation and Code of Practice inclusive of psychological hazards that address issues of sexual harassment and/or sexual assault.<sup>23, 24</sup>
10. The Australian Human Rights Commission and Government should strengthen the Sex Discrimination Act 1984 to include punitive disciplinary action for breaches of the Act.<sup>25</sup>
11. The Australian Government must formulate and implement a national policy on labour standards for the healthcare industry that recommends preventing sexual harassment and/or sexual assault of nurses by patients.
12. Government must provide education to the community increasing awareness and setting expectations for accepted tolerable standards of behaviour towards nurses providing care.

### CONCLUSION

The Australian College of Nursing is committed to continually raising awareness and ensuring that the nursing profession and industry are free from sexual harassment and/or sexual assault by patients in all circumstances. Sexual harassment and/or sexual assault will not be eliminated without cultural change to the way in which nurses view, report and respond to sexual harassment and/or sexual assault by patients. The ACN urges nurses to actively report incidents. ACN urges employers to provide both a safe working environment free from sexual harassment and/or sexual assault by patients and to deliver effective mechanisms to address inappropriate behaviour and its consequence with the offending patient.

ACN is taking a stance to promote healthcare environments free from sexual harassment and/or sexual assault, in order to ensure the health and wellbeing of the nursing profession and industry, nurses have a right to a safe work environment. ACN is taking a stance to ensure that nurses are able to work to the best of their ability and to ensure optimal outcomes for patients.

ACN welcomes the opportunity to work with governments and health organisations to provide advice regarding policy changes that are required and develop necessary training packages for prompt implementation to address the sexual harassment and/or sexual assault of nurses by patients.



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