Draft *Boundary Violations* Policy & *Advice to the Profession: Maintaining Appropriate Boundaries* – General Consultation Survey Report

Introduction

The College of Physicians and Surgeons of Ontario (the "College") is currently reviewing its *Maintaining Appropriate Boundaries and Preventing Sexual Abuse* policy.

As part of this review, the College has developed an updated draft of the policy and draft *Advice to the Profession Document* which were released for external consultation from May to August, 2019. Invitations to participate in the consultation were sent via email to a broad range of stakeholders, including all Ontario physicians. In addition, a general invitation to provide feedback was posted on the College's website and social media platforms. Feedback was collected via regular mail, email, an online discussion forum, and an online survey.

This report summarises only the stakeholder feedback that was received through the online survey.

Caveats

Participation in this survey was voluntary. As such, no attempt has been made to ensure that the sample of participants is representative of any sub-population.

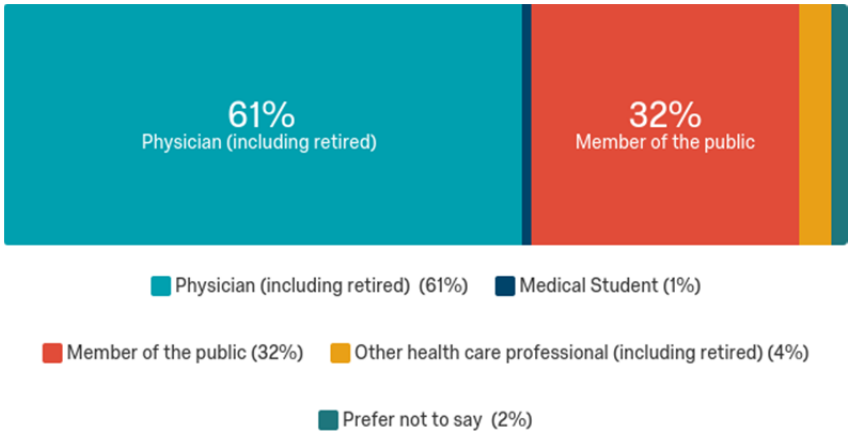
In the interest of space, stakeholder feedback to open-ended questions has been summarised to capture key themes and ideas.

Who we heard from

A total of 93 surveys were received in response to this consultation.

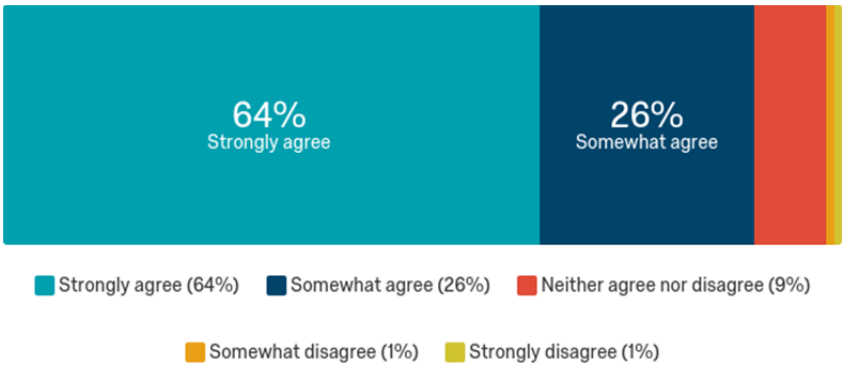
The vast majority of respondents were from Ontario (97%).

Respondent Demographics



The following questions were posed to all respondents:

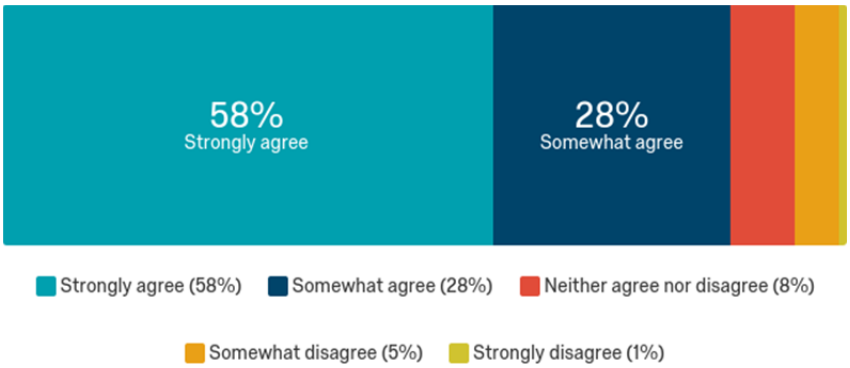
Q. Please indicate the extent to which you agree or disagree with the definition of "boundary." (n = 94)



Q. Please feel free to elaborate on your answer above or touch on other issues related to the definition of "boundary." (Optional) (n = 8)

- A few respondents felt the definition of "boundary" needs clarification. One member of the public believed the current definition is too one-dimensional and simplistic while a physician respondent felt boundaries are fluid, non-absolute, or dependent on the circumstance.
- One physician respondent requested more information to cover potential practice scenarios, particularly for physicians in rural communities and military physicians.

Q. Please indicate the extent to which you agree or disagree with the definition of "boundary violation." (n = 93)



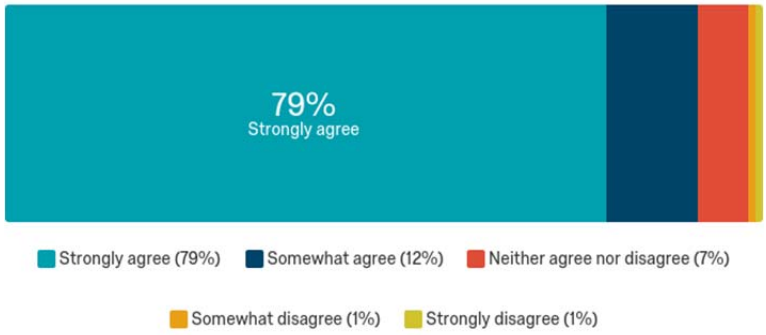
Q. Please feel free to elaborate on your answer above or touch on other issues related to the definition of "boundary violation." (Optional) (n = 14)

- One member of the public recommended including a list of examples of boundary violations.
- *Additional feedback was received in response to this question, however, comments related more directly to other questions and are addressed elsewhere in this survey report.*

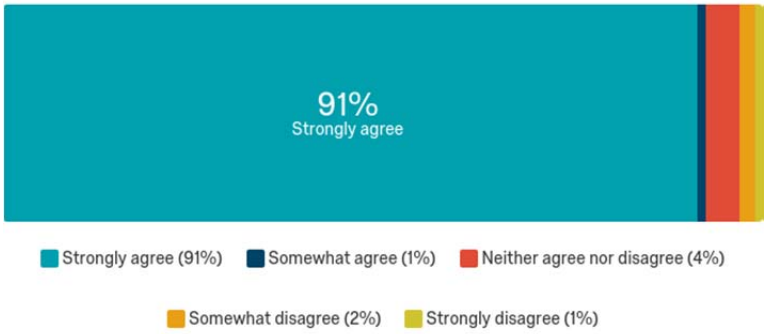
Q8. The draft policy sets out a number of expectations for physicians to help ensure that sexual boundaries are maintained and sexual boundary violations do not occur.

Please indicate the extent to which you agree or disagree with each of the following expectations: (n = 92)

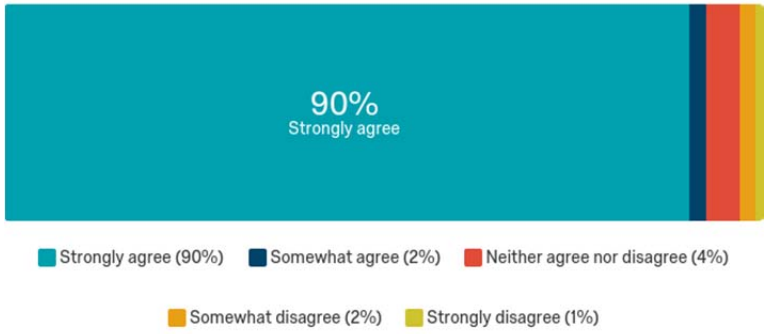
1. Physicians must explain to patients in advance, the scope and rationale of any examination, treatment or procedure.



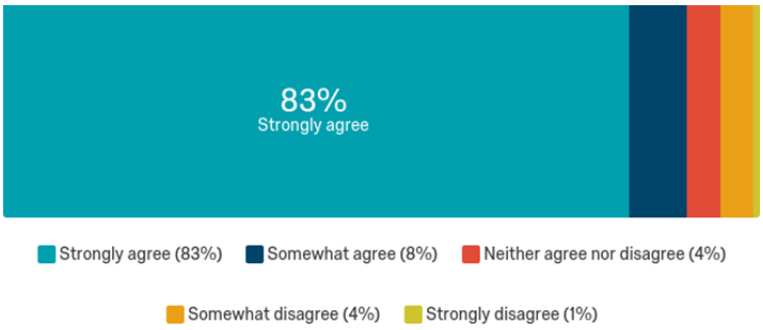
2. Physicians must only touch a patient's breasts, genitals or anus when it is medically necessary, and use appropriate examination techniques when doing so.



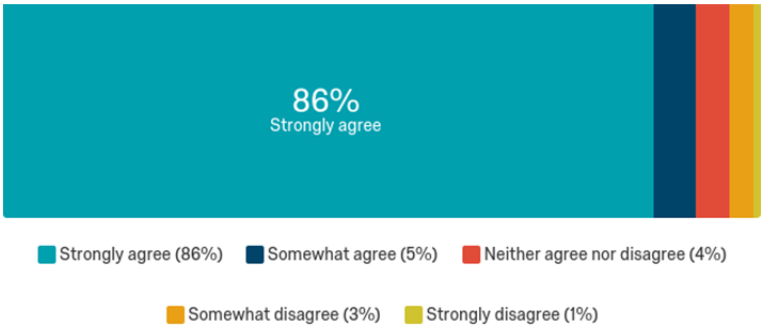
3. Physicians must use gloves when performing pelvic, genital, urinary, perineal, perianal, or rectal examinations.



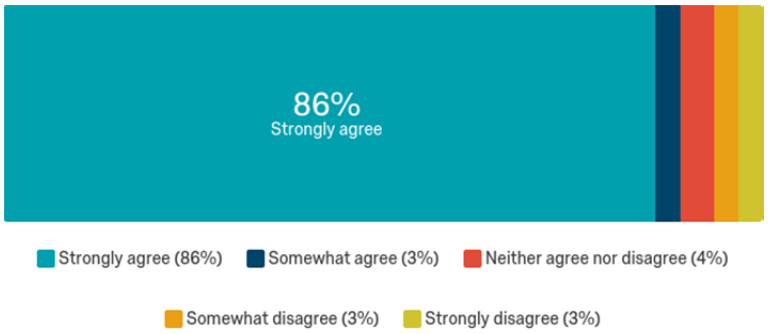
4. Physicians must not ask or make comments about a patient's sexual history, behaviour or performance except where the information is relevant to the provision of care.



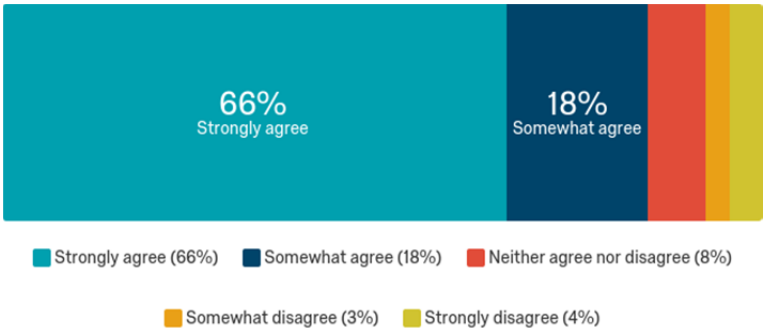
5. Physicians must not make any comments regarding their own sex life, sexual preferences or fantasies.



6. Physicians must not socialize or communicate with a patient for the purpose of pursuing a sexual relationship.



7. Physicians must use their professional judgment when using touch for comforting purposes. Supportive words or discussion may be preferable to avoid misinterpretation.

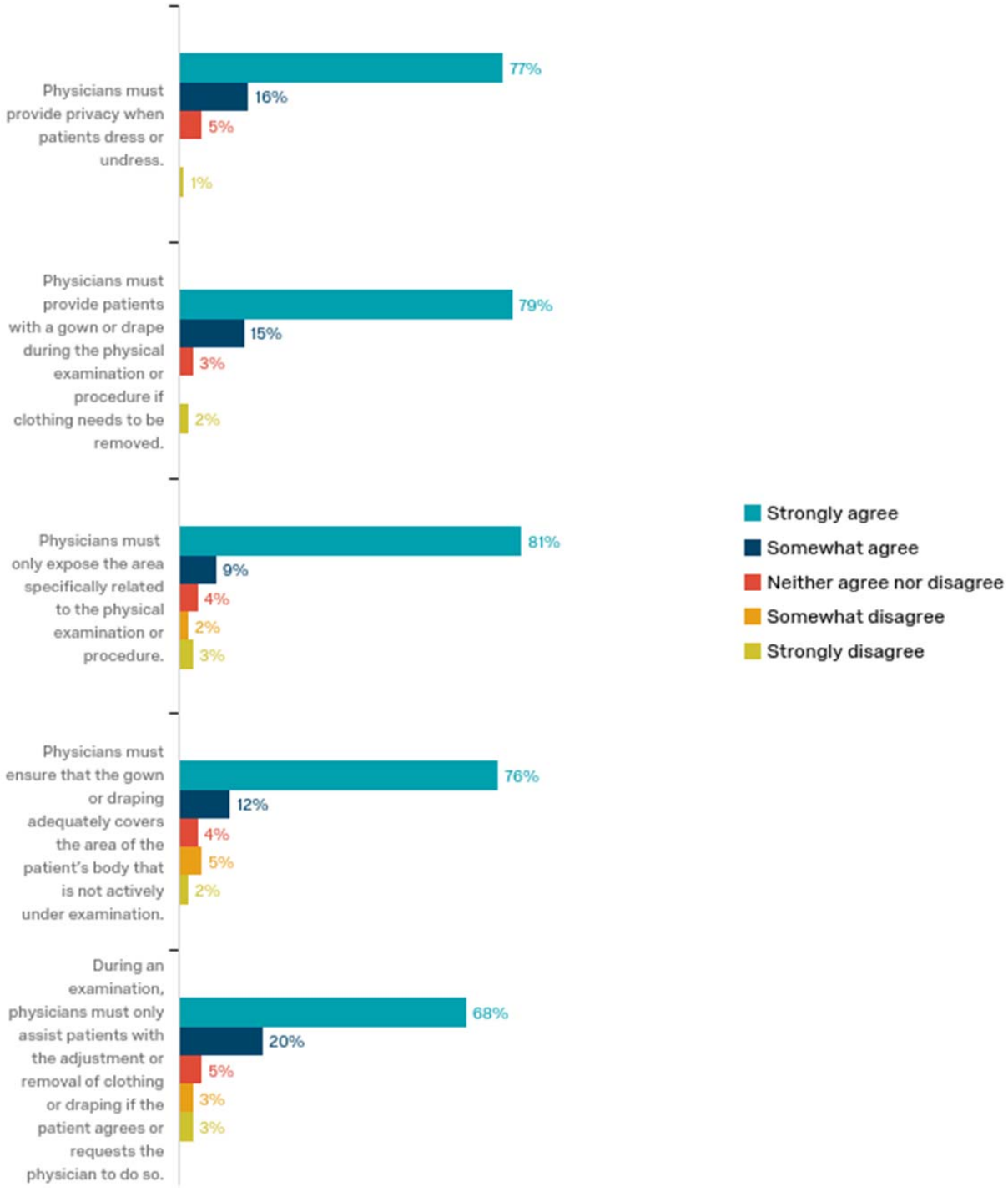


Q. Please feel free to elaborate on your answer above or touch on other issues regarding the expectations with respect to maintaining sexual boundaries. (Optional) (n = 28)

- Respondents' comments were divided on the use of physicians using touch to comfort patients:
    - A number of physician respondents thought that the draft policy prevents them from hugging or touching in order to comfort patients in time of distress, and felt that therapeutic contact can be helpful to comfort a patient during distressing situations.
    - One respondent indicated personal boundaries surrounding touch may vary among patients, and one member of the public believed physicians should ask the patient for consent before offering support through touch.
    - Other respondents supported the "supportive words" expectation and felt physicians should not touch patients to offer comfort at all. Some felt this provision would leave the door open for misinterpretation.
- Some physician respondents were concerned the expectations would overly restrict physicians' social interactions in small or rural communities. These respondents felt more leeway is needed for these physicians' social relationships and some believed these restrictions would set up barriers to practice or drive physicians away from these areas.
- Several physician respondents indicated a patient's sexual history may have indirect or uncertain relevance to form a diagnosis even if not immediately relevant to the presenting complaint.
- Several members of the public believed physicians should always explain the rationale for a procedure and ask for consent before performing a physical examination. One physician respondent felt implied consent is appropriate for non-invasive procedures (e.g. feeling for lymph nodes or listening to lungs) while another indicated the scope of an examination may change during the exam depending on the findings so a physician cannot explain in advance.

Q. For some patients, the prospect of disrobing for an examination may cause anxiety, fear and embarrassment. The draft policy contains expectations for physicians related to showing sensitivity for a patient's privacy and comfort.

Please indicate the extent to which you agree or disagree with each of the following expectations: (n = 92)



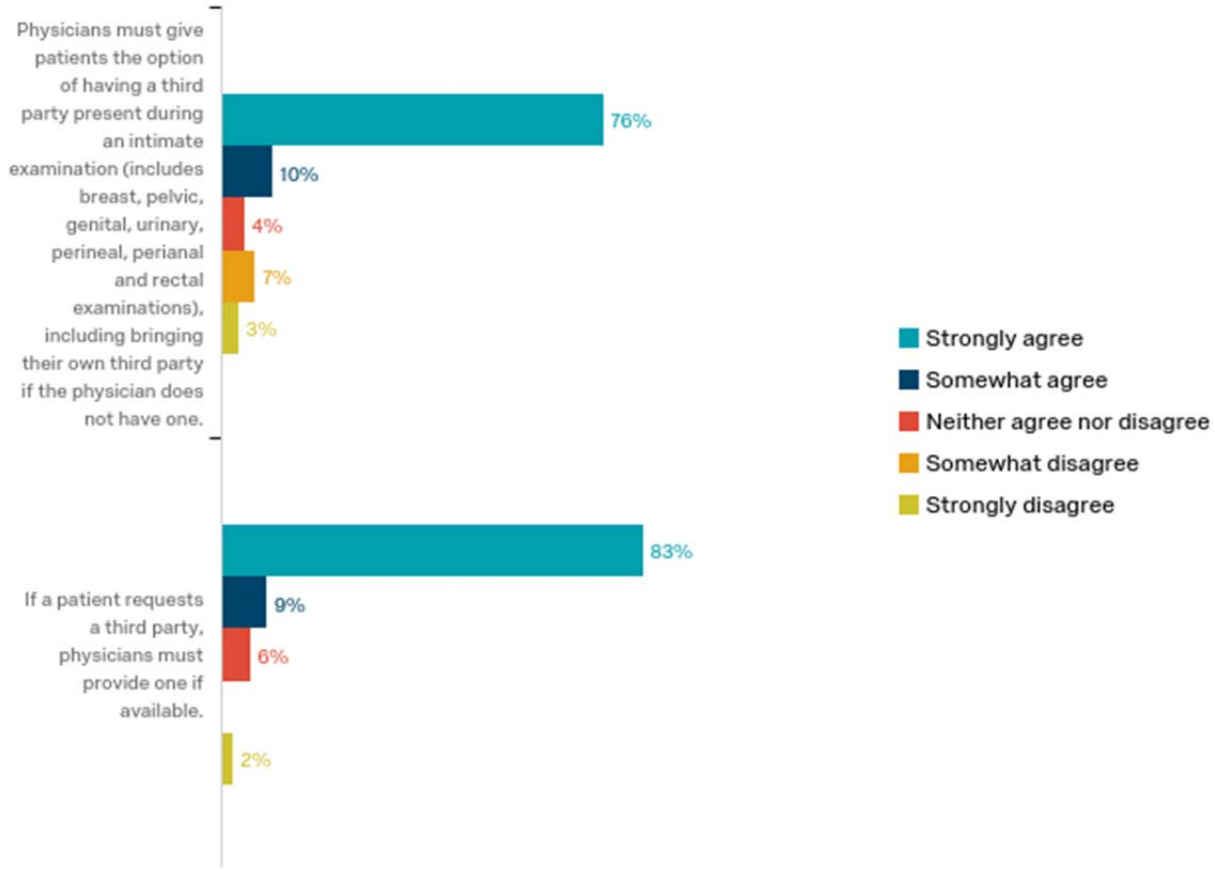
Q. Please feel free to elaborate on your answer above or touch on other issues related to expectations with respect to patient privacy and comfort during examinations. (Optional) (n = 29)

- Several physician respondents indicated it is not always possible or practical to only expose the area specifically related to the physical exam or procedure or ensure the patient's body that is not actively under examination is adequately covered.
- One respondent felt physicians should be able to insist on having a third party present in cases of known patients with mental health or other risk challenges.
- Several respondents felt if requested by the patient a third party should be made available.
- There was disagreement among respondents surrounding a physician aiding a patient with adjusting or removal of clothing or draping:
    - Some physician respondents were concerned about the requirement (particularly the use of the word "must") to provide patients with a gown or drape if clothing needs to be removed, and indicated some patients may not want drapes or prefer to not use a gown.
    - One physician respondent suggested these provisions were not possible outside typical clinical or office settings (e.g. military physicians or physicians providing home care).
    - Several physician respondents indicated it is often necessary to assist some elderly, disabled, or severely injured patients.
    - One respondent indicated patients may feel uncomfortable with a physician assisting with clothing or draping and suggested the use of a third party (e.g. registered nurse) of the patient's preferred gender to assist instead.
    - One respondent felt there could be a risk of misinterpretation and therefore a third party should act as a witness.

Q. Patients may feel more comfortable during intimate examinations knowing that there is a third party present. A third party may be a physician's nurse or a patient's family member or friend.

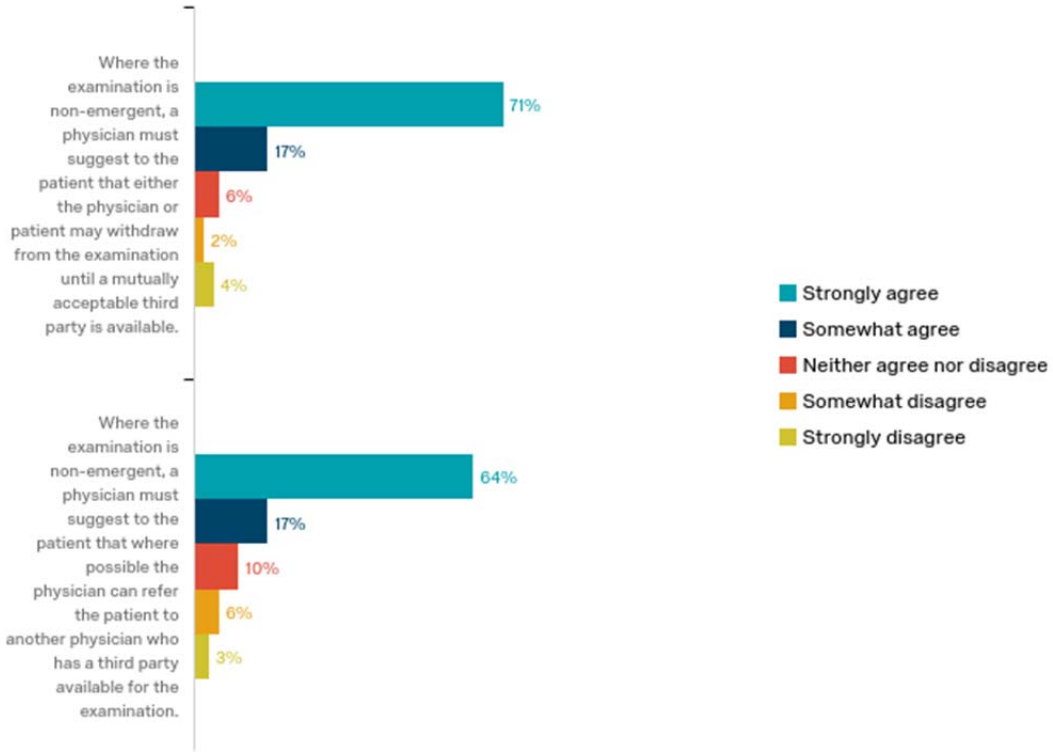
The draft policy sets out a number of expectations with respect to the use of third parties during intimate examinations as well as what must happen when no third party is available or there is no agreement on whom the third party should be.

Please indicate the extent to which you agree or disagree with each of the following expectations: (n = 91)



Q. Where there is no third party available or no agreement on who the third party should be, the policy sets out options for how to manage the situation effectively and in the patient's best interests.

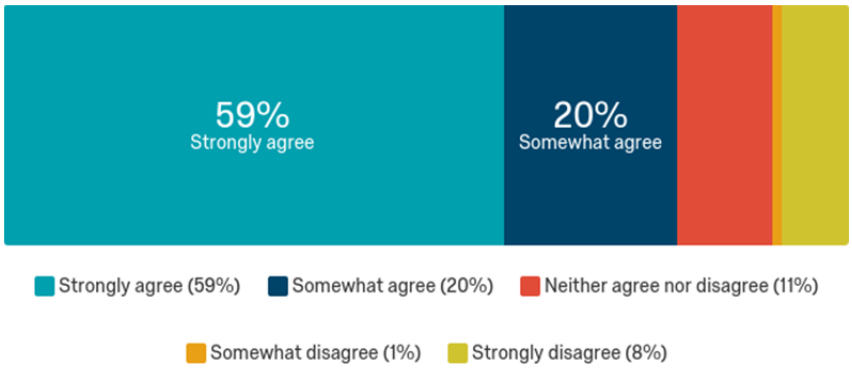
Please indicate the extent to which you agree or disagree with each of the following expectations: (n = 89)



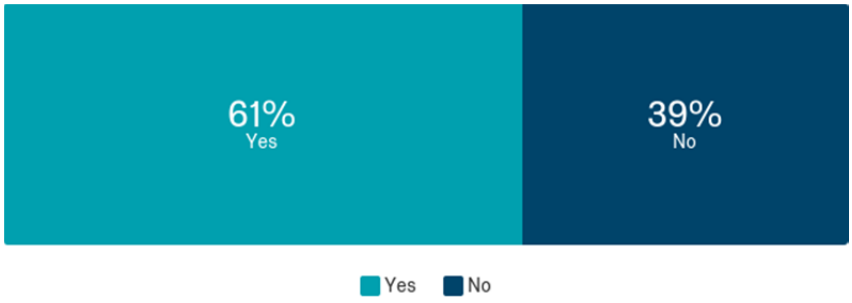
Q. Please feel free to elaborate on your answer above or touch on other issues related to the expectations related to third party attendance at intimate examinations. (Optional) (n = 25)

- Respondents were generally supportive of the expectations, particularly that third party attendance at intimate examinations should be required if requested by the patient and that patients should be able to reschedule if a third party is not available.
    - Several respondents felt patients should be able to decline a third party, while others felt third party attendance at intimate examinations should be mandated.
    - Several health care professional respondents felt the patient must be appropriately informed of third party attendance.
- Some respondents were concerned the third party attendance requirement could potentially delay access to treatment and incur costs to the healthcare system.
    - Several respondents questioned who is responsible for paying for the re-examination or the third party. Two cosmetic surgeons felt it would be unreasonable to require a staff member to devote their day observing post-operative follow-up breast examinations.

Q. To what extent do you agree or disagree that the provision of psychotherapy that is more than minor or insubstantial is reason to extend the physician-patient relationship? (n = 87)



Q. Is it clear to you what psychotherapy that is more than minor or insubstantial means? (n = 88)

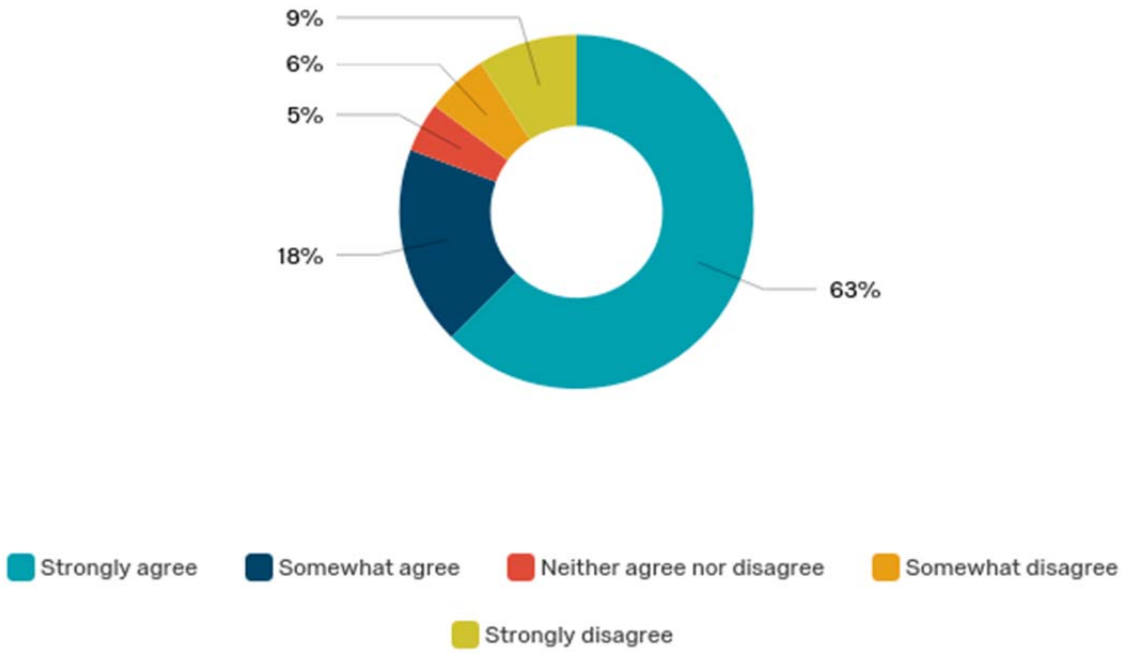


Q. Please feel free to elaborate on your answers above. (Optional) (n = 30)

- Several respondents felt "psychotherapy that is more than minor or insubstantial" is unclear:
  - Some respondents questioned whether the number of sessions or subject matter discussed could determine if psychotherapy is "more than minor or insubstantial."
  - Several physician respondents felt that an interaction which may seem minor to a physician could be considered substantial to the patient.
- Several respondents felt the expectations should extend to other practice specialties besides psychotherapy while some indicated that a sexual relationship between a physician and patient is never appropriate.

Topic: Draft expectations for sexual relations after the physician-patient relationship has ended (relevant expectations can be found at provisions 7—9 of the draft policy).

Q. Please indicate the extent you agree or disagree with the above expectation. (n = 87)

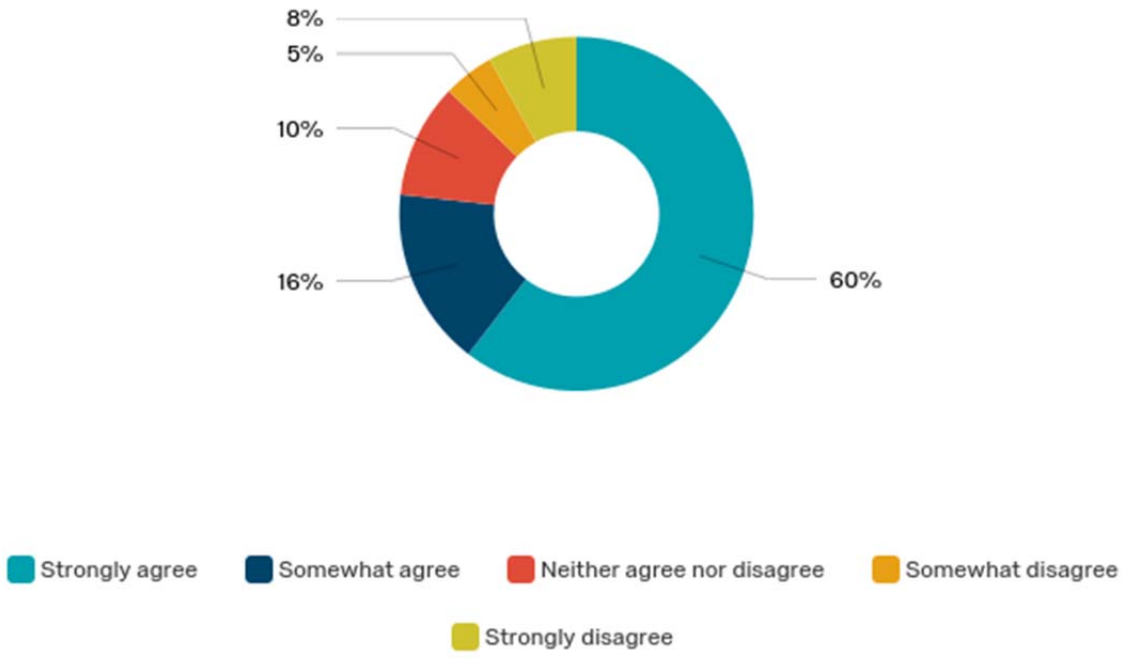


Q. Please feel free to elaborate on your answer above, including whether there are any relevant factors that have not been listed or that there are factors listed that you feel are not relevant. (Optional) (n = 27)

- A few physician respondents felt the factors were too vague, subjective, or ambiguous, and some suggested the draft policy should continue with the previously defined timelines.
- A few respondents felt sexual relationships between physicians and patients should never be permitted, particularly when the physician provided psychotherapy to the patient.

Topic: Draft expectations for sexual relations between physicians and persons closely associated with patients (relevant expectations can be found at provision 10 of the draft policy).

Q. Please indicate the extent to which you agree to disagree with the above expectation. (n = 86)

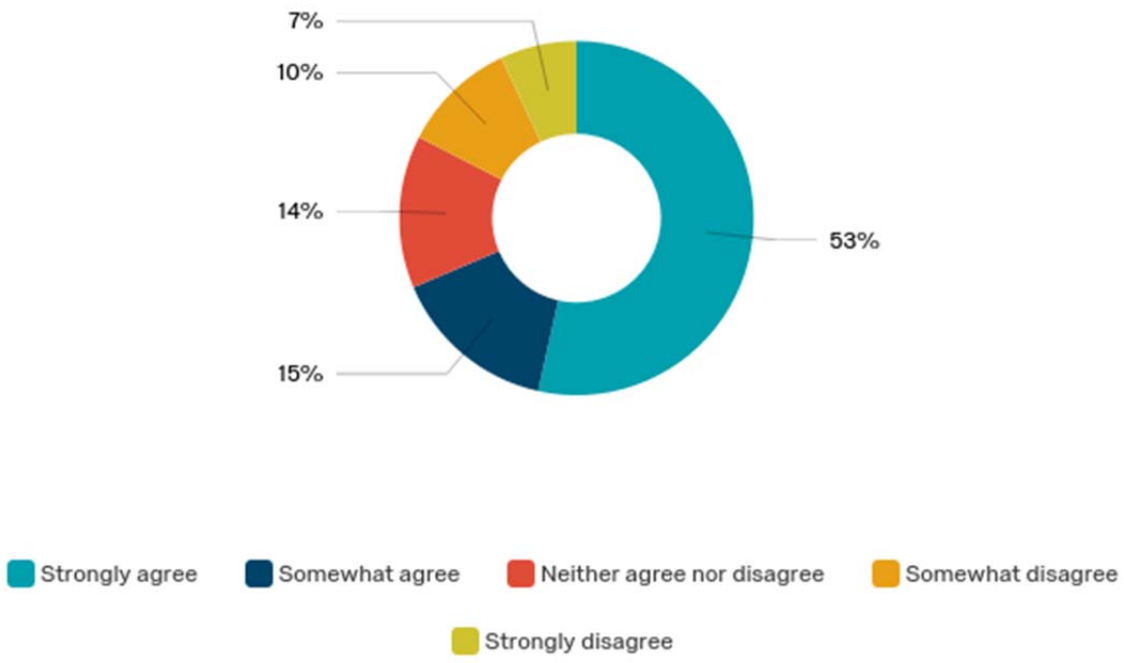


Q. Please feel free to elaborate on your answer above, including whether there are any relevant factors that have not been listed or whether there are factors listed that you feel are not relevant. (Optional) (n = 20)

- Many respondents felt it would be inappropriate for a physician to engage in sexual relations with a person closely associated with a patient.
- A few physician respondents felt the factors were vague, subjective, or open to misinterpretation. Another physician agreed with the principles but felt the draft policy is unclear on College decision-making regarding the appropriateness of these relationships.
- A few respondents felt the expectations were unnecessary, and one member of the public believed they were unnecessarily restrictive to physicians in small towns.

The draft policy requires physicians to establish and maintain appropriate boundaries when engaging in social and/or financial/business relationships. In particular, the draft policy requires physicians to consider the impact on the physician-patient relationship and others in their practice when engaging with a patient in a non-clinical context (social or financial/business relationships).

Q. To what extent do you agree with the expectation regarding social and/or financial/business relationships? (n = 86)

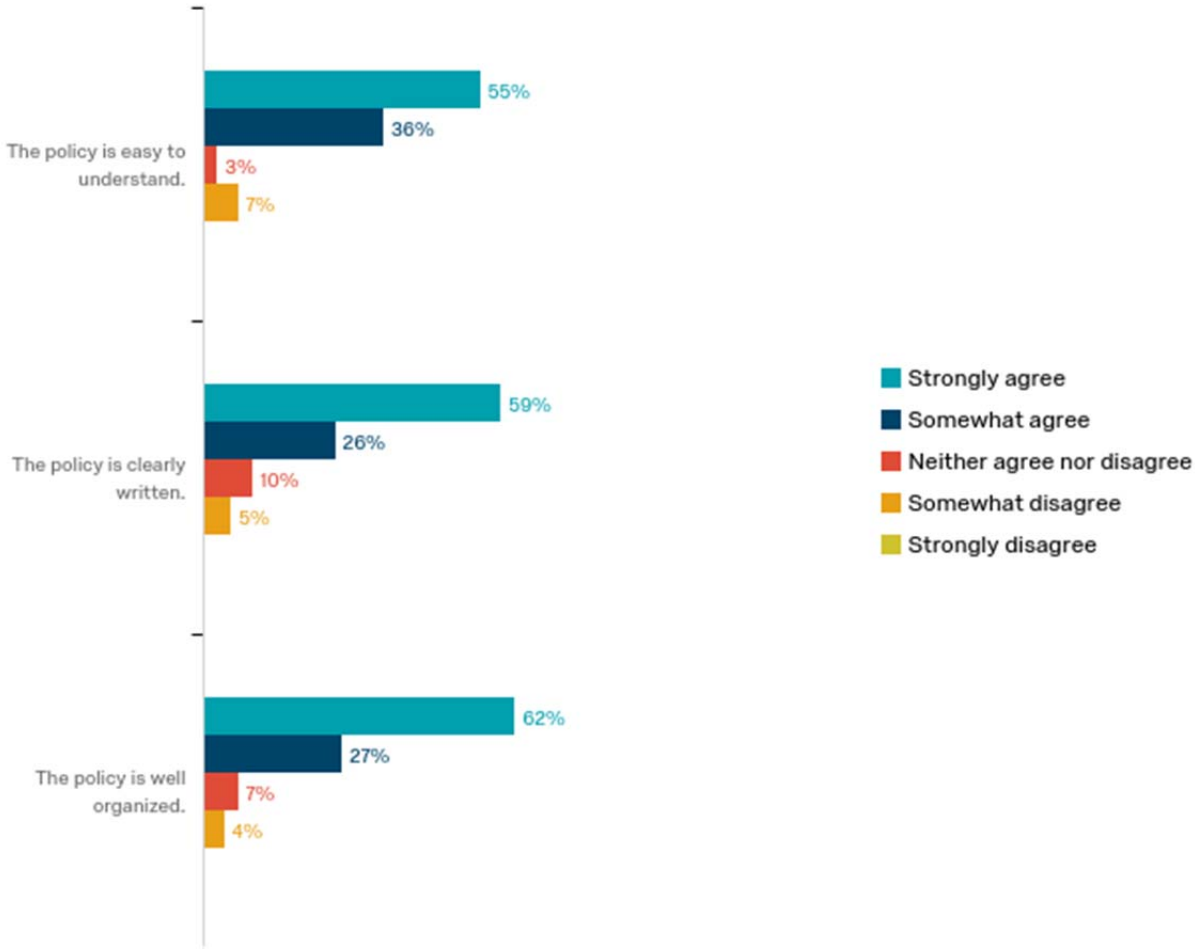


Q. Please feel free to elaborate on your answers above. (Optional) (n = 31)

- Many respondents felt these relationships are difficult to avoid or inevitable in rural or small communities, particularly social relationships.
- A few respondents suggested strengthening the language around "considering" the impact of the physician-patient relationship within the context of financial or business relationships, and others felt that physicians should never enter into these relationships with patients.

The following questions were only posed to respondents who indicated that they read the draft *Boundary Violations* policy:

Q. We'd like to understand whether the draft policy is clear. Please indicate the extent to which you agree or disagree with each of the following statements regarding the clarity of the draft policy. (n = 73)

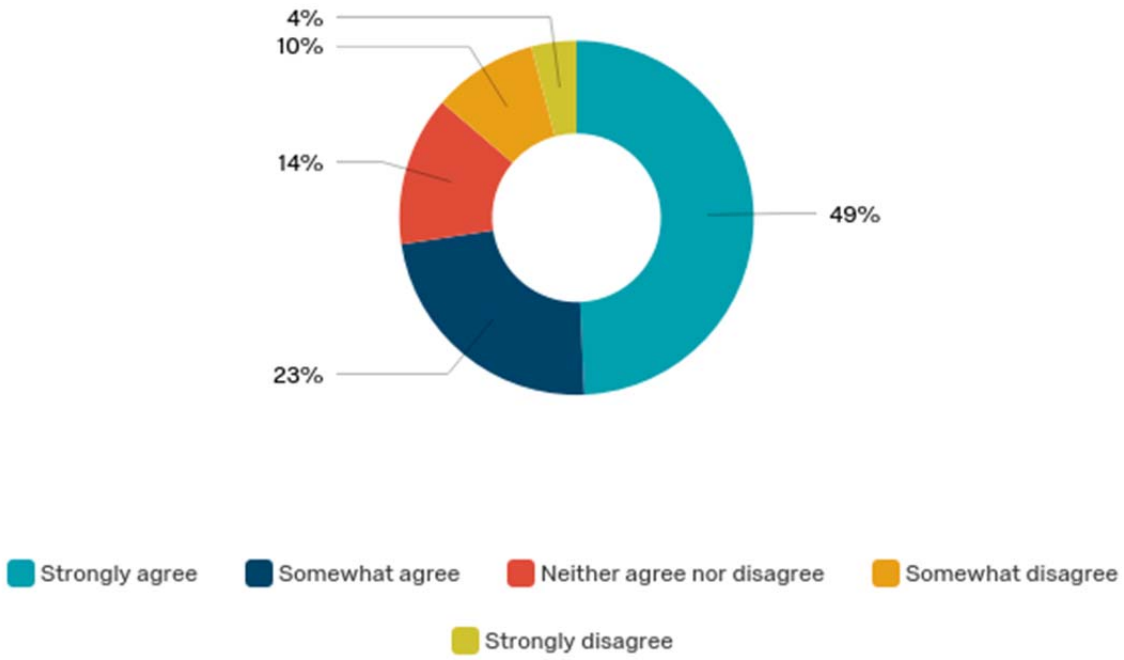


Q. How can we improve the draft policy's clarity? (Please feel free to elaborate on your answers above or touch on other issues with respect to clarity) (Optional) (n = 19)

- Some physician respondents felt the draft policy is clear and concise while other respondents felt it should be shortened or less restrictive.
- A few respondents felt the definition of "boundary" could be reworded for clarity.
- Other suggestions from respondents included: clarify the definition of "third party;" list case examples from *Dialogue*; separate sexual and non-sexual boundaries into two different policies; reconsider the one-year period; and ensure the policy considers rural or isolated practice locations.

Q. We'd like to understand whether the policy is comprehensive. That is, it addresses all of the relevant or important issues related to boundaries and sexual abuse.

Please indicate the extent to which you agree or disagree that the policy is comprehensive. (n = 73)



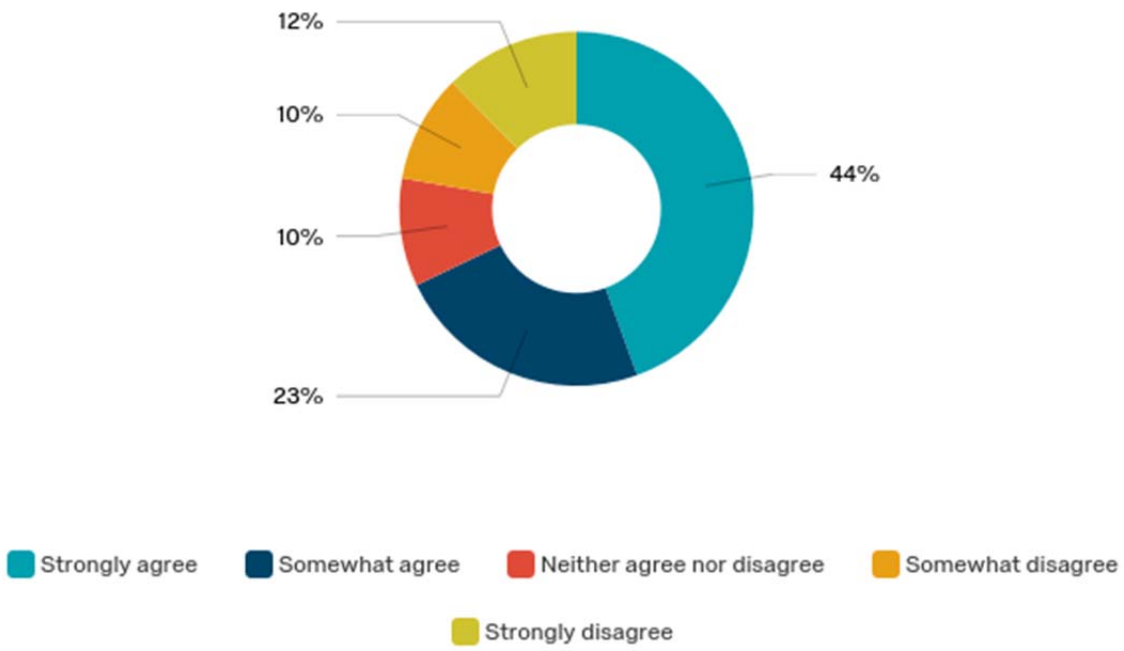
Q. How can the draft policy be made more comprehensive? (Optional) (n = 27)

- Some respondents felt the policy was overly comprehensive. These respondents believed "grey zones" will always exist as it is impossible to address all situations.
- Several respondents requested clarification surrounding social or business boundaries, or including an appendix with information or examples of these and other non-sexual boundaries.
- Several respondents felt the policy should clearly state the related consequences and disciplinary actions related to boundary violations.
- Other suggestions included: acknowledging issues unique to rural communities; considering patient choice in provider (e.g. culture or past experiences); including information regarding the College complaint process; addressing social media use; and consider if issues related to children should be included.

Q. The draft Advice to the Profession document lists the following activities as being examples of a social relationship between a physician and a patient that could be a nonsexual boundary violation:

Please indicate the extent to which you agree with the above list of examples: (n = 81)

- **Giving or receiving inappropriate or elaborate gifts;**
- **Asking patients directly, or searching other sources, for private information that has no relevance to the clinical issue;**
- **Asking patients to join faith communities or personal causes;**
- **Engaging in leisure activities with a patient.**



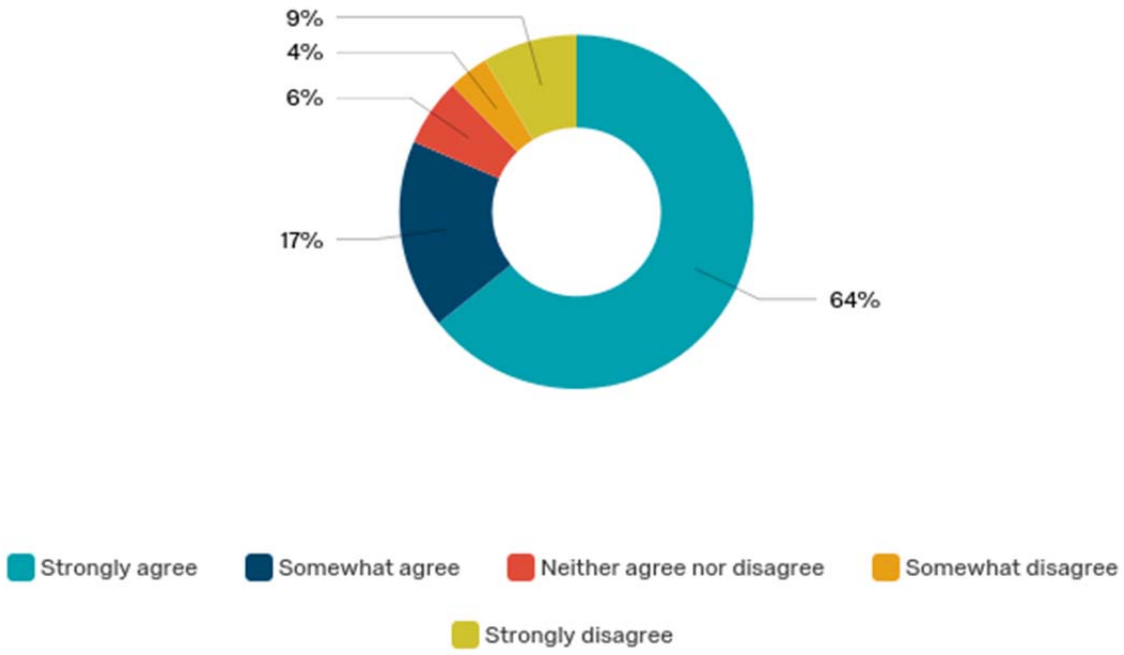
Q. Please feel free to elaborate on your answers above and/or indicate whether there are other examples that should be included in the list. (Optional) (n = 33)

- Many respondents felt including "engaging in leisure activities with a patient" (e.g. sporting events and athletic activities; volunteer activities; or advisory groups) was problematic or overly restrictive in small or rural communities.
- A few physician respondents requested clarification of what qualifies as an "inappropriate" or "elaborate" gift. Others requested including guidance on how to refuse these gifts.

Q. The draft Advice to the Profession document lists the following activities as being examples of a financial/business relationship between a physician and a patient that could be a non-sexual boundary violation:

- **Lending to/Borrowing money from patients;**
- **Entering into a business relationship with a patient; or**
- **Soliciting patients to make donations to charities or political parties.**

Please indicate the extent to which you agree with the above list of examples: (n = 81)



Q. Please feel free to elaborate on your answers above and/or indicate whether there are other examples that should be included in the list. (Optional) (n = 18)

- A few respondents requested further defining business relationships. Suggestions included:
  - List specific examples of these relationships; and
  - Clarify if frequenting a patient's place of business (e.g. butcher; car dealership; hairstylist) is considered a "business relationship."
- Several physician respondents felt financial or business relationships are inevitable in small communities, and a few physicians supported patients by lending them money in the past.
- A few respondents questioned if posters for hospital foundations or charity campaigns would be considered "soliciting patients to make donations to charities or political parties."

Q. Do you have any practical suggestions for physicians which could ensure that a dual relationship with a patient (i.e. social relationship or financial/business relationship) does not impact on the physician-patient relationship or on others in their practice? (Optional) (n = 38)

- Some respondents highlighted that a physician must consider the patient's best interest when engaging in a dual relationship.
- Many respondents had suggestions for financial or business relationships, which included:
    - Ensure proper documentation through written terms or contracts;
    - The use of a third party to attend meetings or witness contracts; and
    - Never discuss financial or business matters during medical appointments.

Q. Are there any key resources that you refer to or rely on in terms of managing boundaries that you think the CPSO should link to in the Advice to the Profession document? (Optional) (n = 15)

- Resources suggested by respondents included:
    - Real life examples and Discipline Committee decisions from *Dialogue*;
    - Professional code of ethics and conflict of interest guidelines;
    - Assistance for those previously assaulted;
    - The College of Nurses of Ontario's (CNO) *Therapeutic Nurse-Client Relationship* document; and
    - The National Institute for Health Research's (NIHR) advisory group, INVOLVE.

Q. Are there issues not addressed in the Advice to the Profession document that you would like to see more information on? (Optional) (n = 26)

- Other issues suggested by respondents included: deterrents and criminal consequences for physicians sexually abusing patients; privacy and confidentiality; dealing with accepting small gifts; treating family members; special considerations regarding children; specific guidelines for colleagues and employees; and acknowledging different sexual boundaries between practice specialities.

Q. If you have any additional comments that you have not yet provided on either the draft policy or advice to the profession document, please provide them below: (Optional) (n = 10)

- Comments from respondents included:
    - Boundary issues are still not well-taught among medical students and practising physicians and suggested the CPSO organise more boundary courses for physicians;
    - It is unreasonable for a newly-practising physician to process CPSO policies in addition to others (e.g. hospital, institution, organization) as well as clinical data; and
    - Include information on how to lodge a complaint against a physician and outline the processes that follow until file closure.