Chapter Med 10

UNPROFESSIONAL CONDUCT

Med 10.01 Authority and purpose. Med 10.02 Definitions.

Note: Chapter Med 16 as it existed on October 31, 1976 was repealed and a new Chapter Med 10 was created effective November 1, 1976.

Med 10.01 Authority and purpose. The definitions of this chapter are adopted by the medical examining board pursuant to the authority delegated by ss. 15.08 (5) 227.11, and 448.40, Stats., for the purposes of ch. 448, Stats.

History: Cr. Register, October, 1976, No. 250, eff. 11–1–76; correction made under s. 13.93 (2m) (b) 7., Stats., Register, May, 1989, No. 401.

Med 10.02 Definitions. (1) For the purposes of these rules:

(a) "Board" means the medical examining board.

(b) "License" means any license, permit, certificate, or registration issued by the board.

(2) The term "unprofessional conduct" is defined to mean and include but not be limited to the following, or aiding or abetting the same:

(a) Violating or attempting to violate any provision or term of ch. 448, Stats., or of any valid rule of the board.

(b) Violating or attempting to violate any term, provision, or condition of any order of the board.

(c) Knowingly making or presenting or causing to be made or presented any false, fraudulent, or forged statement, writing, certificate, diploma, or other thing in connection with any application for license.

(d) Practicing fraud, forgery, deception, collusion, or conspiracy in connection with any examination for license.

(e) Giving, selling, buying, bartering, or attempting to give, sell, buy, or barter any license.

(f) Engaging or attempting to engage in practice under any license under any given name or surname other than that under which originally licensed or registered to practice in this or any other state. This subsection does not apply to change of name resulting from marriage, divorce, or order by a court of record.

(g) Engaging or attempting to engage in the unlawful practice of medicine and surgery or treating the sick.

(h) Any practice or conduct which tends to constitute a danger to the health, welfare, or safety of patient or public.

(i) Practicing or attempting to practice under any license when unable to do so with reasonable skill and safety to patients.

(j) Practicing or attempting to practice under any license beyond the scope of that license.

(k) Offering, undertaking, or agreeing to treat or cure a disease or condition by a secret means, method, device, or instrumentality; or refusing to divulge to the board upon demand the means, method, device, or instrumentality used in the treatment of a disease or condition.

(L) Representing that a manifestly incurable disease or condition can be or will be permanently cured; or that a curable disease or condition can be cured within a stated time, if such is not the fact.

(m) Knowingly making any false statement, written or oral, in practicing under any license, with fraudulent intent; or obtaining or attempting to obtain any professional fee or compensation of any form by fraud or deceit.

(n) Wilfully divulging a privileged communication or confidence entrusted by a patient or deficiencies in the character of patients observed in the course of professional attendance, unless lawfully required to do so.

(o) Engaging in uninvited, in–person solicitation of actual or potential patients who, because of their particular circumstances, are vulnerable to undue influence; or engaging in false, misleading or deceptive advertising.

(p) Administering, dispensing, prescribing, supplying, or obtaining controlled substances as defined in s. 961.01 (4), Stats., otherwise than in the course of legitimate professional practice, or as otherwise prohibited by law.

(q) Having a license, certificate, permit, registration, or other practice credential granted by another state or by any agency of the federal government to practice medicine and surgery or treat the sick, which becomes limited, restricted, suspended, or revoked, or having been subject to other adverse action by the state licensing authority or by any agency of the federal government, including but not limited to the denial or limitation of an original credential, or the surrender of a credential, whether or not accompanied by findings of negligence or unprofessional conduct.

(r) Conviction of any crime which may relate to practice under any license, or of violation of any federal or state law regulating the possession, distribution, or use of controlled substances as defined in s. 961.01 (4), Stats. A certified copy of a judgment of a court of record showing such conviction, within this state or without, shall be presumptive evidence thereof.

(s) Prescribing, ordering, dispensing, administering, supplying, selling, or giving any amphetamine, sympathomimetic amine drug or compound designated as a schedule II controlled substance pursuant to the provisions of s. 961.16 (5), Stats., to or for any person except for any of the following:

1. Use as an adjunct to opioid analgesic compounds for treatment of cancer–related pain,

2. Treatment of narcolepsy,

3. Treatment of hyperkinesis,

4. Treatment of drug induced brain dysfunction,

5. Treatment of epilepsy,

6. Differential diagnostic psychiatric evaluation of depression,

7. Treatment of depression shown to be refractory to other therapeutic modalities,

8. Clinical investigation of the effects of such drugs or compounds in which case an investigative protocol therefore shall have been submitted to and reviewed and approved by the board before such investigation has been begun.

(t) Aiding or abetting the unlicensed practice of medicine or representing that unlicensed persons practicing under supervision, including unlicensed M.D.'s and D.O's, are licensed, by failing to identify the individuals clearly as unlicensed physicians or delegates.

(u) Failure to inform a patient about the availability of all alternate, viable medical modes of treatment and about the benefits and risks of these treatments, including the benefits and risks associated with the use of extended wear contact lenses.

(v) Failure of a podiatrist to submit to the board on or before June 30 of each year evidence that the podiatrist has in effect malpractice liability insurance coverage in the amount of at least

$1,000,000 per occurrence and $1,000,000 for all occurrences in one year.

(w) Use in advertising of the term "board certified" or a similar phrase of like meaning unless in fact so certified and unless disclosure is made of the complete name of the speciality board which conferred the certification.

(x) Prescribing, ordering, dispensing, administering, supplying, selling or giving any anabolic steroid for the purposes of enhancing athletic performance or for other nonmedical purposes.

(y) Using in advertising of the term "board certified" or a similar phrase of like meaning by a podiatrist unless certified by the council on podiatric medicine of the American podiatric medical association and disclosure is made in the advertising of the complete name of the board which conferred the certification.

(z) Violating or aiding and abetting the violation of any law or administrative rule or regulation the circumstances of which substantially relate to the circumstances of the practice of medicine.

(za) Failure by a physician, podiatrist or physician assistant to maintain patient health care records consistent with the requirements of ch. Med 21.

(zb) Prescribing, ordering, dispensing, administering, supplying, selling or giving any anorectic drug designated as a schedule II, III, IV or V controlled substance for the purpose of weight reduction or control in the treatment of obesity unless each of the following conditions is met:

1. The patient's body mass index, weight in kilograms divided by height in meters squared, is greater than 25.

2. A comprehensive history, physical examination, and interpreted electrocardiogram are performed and recorded at the time of initiation of treatment for obesity by the prescribing physician.

3. A diet and exercise program for weight loss is prescribed and recorded.

4. The patient is weighed at least once a month, at which time a recording is made of blood pressure, pulse, and any other tests as may be necessary for monitoring potential adverse effects of drug therapy.

5. No more than a 30–day supply of drugs is prescribed or dispensed at any one time.

6. No drugs are prescribed or dispensed for more than 90 days unless all of the following occur:

a. The patient has a recorded weight loss of at least 12 pounds in the first 90 days of therapy.

b. The patient has continued progress toward achieving or maintaining a target weight.

c. The patient has no significant adverse effects from the prescribed program.

7. Any variance from the foregoing requirements is justified by documentation in the patient's record.

History: Cr. Register, October, 1976, No. 250, eff. 11–1–76; cr. (2)(s), Register, October, 1977, No. 262, eff. 11–1–77; am. (2) (m), Register, April, 1978, No. 268, eff. 5–1–78; am. (2) (s), Register, May, 1978, No. 269, eff. 6–1–78; reprinted to correct History note, Register, June, 1980, No. 294; r. and recr. (2) (o), cr. (2) (t), Register, September, 1985, No. 357, eff. 10–1–85; cr. (2) (u), Register, April, 1987, No. 376, eff. 5–1–87; cr. (2) (v), Register, January, 1988, No. 385, eff. 2–1–88; am. (2) (s), Register, March, 1990, No. 411, eff. 3–1–90; cr. (2) (x), Register, September, 1990, No. 417, eff. 10–1–90; cr. (2) (w), Register, October, 1990, No. 418, eff. 11–1–90; am. (2) (q), Register, August, 1992, No. 440, eff. 9–1–92; cr. (2) (y), Register, September, 1992, No. 441, eff. 10–1–92; cr. (2) (z), Register, May, 1995, No. 473, eff. 6–1–95; cr. (2) (za), Register, April, 1996, No. 484, eff. 5–1–96; am. (2) (q), Register, September, 1996, No. 489, eff. 10–1–96; corrections made under s. 13.93 (2m) (b) 7., Stats., Register, February, 1997, No. 494; **cr. (2) (zb), Register, May, 1998, No. 509, eff. 6–1–98.**