

Chapter SPS 73

GROUND FOR DISCIPLINE

SPS 73.01 Grounds for denial of certification or discipline.
SPS 73.02 Use of titles.

SPS 73.03 Examples of false, deceptive or misleading advertising.

Note: Chapter RL 73 was renumbered chapter SPS 73 under s. 13.92 (4) (b) 1., Stats., Register November 2011 No. 671.

SPS 73.01 Grounds for denial of certification or discipline. For purposes of s. 451.14 (2) (b), Stats., engaging in conduct while practicing acupuncture that evidences a lack of knowledge or ability to apply professional principles or skills includes, but is not limited to:

(1) Practicing acupuncture while ability is impaired by a mental or emotional disorder, physical disability, alcohol or other drugs.

(2) Violating, or aiding or abetting violation of any law, the circumstances of which substantially relate to the practice of acupuncture or other healing art.

(3) Practicing acupuncture without a current and valid certificate.

(4) Having been disciplined in another jurisdiction in any way by a certifying, registering, or licensing authority for reasons substantially the same as those set forth in s. 451.14, Stats., or in chs. SPS 70 to 73.

(5) After a request by the department, failing to cooperate in a timely manner with the department's investigation of a complaint filed against an acupuncturist. The department will apply a rebuttable presumption that an acupuncturist who takes longer than 30 days to respond to a request by the department has not acted in a timely manner.

(6) Practicing acupuncture fraudulently, beyond its authorized scope, with gross incompetence or gross negligence, with incompetence on one or more occasion, with negligence on more than one occasion, or practicing acupuncture or any secondary therapeutic technique beyond or inconsistent with training, education or experience.

(7) Refusing to provide professional services to a person solely on the basis of such person's race, color, age, sex, sexual orientation, political or religious beliefs, handicap, marital status or national origin.

(8) Failing to provide duplicate patient records when requested by the patient or the department. If the original record is not in English, the acupuncturist shall provide the duplicate in English translation performed by a competent translator. Thirty days is presumed to be a reasonable period of time in which to obtain the translation.

(9) Failing to maintain complete and accurate records of each patient visit, including patient histories, summaries of examinations, diagnoses, and treatments performed or prescribed, and referrals to other practitioners of acupuncture or any other healing art, for a period of 7 years past the most recent visit of the patient to whom the record refers, or the time the patient reaches the age of majority.

(11) Providing acupuncture without the informed consent of a patient. Informed consent requires:

(a) The disclosure to the patient of the availability of all alternate, viable modes of acupuncture treatment and the benefits and

risks of these treatments, including the risks and benefits associated with the use of:

1. Acupuncture needles to stimulate acupuncture points and meridians, including the specific risks of needling certain points.

2. Use of mechanical, magnetic or electrical stimulation of acupuncture points, particularly in instances where such stimulation is applied across the midline of the trunk or in patients with a history of heart trouble.

3. Moxibustion.

4. Herbal medicine.

5. Laserpuncture.

6. Acupressure.

(b) The disclosure to the patient shall involve a disclosure of the side effects including:

1. Some pain at the site of needle insertion.

2. Minor bruising.

3. Infection and the risks from needling in the vicinity of an infection.

4. Needle sickness.

5. Broken needles.

History: Cr. Register, October, 1990, No. 418, eff. 11-1-90; r. and recr. (intro.), am. (4), (6), (8) and (9), r. (10), Register, May, 1998, No. 509, eff. 6-1-98; **correction in (4) made under s. 13.92 (4) (b) 7., Stats., Register November 2011 No. 671.**

SPS 73.02 Use of titles. (1) Any person certified under ch. 451, Stats., to practice acupuncture shall include the title "acupuncturist," "Wisconsin certified acupuncturist," or a similar title in advertisements of acupuncture services.

(2) Any person certified under ch. 451, Stats., to practice acupuncture who has been conferred the degree of doctor of Oriental medicine may advertise his or her services as an acupuncturist to the public using the title "doctor of Oriental medicine" or "D.O.M.," if the title "acupuncturist," "Wisconsin certified acupuncturist," or a similar title is used in the same advertisement.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98.

SPS 73.03 Examples of false, deceptive or misleading advertising. For purposes of s. 451.14 (2) (d), Stats., false, deceptive or misleading advertising includes:

(1) Advertising acupuncture services using a title that includes the words "medical doctor" or the initials "M.D.," unless the acupuncturist meets the requirements of s. 448.03 (3) (a), Stats.

Note: Section 448.03 (3) USE OF TITLES. (a) No person may use or assume the title "doctor of medicine" or append to the person's name the letters "M.D." unless one of the following applies:

1. The person possesses the degree of doctor of medicine.

2. The person is licensed as a physician under this subchapter because the person satisfied the degree requirement of s. 448.05 (2) by possessing a medical degree that was conferred by a medical school recognized and listed as such by the World Health Organization of the United Nations.

(2) Advertising acupuncture services using the title "Doctor" or the abbreviation "Dr.," or "Ph.D." in connection with the practice of acupuncture unless the acupuncturist possesses a license or certificate which authorizes such use or possesses an earned doctorate degree which is in acupuncture or Oriental medicine.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98.