## Chapter DE 5

## STANDARDS OF CONDUCT

DE 5.01 Authority. DE 5.02 Unprofessional conduct.

**Note:** Chapter DE 5 as it existed on February 28, 1982, was repealed and a new chapter DE 5 was created effective March 1, 1982.

**DE 5.01 Authority.** The rules in this chapter are adopted pursuant to ss. 15.08 (5), 227.11 and 447.07 (3), Stats.

**History:** Cr. Register, February, 1982, No. 314, eff. 3-1-82; correction made under s. 13.93 (2m) (b) 7., Stats., Register, March, 1988, No. 387.

- **DE 5.02 Unprofessional conduct.** Unprofessional conduct by a dentist, dental hygienist, or expanded function dental auxiliary includes:
- (1) Engaging in any practice which constitutes a substantial danger to the health, welfare or safety of a patient or the public.
- (2) Practicing or attempting to practice when unable to do so with reasonable skill and safety to patients.
- (3) Practicing or attempting to practice beyond the scope of any license or certificate.
- **(4)** Practicing or attempting to practice while the ability to perform services is impaired by physical, mental or emotional disorder, drugs or alcohol.
- **(5)** Practicing in a manner which substantially departs from the standard of care ordinarily exercised by a dentist, dental hygienist, or expanded function dental auxiliary which harms or could have harmed a patient.
- **(6)** Administering, dispensing, prescribing, supplying or obtaining controlled substances as defined in s. 961.01 (4), Stats., other than in the course of legitimate practice, or as otherwise prohibited by law.
  - (7) Intentionally falsifying patient records.
- **(8)** Obtaining or attempting to obtain any compensation by fraud.
- **(9)** Impersonating another dentist, dental hygienist, or expanded function dental auxiliary.
- (10) Exercising undue influence on or taking unfair advantage of a patient.
- (11) Participating in rebate or fee-splitting arrangements with health care practitioners, unless the arrangements are disclosed to the patient.
- (13) Refusing to render services to a person because of race, gender, or religion.
- (14) Having a license, certificate, permit, or registration granted by another state to practice as a dentist or dental hygienist limited, suspended or revoked, or subject to any other disciplinary action.
- **(14m)** Surrendering, while under investigation, a license, certificate, permit, or registration granted by another state to practice as a dentist, dental hygienist, or expanded function dental auxiliary.
  - (15) Violating any law or being convicted of a crime the cir-

cumstances of which substantially relate to the practice of a dentist or dental hygienist.

- (16) Violating any provision of ch. 447, Stats., or any valid rule of the board.
  - (17) Violating any provision of any order of the board.
- (18) Failing to maintain records and inventories as required by the United States department of justice drug enforcement administration, and under ch. 961, Stats., and s. Phar 8.05, Wis. Adm. Code.
- **(20)** Violating, or aiding or abetting the violation of any law substantially related to the practice of dentistry, dental hygiene, or the practice of an expanded function dental auxiliary.
- (21) Aiding or abetting or permitting unlicensed persons in the practice of dentistry, as defined in s. 447.01 (8), Stats.
- (22) Aiding or abetting or permitting unlicensed persons in the practice of dental hygiene, as defined in s. 447.01 (3), Stats.
- **(22m)** Aiding or abetting or permitting persons who are not certified in the practice of an expanded function dental auxiliary under s. 447.035, Stats.
- (23) Obtaining, prescribing, dispensing, administering or supplying a controlled substance designated as a schedule II, III or IV stimulant in s. 961.16 (5), 961.18 (2m) or 961.20 (2m), Stats., unless the dentist has submitted, and the board has approved, a written protocol for use of a schedule II, III or IV stimulant for the purpose of clinical research, prior to the time the research is conducted.
- (24) Failing to hold a current certificate in cardiopulmonary resuscitation unless the licensee or certified individual has obtained a waiver from the board based on a medical evaluation documenting physical inability to comply. A waiver shall be issued by the board only if it is satisfied that another person with current certification in CPR is immediately available to the licensee when patients are present.
- (25) After a request by the board, failing to cooperate in a timely manner with the board's investigation of complaints filed against the applicant, certified individual, or licensee. There is a rebuttable presumption that a licensee, certified individual, or applicant who takes longer than 30 days to respond to a request of the board has not acted in a timely manner under this subsection.
  - (26) Practicing under an expired certificate of registration.
- (27) Engaging in irregularities in billing a third party for services rendered to a patient.

History: Cr. Register, February, 1982, No. 314, eff. 3-1-82; cr. (23), Register, August, 1984, No. 344, eff. 9-1-84; cr. (24) and (25), Register, March, 1988, No. 387, eff. 4-1-88; cr. (26), Register, December, 1989, No. 408, eff. 1-1-90; am. (18), Register, June, 1996, No. 486, eff. 7-1-96; am. (6), (18), (21), (22), (23) and r. (19), Register, April, 1999, No. 520, eff. 5-1-99; CR 17-045: r. (12), am. (13), cr. (14m), (27), Register February 2018 No. 746 eff. 3-1-18; correction in (27) made under s. 35.17, Stats., Register February 2018 No. 746; EmR2304: emerg. am. (intro.), (5), (9), (14m), (18), (20), cr. (22m), am. (24), (25), eff. 3-1-23; CR 23-051: am. (intro.), (5), (9), (14m), (18), (20), cr. (22m), am. (24), (25) Register June 2024 No. 822, eff. 7-1-24.