

UNPROFESSIONAL CONDUCT

What conduct is considered to be unprofessional conduct?

The following acts constitute unprofessional conduct which may serve as the basis for disciplinary action by either the Medical Quality Assurance Commission (MQAC) or the Board of Osteopathic Medicine and Surgery (BOMS):¹

- The commission of an act involving moral turpitude, dishonesty or corruption relating to the physician's practice, whether or not the act constitutes a crime.
- Misrepresentation or concealment of a material fact in obtaining a license.
- Advertising which is false, fraudulent or misleading. See **ADVERTISING**.
- Incompetence, negligence or malpractice which results in injury to a patient or which creates an unreasonable risk that a patient may be injured.
- Suspension, revocation or restriction of a physician's license by a competent authority in any state, federal or foreign jurisdiction.
- The possession, use, prescription for use, or distribution of controlled substances or legend drugs in any way other than for legitimate or therapeutic purposes; diversion of controlled substances or legend drugs; the violation of any drug law; or prescribing controlled substances for oneself. Note There is an exception to this prohibition related to naloxone which is described below. See **CONTROLLED SUBSTANCES**; and **LEGEND DRUGS**.
- Violation of any state or federal statute or administrative rule regulating the practice of medicine including any statute or rule defining or establishing standards of patient care or professional conduct or practice.
- Failure to cooperate with the MQAC or BOMS (as applicable) by: (1) not furnishing papers, documents, records, or other items; (2) not furnishing a written, full and complete explanation covering a matter contained in a complaint filed with the MQAC or BOMS (as applicable); (3) not responding to subpoena of the MQAC or BOMS (as applicable); or (4) not providing MQAC or BOMS (as applicable) timely access to perform practice reviews at facilities utilized by the practitioner.
- Failure to comply with an order of the MQAC or BOMS (as applicable) or failure to abide by a stipulation for informal disposition (STID) with either disciplining authority.

¹ RCW 18.130.180.

- Aiding or abetting an unlicensed person to practice when a license is required. See **UNAUTHORIZED PRACTICE OF MEDICINE**.
- Violation of rules established by any health agency.
- Practice beyond the scope of practice as defined by law or rules. See **UNAUTHORIZED PRACTICE OF MEDICINE**, and **CHIROPRACTIC**.
- Misrepresentation or fraud in any aspect of the conduct of the physician's business or profession.
- Failure to adequately supervise staff to the extent that the patient's health or safety is at risk.
- Treatment of patients while suffering from a contagious or infectious disease involving serious risk to public health.
- Promotion for personal gain of any unnecessary or inefficacious drugs, devices, treatments, procedures or services.
- Conviction of any gross misdemeanor or felony relating to a physician's practice. (This includes pleading guilty or *nolo contendere*, and all proceedings where the sentence has been deferred or suspended.)
- The procuring or aiding or abetting in procuring a criminal abortion. See **ABORTION**.
- Offering, undertaking or agreeing to cure or treat disease by a secret method, procedure, treatment or medicine, or treating, operating or prescribing for any health condition by any method, means or procedure which the physician refuses to divulge upon demand to the MQAC or BOMS (as applicable).
- Willful betrayal of the physician-patient privilege. See **CONFIDENTIAL AND PRIVILEGED INFORMATION**.
- Violation of medical rebating law. See **REBATES**.
- Interference with a disciplinary investigation by willful misrepresentation of facts before the MQAC or BOMS (as applicable), or interference with witnesses, including patients, by use of threats or harassment, or use of financial inducements to prevent them from providing evidence in a disciplinary proceeding, or other legal action.
- Current misuse of alcohol, controlled substances or legend drugs.
- Abuse of a client or patient (defined below) or sexual contact with a client or patient. See **SEXUAL CONDUCT/HARASSMENT**).

- Acceptance of more than a nominal gratuity, hospitality, or subsidy offered by a representative or vendor of medical or health-related products or services in contemplation of a sale or for research where a conflict of interest is presented as defined by the MQAC or BOMS (as applicable) based on recognized professional ethical standards.

With respect to individuals practicing medicine without a license, the Department of Health (DOH) may also investigate complaints and take actions including cease and desist orders and civil fines.²

How is naloxone treated in regard to unprofessional conduct?

The administration, dispensing, prescribing, purchasing, acquisition, or use of naloxone is not considered to be unprofessional conduct so long as the physician's actions which would otherwise be considered unprofessional conduct are taken in a good faith effort to assist a person experiencing (or likely to experience) an opiate-related overdose, or a family member, friend, or other person in a position to assist a person experiencing (or likely to experience) an opiate-related overdose.³

What actions comprise abuse of a patient by a physician?

A physician abuses a patient when he or she:⁴

- Makes statements regarding the patient's body, appearance, sexual history, or sexual orientation that have no legitimate medical or therapeutic purpose;
- Removes a patient's clothing or gown without consent;
- Fails to treat an unconscious or deceased patient's body or property respectfully; or
- Engages in any conduct, whether verbal or physical, which unreasonably demeans, humiliates, embarrasses, threatens, or harms a patient.

Does a physician have a duty to report unprofessional conduct of another physician?

Yes. See **MEDICAL DISCIPLINE**.

Must a physician self-report any information to the MQAC?

Yes. See **MEDICAL DISCIPLINE**.

² RCW 18.130.190.

³ RCW 18.130.345.

⁴ WAC 246-919-640.