§ 1354. Unprofessional conduct

(a) The board shall find that any one of the following, or any combination of the following, whether or not the conduct at issue was committed within or outside the state, constitutes unprofessional conduct:
(1) fraudulent or deceptive procuring or use of a license;
(2) all advertising of medical business which is intended or has a tendency to deceive the public or impose upon credulous or ignorant persons and so be harmful or injurious to public morals or safety;
(3) [Repealed.]
(4) abandonment of a patient;
(5) addiction to narcotics, habitual drunkenness or rendering professional services to a patient if the physician is intoxicated or under the influence of drugs;
(6) promotion by a physician of the sale of drugs, devices, appliances or goods provided for a patient in such a manner as to exploit the patient for financial gain of the physician or selling, prescribing, giving away or administering drugs for other than legal and legitimate therapeutic purposes;
(7) conduct which evidences unfitness to practice medicine;
(8) willfully making and filing false reports or records in his or her practice as a physician;
(9) willful omission to file or record, or willfully impeding or obstructing a filing or recording, or inducing another person to omit to file or record medical reports required by law;
(10) failure to make available promptly to a person using professional health care services, that person's representative, succeeding health care professionals or institutions, when given proper written request and direction of the person using professional health care services, copies of that person's records in the possession or under the control of the licensed practitioner;
(11) solicitation of professional patronage by agents or persons or profiting from the acts of those representing themselves to be agents of the licensed physician;
(12) division of fees or agreeing to split or divide the fees received for professional services for any person for bringing to or referring a patient;
(13) agreeing with clinical or bio-analytical laboratories to make payments to such laboratories for individual tests or test series for patients, unless the physician discloses on the bills to patients or third party payors the name of such laboratory, the amount or amounts to such laboratory for individual tests or test series and the amount of his or her processing charge or procurement, if any, for each specimen taken;
(14) willful misrepresentation in treatments;
(15) practicing medicine with a physician who is not legally practicing within the state, or aiding or abetting such physician in the practice of medicine; except that it shall be legal to practice in an accredited preceptorship or residency training program;
(16) gross overcharging for professional services on repeated occasions, including filing of false statements for collection of fees for which services are not rendered;
(17) offering, undertaking or agreeing to cure or treat disease by a secret method, procedure, treatment or medicine;
(18) consistent improper utilization of services;
(19) consistent use of nonaccepted procedures which have a consistent detrimental effect upon patients;
(20) professional incompetency resulting from physical or mental impairment;
(21) permitting one's name or license to be used by a person, group, or corporation when not actually in charge of or responsible for the treatment given;
(22) in the course of practice, gross failure to use and exercise on a particular occasion or the failure to use and exercise on repeated occasions, that degree of care, skill and proficiency which is commonly exercised by the ordinary skillful, careful and prudent physician engaged in similar practice under the same or similar conditions, whether or not actual injury to a patient has occurred;
(23) revocation of a license to practice medicine or surgery in another jurisdiction on one or more of the grounds specified in subdivisions (1)-(25) of this section;
(24) failure to comply with the provisions of 18 V.S.A. § 1852;
(25) failure to comply with an order of the board or violation of any term or condition of a license which is restricted or conditioned by the board;
(26) any physician who, in the course of a collaborative agreement with a nurse practitioner allows the nurse practitioner to perform a medical act which is outside the usual scope of the physician's own practice or which the nurse practitioner is not qualified to perform by training or experience, or which the ordinary reasonable and prudent physician engaged in a similar practice would not agree should be written into the scope of the nurse practitioner's practice, shall be subject to disciplinary action by the board in accordance with chapter 23 of this title;
(27) failure to comply with provisions of federal or state statutes or rules governing the practice of medicine or surgery;
(28) practice of profession when medically or psychologically unfit to do so;
(29) delegation of professional responsibilities to a person whom the licensed professional knows, or has reason to know, is not qualified by training, experience, education or licensing credentials to perform them;
(30) conviction of a crime related to the practice of the profession or conviction of a felony, whether or not related to the practice of the profession;
(31) use of the services of an anesthesiologist assistant by an anesthesiologist in a manner that is inconsistent with the provisions of chapter 29 of this title.
(b) The board may also find that failure to practice competently by reason of any cause on a single occasion or on multiple occasions constitutes unprofessional conduct. Failure to practice competently includes, as determined by the board:
(1) performance of unsafe or unacceptable patient care; or
(2) failure to conform to the essential standards of acceptable and prevailing practice.
(c) The burden of proof in a disciplinary action shall be on the state to show by a preponderance of the evidence that the person has engaged in unprofessional conduct.