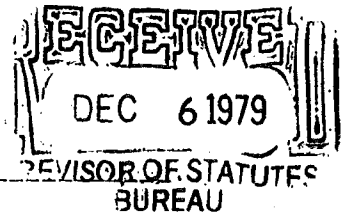


STATE OF WISCONSIN
BEFORE THE
PHARMACY EXAMINING BOARD



IN THE MATTER OF RULEMAKING : ORDER OF THE
PROCEEDINGS BEFORE THE : PHARMACY EXAMINING BOARD
PHARMACY EXAMINING BOARD : REPEALING, AMENDING AND
: ADOPTING RULES

Relating to standards of professional practice.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

The purpose of the proposed rules is to interpret s. 450.02(7)(b), Wis. Stats. by defining specific violations of standards of professional practice to further delineate statutory authority for taking disciplinary action against persons licensed by the Pharmacy Examining Board. Analysis by section follows:

S. Phar 5.01 cites the board's statutory authority to promulgate rules.

S. Phar 5.02 defines common terms in pharmacy practice.

S. Phar 5.03 enumerates violations which constitute unprofessional conduct. All grounds represent violations of professional practice which endanger public health, safety or welfare. Specifically,

Subsections (1)-(3) define violations of law relating to the practice of pharmacy to enable the board to better regulate illegal use or distribution of drugs;

Subsections (4)-(6) emphasize negligent practices that enganger the health and safety of patients;

Subsection (7) enables the board to take appropriate action against impaired pharmacists who cannot practice competently;

Subsection (8) prohibits falsification of patient records;

Subsections (9)-(11) identify recording, confidentiality and reporting requirements;

Subsections (12)-(20) prohibit unprofessional business practices which are contrary to the public interest;

Subsection (21) authorizes the board to take action against licensees who have been disciplined in other states, if action is warranted to protect the Wisconsin public; and

Subsection (22) defines violation of any prior disciplinary order of the board as unprofessional conduct.

ORDER

Now therefore it is ordered that pursuant to authority vested in the Pharmacy Examining Board by sections 15.08, 227.014 and 450.02, Wis. Stats., the Pharmacy Examining Board hereby adopts rules interpreting section 450.02(7) of the Wisconsin statutes as follows:

Chapter Phar 5 of the Wisconsin Administrative Code is adopted to read:

STANDARDS OF PROFESSIONAL CONDUCT

Phar 5.01 The rules in this chapter are adopted pursuant to the authority in ss. 15.08, 227.014 and 450.02, Wis. Stats.

Phar 5.02 Definitions, in this chapter,

(1) "Dispense" means to select, compound, mix, combine, measure, count, or otherwise prepare a drug or drugs for delivery to the patient, or to deliver a drug or drugs to the patient.

(2) "Drug" has the meaning defined in s. 450.06, Stats.

(3) "Patient" means the individual for whom drugs are prescribed or to whom prescription drugs are administered.

(4) "Practice of pharmacy" means interpreting prescription orders; the compounding, packaging, labeling, dispensing, administering, and distributing of drugs and devices, the monitoring of drug therapy and use; the initiating or modifying of drug therapy in accordance with written guidelines or protocols previously established and approved for his or her practice by a practitioner authorized to prescribe drugs; the participation in drug utilization reviews and drug product substitution as authorized in chapter 450, Wis. Stats.; the proper and safe storing and distributing of drugs and devices and maintenance of proper records thereof; the providing of information on legend and over the counter drugs which may include, but is not limited to, the advising of therapeutic values, hazards and the uses of drugs and devices.

Phar 5.03 The following, without limitation because of enumeration, are violations of standards of professional conduct and constitute unprofessional conduct under s. 450.02(7)(b):

(1) Violating, or aiding or abetting the violation of, any law substantially related to the practice of pharmacy;

(2) Being convicted of any crime the circumstances of which substantially relate to the practice of pharmacy;

(3) Administering, dispensing, supplying or obtaining a drug other than in legitimate practice, or as prohibited by law;

(4) Engaging in any pharmacy practice which constitutes a danger to the health, welfare, or safety of patient or public, including but not limited to, practicing in a manner which substantially departs from the standard of care ordinarily exercised by a pharmacist which harmed or could have harmed a patient;

(5) Dispensing a drug which the pharmacist should have known would harm the patient for whom the medication was prescribed;

(6) Dispensing or causing to be dispensed a drug which is outdated or contaminated or known by the pharmacist to be unsafe for consumption;

(7) Practicing while the ability of the pharmacist to competently perform duties is impaired by mental or emotional disorder or drug or alcohol abuse;

(8) Falsifying patient records;

(9) Disclosing to the public information concerning a patient without the consent of the patient unless the information is requested by the pharmacy examining board or the department of regulation and licensing or unless release is otherwise authorized by law;

(10) Failing to report to the pharmacy examining board any pharmacy practice which constitutes a danger to the health, safety or welfare of patient or public;

(11) Providing false information to the pharmacy examining board or its agent;

(12) Refusing to render professional services to a person because of race, color, sex, religion, or age;

(13) Obtaining or attempting to obtain any compensation by fraud or deceit;

(14) Aiding or abetting the unlicensed practice of pharmacy;

(15) Advertising in a manner which is false, deceptive or misleading;

(16) Dispensing sample drug products for any financial consideration;

(17) Exercising undue influence on or taking unfair advantage of a patient in the promotion or sale of services, drugs or other products for the financial gain of the pharmacist or a third party;

(18) Participating in rebate or fee-splitting arrangements with health practitioners or with health care facilities;

(19) Furnishing a prescriber with any prescription order blanks imprinted with the name of a specific pharmacist or pharmacy;

(20) Using secret formula or code in connection with prescription orders;

(21) Having a pharmacist license revoked or suspended in another state or United States jurisdiction; or,

(22) Violating or attempting to violate any formal disciplinary order of the board.

The rules, amendments and repeals contained in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register, pursuant to s. 227.026, Wis. Stats.

Dated this 5th day of December, 1979.

STATE OF WISCONSIN
PHARMACY EXAMINING BOARD

By: Thora Vervoren
Thora Vervoren, Chairperson

FISCAL ESTIMATE

In promulgating Chapter Phar 5 of the Wisconsin administrative code, there is no anticipated fiscal effect on either the state during the current biennium or on county, city, village, town, school district, vocational, technical or education district or any fiscal liability or revenues anticipated on sewerage districts.

The estimate prepared pursuant to s. 227.019, Wis. Stats., is based on the assumption that the rules will affect licensees or applicants for licensure only and will be enforced by state personnel.

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