

## Chapter N 7

### RULES OF CONDUCT

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N 7.04 Misconduct or unprofessional conduct.

**Note:** Chapters N 7 and 11 as they existed on September 30, 1985 were repealed and a new Chapter N 7 was created effective October 1, 1985.

**N 7.01 Authority and intent.** (1) The rules in this chapter are adopted pursuant to authority of ss. 15.08 and 227.11 and interpret s. 441.07, Stats.

(2) The intent of the board of nursing in adopting this chapter is to specify grounds for limiting, suspending, revoking or denying renewal of a license or for reprimanding a licensee.

**History:** Cr. Register, September, 1985, No. 357, eff. 10-1-85; am. (2), Register, May, 1990, No. 413, eff. 6-1-90; correction in (1) under s. 13.93 (2m) (b) 7., Stats., Register, May, 1990, No. 413.

**N 7.02 Definitions.** As used in this chapter:

(1) "Board" means board of nursing.

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

(3) "License" means a license of a registered nurse, licensed practical nurse or nurse-midwife.

(4) "Licensee" means a person licensed as a registered nurse, licensed practical nurse under s. 441.10, Stats., or nurse-midwife.

(5) "Patient" means any person receiving nursing care for which the nurse is compensated.

**Note:** The board office is located at 1400 East Washington Avenue, Madison, Wisconsin. The board's mailing address is P.O. Box 8935, Madison, Wisconsin 53708-8935.

**History:** Cr. Register, September, 1985, No. 357, eff. 10-1-85.

**N 7.03 Negligence, abuse of alcohol or other drugs or mental incompetency.** (1) As used in s. 441.07 (1) (c), Stats., "negligence" means a substantial departure from the standard of care ordinarily exercised by a competent licensee. "Negligence" includes but is not limited to the following conduct:

(a) Violating any of the standards of practice set forth in ch. N 6;

(b) An act or omission demonstrating a failure to maintain competency in practice and methods of nursing care;

(c) Failing to observe the conditions, signs and symptoms of a patient, record them, or report significant changes to the appropriate person;

(d) Failing to execute a medical order unless the order is inappropriate and the licensee reports the inappropriate order to a nursing supervisor or other appropriate person;

(e) Executing an order which the licensee knew or should have known would harm or present the likelihood of harm to a patient;

(f) Failing to report to a nursing supervisor or appropriate person the existence of a medical or nursing order which the licensee knew or should have known would harm or present the likelihood of harm to a patient; or,

(g) Offering or performing services as a licensed practical nurse or registered nurse for which the licensee is not qualified by education, training or experience.

(2) "Abuse of alcohol or other drugs" is the use of alcohol or any drug to an extent that such use impairs the ability of the licensee to safely or reliably practice.

(3) "Mental incompetency" is evidenced by conduct which reflects an impaired ability of the licensee to safely or reliably per-

form duties. "Mental incompetency" also includes, but is not limited to, adjudication of incompetence by a court of law.

**History:** Cr. Register, September, 1985, No. 357, eff. 10-1-85; am. (1) (intro.), (d) to (g), (2) and (3), Register, May, 1990, No. 413, eff. 6-1-90.

**N 7.04 Misconduct or unprofessional conduct.** As used in s. 441.07 (1) (d), Stats., "misconduct or unprofessional conduct" means any practice or behavior which violates the minimum standards of the profession necessary for the protection of the health, safety, or welfare of a patient or the public. "Misconduct or unprofessional conduct" includes, but is not limited to, the following:

(1) Violating, or aiding and abetting a violation of any law substantially related to the practice of professional or practical nursing. A certified copy of a judgment of conviction is prima facie evidence of a violation;

(2) Administering, supplying or obtaining any drug other than in the course of legitimate practice or as otherwise prohibited by law;

(3) Failing to report to the board or to institutional supervisory personnel any violation of the rules of this chapter by a licensee. This provision does not require a nurse to report treatment information which would fall within the nurse-patient privilege set forth in s. 905.04 (1) (b), Stats.;

(4) Abusing a patient by any single or repeated act of force, violence, harassment, deprivation, neglect, or mental pressure which reasonably could cause physical pain or injury, or mental anguish or fear;

(5) Practicing beyond the scope of practice permitted by law;

(6) Falsifying or inappropriately altering patient records;

(7) Having disciplinary action through final board adjudication taken against one's license in another jurisdiction;

(8) Impersonating another licensee;

(9) Failing or refusing to render nursing services to a patient because of the patient's race, color, sex, age, beliefs, national origin or handicap;

(10) Revealing to other personnel not engaged in the care of the patient or to members of the public information which concerns a patient's medical condition unless release of the information is authorized by the patient or required or authorized by law. This provision shall not be construed to prevent a licensee from cooperating with the board or the department of regulation and licensing in the investigation of complaints;

(11) Engaging in inappropriate sexual contact, exposure, gratification, or other sexual behavior with or in the presence of a patient. For the purposes of this subsection, an adult receiving psychiatric nursing services shall continue to be a patient for one year after the termination of professional services. If the person receiving psychiatric nursing services is a minor, the person shall continue to be a patient for the purposes of this subsection for one year after termination of services, or for one year after the patient reaches the age of majority, whichever is longer;

(12) Obtaining or attempting to obtain anything of value from a patient without the patient's consent;

**(13)** Obtaining or attempting to obtain any compensation by fraud, misrepresentation, deceit or undue influence in the course of nursing practice;

**(13m)** Violating any provision of s. 441.16, Stats., or ch. N 8.

**(14)** Violating any term, provision or condition of any order of the board; or,

**(15)** Violating any rule of the board.

**History:** Cr. Register, September, 1985, No. 357, eff. 10-1-85; am. (3), (7), (8) and (10), Register, May, 1990, No. 413, eff. 6-1-90; am. (11), Register, October, 1992, No. 442, eff. 11-1-92; cr. (13m), Register, February, 1995, No. 470, eff. 3-1-95.