

SUBCHAPTER 16V – UNPROFESSIONAL CONDUCT

SECTION .0100 - UNPROFESSIONAL CONDUCT

21 NCAC 16V .0101 DEFINITION: UNPROFESSIONAL CONDUCT BY A DENTIST

Unprofessional conduct by a dentist as set out in G.S. 90-41(a)(26) shall include the following:

- (1) having professional discipline imposed, including the denial of licensure, by the dental licensing authority of another state, territory, or country. For purposes of this Rule, the surrender of a license under threat of disciplinary action shall be considered the same as if the licensee had been disciplined;
- (2) presenting false or misleading testimony, statements, omissions, or records in any communication to the Board or the Board's investigators, employees, or agents regarding any matter subject to the provisions of the Dental Practice Act or Dental Hygiene Act;
- (3) being convicted of or entering a plea of guilty or nolo contendere to any charge for a crime that is violent or sexual in nature;
- (4) violating any order of the Board previously entered in a disciplinary hearing, or failing to comply with a subpoena of the Board;
- (5) conspiring with any person to commit an act, or committing an act that would coerce, intimidate, or preclude any patient or witness from testifying against a licensee in any disciplinary hearing, or retaliating in any manner against any patient or other person who testifies or cooperates with the Board during any investigation under the Dental Practice or Dental Hygiene Acts;
- (6) failing to identify to a patient, patient's guardian, or the Board the name of an employee, employer, contractor, or agent who renders dental treatment or services upon request;
- (7) prescribing, procuring, dispensing, or administering any controlled substance for personal use, which does not include those prescribed, dispensed, or administered by a practitioner authorized to prescribe them;
- (8) pre-signing blank prescription forms or using pre-printed or rubber stamped prescription forms containing the dentist's signature or the name of any controlled substance;
- (9) forgiving the co-payment provisions of any insurance policy, insurance contract, health prepayment contract, health care plan, or nonprofit health service plan contract by accepting the payment received from a third party as full payment, unless the dentist discloses to the third party that the patient's payment portion will not be collected;
- (10) failing to provide radiation safeguards required by the State Department of Health and Human Services, the federal Occupational and Safety Health Administration, the Food and Drug Administration, or the Environmental Protection Agency;
- (11) having professional connection with or lending one's name to the unlawful practice of dentistry, including as set forth in G.S. 90-41(a)(9);
- (12) using the name of any deceased or retired dentist on any office door, directory, stationery, bill heading, or any other means of communication any time after one year following the death or retirement from practice of said dentist;
- (13) failing to comply with any provision of any contract or agreement with the Caring Dental Professionals Program;
- (14) failing to submit a truthful response to a notice of complaint filed against the licensee with the Board, or to any related request, accompanied by a signed verification on a form provided by the Board with the notice or request, within the time allowed by the Board;
- (15) failing to notify the Board of a change in current primary physical address, which shall be either a personal address or a business address at the licensee's election, within 10 business days;
- (16) permitting more than two dental hygienists for each licensed dentist in the office to perform clinical hygiene tasks, as set forth in G.S. 90-233(b);
- (17) failing to produce diagnostic radiographs or other treatment records on request of the Board or its investigator;
- (18) soliciting employment of potential patients in person or by telephone or permitting or directing another to do so;
- (19) giving or accepting anything of value in exchange for a promise to refer or referral of potential patients;
- (20) failing to offer 30 days of emergency care upon dismissing a patient from a dental practice;

- (21) withholding or refusing to complete a treatment procedure for an existing patient conditioned upon payment of an outstanding balance;
- (22) using protected health information, as defined by 45 CFR 160.103, to solicit potential patients;
- (23) making misleading or untruthful statements for the purpose of procuring potential patients, or directing or allowing an employee or agent to do so;
- (24) committing any act that results in harm to a patient, employee, or independent contractor in connection with the provision of dental services and violates State or federal statutes, rules, or regulations, such as the Health Insurance Portability and Accountability Act;
- (25) refusing to permit a Board agent or employee to conduct a sterilization inspection;
- (26) acquiring any controlled substance from any source by fraud, deceit or misrepresentation;
- (27) practicing outside the scope of dentistry, as set forth in G.S. 90-29;
- (28) committing any act that violates State or federal statutes or regulations governing controlled substances; and
- (29) committing any act that would constitute civil assault or civil battery in connection with the provision of dental services. The North Carolina Pattern Jury Instructions for Civil 800.50, Assault, and for Civil 800.51, Battery, are hereby incorporated by reference, including subsequent amendments and editions. These documents may be accessed at no cost at <https://www.sog.unc.edu/resources/microsites/north-carolina-pattern-jury-instructions/north-carolina-pattern-jury-instructions-civil-cases>.

History Note: Authority G.S. 90-22(a); 90-28; 90-29; 90-40; 90-40.1; 90-41; 90-48; 90-223(b); Eff. August 1, 1998;
 Amended Eff. August 1, 2016; July 1, 2015; October 1, 2001; August 1, 2000;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
 Amended Eff. July 1, 2022; November 1, 2019.

21 NCAC 16V .0102 DEFINITION: UNPROFESSIONAL CONDUCT BY A DENTAL HYGIENIST

Unprofessional conduct by a dental hygienist as set out in G.S. 90-229(a)(12) shall include the following:

- (1) having professional discipline imposed, including the denial of licensure, by the dental hygiene licensing authority of another state, territory, or country. For purposes of this Rule, the surrender of a license under threat of disciplinary action shall be considered the same as if the licensee had been disciplined;
- (2) presenting false or misleading testimony, statements, omissions, or records in any communication to the Board or the Board's investigators, employees, or agents regarding any matter subject to the provisions of the Dental Practice Act or Dental Hygiene Act;
- (3) being convicted of or entering a plea of guilty or nolo contendere to any charge for a crime that is violent or sexual in nature;
- (4) violating an order of the Board previously entered in a disciplinary hearing or failing to comply with a subpoena of the Board;
- (5) conspiring with any person to commit an act, or committing an act that would coerce, intimidate, or preclude any patient or witness from testifying against a licensee in any disciplinary hearing, or retaliating in any manner against any patient or other person who testifies or cooperates with the Board during any investigation under the Dental Practice or Dental Hygiene Acts;
- (6) failing to identify to a patient, patient's guardian, an employer, or the Board the name of any person or agent who renders dental treatment or services upon request;
- (7) procuring, dispensing, or administering any controlled substance for personal use except those prescribed, dispensed, or administered by a practitioner authorized to prescribe them;
- (8) acquiring any controlled substance from any pharmacy or other source by misrepresentation, fraud or deception;
- (9) having professional connection with or lending one's name to the illegal practice of dental hygiene, including as set forth in G.S. 90-229(a)(11);
- (10) failing to comply with any provision of any contract or agreement with the Caring Dental Professionals Program;

- (11) failing to submit a truthful response to a notice of complaint filed against the licensee with the Board, or to any related request, accompanied by a signed verification on a form provided by the Board, within the time allowed by the Board;
- (12) failing to notify the Board of a change in current primary physical address, which shall be either a personal address or a business address at the licensee's election, within 10 business days;
- (13) working in a clinical hygiene position if the ratio of hygienists to licensed dentists present in the office is greater than 2:1, as set forth in G.S. 90-233(b);
- (14) soliciting employment of potential patients in person or by telephone or permitting or directing another to do so;
- (15) giving or accepting anything of value in exchange for a promise to refer or referral of potential patients;
- (16) using protected health information, as defined by 45 CFR 160.103, to solicit potential patients;
- (17) making misleading or untruthful statements for the purpose of procuring potential patients or assisting another to do so;
- (18) committing any act that results in harm to a patient in connection with the provision of dental services and violates State or federal statutes, rules, or regulations, such as the Health Insurance Portability and Accountability Act;
- (19) practicing outside the scope of dental hygiene, as defined in G.S. 90-221(a);
- (20) committing any act that violates State or federal statutes or regulations governing controlled substances; and
- (21) committing any act that would constitute civil assault or civil battery in connection with the provision of dental hygiene services. The North Carolina Pattern Jury Instructions for Civil 800.50, Assault, and for Civil 800.51, Battery, are hereby incorporated by reference, including subsequent amendments and editions. These documents may be accessed at no cost at <https://www.sog.unc.edu/resources/microsites/north-carolina-pattern-jury-instructions/north-carolina-pattern-jury-instructions-civil-cases>.

History Note: Authority G.S. 90-29; 90-221; 90-223; 90-229;
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Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
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