

This is an amendment to 16.4.8 NMAC, Section 10, effective 03/31/09.

16.4.8.10 GUIDELINES: The board shall use the following as guidelines for disciplinary action.

A. "Gross incompetence" or "gross negligence" means, but shall not be limited to, a significant departure from the prevailing standard of care in treating patients.

B. "Unprofessional conduct" means, but is not limited to because of enumeration:

(1) performing, or holding oneself out as able to perform, professional services beyond the scope of one's license and field or fields of competence as established by education, experience, training, or any combination thereof; this includes, but is not limited to, the use of any instrument or device in a manner that is not in accordance with the customary standards and practices of the chiropractic profession;

(2) representing to a patient that a manifestly incurable condition or sickness, disease or injury can be cured;

(3) willfully or negligently divulging a professional confidence;

(4) failure to release to a patient copies of that patient's records and x-rays;

(5) failure to seek consultation whenever the welfare of the patient would be safeguarded or advanced by consultation with individuals having special skills, knowledge, and experience;

(6) failure of a chiropractor to comply with and following advertising guidelines as set in 16.4.1.12 NMAC;

(7) failure to use appropriate infection control techniques and sterilization procedures;

(8) deliberate and willful failure to reveal, at the request of the board, the incompetent, dishonest, or corrupt practices of another chiropractor licensed or applying for licensure by the board;

(9) accept rebates, or split fees or commissions from any source associated with the service rendered to a patient;

(10) intentionally engaging in sexual contact with a patient other than his spouse during the doctor-patient relationship;

(11) the use of a false, fraudulent or deceptive statement in any document connected with the practice of chiropractics;

(12) employing abusive billing practices;

(13) fraud, deceit or misrepresentation in any renewal or reinstatement application;

(14) violation of any order of the board, including any probation order;

(15) failure to adequately supervise, as provided by board regulation, a chiropractic assistant, technician or employee holding any professional license who renders care under 16.4.19 NMAC of these rules;

(16) cheating on an examination for licensure;

(17) is habitually intemperate or is addicted to the use of habit-forming drugs or is addicted to any vice to such a degree as to render him unfit to practice chiropractic;

(18) is guilty of failing to comply with any of the provisions of the Chiropractic Physician Practice Act (Chapter 61, Article 4 NMSA 1978) or rules and regulations promulgated by the board and filed in accordance with the State Rules Act (Chapter 14, Article 4 NMSA 1978);

(19) has been declared mentally incompetent by regularly constituted authorities or is manifestly incapacitated to practice chiropractic;

(20) has incurred a prior suspension or revocation in another state where the suspension or revocation of a license to practice chiropractics was based upon acts by the licensee similar to acts described in this section and by board rules;

(21) failure to report to the board within 90 days any adverse action taken after due process has been afforded to the licensee by:

(a) another licensing jurisdiction;

(b) any health care entity, not involving disputes over fees;

(c) any governmental agency, not involving disputes overseas;

(d) any court for acts or conduct similar to acts or conduct that would constitute grounds for action as defined in this section;

(22) failure to furnish the board, its investigators or representatives with information requested by the board;

(23) abandonment of patients;

(24) providing a false, materially incomplete, factually unsupported opinion or opinions which are not congruent with current teachings and standards of care as taught in CCE accredited chiropractic colleges in a peer review, records review, independent medical examination, or chiropractic examination.

[16.4.8.10 NMAC - N, 3/15/2006; A, 3/31/2009]