SECTION .0100 - UNPROFESSIONAL CONDUCT

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

Unprofessional conduct by a dentist 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, or records to the Board or the Board's investigator or employees during the scope of any investigation, or at any hearing of the Board;

(3) Committing any act that would constitute sexual assault or battery as defined by Chapter 14 of the North Carolina General Statutes in connection with the provision of dental services;

(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 tend to 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, and the Environmental Protection Agency;

(11) Having professional connection with or lending one's name to the unlawful practice of dentistry;

(12) Using the name of any deceased or retired and licensed 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 file a truthful response to a notice of complaint within the time allowed in the notice;

(15) Failing to notify the Board of a change in current physical address within 10 business days;

(16) Permitting more than two dental hygienists for each licensed dentist in the office to perform clinical hygiene tasks;

(17) Failing to produce diagnostic radiographs or other treatment records on request of the Board or its investigator;

(18) Soliciting employment of potential patients by live telephone solicitation or permitting or directing another to do so;

(19) Giving or paying 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 treatment to an existing patient conditioned upon payment of an outstanding balance;

(22) Using protected patient 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) Making material false statements or omissions in any communication with the Board or its agents regarding the subject of any disciplinary matter under investigations by the Board;
(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; and
(27) Practicing outside the scope of dentistry, as set forth in G.S. 90-29.

History Note: Authority G.S. 90-28; 90-29; 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;

21 NCAC 16V .0102 DEFINITION: UNPROFESSIONAL CONDUCT BY A DENTAL HYGIENIST
Unprofessional conduct by a dental hygienist 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, or records to the Board or a Board employee during the scope of any investigation or at any hearing of the Board;
(3) Committing any act that would constitute sexual assault or battery as defined by Chapter 14 of the North Carolina General Statutes in connection with the provision of dental hygiene services;
(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 tend to coerce, intimidate, or preclude any patient or witness from testifying against a licensee in any disciplinary hearing, or retaliating in any manner against any person who testifies or cooperates with the Board during any investigation of any licensee;
(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;
(10) Failing to comply with any provision of any contract or agreement with the Caring Dental Professionals Program;
(11) Failing to file a truthful response to a notice of complaint, within the time allowed in the notice;
(12) Failing to notify the Board of a change in current physical address 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;
(14) Soliciting employment of potential patients in person or by telephone or assisting another person to do so;
(15) Giving or paying anything of value in exchange for a promise to refer or referral of potential patients;
(16) Using protected patient 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) Making material false statements or omissions in any communication with the Board or its agents regarding the subject of any disciplinary matter under investigation by the Board; and
(19) Practicing outside the scope of dental hygiene, as defined in 90-221(a).

History Note: Authority G.S. 90-29; 90-221; 90-223; 90-229;
Eff. August 1, 1998;