

2021 -- H 5544

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

A N A C T

RELATING TO BUSINESSES AND PROFESSIONS - BOARD OF MEDICAL LICENSURE
AND DISCIPLINE

Introduced By: Representatives Fogarty, Shallcross Smith, Fenton-Fung, Tanzi, Carson,
Henries, Speakman, Donovan, McEntee, and Alzate

Date Introduced: February 12, 2021

Referred To: House Health & Human Services

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 5-37-5.1 of the General Laws in Chapter 5-37 entitled "Board of
2 Medical Licensure and Discipline" is hereby amended to read as follows:

3 **5-37-5.1. Unprofessional conduct.**

4 The term "unprofessional conduct" as used in this chapter includes, but is not limited to,
5 the following items or any combination of these items and may be further defined by regulations
6 established by the board with the prior approval of the director:

7 (1) Fraudulent or deceptive procuring or use of a license or limited registration;

8 (2) All advertising of medical business, which is intended or has a tendency to deceive the
9 public;

10 (3) Conviction of a crime involving moral turpitude; conviction of a felony; conviction of
11 a crime arising out of the practice of medicine;

12 (4) Abandoning a patient;

13 (5) Dependence upon controlled substances, habitual drunkenness, or rendering
14 professional services to a patient while the physician or limited registrant is intoxicated or
15 incapacitated by the use of drugs;

16 (6) Promotion by a physician or limited registrant of the sale of drugs, devices, appliances,
17 or goods or services provided for a patient in a manner as to exploit the patient for the financial
18 gain of the physician or limited registrant;

- 1 (7) Immoral conduct of a physician or limited registrant in the practice of medicine;
- 2 (8) Willfully making and filing false reports or records in the practice of medicine;
- 3 (9) Willfully omitting to file or record, or willfully impeding or obstructing a filing or
4 recording, or inducing another person to omit to file or record, medical or other reports as required
5 by law;
- 6 (10) Failing to furnish details of a patient's medical record to succeeding physicians, health
7 care facility, or other health care providers upon proper request pursuant to § 5-37.3-4;
- 8 (11) Soliciting professional patronage by agents or persons or profiting from acts of those
9 representing themselves to be agents of the licensed physician or limited registrants;
- 10 (12) Dividing fees or agreeing to split or divide the fees received for professional services
11 for any person for bringing to or referring a patient;
- 12 (13) Agreeing with clinical or bioanalytical laboratories to accept payments from these
13 laboratories for individual tests or test series for patients;
- 14 (14) Making willful misrepresentations in treatments;
- 15 (15) Practicing medicine with an unlicensed physician except in an accredited
16 preceptorship or residency training program, or aiding or abetting unlicensed persons in the practice
17 of medicine;
- 18 (16) Gross and willful overcharging for professional services; including filing of false
19 statements for collection of fees for which services are not rendered, or willfully making or assisting
20 in making a false claim or deceptive claim or misrepresenting a material fact for use in determining
21 rights to health care or other benefits;
- 22 (17) Offering, undertaking, or agreeing to cure or treat disease by a secret method,
23 procedure, treatment or medicine;
- 24 (18) Professional or mental incompetency;
- 25 (19) Incompetent, negligent, or willful misconduct in the practice of medicine which
26 includes the rendering of medically unnecessary services, and any departure from, or the failure to
27 conform to, the minimal standards of acceptable and prevailing medical practice in his or her area
28 of expertise as is determined by the board. The board does not need to establish actual injury to the
29 patient in order to adjudge a physician or limited registrant guilty of the unacceptable medical
30 practice in this subdivision;
- 31 (20) Failing to comply with the provisions of chapter 4.7 of title 23;
- 32 (21) Surrender, revocation, suspension, limitation of privilege based on quality of care
33 provided, or any other disciplinary action against a license or authorization to practice medicine in
34 another state or jurisdiction; or surrender, revocation, suspension, or any other disciplinary action

1 relating to a membership on any medical staff or in any medical or professional association or
2 society while under disciplinary investigation by any of those authorities or bodies for acts or
3 conduct similar to acts or conduct which would constitute grounds for action as described in this
4 chapter;

5 (22) Multiple adverse judgments, settlements or awards arising from medical liability
6 claims related to acts or conduct which would constitute grounds for action as described in this
7 chapter;

8 (23) Failing to furnish the board, its chief administrative officer, investigator or
9 representatives, information legally requested by the board;

10 (24) Violating any provision or provisions of this chapter or the rules and regulations of
11 the board or any rules or regulations promulgated by the director or of an action, stipulation, or
12 agreement of the board;

13 (25) Cheating on or attempting to subvert the licensing examination;

14 (26) Violating any state or federal law or regulation relating to controlled substances;

15 (27) Failing to maintain standards established by peer review boards, including, but not
16 limited to, standards related to proper utilization of services, use of nonaccepted procedure, and/or
17 quality of care;

18 (28) A pattern of medical malpractice, or willful or gross malpractice on a particular
19 occasion;

20 (29) Agreeing to treat a beneficiary of health insurance under title XVIII of the Social
21 Security Act, 42 U.S.C. § 1395 et seq., "Medicare Act", and then charging or collecting from this
22 beneficiary any amount in excess of the amount or amounts permitted pursuant to the Medicare
23 Act;

24 (30) Sexual contact between a physician and patient during the existence of the
25 physician/patient relationship; ~~or~~

26 (31) Knowingly violating the provisions of subsection 23-4.13-2(d); or

27 (32) Performing a pelvic examination or supervising a pelvic examination performed by
28 an individual practicing under the supervision of a physician on an anesthetized or unconscious
29 female patient without first obtaining the patient's informed consent to pelvic examination, unless
30 the performance of a pelvic examination is within the scope of the surgical procedure or diagnostic
31 examination to be performed on the patient for which informed consent has otherwise been
32 obtained or in the case of an unconscious patient, the pelvic examination is required for diagnostic
33 purposes and is medically necessary.

1 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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- 1 This act would include in the definition of unprofessional conduct performing a pelvic
- 2 examination without consent of an anesthetized or unconscious female patient.
- 3 This act would take effect upon passage.

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