



ADMINISTRATIVE RULES OF MONTANA



24.138.2301 UNPROFESSIONAL CONDUCT

- (1) For the purposes of implementing the provisions of 37-1-316, MCA, the board further defines "unprofessional conduct" as follows:
 - (a) Continuing to practice when the licensee's license has been suspended, revoked or is not currently renewed.
 - (b) Administering, dispensing or prescribing a controlled substance scheduled in Title 50, chapter 32, MCA, other than in the course of legitimate or reputable professional practice.
 - (c) Having been convicted of violating a federal or state statute or rule regulating the possession, distribution or use of a controlled substance scheduled in Title 50, chapter 32, MCA.
 - (d) Failing to maintain an office in sanitary conditions consistent with current accepted sterilization and disinfection protocols for treatment rooms, sterilization and laboratory areas, or operating under unsanitary conditions after a warning from the board.
 - (e) Testifying in court on a contingency witness-fee basis.
 - (f) Failing to supervise and monitor the actions of all dental auxiliaries, dental hygienists, and dentist interns in regard to patient care.
 - (g) Violating the regulations concerning the administration of anesthesia.
 - (h) Failing to respond to correspondence from the board.
 - (i) Representing or recording coronal polishing, as oral prophylaxis without an appropriately licensed dentist or licensed dental hygienist inspecting for and removing any supragingival and subgingival calculus and gingival irritants.
 - (j) Commission of an act of sexual abuse, sexual misconduct, or sexual exploitation by the licensee, whether or not related to the licensee's practice of dentistry.
 - (k) Failing to store, transport off the premises, and dispose of infectious wastes, as defined in 75-10-1003, MCA, in accordance with the requirements set forth in 75-10-1005, MCA.
 - (l) Failing to adhere to any bloodborne pathogen regulation as outlined in Occupational Safety and Health Administration (OSHA) regulation contained in 29 CFR 1910.1030, as amended and published in the Federal Register, volume 66, on January 18, 2001 beginning at page 5325, which is hereby incorporated by reference.
 - (m) Failing to return a patient to the referring licensee or licensee of record, unless the patient requests otherwise

- (n) Accepting or tendering "rebates" or "split fees," which are commissions paid to others for referral of business.
- (o) Delegating to dental hygienists or dental auxiliaries any duties or responsibilities regarding patient care that cannot be delegated to dental hygienists or dental auxiliaries under 37-4-401, MCA, and board rules.
- (p) Dentists shall be obliged when consulted in an emergency by patients not of record to make reasonable arrangements for emergency care. If treatment is provided, the dentist, upon completion of such treatment, is obliged to return the patient to his or her regular dentist unless the patient expressly reveals a different preference.
- (q) Employing, supervising, or otherwise using more dental hygienists or dental auxiliaries than the dentist can reasonably supervise.
- (r) Failing to assure that the radiation source under the dentist's control is used only by individuals competent to use it.
- (s) Failing to safeguard the confidentiality of patient records, failing to maintain patient records in a manner consistent with the protection of the welfare of the patient, and failure to provide any information or records, upon request of the patient, that will be beneficial for the future treatment of the patient.
- (t) Using advertising matter that contains misstatements, falsehoods, misrepresentations, or wording that may in any way reflect against a fellow licensee or other licensed health care provider.
- (u) Knowingly suppressing, omitting, or concealing any fact or law without which the advertisement would be deceptive or misleading.
- (v) Failing to adequately maintain complete records of each patient.
- (w) Administering, dispensing, or prescribing approved topical agents in violation of board rules.
- (x) Extracting teeth or performing dental treatment upon the written or verbal prescription of someone other than a licensed dentist.
- (y) Failing to comply with a monitoring agreement entered into with the board's professional assistance program.
- (z) Failing to comply with the provisions of the Guidelines for Infection Control in Dental Health-Care Settings, 2003.
- (aa) Failing to pass an anesthesia permit inspection under ARM 24.138.3227.

Authorizing statute(s): 37-1-319, 37-4-205, 37-4-408, 37-29-201, 75-10-1006, MCA

Implementing statute(s): 37-1-316, 37-1-319, 37-4-101, 37-4-405, 37-4-408, 37-29-402, 37-29-403, 75-10-1006, MCA

History: NEW, 1982 MAR p. 2174, Eff. 12/31/82; AMD, 1991 MAR p. 2415, Eff. 12/13/91; AMD, 1993 MAR p. 393, Eff. 3/26/93; AMD, 1996 MAR p. 3118, Eff. 12/6/96; TRANS, from Commerce, & AMD, 2003 MAR p. 2435,

Eff. 10/31/03; AMD, 2019 MAR p. 2366, Eff. 12/28/19; AMD, 2021 MAR p. 473, Eff. 5/1/21; AMD, 2024 MAR p. 2205, Eff. 9/21/24.