

**ALABAMA STATE BOARD OF PROSTHETISTS AND ORTHOTISTS
ADMINISTRATIVE CODE**

**CHAPTER 746-X-3
PROFESSIONAL STANDARDS**

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746-X-3-.01 Purpose.

The purpose of this section is to set forth the basis for which a license, registration, or facility accreditation may be denied, revoked, suspended, reprimanded, for which a civil penalty may be imposed, or a probationary period may be imposed.

Author: Joseph C. Elliott, Glenn Crumpton

Statutory Authority: Code of Ala. 1975, §§34-25A-1-14.

History: New Rule: Filed August 8, 2003; effective September 12, 2003.

746-X-3-.02 Fraud, Misrepresentation, Concealment Of A Material Fact.

(1) A license, registration, or facility accreditation may be denied, revoked, suspended, reprimanded, for which a civil penalty may be imposed, or a probationary period may be imposed when a license is obtained by fraud, misrepresentation, or concealment of a material fact, which includes, but is not limited to the following:

(a) Committing fraud, misrepresentation, or concealment of a material fact submitted with an application or renewal for licensure, registration.

(b) Impersonating or acting as a proxy for an examination candidate.

(c) Providing false or misleading information to the Board regarding an inquiry by the Board; or

(d) Committing other fraud, misrepresentation or concealment of a material fact submitted to the Board.

Author: Joseph C. Elliott, Glenn Crumpton

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746-X-3-.03 Fraud Or Deceit Concerning Services Provided.

(1) A license, registration, or facility accreditation may be denied, revoked, suspended, reprimanded, for which a civil penalty may be imposed, or a probationary period may be imposed for fraud or deceit concerning services provided, which includes, but is not limited to, the following:

(a) Placing or causing to be placed, false, misleading, or deceptive advertising;

(b) Making or allowing false, misleading, or deceptive representations concerning the services or products provided or which have been provided;

(c) Making or allowing false, misleading, or deceptive representations on an application for employment;

(d) Using or allowing a person to use a license or registration for any fraudulent, misleading, or deceptive purpose;

(e) Knowingly employing or engaging in a business relationship recognized by the Code of Alabama including but not limited to a partnership, Limited Liability Company, Limited Liability Partnership, or a corporation with a person or entity, who is providing prosthetic or orthotic services, and is not licensed or accredited as required by the Act or these rules;

(f) Forging, altering, or falsifying a physician's order;

(g) Delivering prosthetic and/or orthotic services or products through means of misrepresentation, deception, or subterfuge;

(h) Accepting or paying, or agreeing to pay for the securing or soliciting of patients.

(i) Making or filing, or causing another person to make or file, a report or record that the licensee knows to be inaccurate, incomplete, false, or illegal;

- (j) Practicing with an expired, suspended, or revoked license or registration;
- (k) Charging unreasonable or fraudulent fees for services performed or not performed;
- (l) Persistently or flagrantly over treating a client;
- (m) Willful violation of a Board order;
- (n) Taking without authorization medication, supplies, equipment, or personal items belonging to a patient; and
- (o) Other fraud or deceit concerning service provided.

Author: Joseph C. Elliott, Glenn Crumpton

Statutory Authority: Code of Ala. 1975, §§34-25A-1-14.

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746-X-3-.04 Unprofessional Or Unethical Conduct.

(1) A license, registration, or facility accreditation may be denied, revoked, suspended, reprimanded, for which a civil penalty may be imposed, or a probationary period may be imposed for unprofessional or unethical conduct, as defined in subsections (b) and (c) of this section. Other actions which may cause the Board to deny a license or registration include, but are not limited to:

- (a) Having surrendered a license to the Board or the licensing authority of another state, territory, or country to avoid disciplinary action or prosecution;
- (b) Having a license revoked or suspended, having had other disciplinary action taken against the applicant, or having had the application for a license refused, revoked, or suspended by the Board or the; licensing authority of another state, territory, or country;
- (c) Failing to maintain acceptable standards of prosthetics or orthotics practices as set forth by Board rules;
- (d) Being unable to practice prosthetics or orthotics with reasonable skill, and safety to patients, due to illness or use of alcohol, drugs, narcotics, chemicals, or other types of material from mental or physical conditions;
- (e) Having treated or undertook to treat human ailments by means other than prosthetic and orthotic treatments appropriate to or within the scope permitted by law of the issued license;

- (f) Intentionally or negligently failing to supervise and maintain supervision of support personnel, licensed or unlicensed, in compliance with the Act and these Rules;
- (g) Providing prosthetic an orthotic services or products in a way that the person knows, or with the exercise of reasonable diligence should know violates the Act or these rules;
- (h) Failing to assess and evaluate a patient's status;
- (i) Providing or attempting to provide services in which the licensee is untrained by education or experience;
- (j) Delegating functions or responsibilities to an individual lacking the ability, knowledge, or license/ registration to perform the function or responsibility;
- (k) Revealing confidential information concerning a patient or client except where required or allowed by law;
- (l) Assaulting or causing physical or emotional injury or impairment of dignity or safety to the patient or client;
- (m) Making abusive, harassing, or seductive remarks to a patient, client, or co-worker in the workplace;
- (n) Engaging in sexual contact with a patient or client as the result of the patient or client relationship;
- (o) Failing to follow generally accepted precautions to infection control standards;
- (p) Failing to cooperate with the Board during an investigation of a complaint filed under the provisions set out in Rule 746-X-4 by not furnishing required documentation or responding to a request for information or a subpoena issued by the Board or its authorized representative;
- (q) Interfering with an investigation or disciplinary proceeding by willful misrepresentation of facts or by use of threats, retaliation, or harassment against anyone;
- (r) Fitting a prosthesis or orthosis without prescription;
- (s) Fitting a prosthesis or orthosis inaccurately or modifying the prescription without authorization from the prescribing physician; and
- (t) Other unprofessional or unethical conduct.

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Statutory Authority: Code of Ala. 1975, §§34-25A-1-14.

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746-X-3-.05 Gross Negligence Or Malpractice.

(1) A license, registration, or facility accreditation may be denied, revoked, suspended, reprimanded, for which a civil penalty may be imposed, or a probationary period may be imposed for gross negligence or malpractice, which includes, but is not limited to, the following:

(a) Performing an act or omission constituting gross neglect, such as conduct involving malice, willfulness or wanton and reckless disregard of the rights of others.

(b) Performing an act or omission constituting malpractice such as:

1. Failing to perform services or provide products with reasonable care, skill, and expedience.

2. Failing to do that which a person with ordinary prudence would have done under the same or similar circumstances, or doing that which a person of ordinary prudence would not have done under the same or similar circumstances.

Author: Joseph C. Elliott, Glenn Crumpton

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746-X-3-.06 Interference With An Investigation.

A license, registration, or facility accreditation may be denied, revoked, suspended, reprimanded, for which a civil penalty may be imposed, or a probationary period may be imposed for interference with a Board investigation by willful misrepresentation of facts to the Board or its authorized representative or by the use of threats or harassment against any person.

Author: Joseph C. Elliott, Glenn Crumpton

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746-X-3-.07 Frivolous Complaints.

A license, registration, or facility accreditation maybe denied, revoked, suspended, reprimanded, for which a civil penalty may be

imposed, or a probationary period may be imposed for filing a complaint with the Board that is frivolous or made in bad faith.

Author: Joseph C. Elliott, Glenn Crumpton

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