

## TO BE RESCINDED

4755-64-01

**Ethical and professional conduct.**

A license holder must provide professional services with objectivity and with respect for the unique needs and values of the health care recipient, as follows:

- (A) A license holder must not discriminate on the basis of factors that are irrelevant to the provision of professional services including, but not limited to, race, creed, sex, national origin, age, or medical condition.
- (B) Prior to a license holder entering into a contractual relationship with a health care recipient, the license holder must provide sufficient information to enable the health care recipient to make an informed decision to enter into a contractual relationship. Sufficient information must include any fees and arrangements for payment which might affect the decision.
- (C) A license holder must not mislead the public and/or colleagues about services and must not advertise in a misleading manner.
- (D) A license holder must not engage in any activities that seek to meet his or her personal needs at the expense or detriment of the health care recipient.
- (E) A license holder must not receive or give a commission, rebate, or any other form of direct or indirect remuneration or benefit for the referral of patients/clients for professional services.
- (F) A license holder must disclose to health care recipients any financial interest in commercial orthotics, prosthetics, or pedorthics device which the license holder promotes for the purpose of direct or indirect personal gain or profit.
- (G) A license holder must not accept gratuities for any reason including, but not limited to, preferential consideration of the health care recipient.
- (H) A license holder must report to the board any unprofessional, incompetent, unethical, or illegal behavior of an orthotist, prosthetist, prosthetist-orthotist, or pedorthist of which the person has knowledge. An obligation to report is inherent in the professions. Where the alleged violation involves impairment issues and no other provisions of Chapters 4755. or 4779. of the Revised Code or other provisions or rules adopted under them, the license holder may make a referral to the safe haven program in lieu of making report to the board.
- (I) A license holder must practice orthotics, prosthetics, or pedorthics in accordance with prevailing professional standards or guidelines and must not endeavor to extend his/

her practice beyond his/her competence and the authority vested in him/her under division (B) of section 4779.02 of the Revised Code.

(J) A license holder must not carry out a prescribed service that he knows to be harmful to a patient.

(K) A license holder must only access health care recipient information which is necessary and relevant to his/her function and authority as a orthotics, prosthetics, or pedorthics provider.

(L) When responding to a consumer's, prescriber's or provider's request for orthotic, prosthetic, or pedorthic services, if it is evident from the initial evaluation and a review of patient history and/or chart information that another licensed orthotic, prosthetic, or pedorthic service provider is currently providing services based on the same or similar medical orders, the second provider has a professional duty of care to the consumer and the prescriber to contact the first provider and offer the opportunity to complete or clarify the appropriate provision of services.

(M) Maintenance of consumer care information

(1) A license holder must maintain consumer care documentation which includes, at minimum:

(a) Medical presentation/history data appropriate to the service provided;

(b) Evaluation and measurement data supporting device choice and recommendation;

(c) All dates of service with narrative progress notes describing presenting problem and service/procedure performed;

(d) Medical orders and therapist notes supporting services provided;

(e) Documentation required by third party payers including assignment of benefits, privacy notices, delivery receipts, financial arrangements, and records reflecting contacts for and provision of follow-up care;

(2) Consumer care data must be maintained with privacy and security safeguards appropriate to the data retained in file.

(3) The license holder responsible for provision of care should take steps to assure the consumer file data is maintained a minimum of five years from last date of service unless a longer period is required by federal or state law or conditions imposed by any third-party payer.

- (N) A license holder, or an applicant for licensure, must provide a written response within a reasonable period of time not to exceed thirty days to any written inquiry regarding compliance with law or rule received from the board. A license holder or an applicant for licensure may not withhold or refuse to provide copies of any records requested by the board or its representative unless otherwise ordered by a court.
- (O) A license holder must self report to the board, within thirty days, any of the items outlined in paragraphs (O)(1) to (O)(7) of this rule. Failure to comply with paragraphs (O)(1) to (O)(7) of this rule may be grounds for disciplinary action pursuant to section 4779.28 of the Revised Code and in accordance with Chapter 119. of the Revised Code.
- (1) Impairment due to abuse of or dependency on alcohol, drugs, or other medical condition or illness that affects the applicant's or license holder's ability to practice with reasonable skill and safety. This reporting requirement shall not be applicable where the applicant or license holder is a participant in the board's safe haven program and complies with the same.
  - (2) Conviction of a felony.
  - (3) Conviction of a misdemeanor when the act that constituted the misdemeanor occurred during the practice of orthotics, prosthetics, or pedorthics.
  - (4) The termination, revocation, or suspension of membership by a state or national orthotics, prosthetics, or pedorthics professional association.
  - (5) The termination, revocation, suspension, or sanctioning of a credential issued by a state or national orthotics, prosthetics, or pedorthics credentialing organization.
  - (6) A positive drug and/or alcohol screening.
  - (7) A finding of malpractice by a court of competent jurisdiction.
- (P) License holders must not document or bill for services not actually provided.
- (Q) License holders must not falsify, alter, or destroy patient records, medical records, or billing records without authorization. The license holder must maintain accurate patient and billing records.
- (R) A license holder must not abandon a patient by inappropriately terminating the practitioner-patient relationship.
- (S) A license holder must not engage in any sexual relationship, contact, or conduct, including dating, with any patient, or engage in any conduct that may reasonably be

interpreted by the patient to be sexual, whether consensual or nonconsensual, while a licensee-patient relationship exists.

- (1) A license holder must not intentionally expose or view a completely or partially disrobed patient in the course of treatment if the exposure or viewing is not related to the patient diagnosis or treatment under current practice standards.
  - (2) A license holder must not engage in a conversation with a patient that is sexual in nature or sexually demeaning and unrelated to the plan of care.
- (T) A license holder must not engage in sexual harassment of patients, students, and/or colleagues. Sexual harassment includes, but is not limited to, making unwelcome sexual advances, requesting sexual favors, and engaging in other verbal or physical conduct of a sexual nature that results in:
- (1) Withholding services to a patient;
  - (2) Creating an intimidating, hostile, or offensive environment; or
  - (3) Interfering with the patient's ability to recover.
- (U) License holders must cooperate with an investigation by the board. Failure to cooperate is conduct detrimental to the best interest of the public and grounds for disciplinary action. Cooperation includes responding fully and promptly to any questions raised by the board and providing copies of the medical records and other documents requested by the board,
- (1) A license holder must respond fully and truthfully to a request for information from the board.
  - (2) A license holder must comply with a subpoena issued by the board.
  - (3) A license holder must provide information or document within the time frame specified by the board.
  - (4) A license holder must appear and provide information at an interview requested by the board.
  - (5) A license holder must not deceive, or attempt to deceive, the board regarding any matter, including by altering or destroying any record or document.
  - (6) A license holder must not interfere with an investigation or disciplinary proceeding by willful misrepresentation of facts before the agency or the board, or by use of threats or harassment against any patient or witness to prevent the

patient or witness from providing evidence in a disciplinary proceeding or any other legal action.

- (7) A license holder must not refuse to provide testimony in an administrative hearing.
- (V) A license holder must not practice orthotics, prosthetics, or pedorthics while the ability to practice is impaired by alcohol, controlled substances, narcotic drugs, physical disability, mental disability, or emotional disability. If a license holder's or applicant's ability to practice is in question, and the license holder or applicant is not a participant in the board's safe haven program, the license holder or applicant must submit to a physical or mental examination or drug/alcohol screen as requested by the board to determine the applicant's or license holder's qualifications to practice orthotics, prosthetics, and pedorthics.

Effective: 11/9/2023

Five Year Review (FYR) Dates: 8/25/2023

CERTIFIED ELECTRONICALLY

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Certification

10/30/2023

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Date

Promulgated Under: 119.03

Statutory Authority: 4779.08

Rule Amplifies: 4779.28, 4779.29, 4779.30, 4779.99

Prior Effective Dates: 08/09/2002, 11/01/2008, 11/01/2010, 07/01/2016,  
10/01/2020, 03/21/2022, 12/11/2022