# CHAPTER 329
# DISCIPLINE FOR PHYSICIAN ASSISTANTS

[Prior to 8/7/02, see 645—325.11(148C,272C)]

**645—329.1(148C) Definitions.**

*"Board"* means the board of physician assistants.

*"Discipline"* means any sanction the board may impose upon licensees.

*"Licensee"* means a person licensed to practice as a physician assistant in Iowa.

**645—329.2(148C,272C) Grounds for discipline.** The board may impose any of the disciplinary sanctions provided in rule 645—329.3(147,272C) when the board determines that the licensee is guilty of any of the following acts or offenses.

**329.2(1)** *Fraud in procuring a license.* Fraud in procuring a license includes, but is not limited to, an intentional perversion of the truth in making application for a license to practice in this state which includes the following:

*a.* False representations of a material fact, whether by word or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a license in this state, or

*b.* Attempting to file or filing with the board or the department of public health any false or forged diploma or certificate or affidavit or identification or qualification in making an application for a license in this state.

**329.2(2)** *Professional incompetency.* Professional incompetency includes, but is not limited to:

*a.* A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice.

*b.* A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other physician assistants in the state of Iowa acting in the same or similar circumstances.

*c.* A failure to exercise the degree of care which is ordinarily exercised by the average physician assistant acting in the same or similar circumstances.

*d.* Failure to conform to the minimal standard of acceptable and prevailing practice of a physician assistant in this state.

*e.* Inability to practice with reasonable skill and safety by reason of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or other type of material or as a result of a mental or physical condition.

*f.* Being adjudged mentally incompetent by a court of competent jurisdiction.

**329.2(3)** Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

**329.2(4)** Practice outside the scope of the profession.

**329.2(5)** Use of untruthful or improbable statements in advertisements. Use of untruthful or improbable statements in advertisements includes, but is not limited to, an action by a licensee in making information or intention known to the public which is false, deceptive, misleading or promoted through fraud or misrepresentation.

**329.2(6)** Habitual intoxication or addiction to the use of drugs.

**329.2(7)** Obtaining, possessing, attempting to obtain or possess, or administering controlled substances without lawful authority.

**329.2(8)** Falsification of client records.

**329.2(9)** Acceptance of any fee by fraud or misrepresentation.

**329.2(10)** Negligence by the licensee in the practice of the profession. Negligence by the licensee in the practice of the profession includes a failure to exercise due care including negligent delegation of duties or supervision of employees or other individuals, whether or not injury results; or any conduct, practice or conditions which impair the ability to safely and skillfully practice the profession.

**329.2(11)** Conviction of a crime related to the profession or occupation of the licensee or the conviction of any crime that would affect the licensee's ability to practice within the profession,

regardless of whether the judgment of conviction or sentence was deferred. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

**329.2(12)** Violation of a regulation or law of this state, another state, or the United States, which relates to the practice of the profession.

**329.2(13)** Revocation, suspension, or other disciplinary action taken by a licensing authority of this state, another state, territory, or country; or failure by the licensee to report in writing to the board revocation, suspension, or other disciplinary action taken by a licensing authority within 30 days of the final action. A stay by an appellate court shall not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, the report shall be expunged from the records of the board.

**329.2(14)** Failure of a licensee or an applicant for licensure in this state to report any voluntary agreements restricting the practice of the profession in another state, district, territory or country.

**329.2(15)** Failure to notify the board of a criminal conviction within 30 days of the action, regardless of the jurisdiction where it occurred.

**329.2(16)** Failure to notify the board within 30 days after occurrence of any judgment or settlement of malpractice claim or action.

**329.2(17)** Engaging in any conduct that subverts or attempts to subvert a board investigation.

**329.2(18)** Failure to comply with a subpoena issued by the board, or to otherwise fail to cooperate with an investigation of the board.

**329.2(19)** Failure to comply with the terms of a board order or the terms of a settlement agreement or consent order.

**329.2(20)** Failure to pay costs assessed in any disciplinary action.

**329.2(21)** Submission of a false report of continuing education or failure to submit the biennial report of continuing education.

**329.2(22)** Failure to report another licensee to the board for any violations listed in these rules, pursuant to Iowa Code section 272C.9.

**329.2(23)** Knowingly aiding, assisting, procuring, or advising a person to unlawfully practice as a physician assistant.

**329.2(24)** Failure to report a change of name or address within 30 days after it occurs.

**329.2(25)** Representing oneself as a physician assistant when one's license has been suspended or revoked, or when one's license is on inactive status.

**329.2(26)** Permitting another person to use the licensee's license for any purpose.

**329.2(27)** Permitting an unlicensed employee or person under the licensee's control to perform activities requiring a license.

**329.2(28)** Unethical conduct. In accordance with Iowa Code section 147.55(3), behavior (i.e., acts, knowledge, and practices) which constitutes unethical conduct may include, but need not be limited to, the following:

*a.* Verbally or physically abusing a patient or client or coworker.

*b.* Improper sexual contact with, or making suggestive, lewd, lascivious or improper remarks or advances to a patient, client or coworker.

*c.* Betrayal of a professional confidence.

*d.* Engaging in a professional conflict of interest.

**329.2(29)** Failure to comply with universal precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control of the United States Department of Health and Human Services.

**329.2(30)** The performance of a medical function without approved supervision except in cases requiring performance of evaluation and treatment procedures essential to providing an appropriate response to an emergency situation.

**329.2(31)** Violation of the terms of an initial agreement with the impaired practitioner review committee or violation of the terms of an impaired practitioner recovery contract with the impaired practitioner review committee.

[**ARC 8588B**, IAB 3/10/10, effective 4/14/10; **ARC 9666B**, IAB 8/10/11, effective 9/14/11]

**645—329.3(147,272C) Method of discipline.** The board has the authority to impose the following disciplinary sanctions:

1. Revocation of license.
2. Suspension of license until further order of the board or for a specific period.
3. Prohibit permanently, until further order of the board, or for a specific period, the engaging in specified procedures, methods, or acts.
4. Probation.
5. Require additional education or training.
6. Require a reexamination.
7. Order a mental, physical, or clinical competency examination, or order alcohol and drug screening within a time specified by the board.
8. Impose civil penalties not to exceed $1000.
9. Issue a citation and warning.
10. Such other sanctions allowed by law as may be appropriate.

**645—329.4(272C) Discretion of board.** The following factors may be considered by the board in determining the nature and severity of the disciplinary sanction to be imposed:

1. The relative serious nature of the violation as it relates to ensuring a high standard of professional care to the citizens of this state;
2. The facts of the particular violation;
3. Any extenuating facts or other countervailing considerations;
4. The number of prior violations or complaints;
5. The seriousness of prior violations or complaints;
6. Whether remedial action has been taken; and
7. Such other factors as may reflect upon the competency, ethical standards, and professional conduct of the licensee.

**645—329.5(148C) Order for mental, physical, or clinical competency examination or alcohol or drug screening.** Rescinded IAB 8/13/08, effective 9/17/08.

These rules are intended to implement Iowa Code chapters 147, 148C and 272C.

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