

4731-26-03

Violations, miscellaneous.

(A) Except as provided in paragraph (C) of this rule, a violation of rule 4731-26-02 of the Administrative Code, as determined by the board, shall constitute the following:

(1) For a physician, massage therapist, or cosmetic therapist, “a departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established.” as that clause is used in division (B)(6) of section 4731.22 of the Revised Code.

(2) For a physician assistant, “a departure from, or failure to conform to, minimal standards of care of similar physician assistants under the same or similar circumstances, regardless of whether actual injury to a patient is established, as that clause is used in division (B)(19) of section 4730.25 of the Revised Code.

(3) For an anesthesiologist assistant, “a departure from, or failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances whether or not actual injury to the patient is established.” as that clause is used in division (B)(4) of section 4760.13 of the Revised Code.

(4) For an acupuncturist, a “departure from, or failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances whether or not actual injury to the patient is established.” as that clause is used in division (B)(4) of section 4762.13 of the Revised Code.

(5) For a radiologist assistant, a “departure from, or failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances whether or not actual injury to the patient is established.” as that clause is used in division (B)(4) of section 4774.13 of the Revised Code.

(B) Where the alleged conduct does not in itself constitute sexual misconduct, as defined in paragraph (H) of rule 4731-26-01 of the Administrative Code, the board may consider expert testimony or other evidence in making its determination as to whether the conduct of the licensee constitutes sexual misconduct.

(C) Nothing in this rule shall limit the board’s authority to investigate and take action under sections 4730.25, 4731.22, 4760.13, 4762.13, or 4774.13 of the Revised Code.

Replaces: 4731-26-03

Effective:

R.C. 119.032 review dates:

Certification

Date

Promulgated Under: 119.03
Statutory Authority: 4730.07, 4731.05, 4760.19, 4762.19, 4774.11
Rule Amplifies: 4730.25, 4731.22, 4760.13, 4762.13, 4774.13
Prior Effective Dates: 11/30/2006

TO BE RESCINDED

4731-26-03 **Violations, miscellaneous.**

- (A) Except as provided in paragraph (C) of this rule, a violation of rule 4731-26-02 of the Administrative Code, as determined by the board, shall constitute the following:
- (1) For a physician, “a departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established,” as that clause is used in division (B)(6) of section 4731.22 of the Revised Code.
 - (2) For a physician assistant, “a departure from, or failure to conform to, minimal standards of care of similar physician assistants under the same or similar circumstances, regardless of whether actual injury to a patient is established, as that clause is used in division (B)(19) of section 4730.25 of the Revised Code.
 - (3) For an anesthesiologist assistant, “a departure from, or failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances whether or not actual injury to the patient is established,” as that clause is used in division (B)(4) of section 4760.13 of the Revised Code.
- (B) Where the alleged behavior does not in itself constitute sexual misconduct, the board may consider expert testimony or other evidence in making its determination.
- (C) Nothing in this rule shall limit the board’s authority to investigate and take action under section 4730.25, 4731.22, or 4760.13 of the Revised Code.

Effective:

R.C. 119.032 review dates: 08/25/2010

Certification

Date

Promulgated Under: 119.03
Statutory Authority: 4730.07, 4731.05, 4760.19, 4762.19, 4774.11
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