

6800.2250 UNPROFESSIONAL CONDUCT.

Subpart 1. **Prohibited conduct.** Unprofessional conduct shall include, but is not limited to, the following acts of a pharmacist or pharmacy:

A. The assertion or inference in a public manner of material claims of professional superiority in the practice of pharmacy that cannot be substantiated.

B. The publication or circulation of false, misleading, or otherwise deceptive statements concerning the practice of pharmacy.

C. Refusing to compound or dispense prescription drug orders that may reasonably be expected to be compounded or dispensed in pharmacies by pharmacists, except as provided for in Minnesota Statutes, sections 145.414 and 145.42.

D. Participation in agreements or arrangements, with any person, corporation, partnership, association, firm, or others involving rebates, "kickbacks," fee-splitting, or special charges in exchange for professional pharmaceutical services, including but not limited to the giving, selling, donating, or otherwise furnishing or transferring, or the offer to give, sell, donate, or otherwise furnish or transfer money, goods, or services free or below cost to any licensed health care facility or the owner, operator, or administrator of a licensed health care facility as compensation or inducement for placement of business with that pharmacy or pharmacist. Monetary rebates or discounts which are returned to the actual purchaser of drugs as a cost justified discount or to meet competition are permitted if the rebates or discounts conform with other existing state and federal rules and regulations.

E. Discriminating in any manner between patients or groups of patients, for reasons of race, color, creed, religion, disability, national origin, marital status, sexual orientation, sex, or age.

F. Refusing to consult with patrons or patients, attempting to circumvent the consulting requirements, or discouraging the patient from receiving consultation concerning contents, therapeutic values, uses, and prices of legend or nonlegend drugs, chemicals, or poisons.

G. Requiring an individual patient to be a member of any organization, association, or other group as a condition for obtaining the professional services of a pharmacist.

H. The violation of any law, rule, regulation, or ordinance of the state or any of its political subdivisions, including the Board of Pharmacy, or the United States government, or any agency thereof relating to the practice of pharmacy.

I. Divulging or revealing to others the nature of professional pharmaceutical services rendered to a patient without the patient's expressed consent orally or in writing or by order or direction of a court (this shall not prevent pharmacies from providing

information copies of prescriptions to other pharmacies or to the person to whom the prescription was issued and shall not prevent pharmacists from providing drug therapy information to physicians for their patients).

J. Participation in institutional drug distribution as a consultant without providing pharmaceutical services in accordance with accepted principles of pharmacy practice and in compliance with federal and state laws or rules.

K. Engaging in any pharmacy practice which constitutes a danger to the health, welfare, or safety of a patient or the public, including but not limited to, practicing in a manner which substantially departs from the standard of care ordinarily exercised by a pharmacist and which harms or could harm a patient.

Subp. 2. **Improper advertising.** Legend drug price information may be provided to the public only by a pharmacy, so long as it is not violative of any federal or state laws applicable to the advertisement of such articles generally and if all of the following conditions are met:

A. No representation or suggestion concerning the drug's safety, effectiveness, indications for use, or competitive comparison shall be made.

B. No reference shall be made to controlled substances listed in schedule II-IV of the latest revision of the Federal Controlled Substances Act, and the rules of the Minnesota Board of Pharmacy.

C. The termination date for the prices listed shall be stated in the ad.

Subp. 3. **Accessories to illegal drug traffic.** The selling, giving away, or otherwise disposing of accessories (i.e., glassine papers, empty capsules, quinine, lactose, or similar products), chemicals, or drugs found in illegal drug traffic is unprofessional conduct by a pharmacist when the pharmacist knows or should have known of their intended use in illegal activities.

Subp. 4. **Drug diversion.** It is unprofessional conduct for a pharmacist to sell, purchase, or trade, or offer to sell, purchase, or trade, any drug that was purchased by a public or private hospital or other health care entity or that was donated or supplied at a reduced price to a charitable organization. This subpart does not apply to:

A. a sale, purchase, or trade of a drug or an offer to sell, purchase, or trade a drug among hospitals or other health care entities that are under common control;

B. a sale, purchase, or trade of a drug or an offer to sell, purchase, or trade a drug for emergency medical reasons;

C. a sale, purchase, or trade of a drug, an offer to sell, purchase, or trade a drug, or the dispensing of a drug pursuant to a prescription; or

D. the sale, purchase, or trade of a drug or the offer to sell, purchase, or trade a drug between members of a group purchasing organization as described in Minnesota Statutes, section 151.44, paragraph (a), clause (2).

For purposes of this subpart, "entity" does not include a wholesale distributor of drugs or a retail pharmacy licensed by the board, and "emergency medical reasons" includes transfers of a drug between health care entities or from a health care entity to a retail pharmacy undertaken to alleviate temporary shortages of the drug arising from delays in or interruptions of regular distribution schedules.

Statutory Authority: *MS s 151.06; 151.102*

History: *9 SR 260; 9 SR 1656; 10 SR 2007; 17 SR 1279; 18 SR 1145; 23 SR 1597; 36 SR 237*

Published Electronically: *September 21, 2011*