

Part 5 Unlawful and Unprofessional Conduct - Penalties

58-44a-501 Unlawful conduct.

"Unlawful conduct" includes:

- (1) engaging in practice as a certified nurse midwife when not licensed or exempted from licensure under this chapter, or engaging in practice as a registered nurse when not licensed or exempted from licensure under this chapter or Title 58, Chapter 31b, Nurse Practice Act;
- (2) representing or holding oneself out as a certified nurse midwife, nurse midwife, or identifying oneself by the initials C.N.M. or N.M. when not licensed under this chapter;
- (3) representing or holding out oneself as a registered nurse or identifying oneself by the initials R.N. when not licensed under this chapter or Title 58, Chapter 31b, Nurse Practice Act; and
- (4) using any other title, initials, or any other means indicating that one is licensed under this chapter.

Repealed and Re-enacted by Chapter 288, 1998 General Session

58-44a-502 Unprofessional conduct.

"Unprofessional conduct" includes:

- (1) disregard for a patient's dignity or right to privacy as to his person, condition, possessions, or medical record;
- (2) engaging in an act, practice, or omission which when considered with the duties and responsibilities of a certified nurse midwife does or could jeopardize the health, safety, or welfare of a patient or the public;
- (3) failure to confine one's practice as a certified nurse midwife to those acts or practices permitted by law;
- (4) failure to file or record any medical report as required by law, impeding or obstructing the filing or recording of such a report, or inducing another to fail to file or record such a report;
- (5) breach of a statutory, common law, regulatory, or ethical requirement of confidentiality with respect to a person who is a patient, unless ordered by the court;
- (6) failure to pay a penalty imposed by the division;
- (7) prescribing a schedule II-III controlled substance without a consulting physician; and
- (8)
 - (a) failure to have and maintain a safe mechanism for obtaining medical consultation, collaboration, and referral with a consulting physician, including failure to identify one or more consulting physicians in the written documents required by Subsection 58-44a-102(9)(b)(iii);
or
 - (b) representing that the certified nurse midwife is in compliance with Subsection (8)(a) when the certified nurse midwife is not in compliance with Subsection (8)(a).

Amended by Chapter 285, 2012 General Session

58-44a-503 Penalty for unlawful conduct.

- (1) Any individual who violates the unlawful conduct provisions of Subsection 58-44a-501(1) is guilty of a third degree felony.
- (2) Any individual who violates the unlawful conduct provisions of Subsection 58-44a-501(2), (3), or (4) is guilty of a class A misdemeanor.

- (3) Subject to Subsection (4), the division may assess administrative penalties in accordance with the provisions of Section 58-44a-402 for acts of unprofessional or unlawful conduct, or any other appropriate administrative action in accordance with the provisions of Section 58-44a-401.
- (4) If a licensee has been convicted of violating Section 58-44a-501 prior to an administrative finding of a violation of the same section, the licensee may not be assessed a administrative penalty under this chapter for the same offense for which the conviction was obtained.

Enacted by Chapter 288, 1998 General Session