

New Brunswick Registered Barbers' Association

Definitions of Professional Misconduct

BE IT ENACTED by the Council of the New Brunswick Registered Barbers' Association at the City of Saint John, County of St. John, Province of New Brunswick the following Regulation on this 19th day of September 1997.

May be cited as "Code of Professional Misconduct"

REGULATION NUMBER: 1997-09-002

Each of the following is professional misconduct, and any licensee found guilty of such misconduct under the procedures prescribed in by- law shall be subject to penalties as prescribed in by- law or Regulation except that the charges may be dismissed in the interest of justice:

1. Obtaining the license fraudulently;
2. Practicing the profession fraudulently or beyond its authorized scope;
3. Practicing the profession with negligence on more than one occasion;
4. Practicing the profession with gross negligence on a particular occasion;
5. Practicing the profession with incompetence on more than one occasion;
6. Practicing the profession with gross incompetence;
7. Practicing the profession while impaired by alcohol, drugs, physical disability, or mental disability;
8. Being a habitual abuser of alcohol, or being dependent on or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects, except for a licensee who is maintained on an approved therapeutic regimen which does not impair the ability to practice, or having a psychiatric condition which impairs the licensee's ability to practice;
9. (a) Being convicted of committing an act constituting a crime under:
 - (i) New Brunswick Law or,
 - (ii) federal law or,
 - (iii) the law of another jurisdiction and which, if committed within this province, would have constituted a crime under New Brunswick law;
- (b) Having been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another jurisdiction where the conduct upon which the finding was based would, if committed in New Brunswick, constitute professional misconduct under the laws of New Brunswick;
- (c) Having been found guilty in an adjudicatory proceeding of violating a provincial or federal statute or regulation, pursuant to a final decision or determination, and when no appeal is pending, or after resolution of the proceeding by stipulation or agreement, and when the violation would constitute professional misconduct pursuant to this section;
- (d) Having his or her license to practice barbering revoked, suspended or having other disciplinary action taken, or having his or her application for a license refused, revoked or suspended or having voluntarily or otherwise surrendered his or her license after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another jurisdiction, where the conduct resulting in the revocation, suspension or other disciplinary action involving the license or refusal, revocation or suspension of an application for a license or the surrender of the license would, if committed in New Brunswick, constitute professional misconduct under the laws of New Brunswick;
- (e) Having been found by the district medical health officer for the department of health to be in violation of the public health law;
10. Refusing to provide professional service to a person because of such person's race, creed, color or national origin;
11. Permitting, aiding or abetting an unlicensed person to perform activities requiring a license;

12. Practicing the profession while the license is suspended or inactive as defined in the Act, or willfully failing to register or notify the Board of any change of name or mailing address;
13. A willful violation by a licensee of the public health law;
14. A violation of the sanitation by-law; or
15. Failure to comply with an order issued pursuant to a Regulation or by-law as approved by the Association;
16. A willful or grossly negligent failure to comply with substantial provisions of federal, provincial, or local laws, rules, or regulations governing the practice of barbering;
17. Exercising undue influence on the patron, including the promotion of the sale of services, goods, appliances, or products in such manner as to exploit the patron for the financial gain of the licensee or of a third party;
18. Directly or indirectly offering, giving, soliciting, or receiving or agreeing to receive, any fee or other consideration to or from a third party for the referral of a patron or in connection with the performance of professional services;
19. Permitting any person to share in the fees for professional services, other than: a partner, employee, associate in a professional firm or corporation, professional subcontractor or consultant authorized to practice barbering, or a legally authorized trainee practicing under the supervision of a licensee. This prohibition shall include any arrangement or agreement whereby the amount received in payment for furnishing space, facilities, equipment or personnel services used by a licensee constitutes a percentage of, or is otherwise dependent upon, the income or receipts of the licensee from such practice, except as otherwise provided by law with respect to a facility licensed pursuant to the Registered Barbers' Act.
20. Conduct in the practice of barbering which evidences moral unfitness to practice barbering;
21. Willfully making or filing a false report, or failing to file a report required by law or by the department of health or the Council or Board, or willfully impeding or obstructing such filing, or inducing another person to do so;
22. Failing to make available to a patron, upon request, copies of documents in the possession or under the control of the licensee which have been prepared for and paid for by the client;
23. Revealing of personally identifiable facts, data, or information obtained in a professional capacity without the prior consent of the patron or other person, except as authorized or required by law;
24. Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified, by training, by experience, or by licensure, to perform them;
25. Performing professional services which have not been duly authorized by the patron;
26. Advertising or soliciting for patronage that is not in the public interest.
 - (a) Advertising or soliciting not in the public interest shall include, but not be limited to, advertising or soliciting that:
 - (i) is false, fraudulent, deceptive, misleading, sensational, or flamboyant;
 - (ii) represents intimidation or undue pressure;
 - (iii) uses testimonials;
 - (iv) guarantees any service;
 - (v) makes any claim relating to professional services or products or the costs or price therefore which cannot be substantiated by the licensee, who shall have the burden of proof;
 - (vi) makes claims of professional superiority which cannot be substantiated by the licensee, who shall have the burden of proof; or
 - (vii) offers bonuses or inducements in any form other than a discount or reduction in an established fee or price for a professional service or product.
 - (b) The following shall be deemed appropriate means of informing the public of the availability of professional services:
 - (i) informational advertising not contrary to the foregoing prohibitions; and
 - (ii) the advertising in a newspaper, periodical or professional directory or on radio or television of fixed prices, or a stated range of prices, for specified routine professional services, provided that if there is an additional charge for related services which are an integral part of the overall service being provided by the licensee, the advertisement shall so state, and provided further that the advertisement indicates the period of time for which the advertised prices shall be in effect.
 - (c)(i) All licensees placing advertisements shall maintain, or cause to be maintained, an exact copy of each advertisement, transcript, tape or video tape thereof as appropriate for the medium used, for a period of one year after its last appearance. This copy shall be made available for inspection upon demand of the Board;

(ii) A licensee shall not compensate or give anything of value to representatives of the press, radio, television or other communications media in anticipation of or in return for professional publicity in a news item;

(d) No demonstrations, dramatizations or other portrayals of professional practice shall be permitted in advertising on radio or television;

27. Failing to respond within thirty days to written communications from the Board and to make available any relevant records with respect to an inquiry or complaint about the licensee's professional misconduct. The period of thirty days shall commence on the date when such communication was delivered personally to the licensee. If the communication is sent from the Board by registered or certified mail, with return receipt requested, to the address appearing in the last registration, the period of thirty days shall commence on the date of delivery to the licensee, as indicated by the return receipt;

28. Violating any term of probation or condition or limitation imposed on the licensee pursuant order of the Disciplinary Committee;

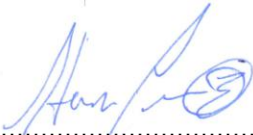
29. Willfully harassing, abusing, or intimidating a member either physically or verbally;

30. Failing to exercise appropriate supervision over persons who are authorized to practice only under the supervision of the licensee;

31. Guaranteeing that satisfaction or a cure will result from the performance of professional services;

32. Claiming or using any secret or special method of treatment which the licensee refused to divulge to the Board;

This regulation is adopted by the Council in accordance with the Registered Barbers' Act, c.82 ANB 2007, sec 26(2) on 18th of June 2007, at the City of Fredericton, Province of New Brunswick.



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Secretary - Treasurer