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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

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A N A C T

RELATING TO BUSINESSES AND PROFESSIONS -- BOARD OF MEDICAL LICENSURE  
AND DISCIPLINE

Introduced By: Representative Patricia A. Serpa

Date Introduced: February 05, 2016

Referred To: House Corporations

(by request)

It is enacted by the General Assembly as follows:

1           SECTION 1. Section 5-37-5.1 of the General Laws in Chapter 5-37 entitled "Board of  
2 Medical Licensure and Discipline" is hereby amended to read as follows:

3           **5-37-5.1. Unprofessional conduct.** -- The term "unprofessional conduct" as used in this  
4 chapter includes, but is not limited to, the following items or any combination of these items and  
5 may be further defined by regulations established by the board with the prior approval of the  
6 director:

7           (1) Fraudulent or deceptive procuring or use of a license or limited registration;

8           (2) All advertising of medical business, which is intended or has a tendency to deceive  
9 the public;

10          (3) Conviction of a crime involving moral turpitude; conviction of a felony; conviction  
11 of a crime arising out of the practice of medicine;

12          (4) Abandoning a patient;

13          (5) Dependence upon controlled substances, habitual drunkenness, or rendering  
14 professional services to a patient while the physician or limited registrant is intoxicated or  
15 incapacitated by the use of drugs;

16          (6) Promotion by a physician or limited registrant of the sale of drugs, devices,  
17 appliances, or goods or services provided for a patient in a manner as to exploit the patient for the  
18 financial gain of the physician or limited registrant;

- 1 (7) Immoral conduct of a physician or limited registrant in the practice of medicine;
- 2 (8) Willfully making and filing false reports or records in the practice of medicine;
- 3 (9) Willfully omitting to file or record, or willfully impeding or obstructing a filing or  
4 recording, or inducing another person to omit to file or record, medical or other reports as  
5 required by law;
- 6 (10) Failing to furnish details of a patient's medical record to succeeding physicians,  
7 health care facility, or other health care providers upon proper request pursuant to § 5-37.3-4;
- 8 (11) Soliciting professional patronage by agents or persons or profiting from acts of  
9 those representing themselves to be agents of the licensed physician or limited registrants;
- 10 (12) Dividing fees or agreeing to split or divide the fees received for professional  
11 services for any person for bringing to or referring a patient;
- 12 (13) Agreeing with clinical or bioanalytical laboratories to accept payments from these  
13 laboratories for individual tests or test series for patients;
- 14 (14) Making willful misrepresentations in treatments;
- 15 (15) Practicing medicine with an unlicensed physician except in an accredited  
16 preceptorship or residency training program, or aiding or abetting unlicensed persons in the  
17 practice of medicine;
- 18 (16) Gross and willful overcharging for professional services; including filing of false  
19 statements for collection of fees for which services are not rendered, or willfully making or  
20 assisting in making a false claim or deceptive claim or misrepresenting a material fact for use in  
21 determining rights to health care or other benefits;
- 22 (17) Offering, undertaking, or agreeing to cure or treat disease by a secret method,  
23 procedure, treatment or medicine;
- 24 (18) Professional or mental incompetency;
- 25 (19) Incompetent, negligent, or willful misconduct in the practice of medicine which  
26 includes the rendering of medically unnecessary services, and any departure from, or the failure  
27 to conform to, the minimal standards of acceptable and prevailing medical practice in his or her  
28 area of expertise as is determined by the board. The board does not need to establish actual injury  
29 to the patient in order to adjudge a physician or limited registrant guilty of the unacceptable  
30 medical practice in this subdivision;
- 31 (20) Failing to comply with the provisions of chapter 4.7 of title 23;
- 32 (21) Surrender, revocation, suspension, limitation of privilege based on quality of care  
33 provided, or any other disciplinary action against a license or authorization to practice medicine  
34 in another state or jurisdiction; or surrender, revocation, suspension, or any other disciplinary

1 action relating to a membership on any medical staff or in any medical or professional association  
2 or society while under disciplinary investigation by any of those authorities or bodies for acts or  
3 conduct similar to acts or conduct which would constitute grounds for action as described in this  
4 chapter;

5 (22) Multiple adverse judgments, settlements or awards arising from medical liability  
6 claims related to acts or conduct which would constitute grounds for action as described in this  
7 chapter;

8 (23) Failing to furnish the board, its chief administrative officer, investigator or  
9 representatives, information legally requested by the board;

10 (24) Violating any provision or provisions of this chapter or the rules and regulations of  
11 the board or any rules or regulations promulgated by the director or of an action, stipulation, or  
12 agreement of the board;

13 (25) Cheating on or attempting to subvert the licensing examination;

14 (26) Violating any state or federal law or regulation relating to controlled substances;

15 (27) Failing to maintain standards established by peer review boards, including, but not  
16 limited to, standards related to proper utilization of services, use of nonaccepted procedure,  
17 and/or quality of care;

18 (28) A pattern of medical malpractice, or willful or gross malpractice on a particular  
19 occasion;

20 (29) Agreeing to treat a beneficiary of health insurance under title XVIII of the Social  
21 Security Act, 42 U.S.C. § 1395 et seq., "Medicare Act", and then charging or collecting from this  
22 beneficiary any amount in excess of the amount or amounts permitted pursuant to the Medicare  
23 Act; ~~or~~

24 (30) Sexual contact between a physician and patient during the existence of the  
25 physician/patient relationship; :

26 (31) Requiring a patient to supply a credit card number as a prerequisite for any form of  
27 medical treatment if the patient provides satisfactory evidence that they maintain a health services  
28 account as a part of their medical insurance program provided by their employer;

29 (32) Reporting the failure of a patient to pay their bill for services rendered to any credit  
30 agency within nine (9) months after the bill is sent to a patient if the patient provides satisfactory  
31 evidence that they maintain a health services account as a part of their medical insurance program  
32 provided by their employer; or

33 (33) Sending a letter seeking the collection of an overdue bill due to the health care  
34 provider and/or threatening legal action for its collection within nine (9) months after the bill is

1 [sent to the patient if the patient provides satisfactory evidence that they maintain a health services](#)  
2 [account as a part of their medical insurance program provided by their employer.](#)

3 SECTION 2. Section 23-17-19.1 of the General Laws in Chapter 23-17 entitled  
4 "Licensing of Health Care Facilities" is hereby amended to read as follows:

5 **23-17-19.1. Rights of patients.** -- Every health care facility licensed under this chapter  
6 shall observe the following standards and any other standards that may be prescribed in rules and  
7 regulations promulgated by the licensing agency with respect to each patient who utilizes the  
8 facility:

9 (1) The patient shall be afforded considerate and respectful care.

10 (2) Upon request, the patient shall be furnished with the name of the physician  
11 responsible for coordinating his or her care.

12 (3) Upon request, the patient shall be furnished with the name of the physician or other  
13 person responsible for conducting any specific test or other medical procedure performed by the  
14 health care facility in connection with the patient's treatment.

15 (4) The patient shall have the right to refuse any treatment by the health care facility to  
16 the extent permitted by law.

17 (5) The patient's right to privacy shall be respected to the extent consistent with  
18 providing adequate medical care to the patient and with the efficient administration of the health  
19 care facility. Nothing in this section shall be construed to preclude discreet discussion of a  
20 patient's case or examination of appropriate medical personnel.

21 (6) The patient's right to privacy and confidentiality shall extend to all records pertaining  
22 to the patient's treatment except as otherwise provided by law.

23 (7) The health care facility shall respond in a reasonable manner to the request of a  
24 patient's physician, certified nurse practitioner and/or a physician's assistant for medical services  
25 to the patient. The health care facility shall also respond in a reasonable manner to the patient's  
26 request for other services customarily rendered by the health care facility to the extent the  
27 services do not require the approval of the patient's physician, certified nurse practitioner and/or a  
28 physician's assistant or are not inconsistent with the patient's treatment.

29 (8) Before transferring a patient to another facility, the health care facility must first  
30 inform the patient of the need for and alternatives to a transfer.

31 (9) Upon request, the patient shall be furnished with the identities of all other health care  
32 and educational institutions that the health care facility has authorized to participate in the  
33 patient's treatment and the nature of the relationship between the institutions and the health care  
34 facility.

1 (10) (a) Except as otherwise provided in this subparagraph, if the health care facility  
2 proposes to use the patient in any human subjects research, it shall first thoroughly inform the  
3 patient of the proposal and offer the patient the right to refuse to participate in the project.

4 (b) No facility shall be required to inform prospectively the patient of the proposal and  
5 the patient's right to refuse to participate when: (i) the facility's human subjects research involves  
6 the investigation of potentially lifesaving devices, medications and/or treatments and the patient  
7 is unable to grant consent due to a life-threatening situation and consent is not available from the  
8 agent pursuant to chapter 23-4.10 of the general laws or the patient's decision maker if an agent  
9 has not been designated or an applicable advanced directive has not been executed by the patient;  
10 and (ii) the facility's institutional review board approves the human subjects research pursuant to  
11 the requirements of 21 CFR Part 50 and/or 45 CFR Part 46 (relating to the informed consent of  
12 human subjects). Any health care facility engaging in research pursuant to the requirements of  
13 subparagraph (b) herein shall file a copy of the relevant research protocol with the department of  
14 health, which filing shall be publicly available.

15 (11) Upon request, the patient shall be allowed to examine and shall be given an  
16 explanation of the bill rendered by the health care facility irrespective of the source of payment of  
17 the bill.

18 (12) Upon request, the patient shall be permitted to examine any pertinent health care  
19 facility rules and regulations that specifically govern the patient's treatment.

20 (13) The patient shall be offered treatment without discrimination as to race, color,  
21 religion, national origin, or source of payment.

22 (14) Patients shall be provided with a summarized medical bill within thirty (30) days of  
23 discharge from a health care facility. Upon request, the patient shall be furnished with an itemized  
24 copy of his or her bill. When patients are residents of state-operated institutions and facilities, the  
25 provisions of this subsection shall not apply.

26 (15) Upon request, the patient shall be allowed the use of a personal television set  
27 provided that the television complies with underwriters' laboratory standards and O.S.H.A.  
28 standards, and so long as the television set is classified as a portable television.

29 (16) No charge shall be made for furnishing a health record or part of a health record to a  
30 patient, his or her attorney or authorized representative if the record or part of the record is  
31 necessary for the purpose of supporting an appeal under any provision of the Social Security Act,  
32 42 U.S.C. § 301 et seq., and the request is accompanied by documentation of the appeal or a  
33 claim under the provisions of the Workers' Compensation Act, chapters 29 -- 38 of title 28. A  
34 provider shall furnish a health record requested pursuant to this section within thirty (30) days of

1 the request. Further, for patients of school based health centers, the director is authorized to  
2 specify by regulation an alternative list of age appropriate rights commensurate with this section.

3 (17) The patient shall have the right to have his or her pain assessed on a regular basis.

4 (18) Notwithstanding any other provisions of this section, upon request, patients  
5 receiving care through hospitals, nursing homes, assisted living residences and home health care  
6 providers, shall have the right to receive information concerning hospice care, including the  
7 benefits of hospice care, the cost, and how to enroll in hospice care.

8 (19) The health care facility shall not require a patient to supply a credit card number as a  
9 prerequisite for any form of medical treatment if the patient provides satisfactory evidence that  
10 they maintain a health services account as a part of their medical insurance program provided by  
11 their employer.

12 (20) The health care facility shall not report the failure of a patient to pay their bill for  
13 services rendered to any credit agency within nine (9) months after the bill is sent to a patient if  
14 the patient provides satisfactory evidence that they maintain a health services account as a part of  
15 their medical insurance program provided by their employer.

16 (21) The health care facility shall not send a letter seeking the collection of an overdue  
17 bill due to the health care provider and/or threatening legal action for its collection within nine (9)  
18 months after the bill is sent to the patient if the patient provides satisfactory evidence that they  
19 maintain a health services account as a part of their medical insurance program provided by their  
20 employer.

21 SECTION 3. Section 23-17.16-5 of the General Laws in Chapter 23-17.16 entitled  
22 "Home Care Patient Rights" is hereby amended to read as follows:

23 **23-17.16-5. Rights of home care patients/clients. --** Each home care patient/client has  
24 the following rights:

25 (1) To receive services without regard to race, creed, color, gender, sexual orientation,  
26 age, disability, or source of payment.

27 (2) To receive safe, appropriate and high quality care and services in a timely manner  
28 with consideration, dignity, respect and privacy.

29 (3) To accept or refuse care and to be informed of the consequences of that action.

30 (4) To be free from mental or physical abuse, physical punishment, neglect, damage to or  
31 theft of property, or exploitation of any kind.

32 (5) To have his or her property treated with respect.

33 (6) To exercise his or her rights as a patient/client of the home nursing care provider or  
34 home care provider agency. When the patient/client is unable to exercise his or her rights, an

1 agent or legal guardian may exercise the patient's/client's rights.

2 (7) To be informed, in advance, about the care to be furnished (and not to be furnished),  
3 the plan of care, and of any changes in the care to be furnished before the change is made.

4 (8) To help plan the care and services received or to help change the care and services.

5 (9) To be advised in advance of the disciplines that will furnish care, the frequency of  
6 visits proposed to be furnished, and the names and qualifications of all individuals providing care.

7 (10) To receive information necessary to make decisions about care (or to have a family  
8 member receive that information, as appropriate) and to have access to their records.

9 (11) To receive information and counseling about advanced directives such as the living  
10 will and durable power of attorney for health care, to formulate advanced directives, and to  
11 receive written information about the policy of the home nursing care provider or home care  
12 provider agency on client advanced directives and state COMFORT ONE protocol.

13 (12) To have his or her personal and clinical records treated and maintained in a  
14 confidential manner and to be advised by the agency of its policies and procedures regarding  
15 disclosure of clinical records.

16 (13) To be advised, before care is initiated, if the provider is a full participating provider  
17 in the patient's/client's health care plan, the cost of services, the extent to which payment for the  
18 home nursing care provider or home care provider agency services may be expected from  
19 insurance, government and other sources, and the extent to which payment may be required from  
20 the patient/client and the charges they will be required to pay.

21 (14) To be informed of the home nursing care provider or home care provider agency's  
22 billing procedures and the patient/client payment responsibilities.

23 (15) To be informed of the home nursing care provider or home care provider agency's  
24 ownership and control.

25 (16) To be informed of any experimental research or investigational activities and the  
26 right to refuse them.

27 (17) To voice grievances (or to have the patient's/client's family or guardian voice  
28 grievances on the patient's/client's behalf if the patient/client is unable to do so) regarding  
29 treatment or care that is (or fails to be) furnished, or regarding the lack of respect for property by  
30 anyone who is furnishing services on behalf of the home nursing care provider or home care  
31 provider agency; to be advised on how to voice grievances; and not to be subjected to  
32 discrimination or reprisal for doing so.

33 (18) To have the patient's/client's complaints investigated, or complaints made by the  
34 patient's/client's family or guardian, regarding treatment or care that is (or fails to be) furnished,

1 or regarding the lack of respect for the patient/client or the patient's/client's property by anyone  
2 furnishing services on behalf of the home nursing care provider or home care provider agency,  
3 and the home nursing care provider or home care provider agency must document both the  
4 existence of the complaint and the resolution of the complaint.

5 (19) To be informed, in writing, of his or her rights to appeal a determination or decision  
6 made by the home nursing care provider or home care provider agency with regard to eligibility  
7 for service, the types or levels of service in the care plan, a termination or change in service, or if  
8 the patient/client feels that his or her rights under this chapter have been violated.

9 (20) To be advised, in writing, of the names, addresses, and telephone numbers of the  
10 state ombudsperson, the attorney general's Medicaid fraud control unit, the state licensing agency  
11 and the availability of the state toll-free home health hotline, the hours of its operation, and that  
12 the purpose of the hotline is to receive complaints or questions about local home nursing care  
13 providers or home care providers.

14 (21) The patient/client shall have the right to receive information concerning hospice  
15 care, including the benefits of hospice care, the cost, and how to enroll in hospice care.

16 (22) A home care provider shall not require a patient to supply a credit card number as a  
17 prerequisite for any form of medical treatment if the patient provides satisfactory evidence that  
18 they maintain a health services account as a part of their medical insurance program provided by  
19 their employer.

20 (23) A home care provider shall not report the failure of a patient to pay their bill for  
21 services rendered to any credit agency within nine (9) months after the bill is sent to a patient if  
22 the patient provides satisfactory evidence that they maintain a health services account as a part of  
23 their medical insurance program provided by their employer.

24 (24) A home care provider shall not send a letter seeking the collection of an overdue bill  
25 due to the health care provider and/or threatening legal action for its collection within nine (9)  
26 months after the bill is sent to the patient if the patient provides satisfactory evidence that they  
27 maintain a health services account as a part of their medical insurance program provided by their  
28 employer.

29 SECTION 4. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

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RELATING TO BUSINESSES AND PROFESSIONS -- BOARD OF MEDICAL LICENSURE  
AND DISCIPLINE

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1           This act would prohibit health care providers from sending a letter seeking the collection  
2           and/or threatening legal action for the collection of a debt or report the failure of a patient to pay a  
3           debt within nine (9) months after the bill for medical services is rendered or require a patient to  
4           supply a credit card number as a prerequisite for medical treatment if the patient maintains a  
5           health services account as part of their medical insurance program offered by their employer.

6           This act would take effect upon passage.

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