

§ 90-121.7. Duty to report certain other acts or events.

(a) Every licensee has a duty to report to the Board any incidents that the licensee reasonably believes to have occurred, involving any of the following, within 30 days of learning about the incident:

- (1) Sexual misconduct of any person licensed by the Board under this Article with a patient. Patient consent or initiation of acts or contact by a patient shall not constitute affirmative defenses to sexual misconduct. For purposes of this subdivision, the term "sexual misconduct" means vaginal intercourse or any sexual act or sexual contact or touching as described in G.S. 14-17.20 [G.S. 14-27.20]. Sexual misconduct shall not include any act or contact that is for an accepted medical purpose.
- (2) Fraudulent prescribing, drug diversion, or theft of any controlled substances by another person licensed by the Board under this Article. For purposes of this subdivision, the term "drug diversion" means transferring controlled substances or prescriptions for controlled substances to any of the following:
 - a. The licensee for personal use.
 - b. The licensee's immediate family member, including a spouse, parent, child, sibling, and any stepfamily member or in-law coextensive with the preceding identified relatives.
 - c. Any other person living in the same residence as the licensee.
 - d. Any person with whom the licensee is having a sexual relationship.
 - e. Any individual unless for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice.

(b) For persons issued a license to practice by the Board under this Article, failure to report under this section shall constitute unprofessional conduct and shall be grounds for discipline under G.S. 90-121.2.

(c) Any person who reports under this section in good faith and without fraud or malice shall be immune from civil liability. Reports made in bad faith, fraudulently, or maliciously shall constitute unprofessional conduct and shall be grounds for discipline under G.S. 90-121.2.

(d) Reports under this section shall be made to the Board by one of the following methods:

- (1) Certified mail and obtaining a delivery receipt.
- (2) A designated delivery service authorized by G.S. 1A-1, Rule 4(j), and obtaining a delivery receipt.
- (3) Emailing the Board at their public email address found on the Board's website and confirming receipt by the Board via return email. (2023-129, s. 5.1(e).)