

201 KAR 7:090. Unethical conduct; code of ethics.

RELATES TO: KRS 334.120

STATUTORY AUTHORITY: KRS 334.150

NECESSITY, FUNCTION, AND CONFORMITY: This administrative regulation is for the purpose of defining unethical conduct as it relates to the fitting and sale of hearing instruments. It also establishes a code of ethics.

Section 1. Unethical Conduct. The following acts shall be considered to be unethical conduct in the practice of selling and fitting hearing instruments and may subject the licensee or apprentice permit holder to the sanctions set forth by KRS 334.120(4):

- (1) Any violation of Federal Trade Commission or Food and Drug Administration regulations pertaining to the sale or fitting of hearing instruments;
- (2) The obtaining of any fee or the making of any sale by fraud or misrepresentation;
- (3) Employing directly or indirectly any suspended or unregistered person to perform any activity covered by this chapter;
- (4) Using, causing, or promoting the use of any advertising material, promotional literature, testimonial, guarantee, warranty, label, brand, insignia, or any other representation, however disseminated or published, which is false, misleading, deceptive or untruthful;
- (5) Advertising a particular model or type of hearing instrument for sale when purchasers or prospective purchasers responding to the advertisement cannot purchase the advertised model or type, where it is established that the purpose of the advertisement is to obtain prospects for the sale of a different model or type than that advertised;
- (6) Advertising professional superiority;
- (7) Falsely representing that the service or advice of a person licensed to practice medicine shall be used or made available in the:
 - (a) Selection;
 - (b) Fitting;
 - (c) Adjustment;
 - (d) Maintenance; or
 - (e) Repair of hearing instruments, when that is not true;
- (8) Using words, abbreviations or symbols which give the impression that service is being provided by persons trained in medicine or audiology when that is not, in fact, true;
- (9) Indicating that the licensee's service is state recommended;
- (10) Permitting the use of a license by a person other than the licensee;
- (11) Advertising a manufacturer's product or using a manufacturer's name or trademark which implies a relationship with the manufacturer that does not exist; or
- (12) Claiming an affiliation with a professional association which does not in fact exist or the use of a degree or title not actually earned or held.
- (13) Conducting business while suffering from a contagious or infectious disease.
- (14) Engaging in the fitting and sale of hearing instruments under a false name, or alias;
- (15) Selling a hearing instrument to a person who has not been given tests utilizing appropriate established procedures and instrumentation in fitting of hearing instruments;
- (16) Gross incompetence or negligence in fitting and selling hearing instruments;
- (17) Failing to comply with:
 - (a) Any request of the board for information;
 - (b) An agreed order with the board; or
 - (c) A directive or order by the board;
- (18) Practicing while under suspension or revocation of licensure;

- (19) Practicing while under the influence of alcohol or any controlled substance not prescribed by a medical doctor;
- (20) Failing to make a refund in a timely manner as set forth by KRS 334.210(8);
- (21) Failing to fully complete the sales agreement requirements of KRS 334.030; or
- (22) Violating any of the provisions of KRS Chapter 334 or the administrative regulations promulgated thereunder.

Section 2. Code of Ethics. Hearing Instrument Specialists engaged in the practice of the testing of human hearing, and in the selection, counseling, fitting, dispensing, and servicing of hearing instruments, shall hold paramount the welfare of the client. The hearing instrument specialist shall:

- (1) Utilize all resources available, including referral to other specialists as needed;
- (2) Accept and seek full responsibility for the exercise of judgment within the area of his expertise. These services include the selection, counseling, fitting, dispensing, and servicing of hearing instruments;
- (3) Not guarantee outstanding results from the use of hearing instruments, products, services, or counseling when this is not the case;
- (4) Exercise caution not to mislead persons to expect unattainable results;
- (5) Hold in professional confidence all information and professional records concerning a client and use that data only for the benefit of the client or as the law demands;
- (6) Keep the welfare of the client uppermost at all times;
- (7) Avoid personal invective directed toward professional colleagues or members of hearing health care professions;
- (8) Not agree to practice under terms or conditions which tend to interfere with or impair the proper exercise of his professional judgment and skill, which cause a deterioration of the quality of his service, or which require him to consent to unethical behavior;
- (9) Initiate and maintain records of services provided to clients;
- (10) Not participate with other health professionals or any other person in agreements to divide fees or to cause financial or other exploitation when rendering professional services;
- (11) Not delay furnishing care to clients served professionally, without just cause; and
- (12) Not discontinue services to clients without providing reasonable notice of withdrawal, providing all contractual agreements have been satisfied. (4 Ky.R. 92; eff. 11-2-77; Am. 20 Ky.R. 1648; eff. 2-10-94.)