

201 KAR 17:041. Professional code of ethics.

RELATES TO: KRS 334A.180

STATUTORY AUTHORITY: KRS 334A.080(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 334A.080(3) requires the Board of Speech-Language Pathology and Audiology to promulgate responsible administrative regulations, including administrative regulations which delineate qualifications for licensure and renewal of licensure. This administrative regulation establishes the code of ethics.

Section 1. Responsibility to Patients. (1) A licensee shall:

- (a) Advance and protect the welfare of the patient;
- (b) Respect the rights of a person seeking his assistance; and
- (c) Make reasonable efforts to ensure that his services are used appropriately.

(2) A licensee shall not:

- (a) Exploit the trust and dependency of a patient;
- (b)1. Except as provided by subparagraph 2 of this paragraph, engage in a dual relationship with a patient, including a social, business, or personal relationship that may:
 - a. Impair professional judgment;
 - b. Incur a risk of exploitation of the patient; or
 - c. Otherwise violate a provision of this administrative regulation;
- 2. If a dual relationship cannot be avoided, and does not impair professional judgment, incur a risk of exploitation of the patient, or otherwise violate a provision of this administrative regulation, a licensee shall take appropriate professional precautions to ensure that judgment is not impaired and exploitation of the patient does not occur;
- (c) Use his professional relationship with a patient to further his own interests;
- (d) Continue a therapeutic relationship unless it is reasonably clear that the patient is benefiting from the relationship;
- (e) Fail to assist a person in obtaining other therapeutic services if the licensee is unable or unwilling, for appropriate reasons, to provide professional help;
- (f) Abandon or neglect a patient in treatment without making reasonable arrangements for the continuation of treatment;
- (g) Videotape, record, or photograph the provision of services without having first obtained written informed consent from the patient;
- (h) Permit third-party observation without first obtaining oral or written informed consent from the patient;
- (i) Engage in sexual or other harassment or exploitation of his patient, student, trainee, supervisee, employee, colleague, research subject, or actual or potential witness or complainant in an investigation or ethical proceeding; or
- (j) Diagnose, treat, or advise on a problem outside the recognized boundaries of his competence.

Section 2. Confidentiality. (1) A licensee shall respect and guard the confidences of each individual patient.

(2) A licensee shall not disclose a patient confidence except:

- (a) As mandated, or permitted by law;
- (b) To prevent a clear and immediate danger to a person;
- (c) During the course of a civil, criminal, or disciplinary action arising from the therapy, at which the licensee is a defendant; or
- (d) In accordance with the terms of a written waiver. If the patient is a minor, a parent may pro-

vide a waiver.

- (3) A licensee may use patient or clinical materials in teaching, writing, and public presentations if:
- (a) A written waiver has been obtained in accordance with subsection (2)(d) of this section; or
 - (b) Appropriate steps have been taken to protect patient identity and confidentiality.
- (4) A licensee shall store or dispose of patient records so as to maintain confidentiality.

Section 3. Professional Competence and Integrity. A licensee shall maintain standards of professional competence and integrity and shall be subject to disciplinary action in accordance with KRS 334A.180:

- (1) Upon conviction of a felony, or a misdemeanor related to the practice of the licensee. Conviction shall include adjudication based on:
- (a) A plea of no contest or an "Alford Plea"; or
 - (b) The suspension or deferral of a sentence.
- (2) If his license or certificate is subject to disciplinary action by another state's regulatory agency that the board determines violates applicable Kentucky state law or administrative regulation;
- (3) Upon a showing of impairment due to mental incapacity or the abuse of alcohol or other substances which negatively impact the licensee's practice;
- (4) If the licensee misrepresented or concealed a material fact in obtaining a license, renewing a license, or reinstating a license;
- (5) If he has refused to comply with an order issued by the board; or
- (6) If he has failed to cooperate with the board by not:
- (a) Furnishing in writing a complete explanation to a complaint filed with the board;
 - (b) Appearing before the board at the time and place designated; or
 - (c) Properly responding to a subpoena issued by the board.

Section 4. Responsibility to His Student or Supervisee. A licensee shall:

- (1) Be aware of his influential position with respect to a student or supervisee;
- (2) Avoid exploiting the trust and dependency of a student or supervisee;
- (3) Avoid a social, business, personal, or other dual relationship that could:
 - (a) Impair professional judgment; or
 - (b) Increase the risk of exploitation;
- (4) Take appropriate precautions to ensure that judgment is not impaired and to prevent exploitation if a dual relationship cannot be avoided;
- (5) Not engage in sexual intimacy or contact with a:
 - (a) Student;
 - (b) Employee; or
 - (c) Supervisee;
- (6) Not permit a student or supervisee to perform or represent himself as competent to perform a professional service beyond his level of:
 - (a) Training;
 - (b) Experience; or
 - (c) Competence;
- (7) Not disclose the confidence of a student or supervisee except:
 - (a) If permitted or mandated by law;
 - (b) If it is necessary to prevent a clear and immediate danger to a person;
 - (c) During the course of a civil, criminal, or disciplinary action arising from the supervision, at which the licensee is a defendant;
 - (d) In an educational or training setting, if there are multiple supervisors or professional col-

leagues who share responsibility for the training of the supervisee; or
(e) In accordance with the terms of a written informed consent agreement.

Section 5. Financial Arrangements. A licensee shall:

- (1) Disclose his fees to a patient and supervisee at the beginning of service;
- (2) Make financial arrangements with a patient, third-party payor, or supervisee that:
 - (a) Are reasonably understandable; and
 - (b) Conform to accepted professional practices;
- (3) Not offer or accept payment for a referral; and
- (4) Represent facts truthfully to a patient, third-party payor, or supervisee regarding services rendered.

Section 6. Advertising. (1) A licensee shall:

- (a) Accurately represent education, training, and experience relevant to the practice; and
 - (b) Not use professional identification, including a business card, office sign, letterhead or telephone or association directory listing, that includes a statement or claim that is false, fraudulent, misleading, or deceptive pursuant to subsection (2) of this section.
- (2) A statement shall be considered false, fraudulent, misleading, or deceptive if it:
- (a) Contains a material misrepresentation of fact;
 - (b) Is intended to or likely to create an unjustified expectation; or
 - (c) Deletes a material fact or information. (6 Ky.R. 242; eff. 12-5-1979; Am. 13 Ky.R. 516; eff. 10-2-1986; 26 Ky.R. 874; 1525; eff. 1-26-2000; 36 Ky.R. 851; 1448; eff. 2-5-2010.)