

201 KAR 28:140. Code of ethics and unprofessional conduct.

RELATES TO: KRS 319A.160, 319A.190

STATUTORY AUTHORITY: KRS 319A.070(1), (3), 319A.190

NECESSITY, FUNCTION, AND CONFORMITY: KRS 319A.070(3)(a) authorizes the board to promulgate administrative regulations and administer the provisions of KRS Chapter 319A. KRS Chapter 319A provides for the denial, refusal to renew, suspension, revocation, or imposition of probationary conditions upon a license for various violations of the Act and violation of the administrative regulations promulgated pursuant thereto. This administrative regulation sets forth a description of the code of ethics and unprofessional conduct.

Section 1. The following code of ethics consists of general guidelines for occupational therapy practice. The code of ethics shall be as established in this section.

(1) An OT/L or an OTA/L shall be responsible for providing services without regard to race, creed, national origin, sex, age, handicap, disease, social status, financial status, or religious affiliation.

(2) An OT/L or an OTA/L shall be acquainted with applicable local, state, federal, and institutional rules and shall function accordingly.

(3) An OT/L or an OTA/L shall be responsible for informing employers, employees, and colleagues about those laws and policies that apply to the profession of occupational therapy.

(4) An OT/L or an OTA/L shall not use or participate in the use of any form of communication that contains a false, fraudulent, deceptive, or unfair statement or claim.

(5) An OT/L or an OTA/L shall report any illegal, incompetent, or unethical practice to the appropriate authority.

(6) An OT/L or an OTA/L shall hold the appropriate credentials for providing service.

(7) An OT/L or an OTA/L shall actively maintain high standards of professional competence.

(8) An OT/L or an OTA/L shall function within the parameters of his or her competence and the standards of the profession.

(9) An OT/L or an OTA/L shall accurately represent his or her competence and training to the public.

(10) An OT/L or an OTA/L shall refer clients to other service providers or consult with other service providers when additional knowledge and expertise is required.

(11) An OT/L or an OTA/L shall protect the confidential nature of information gained from educational, practice, and investigational activities unless sharing the information is necessary to protect the well-being of a third party.

(12) An OT/L or an OTA/L shall not disclose privileged information when participating in reviews of peers, programs, or systems.

(13) An OT/L or an OTA/L shall include those people served in the intervention planning process.

(14) An OT/L or an OTA/L shall maintain goal-directed and objective relationships with all people served.

(15) An OT/L or an OTA/L shall accurately record and report client information.

(16) An OT/L or an OTA/L shall inform those people served of the nature and potential outcomes of therapy and shall respect the right of potential recipients of service to refuse therapy.

(17) An OT/L or an OTA/L shall inform subjects involved in education or research activities of the potential outcome of those activities.

(18) An OT/L or an OTA/L shall take all reasonable precautions to avoid harm to the recipient of services or detriment to the recipient's property.

(19) An OT/L or an OTA/L shall establish fees, based on cost analysis, that are commensu-

rate with services rendered.

(20) An OT/L or an OTA/L shall require those whom they supervise to adhere to ethical standards of conduct.

(21) An OT/L or an OTA/L who employs or supervises colleagues shall provide appropriate supervision as required by 201 KAR 28:130.

(22) An OT/L or an OTA/L shall recognize the contributions of colleagues when disseminating professional information.

Section 2. Failure to comply with any of the provisions in this section shall constitute unprofessional conduct in the practice of occupational therapy.

(1) An OT/L or an OTA/L shall report to the board any violation of KRS Chapter 319A or 201 KAR Chapter 28.

(2) An OT/L or an OTA/L shall report a change of name or address to the board within thirty (30) days after a change of name or address occurs.

(3) An OT/L or an OTA/L shall notify the board within thirty (30) days after being adjudged guilty of malpractice by a court of competent jurisdiction.

(4) An OT/L or an OTA/L shall comply with any subpoena issued by the board.

(5) An OT/L or an OTA/L shall not permit another person to use his or her license for any purpose.

(6) An OT/L or an OTA/L shall not delegate to an unlicensed employee or person a service which requires the skill, knowledge, or judgment of an OT/L or an OTA/L.

(7) An OT/L or an OTA/L shall inform the referring source when any requested occupational therapy service is contraindicated, in the professional judgment of the licensee, and may refuse to carry out that request.

(8) An OT/L shall competently provide the following minimum services:

(a) Proper interpretation of all referrals;

(b) Proper client evaluations;

(c) The identification and documentation of the client's problems and goals;

(d) The identification and documentation of an intervention plan;

(e) The appropriate occupational therapy services called for by the plan of care;

(f) A determination of the appropriate portions of the therapy program to be delegated to assistive personnel;

(g) A determination of the assistive personnel's qualifications by training, experience, license, or certification to perform tasks before delegating those tasks;

(h) The appropriate supervision of individuals as required by 201 KAR 28:130;

(i) Timely client reevaluations; and

(j) Maintain timely and adequate client records of all occupational therapy activity and client response.

(9) An OTA/L shall competently provide the following minimum services as appropriate:

(a) Seek appropriate supervision as required by 201 KAR 28:130;

(b) The appropriate therapy called for by the intervention plan;

(c) A determination of the appropriate portions of the therapy program to be delegated to assistive personnel;

(d) A determination of the assistive personnel's qualifications by training, experience, license, or certification to perform tasks before delegating those tasks;

(e) The appropriate supervision of individuals as required by 201 KAR 28:130; and

(f) Maintain timely and adequate client records of all occupational therapy activity and client response.

(10)(a) An OT/L or an OTA/L shall not provide occupational therapy services in an incompe-

tent manner.

(b) Incompetent practice includes:

1. A lack of the knowledge, judgment, or skill necessary to perform those modalities, methods, and techniques that come within the practice of occupational therapy;

2. A deviation below the standard of practice ordinarily possessed and applied by other OT/Ls and OTA/Ls in the Commonwealth of Kentucky acting in the same or similar circumstances; or

3. A willful or repeated departure from or the failure to conform to the minimal standard of acceptable and prevailing practice of occupational therapy in the Commonwealth of Kentucky.

(11) An OT/L or an OTA/L shall address goals identified in the evaluation and intervention plan.

(12) An OT/L or an OTA/L shall not continue occupational therapy services beyond the point of possible benefit to the client or provide therapy to the client more frequently than necessary to obtain the maximum therapeutic effect.

(13) An OT/L or an OTA/L shall not engage in false or misleading advertising, betrayal of a professional confidence, or falsification of a client's records.

(14)(a) An OT/L or an OTA/L shall not seek to obtain payment of a professional fee or compensation of any form through fraudulent means.

(b) Seeking payment or compensation through fraudulent means includes:

1. Reporting incorrect service dates for the purpose of obtaining payment;

2. Reporting charges for services not actually rendered other than unkept appointments;

3. Incorrectly reporting services rendered for the purpose of obtaining payment which is greater than that to which the licensee or the licensee's employer is entitled;

4. Aiding a recipient of services in fraudulently obtaining payment from a third party; or

5. Otherwise falsifying a record for the purpose of obtaining a payment.

(15) An OT/L or an OTA/L shall not directly or indirectly request, receive, or participate in the dividing, transferring, assigning, rebating, or refunding of an unearned fee or profit by means of a credit or other valuable consideration as an unearned commission, discount, or gratuity in connection with the furnishing of occupational therapy services.

(16) An OT/L or an OTA/L shall not abuse alcohol or any controlled substance which affects the licensee's ability to engage in the practice of occupational therapy in a safe and competent manner.

(17) An OT/L or an OTA/L shall not verbally or physically abuse a client.

(18)(a) An OT/L or an OTA/L shall not engage in acts of sexual misconduct with recipients of their services or in their presence.

(b) Sexual misconduct includes:

1. Engaging in or soliciting a sexual relationship, whether consensual or nonconsensual; or

2. Making sexual advances, requesting sexual favors, or engaging in other verbal conduct, physical contact, or acts of a sexual nature. (13 Ky.R. 1189; eff. 1-13-1987; Am. 15 Ky.R. 1288; eff. 1-7-1989; 20 Ky.R. 1062; 1857; 2325; eff. 2-10-1994; 30 Ky.R. 87; 854; eff. 10-15-2003; 41 Ky.R. 1432; 2077; eff. 5-1-2015.)