

## 201 KAR 35:030. Code of Ethics.

RELATES TO: KRS 309.081

STATUTORY AUTHORITY: KRS 309.0813(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.0813(2) requires the board to promulgate a code of ethics for credential holders. This administrative regulation establishes the required code of ethics.

Section 1. Responsibility to Clients. (1) A credential holder shall:

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

(2) If a registered alcohol and drug peer support specialist is employed by a facility or credential holder from whom the peer support specialist received services as a client, the peer support specialist's supervisor shall clearly define the relationship and boundaries of the peer support specialist's employment position.

(3) Regarding any client, including clients of the facility where the counselor provides alcohol and drug counseling or any other service, or where the peer support specialist provides services, a credential holder shall not:

(a) Discriminate against or refuse professional service to anyone on the basis of:

- 1. Race;
- 2. Gender;
- 3. Age;
- 4. Sexual preference or orientation;
- 5. Religion; or
- 6. National origin;

(b) Exploit the trust and dependency of a client;

(c) Engage in a dual relationship with a client, whether social, business, or personal, that may impair professional judgment, incur a risk of exploitation of the client, or otherwise violate a provision of this administrative regulation, unless:

1. A dual relationship:

a. Cannot be avoided; and

b. Does not impair professional judgment, incur a risk of exploitation of the client, or otherwise violate a provision of this administrative regulation; and

2. The credential holder takes appropriate professional precautions to ensure that judgment is not impaired and exploitation of the client does not occur;

(d) Engage in:

1. A romantic or sexual relationship with a:

a. Current or former client;

b. Current or former client of the facility where the counselor provides alcohol and drug counseling; or

c. Member of a client's immediate family or client's romantic partner; or

2. Sexual or other harassment, or exploitation, of a:

a. Client;

b. Student;

c. Trainee;

d. Supervisee;

e. Employee;

f. Colleague;

- g. Research subject; or
- h. Actual or potential witness or complainant in an investigation or ethical proceeding;
- (e) Use the professional relationship with a client to further an institutional or personal interest;
- (f) Continue a therapeutic relationship unless it is reasonably clear that the client is benefiting from the relationship;
- (g) Fail to assist a person in obtaining other therapeutic service if the credential holder is unable or unwilling, for an appropriate reason, to provide professional help;
- (h) Abandon or neglect a client in treatment without making reasonable arrangements for the continuation of treatment;
- (i) Videotape, record, or permit third-party observation of a therapy session without having first obtained written informed consent from the client; or
- (j) Diagnose, treat, or advise on problems outside the recognized boundaries of competence.

Section 2. Confidentiality. (1) A credential holder shall respect and guard the confidence of each individual client in any setting and through any means of communication.

(2) A credential holder shall not disclose a client 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 counseling, at which the credential holder is a defendant; or
- (d) In accordance with the terms of a written informed consent agreement.

(3) A credential holder may use client or clinical material in teaching, writing, and public presentations if:

(a) Written informed consent has been obtained in accordance with subsection (2)(d) of this section; or

(b) Appropriate steps have been taken to protect client identity and confidentiality.

(4) A credential holder shall maintain a client's record for no less than seven (7) years from termination of services with the client.

(5) A credential holder shall store or dispose of a client record so as to maintain confidentiality.

Section 3. Publication Credit. A credential holder shall assign credit to all who have contributed to the published material and for the work upon which publication is based. A credential holder shall:

(1) Recognize joint authorship and major contributions of a professional character made by several persons to a common project. The author who has made the principal contribution to a publication shall be identified as the first listed;

(2) Acknowledge in a footnote or introductory statement minor contributions of a professional character, or extensive clerical or similar assistance; and

(3) Acknowledge, through specific citations, unpublished, as well as published, material that has directly influenced the research or writing.

Section 4. Professional Competence and Integrity. (1) A credential holder shall maintain standards of professional competence and integrity and shall be subject to disciplinary action if:

(a) The board determines the credential holder has violated KRS Chapter 309 or 201 KAR Chapter 35 by an act that results in disciplinary action by another state's regulatory agency; or

(b) The credential holder:

1. Is impaired due to mental capacity or the abuse or use of alcohol or other substances that negatively impacts the practice of alcohol and drug counseling or peer support services;
2. Refuses to comply with an order issued by the board;
3. Fails 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;
  - c. Properly responding to a subpoena issued by the board;
  - d. Notifying the board of any arrest or conviction, felony or misdemeanor, in any jurisdiction within thirty (30) days of the arrest or conviction; or
  - e. Notifying the board of disciplinary action taken against any state-issued credential in any jurisdiction within thirty (30) days of the disciplinary action.

(2) A credential holder who is aware of conduct by another credential holder that violates this code of ethics shall report that conduct to the Kentucky Board of Alcohol and Drug Counselors.

(3) A credential holder shall comply with all the policies and procedures of the facilities where a credential holder is employed. If there is conflict with the policies or procedures of the facility and this code of ethics, the credential holder shall report this conflict to the Kentucky Board of Alcohol and Drug Counselors.

Section 5. Responsibility to a Student or Supervisee. A credential holder 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; and
  - (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 provide counseling to a:
  - (a) Student;
  - (b) Employee; or
  - (c) Supervisee;
- (6) Not engage in sexual intimacy or contact with a:
  - (a) Student; or
  - (b) Supervisee;
- (7) Not permit a student or supervisee to perform or represent oneself as competent to perform a professional service beyond his level of:
  - (a) Training;
  - (b) Experience; or
  - (c) Competence;
- (8) Not disclose the confidence of a student or supervisee unless:
  - (a) Permitted or mandated by law;
  - (b) 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 credential holder is a defendant;
  - (d) In an educational or training setting, of which there are multiple supervisors or professional colleagues who share responsibility for the training of the supervisee; or
  - (e) In accordance with the terms of a written informed consent agreement.

Section 6. Responsibility to a Research Participant. (1) A credential holder performing research shall comply with federal and state laws and administrative regulations and professional standards governing the conduct of research.

(2) A credential holder performing research shall:

(a) Be responsible for making a careful examination of ethical acceptability in planning a study;

(b) Seek the ethical advice of another qualified professional not directly involved in the investigation, if it is possible that services to a research participant could be compromised; and

(c) Observe safeguards to protect the rights of a participant.

(3) A credential holder requesting a participant's involvement in research shall:

(a) Inform the participant of all aspects of the research that might reasonably affect the participant's willingness to participate; and

(b) Be sensitive to the possibility of diminished consent if the participant:

1. Is also receiving clinical services;

2. Has an impairment which limits understanding or communication; or

3. Is a child.

(4) A credential holder performing research shall respect a participant's freedom to decline participation in, or to withdraw from, a research study at any time.

(5) A credential holder shall avoid a dual relationship with research participants.

(6) Information obtained about a research participant during the course of an investigation shall be confidential unless there is an authorization previously obtained in writing. The following shall be explained to the participant before obtaining written, informed consent:

(a) A risk that another person, including a family member, could obtain access to the information; and

(b) The plan to be used to protect confidentiality.

Section 7. Financial Arrangements. A credential holder shall:

(1) Not charge an excessive fee for service;

(2) Disclose fees to a client and supervisee at the beginning of service;

(3) Make financial arrangements with a client, third-party payor, or supervisee that:

(a) Are reasonably understandable; and

(b) Conform to accepted professional practices;

(4) Not offer or accept compensation for a referral of a client;

(5) Represent facts truthfully to a client, third-party payor, or supervisee regarding services rendered;

(6) Provide a client with necessary forms, reimbursement codes, and tax identification numbers for reimbursement for services from a third-party payor; and

(7) Not trade services to the client in exchange for goods or services provided by or on behalf of the client.

Section 8. Advertising. (1) A credential holder shall:

(a) Accurately represent education, training, and experience relevant to the practice of professional alcohol and drug counseling;

(b) Not use professional identification that includes a statement or claim that is false, fraudulent, misleading, or deceptive, including the following:

1. A business card;

2. An office sign;

3. Letterhead;

4. Telephone or association directory listing; or

5. Webpage or social media.

(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 is likely to create an unjustified expectation; or
- (c) Deletes a material fact or information.

Section 9. Environment. A credential holder shall provide a safe, functional environment in which to offer alcohol and drug counseling services. This shall include the following:

- (1) Allowance for privacy and confidentiality; and
- (2) Compliance with any other health and safety requirement according to local, state, and federal agencies.

Section 10. Documentation. A credential holder shall accurately document activity with a client in a timely manner.

Section 11. Interprofessional Relationships. A credential holder shall treat a colleague with respect, courtesy, and fairness and shall afford the same professional courtesy to other professionals.

(1) A credential holder shall not offer professional service to a client in counseling with another professional unless efforts have been made to inform the other professional, or to establish collaborative treatment, or until after the termination of the client's relationship with the other professional.

(2) A credential holder shall cooperate with a duly constituted professional ethics committee and promptly supply necessary information unless constrained by the demands of confidentiality. . (25 Ky.R. 947; Am. 2128; eff. 3-17-1999; 42 Ky.R. 1305; 2037; eff. 2-5-2016; 43 Ky.R. 1245, 1585, 1723; eff. 5-5-2017.)