

201 KAR 34:040. Code of ethics.

RELATES TO: KRS 309.1315(15)

STATUTORY AUTHORITY: KRS 309.1315(1), (15)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.1315(1) requires the board to promulgate administrative regulations necessary to carry out the provisions of KRS 309.130 to 309.1399. KRS 309.1315(15) requires the board to establish a code of ethics for licensed professional art therapists and licensed professional art therapist associates. This administrative regulation establishes the required code of ethics.

Section 1. Responsibility to Patients.

(1) A licensed professional art therapist and a licensed professional art therapist associate shall:

- (a) Advance and protect the welfare of the patient;
- (b) Respect the rights of a person seeking assistance;
- (c) Make reasonable efforts to ensure that services are used appropriately; and
- (d) Display a copy of his or her license in the principle place of business.

(2) A licensed professional art therapist and a licensed professional art therapist associate shall not:

- (a) Discriminate against or refuse professional service to anyone on the basis of:
 1. Race;
 2. Gender;
 3. Religion; or
 4. National origin;

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

(c) Engage in a dual relationship with a patient, including a social, business, or personal relationship that may:

1. Impair professional judgment;
2. Incur a risk of exploitation of the patient; or
3. Otherwise violate a provision of this administrative regulation. 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 therapist shall take professional precautions to ensure that judgment is not impaired and exploitation of the patient does not occur. Some examples of these professional precautions include peer supervision and documentation.

(d) Engage in a sexual relationship with a current patient or with a former patient for two (2) years following the termination of therapy;

(e) Use the professional relationship with a patient to further personal interests;

(f) Continue therapeutic relationships unless it is reasonably clear that the patient is benefiting from the relationship;

(g) Fail to assist a person in obtaining other therapeutic services if the therapist is unable or unwilling, for appropriate reasons, to provide professional help;

(h) Abandon or neglect a patient in treatment without making reasonable arrangements for the continuation of treatment;

(i) Videotape, record, or permit third-party observation of therapy sessions without having first obtained written informed consent from the patient;

(j) Engage in sexual or other harassment or exploitation of a patient, student, trainee, supervisee, employee, colleague, research subject, or actual or potential witness or complainant in investigations and ethical proceedings; or

(k) Diagnose, treat, or advise on problems outside the recognized boundaries of competence.

Section 2. Confidentiality.

- (1) A licensed professional art therapist and a licensed professional art therapist associate shall respect and guard the confidences of each individual patient.
- (2) A licensed professional art therapist and a licensed professional art therapist associate 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 licensed professional art therapist or licensed professional art therapist associate is a defendant; or
 - (d) In accordance with the terms of a written informed consent agreement.
- (3) A licensed professional art therapist and a licensed professional art therapist associate may use patient or clinical materials 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) The licensee has acted to protect patient identity and confidentiality.
- (4) A licensed professional art therapist and a licensed professional art therapist associate shall store or dispose of patient records so as to maintain confidentiality.

Section 3. Public Use and Reproduction of Patient Art Expression and Therapy Sessions.

- (1) A licensed professional art therapist and a licensed professional art therapist associate shall obtain written informed consent from the patient or a legal guardian, if applicable, before:
 - (a) Photographing or videotaping a patient's art expression;
 - (b) Making an audio recording of an art therapy session;
 - (c) Permitting third-party observation of an art therapy session; or
 - (d) Duplication of an art therapy session in any matter.
- (2) A licensed professional art therapist and a licensed professional art therapist associate shall not use clinical materials in teaching, writing, and public presentations unless written informed consent has been previously obtained from the patient or, if applicable, a legal guardian. The licensee shall take steps necessary to protect patient identity and disguise any part of the art expression or video tape that reveals patient identity.
- (3) A licensed professional art therapist and a licensed professional art therapist associate shall obtain written, informed consent from a patient or legal guardian, if applicable, before displaying the patient's art in a:
 - (a) Gallery;
 - (b) Mental health facility;
 - (c) School; or
 - (d) Another public place.
- (4) A licensed professional art therapist and a licensed professional art therapist associate shall display a patient's art expression in an appropriate and dignified manner.

Section 4. Professional Competence and Integrity. A licensed professional art therapist and a licensed professional art therapist associate shall maintain standards of professional competence and integrity and shall be subject to disciplinary action for:

- (1) Misrepresentation or concealment of a material fact in obtaining or seeking reinstatement of a license;
- (2) Refusing to comply with an order issued by the board; or
- (3) Failing 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 when requested and at the place designated; or
 - (c) Properly responding to a subpoena issued by the board.

Section 5. Responsibility to a Student, Intern, or Supervisee. A licensed professional art therapist and a licensed professional art therapist associate shall:

- (1) Be aware of his or her influential position with respect to a student, intern, or supervisee;
 - (2) Avoid exploiting the trust and dependency of a student or supervisee;
 - (3) Try to avoid a social, business, personal, or other dual relationship that may:
 - (a) Impair professional judgment; and
 - (b) Increase the risk of exploitation;
 - (4) Take precautions to ensure that judgment is not impaired and to prevent exploitation if a dual relationship cannot be avoided;
 - (5) Not provide therapy to:
 - (a) A student;
 - (b) An intern;
 - (c) An employee; or
 - (d) A supervisee;
 - (6) Not engage in sexual intimacy or contact with:
 - (a) A student;
 - (b) An intern; or
 - (c) A supervisee;
 - (7) Not permit a student, intern, or supervisee to perform or represent himself or herself as competent to perform a professional service beyond his or her level of:
 - (a) Training;
 - (b) Experience; or
 - (c) Competence;
 - (8) Not disclose the confidence of a student, intern, 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 licensed professional art therapist or licensed professional art therapist associate 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.
- (25 Ky.R. 476; Am. 826; eff. 10-12-1998; 36 Ky.R. 645; 1020; eff. 12-4-2009; 40 Ky.R. 1431; 2288; eff. 5-2-2014; Crt eff. 4-15-2021.)