

201 KAR 26:145. Code of conduct.

RELATES TO: KRS 202A.400, 209A.030, 319.032, 319.082, 422.317, 620.030, 645.270
STATUTORY AUTHORITY: KRS 319.032(1)(c), (2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 319.032(1)(c) requires the board to promulgate administrative regulations to establish requirements for disciplining a credential holder of this board, whether a licensed psychologist, certified psychologist, certified psychologist with autonomous functioning, licensed psychological practitioner, licensed psychological associate, an applicant, or a holder of a temporary license. This administrative regulation establishes a code of conduct for a person practicing psychology.

Section 1. Definitions.

- (1) "Client" means a person who meets the requirements established in Section 3 of this administrative regulation.
- (2) "Confidential information" means information revealed by a client or clients or otherwise obtained by a credential holder in a professional relationship
- (3) "Court order" means the written or oral communication of a member of the judiciary, or other court magistrate or administrator, if the authority has been lawfully delegated to the magistrate or administrator.
- (4) "Credential holder" is defined by KRS 319.010(3).
- (5) "Professional relationship" means a mutually agreed upon relationship between a credential holder and a client for the purpose of the client obtaining the credential holder's professional expertise.
- (6) "Professional service" means all actions of the credential holder in the context of a professional relationship with a client.
- (7) "Supervisee" means a person who functions under the extended authority of the credential holder to provide psychological services.

Section 2. Responsibility to Clients.

- (1) A credential holder shall promote the well-being of a client and, if required by KRS 202A.400 or 645.270, the safety and well-being of an individual whose life might be affected by the client's behavior or circumstance.
- (2) A credential holder shall not verbally abuse or harass or physically threaten or assault a client, supervisee, board member, or agent of the board.

Section 3. Client Requirements.

- (1) Identification of a client. A client shall be a person who receives:
 - (a) An evaluation, assessment, or psychological testing;
 - (b) Other professional psychological services for the treatment or amelioration of an emotional, mental, nervous, addictive or behavioral disorder or distress, or a mental health condition; or
 - (c) Psychological consultation in the context of a professional relationship.
- (2) A corporate entity or other organization shall be considered the client if the professional contract is to provide a psychological service of benefit to the corporate entity or organization.
- (3) A legal guardian of a minor or legally incompetent adult shall be considered the client for a decision-making purposes.
- (4) A person identified as a client pursuant to subsections (1)-(3) of this section shall be deemed to continue to be a client for a period of two (2) years following the last date of service rendered to the person.

Section 4. Competence.

- (1) Limits on practice. The credential holder shall limit practice and supervision to the areas of competence in which proficiency has been gained through education, training,

and experience.

(2) Maintaining competency. The credential holder shall maintain current competency in the areas in which he or she practices, through continuing education, consultation, or other procedures, in conformance with current standards of scientific and professional knowledge.

(3) Adding new services and techniques. The credential holder, if developing competency in a service or technique that is new either to the credential holder or new to the profession, shall engage in ongoing consultation with other psychologists or relevant professionals and shall obtain appropriate education and training. The credential holder shall inform a client of the innovative nature and the known risks associated with the service, so that the client can exercise freedom of choice concerning the service.

(4) Referral. The credential holder shall make or recommend referral to other professional, technical, or administrative resources if a referral is clearly in the best interests of the client.

(5) Sufficient professional information. A credential holder rendering a formal professional opinion in a report, letter, or testimony about a person shall not do so without direct and substantial professional contact with or a formal assessment of that person.

(6) Maintenance and retention of records.

(a) The credential holder rendering professional services to an individual client, or services billed to a third-party payor, shall maintain professional records that include:

1. The presenting problem, purpose, or diagnosis;
2. The fee arrangement;
3. The date and substance of each professional contact or service;
4. Test results or other evaluative results obtained and the basic test data from which the results were derived;
5. Notation and results of a formal consult with another provider; and
6. A copy of all test or other evaluative reports prepared as part of the professional relationship.

(b) The credential holder shall ensure that all records are maintained for a period of not less than six (6) years after the last date that services were rendered.

(c) The credential holder shall store and dispose of written, electronic, and other records in a manner which shall ensure their confidentiality.

(d) For each person supervised pursuant to KRS Chapter 319, the credential holder shall maintain for a period of not less than six (6) years after the last date of supervision a record of each supervisory session that shall include the type, place, date, and general content of the session.

(7) Continuity of care. The credential holder shall make arrangements for another appropriate professional or professionals to provide for an emergency need of a client, as appropriate, during a period of his or her foreseeable absence from professional availability.

Section 5. Impaired Objectivity and Dual Relationships.

(1) Impaired credential holder.

(a) The credential holder shall not undertake or continue a professional relationship with a client if the objectivity or competency of the credential holder is impaired due to a mental, emotional, physiologic, pharmacologic, or substance abuse condition.

(b) If an impairment develops after a professional relationship has been initiated, the credential holder shall:

1. Terminate the relationship in an appropriate manner;
2. Notify the client in writing of the termination; and
3. Assist the client in obtaining services from another professional.

(2) Prohibited dual relationships.

(a) The credential holder shall not undertake or continue a professional relationship with a client if the objectivity or competency of the credential holder is impaired because of the credential holder's present or previous familial, social, sexual, emotional, financial, supervisory, administrative, or legal relationship with the client or a relevant person associated with or related to the client.

(b) The credential holder, in interacting with a client, shall not:

1. Engage in verbal or physical behavior toward the client which is sexually seductive, demeaning, or harassing;
2. Engage in sexual intercourse or other physical intimacy with the client; or
3. Enter into a potentially exploitative relationship with the client.

(c) The prohibitions established in paragraph (b) of this subsection shall extend indefinitely if the client is clearly vulnerable, by reason of emotional or cognitive disorder, to exploitative influence by the credential holder.

(3) A credential holder shall not engage in the practice of psychology if under the influence of alcohol, another mind-altering or mood-altering drug, or physical or psychological illness which impairs delivery of the services.

Section 6. Client Welfare.

(1) Providing explanation of procedures. The credential holder shall give a truthful, understandable, and appropriate account of the client's condition to the client or to those responsible for the care of the client. The credential holder shall keep the client fully informed as to the purpose and nature of an evaluation, treatment, or other procedure, and of the client's right to freedom of choice regarding services provided.

(2) Termination of services.

(a) If professional services are terminated, the credential holder shall offer to assist the client in obtaining services from another professional.

(b) The credential holder shall:

1. Terminate a professional relationship if the client is not benefiting from the services; and
2. Prepare the client appropriately for the termination.

(3) Stereotyping. The credential holder shall not impose on the client a stereotype of behavior, values, or roles related to age, gender, religion, race, disability, nationality, sexual preference, or diagnosis which would interfere with the objective provision of psychological services to the client.

(4) Solicitation of business by clients. The credential holder providing services to an individual client shall not induce that client to solicit business on behalf of the credential holder.

(5) Referrals on request. The credential holder providing services to a client shall make an appropriate referral of the client to another professional if requested to do so by the client.

Section 7. Welfare of Supervisees and Research Subjects.

(1) Welfare of supervisees. The credential holder shall not exploit a supervisee.

(2) Welfare of research subjects. The credential holder shall respect the dignity and protect the welfare of his or her research subjects, and shall comply with 920 KAR 1:060 and 45 C.F.R. 46.101 - 46.409.

Section 8. Protecting the Confidentiality of Clients.

(1) General. The credential holder shall safeguard the confidential information obtained in the course of practice, teaching, research, or other professional services. Except as provided in this section, the credential holder shall obtain the informed written consent of the client prior to disclosing confidential information.

(2) Disclosure without informed written consent. The credential holder shall disclose confidential information without the informed consent of the client if the credential holder has a duty to warn an intended victim of the client's threat of violence pursuant to KRS 202A.400 or 645.270.

(3) Disclosure if the client is a corporation or other organization. If the client is a corporation or other organization, the requirements for confidentiality established in this section shall:

(a) Apply to information that pertains to:

1. The corporation or organization; or
2. An individual, including personal information, if the information is obtained in the proper course of the contract; and

(b) Not apply to personal information concerning an individual if the individual had a reasonable expectation that the information was:

1. Obtained in a separate professional relationship between the credential holder and the individual; and
2. Subject to the confidentiality requirements established in this section.

(4) Services involving more than one (1) interested party. If more than one (1) party has an appropriate interest in the professional services rendered by the credential holder to a client or clients, the credential holder shall clarify to all parties prior to rendering the services the dimensions of confidentiality and professional responsibility that shall pertain in the rendering of services.

(5) Multiple clients. If service is rendered to more than one (1) client during a joint session, the credential holder shall at the beginning of the professional relationship clarify to all parties the manner in which confidentiality shall be handled.

(6) Legally dependent clients. At the beginning of a professional relationship the credential holder shall inform a client who is below the age of majority or who has a legal guardian, of the limit the law imposes on the right of confidentiality with respect to his or her communications with the credential holder.

(7) Limited access to client records. The credential holder shall limit access to client records to preserve their confidentiality and shall ensure that all persons working under the credential holder's authority comply with the requirements for confidentiality of client material.

(8) Release of confidential information. The credential holder shall release confidential information upon court order or to conform with state law, including KRS 422.317, or federal law or regulation.

(9) Reporting of abuse or neglect of children and adults. The credential holder shall be familiar with the relevant law concerning the reporting of abuse or neglect of children and adults, and shall comply with those laws, including KRS 620.030 and KRS 209A.030.

(10) Discussion of client information among professionals. If rendering professional services as part of a team or if interacting with other appropriate professionals concerning the welfare of the client, the credential holder may share confidential information about the client if the credential holder takes reasonable steps to ensure that all persons receiving the information are informed about the confidential nature of the information and abide by the rules of confidentiality.

(11) Disguising confidential information. If case reports or other confidential information is used as the basis of teaching, research, or other published reports, the credential holder shall exercise reasonable care to ensure that the reported material is appropriately disguised to prevent client identification.

(12) Observation and electronic recording. The credential holder shall ensure that diagnostic interviews or therapeutic sessions with a client are observed or electronically recorded only with the informed written consent of the client.

(13) Confidentiality after termination of professional relationship. The credential holder shall continue to treat as confidential information regarding a client after the professional relationship between the credential holder and the client has ceased.

Section 9. Representation of Services.

- (1) Display of credentials. The credential holder shall display his or her current credential to practice psychology on the premises of his or her professional office.
- (2) Misrepresentation of qualifications. The credential holder shall not misrepresent directly or by implication his or her professional qualifications such as education, experience, or areas of competence.
- (3) Misrepresentation of affiliations. The credential holder shall not misrepresent directly or by implication his or her affiliations, or the purposes or characteristics of institutions and organizations with which the credential holder is associated.
- (4) False or misleading information. The credential holder shall not include false or misleading information in a public statement concerning professional services offered.
- (5) Misrepresentation of services or products. The credential holder shall not associate with or permit his or her name to be used in connection with a service or product in a way which misrepresents:
 - (a) The service or product;
 - (b) The degree of his or her responsibility for the service or product; or
 - (c) The nature of his or her association with the service or product.
- (6) Correction of misrepresentation by others. The credential holder shall correct others who misrepresent the credential holder's professional qualifications or affiliations.

Section 10. Disclosure of Cost of Services. The credential holder shall not mislead or withhold from a client, prospective client, or third party payor, information about the cost of his or her professional services.

Section 11. Assessment Procedures.

- (1) Confidential information. The credential holder shall treat as confidential assessment results or interpretations regarding an individual.
- (2) Protection of integrity of assessment procedures. The credential holder shall not disseminate a psychological test in a way that may invalidate it.
- (3) Information for professional users. The credential holder offering an assessment procedure or automated interpretation service to another professional shall accompany this offering by a manual or other printed material which describes the development of the assessment procedure or service, the rationale, evidence of validity and reliability, and characteristics of the normative population. The credential holder shall state the purpose and application for which the procedure is recommended and identify special qualifications required to administer and interpret it properly. The credential holder shall ensure that advertisements for the assessment procedure or interpretive service are factual.

Section 12. Aiding Illegal Practice.

- (1) Delegating professional responsibility. The credential holder shall not delegate professional responsibilities to a person not appropriately credentialed or otherwise appropriately qualified to provide psychological services.
 - (2) Providing supervision. The credential holder shall exercise appropriate supervision over a supervisee, as required by 201 KAR 26:171.
- (20 Ky.R. 672; eff. 10-21-1993; 24 Ky.R. 1117; 1655; eff. 2-17-1998; 28 Ky.R. 1463; 1805; eff. 2-7-2002; 31 Ky.R. 998; 1508; eff. 3-8-2005; 43 Ky.R. 1811; 44 Ky.R. 22; eff. 7-17-2017; Crt eff. 9-30-2019.)