

102-7-11. Unprofessional conduct. Each of the following acts shall be considered unprofessional conduct for a licensed addiction counselor, a licensed clinical addiction counselor, or an applicant for an addiction counselor license or a clinical addiction counselor license:

(a) Except when the information has been obtained in the context of confidentiality, failing to notify the board, within a reasonable period of time, that the licensee or applicant or any other person regulated by the board or applying for licensure or registration has met any of these conditions:

(1) Has had a professional license, certificate, permit, registration, certification, or professional membership granted by any jurisdiction, professional association, or professional organization that has been limited, conditioned, qualified, restricted, suspended, revoked, refused, voluntarily surrendered, or allowed to expire in lieu of or during investigatory or disciplinary proceedings;

(2) has been subject to any other disciplinary action by any credentialing board, professional association, or professional organization;

(3) has been demoted, terminated, suspended, reassigned, or asked to resign from employment, or has resigned from employment, for some form of misfeasance, malfeasance, or nonfeasance;

(4) has been substantiated of abuse against a child, an adult, or a resident of a care facility; or

(5) has practiced the licensee's profession in violation of the laws or regulations that regulate the profession;

(b) knowingly allowing another person to use one's license;

(c) impersonating another person holding a license or registration issued by this or any other board;

(d) having been convicted of a crime resulting from or relating to one's professional practice of addiction counseling;

(e) furthering the licensure application of another person who is known or reasonably believed to be unqualified with respect to character, education, or other relevant eligibility requirements;

(f) knowingly aiding or abetting any individual who is not credentialed by the board to represent that individual as a person who was or is credentialed by the board;

(g) failing to recognize, seek intervention, and otherwise appropriately respond when one's own personal problems, psychosocial distress, or mental health difficulties interfere with or negatively impact professional judgment, professional performance and functioning, or the ability to act in the client's best interests;

(h) failing or refusing to cooperate in a timely manner with any request from the board for a response, information, or assistance with respect to the board's investigation of any report of an alleged violation filed against oneself or any other applicant or professional who is required to be licensed or registered by the board. Each person taking longer than 30 days to provide the requested response, information, or assistance shall have the burden of demonstrating that the person has acted in a timely manner;

(i) offering to perform or performing services clearly inconsistent or incommensurate with one's training, education, or experience or with accepted professional standards;

(j) engaging in any behavior that is abusive or demeaning to a client, student, or supervisee;

(k) imposing one's personal values, spiritual beliefs, or lifestyle on a client, student, or supervisee;

(l) discriminating against any client, student, directee, or supervisee on the basis of color, race, gender, age, religion, national origin, or disability;

- (m) failing to inform each client of that client's rights as those rights relate to the addiction counseling relationship;
- (n) failing to provide each client with a description of the services, fees, and payment expectations, or failing to reasonably comply with that description;
- (o) failing to provide each client with a description of the possible effects of the proposed treatment if the treatment is experimental or if there are clear and known risks to the client;
- (p) failing to inform each client, student, or supervisee of any financial interests that might accrue to the licensee or applicant if the licensee or applicant refers a client, student, or supervisee to any other service or if the licensee or applicant uses any tests, books, or apparatus;
- (q) failing to inform each client that the client can receive services from a public agency if one is employed by that public agency and also offers services privately;
- (r) failing to obtain written, informed consent from each client, or the client's legal representative or representatives, before performing any of the following actions:
 - (1) Electronically recording sessions with that client;
 - (2) permitting a third-party observation of their activities; or
 - (3) releasing information concerning a client to a third person, unless required or permitted by law;
- (s) failing to exercise due diligence in protecting the information regarding the client from disclosure by other persons in one's work or practice setting;
- (t) engaging in professional activities, including billing practices and advertising, involving dishonesty, fraud, deceit, or misrepresentation;
- (u) using alcohol or any illegal drug or misusing any substance that could cause impairment while performing the duties or services of an addiction counselor;
- (v) engaging in a harmful dual relationship or exercising undue influence;
- (w) making sexual advances toward or engaging in physical intimacies or sexual activities with either of the following:
 - (1) Any person who is a client, supervisee, or student; or
 - (2) any person who has a significant relationship with the client and that relationship is known to the licensee;
- (x) making sexual advances toward or engaging in physical intimacies or sexual activities with any person who meets either of the following conditions:
 - (1) Has been a client within the past 24 months; or
 - (2) has had a significant relationship with a current client or a person who has been a client within the past 24 months and that relationship is known to the licensee;
- (y) directly or indirectly offering or giving to a third party or soliciting, receiving, or agreeing to receive from a third party any fee or other consideration for referring the client or in connection with performing professional services;
- (z) permitting any person to share in the fees for professional services, other than a partner, an employee, an associate in a professional firm, or a consultant authorized to practice addiction counseling or clinical addiction counseling;
- (aa) soliciting or assuming professional responsibility for clients of another agency or colleague without attempting to coordinate the continued provision of client services by that agency or colleague;
- (bb) making claims of professional superiority that one cannot substantiate;
- (cc) guaranteeing that satisfaction or a cure will result from performing or providing any professional service;

- (dd) claiming or using any secret or special method of treatment or techniques that one refuses to disclose to the board;
- (ee) continuing or ordering tests, procedures, or treatments or using treatment facilities or services not warranted by the client's condition, best interests, or preferences;
- (ff) taking credit for work not personally performed, whether by giving inaccurate or misleading information or by failing to disclose accurate or material information;
- (gg) if engaged in research, failing to meet these requirements:
 - (1) Considering carefully the possible consequences for human beings participating in the research;
 - (2) protecting each participant from unwarranted physical and mental harm;
 - (3) ascertaining that each participant's consent is voluntary and informed; and
 - (4) preserving the privacy and protecting the anonymity of each subject of the research within the terms of informed consent;
- (hh) making or filing a report that one knows to be false, distorted, erroneous, incomplete, or misleading;
- (ii) failing to notify the client promptly if one anticipates terminating or interrupting service to the client;
- (jj) failing to seek continuation of service, or abandoning or neglecting a client under or in need of professional care, without making reasonable arrangements for that care;
- (kk) abandoning employment under circumstances that seriously impair the delivery of professional care to clients and without providing reasonable notice to the employer;
- (ll) failing to terminate addiction counseling services if it is apparent that the relationship no longer serves the client's needs or best interests;
- (mm) when supervising, failing to provide accurate and current information, timely evaluations, and constructive consultation;
- (nn) when applicable, failing to inform a client that addiction counseling services are provided or delivered under supervision;
- (oo) failing to inform a client that addiction counseling services are delivered under supervision as a student or an individual seeking clinical licensure;
- (pp) failing to report unprofessional conduct of a licensed addiction counselor, licensed clinical addiction counselor, or any individual licensed by the board;
- (qq) intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing another person from filing a report or record that is required by state or federal law, or inducing another person to take any of these actions;
- (rr) offering to perform or performing any service, procedure, or therapy that, by the accepted standards of addiction counseling practice in the community, would constitute experimentation on human subjects without first obtaining the full, informed, and voluntary written consent of the client or the client's legal representative or representatives;
- (ss) practicing addiction counseling after one's license expires;
- (tt) using without a license, or continuing to use after a license has expired, any title or abbreviation defined by regulation; and
- (uu) violating any provision of the addictions counselor licensure act or any implementing regulation.

(Authorized by K.S.A. 2010 Supp. 74-7507, as amended by L. 2010, ch. 45, §15; implementing L. 2011, ch. 114, §15; effective, T-102-7-1-11, July 1, 2011; effective, T-102-10-27-11, Oct. 27, 2011; effective Jan. 20, 2012.)