

**BEHAVIORAL SCIENCES REGULATORY BOARD  
LICENSED PSYCHOLOGY ADVISORY COMMITTEE  
AGENDA**

**Tuesday, June 6, 2023**

The meeting will be conducted virtually on the Zoom platform. Advisory Committee members, BSRB staff, and anyone approved for public comment will utilize the Zoom platform while other remote attendees will be directed to the YouTube broadcast (or the conference call phone number), to ensure a secure and accessible meeting.

You may view the meeting here: <https://youtube.com/live/FL4bsE6iiuM?feature=share>  
To join the meeting by conference call: 877-278-8686 (The pin: 327072)

If there are any technical issues during the meeting, you may call the Board office at, 785-296-3240.

The Behavioral Sciences Regulatory Board may take items out of order as necessary to accommodate the time restrictions of Board members and visitors. All times and items are subject to change.

**Tuesday, June 6, 2023, 6:00 p.m.**

- I. Call to Order and Roll Call**
- II. Agenda Approval**
- III. Review and Approval of Minutes from Advisory Committee Meeting on April 11, 2023**
- IV. Executive Director's Report**
- V. Old Business**
  - A. Update on PSYPACT Commission**
  - B. Continued Review and Discussion of Psychology Regulations**
    - i. K.A.R. 102-1-15 Continuing Education**
    - ii. K.A.R. 102-1-16 Use of Computerized Psychological Tests**
- VI. New Business**
  - A. Discussion on Unprofessional Conduct Regulations from Other Professions**
- VII. Recognition of Outgoing Members**
- VIII. Upcoming 2023 Meetings: Tuesday, August 8; Tuesday, October 10; Tuesday, December 12 (All Meetings from 6pm until 8pm)**
- IX. Adjournment**

**BEHAVIORAL SCIENCES REGULATORY BOARD  
LICENSED PSYCHOLOGY ADVISORY COMMITTEE MEETING  
APRIL 11, 2023**

**Draft Minutes**

- I. Call to Order.** Ric Steele, Chair of the Advisory Committee, called the meeting to order at 6 p.m.

**Committee Members.** Ric Steele, Richard Nobles, Jessica Hamilton, Tiffany Johnson, Janine Kesterson, Rodney McNeal, and Doug Wright were present via Zoom. Johnna Norton, Abby Callis, and Zachary Parrett were absent.

**BSRB Staff.** David Fye was present via Zoom.

- II. Agenda Approval.** Doug Wright moved to approve the agenda as written. Jessica Hamilton seconded. The motion passed.
- III. Review and Approval of Minutes from Previous Advisory Committee Meeting on February 7, 2023.** Richard Nobles moved to approve the minutes. Doug Wright seconded. The motion passed.
- IV. Executive Director Report.** David Fye, Executive Director for the Behavioral Sciences Regulatory (BSRB) provided a report on agency activities, actions from recent Board meetings, and legislative updates.
- V. Old Business**
- A. Update on PSYPACT Commission.** The Executive Director provided an update on PSYPACT. PSYPACT released an annual report for 2022 that gave some history of PSYPACT and additional information on the compact. Currently, the BSRB has 81 Licensed Psychologists that are providing telehealth services in other compact states under PSYPACT authority and 7 Licensed Psychologists that are providing a limited number of days of in-state services in other compact states under PSYPACT authority.
- B. Review of Psychology Regulations**
- i. K.A.R. 102-1-15 Continuing Education.** The Executive Director noted that each agency is responsible for ensuring that regulations are current and to make necessary changes to update the language in those regulations. K.A.R 102-1-15 defines how a licensee can accrue continuing education hours for renewal every two years. The Executive Director asked Advisory Committee members to review the language in the regulation for discussion at the next meeting, and to be prepared to discuss potential changes in how licensees can accrue hours, including such

activities as mentoring a licensee to take the licensing examination or other activities. This topic will be revisited at the next meeting.

- ii. **K.A.R 102-1-16 Use of Computerized Psychological Tests.** The Executive Director noted K.A.R 102-1-16 includes information on the use of computerized psychological tests, but the regulation has not been updated in some time. The Executive Director asked Advisory Committee members to review the language in the regulation to be ready to discuss potential updates or other changes at the next meeting. Advisory Committee members discussed changing technology, including artificial intelligence and how this topic could relate to changes in the regulation. The Advisory Committee Chair noted he would investigate educational testing standards prior to the next meeting.

## **VI. New Business**

- A. **Discussion on Adding New Members to Advisory Committee.** At the past meeting, the Advisory Committee asked the Executive Director to send a message to all licensees that the Advisory Committee was seeking individuals interested in being appointed to the Advisory Committee. The Executive Director sent this message, collected letters of interest and resumes from individuals interested in serving on the Advisory Committee. The Executive Director summarized the role of Advisory Committee members as well as information in the Advisory Committee Policy that directs the Advisory Committee members to consider certain factors when evaluating candidates. The Advisory Committee discussed the applicants. Richard Nobles moved to recommend Matthew Guelker, Sarah Kirk, Mark Goodman, Jay Middleton, and Edward Hunter for membership on the Advisory Committee Rodney McNeal seconded. The motion passed. The Executive Director noted he would summarize the recommendations of the Advisory Committee and provide that information to the Chair of the Board for review and consideration.

- VII. Next Advisory Committee Meeting Date.** The next meeting will be on Tuesday, June 6, 2023, at 6 p.m.

- VIII. Adjournment.** Doug Wright moved to Adjourn. Jessica Hamilton seconded. The motion passed.

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## Agency 102

### Behavioral Sciences Regulatory Board

#### Article 1.—Certification of Psychologists

[Printable Format](#)

**102-1-15. Continuing education.** (a) Each applicant for renewal of licensure shall have earned 50 continuing education hours in the two years preceding an application for renewal. The required number of continuing education hours shall be prorated for periods of renewal that are less than the full two years, using the ratio of one-third of the continuing education hours for each six months since the date of licensure or most recent renewal. Continuing education hours for each type of continuing education activity as specified below in subsection (d) shall be prorated accordingly for those persons whose periods of renewal are less than the full two years. Each person who is licensed within six months of the current expiration period shall be exempt from the continuing education requirement for that person's first renewal period.

(b) The content of each continuing education activity shall be clearly related to the enhancement of psychology practice, values, skills, or knowledge.

(c) During each two-year renewal cycle and as part of the required continuing education hours, each licensed psychologist shall complete at least three continuing education hours of training on professional ethics and at least six continuing education hours related to diagnosis and treatment of mental disorders. These hours shall be obtained from any of the activities specified in paragraphs (d)(1), (d)(2), (d)(4), and (d)(6) of this regulation.

(d) Acceptable continuing education activities, whether taken within the state or outside the state, shall include the following:

(1) Attendance at workshops, seminars, and presentations that are sponsored, accredited, or conducted by educational institutions, professional associations, or private institutions. These activities shall be sponsored, accredited, or conducted by educational institutions, professional associations, or private institutions that are nationally or regionally accredited for training. Activities conducted by agencies, groups, or individuals that do not meet the requirements of national or regional accreditation shall be acceptable, if the content is clearly related to the enhancement of psychology skills, values, and knowledge. Actual contact hours, excluding breaks and lunch, shall be credited. A maximum of 50 continuing education hours shall be allowed;

(2) the first-time preparation and initial presentation of courses, workshops, or other formal training activities, for which a maximum of 15 continuing education hours shall be allowed;

(3) documented completion of a self-study program. A maximum of 12 continuing education hours shall be allowed;

(4) documented completion of a self-study program with a posttest that is conducted by a continuing education provider as described in paragraph (d)(1). A maximum of 40 continuing education hours shall be allowed;

(5) publication and professional presentation. Fifteen continuing education hours may be claimed for the publication or professional presentation of each scientific or professional paper or book chapter authored by the applicant. A maximum of 45 continuing education hours shall be allowed;

(6) completion of an academic course, for which a maximum of 15 continuing education hours shall be allowed for each academic semester credit hour;

(7) providing supervision as defined in K.A.R. 102-1-1, for which a maximum of 15 continuing education hours shall be allowed;

(8) receiving supervision as defined in K.A.R. 102-1-1, except in connection with any disciplinary action, for which a maximum of 15 continuing education hours shall be allowed;

(9) initial preparation for a specialty board examination, for which a maximum of 25 continuing education hours shall be allowed;

(10) participation in quality care, client or patient diagnosis review conferences, treatment utilization reviews, peer review, case consultation with another licensed psychologist, or other quality assurance committees or activities, for which a maximum of 15 continuing education hours shall be allowed;

(11) participation, including holding office, in any professional organization related to the applicant's professional activities, if the organization's activities are clearly related to the enhancement of psychology or mental health practice, values, skills, or knowledge. A maximum of 12 continuing education hours shall be allowed; and

(12) receiving personal psychotherapy that is provided by a licensed or certified mental health provider and is a part of a designated training program. A maximum of 20 continuing education hours shall be allowed.

(e) Each licensed psychologist shall be responsible for maintaining personal continuing education records. Each licensee shall submit to the board the licensee's personal records of participation in continuing education activities if requested by the board.

(f) In determining whether or not a claimed continuing education activity will be allowed, the licensed psychologist may be required by the board to demonstrate that the content was clearly related to psychology or to verify that psychologist's participation in any claimed or reported activity. If a psychologist fails to comply with this requirement, the claimed credit may be disallowed by the board.

(g) Any applicant who submits continuing education documentation that fails to meet the required 50 continuing education hours may request an extension from the board. The request shall include the applicant's reason for requesting an extension and a plan outlining the manner in which the applicant intends to complete the continuing education requirements. For good cause shown, the applicant may be granted an extension, which shall not exceed six months. (Authorized by and implementing K.S.A. 74-7507; effective May 1, 1984; amended, T-85-35, Dec. 19, 1984; amended May 1, 1985; amended May 1, 1986; amended May 1, 1987; amended July 24, 1989; amended Oct. 27, 2000; amended July 11, 2003.)



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**Rules of  
Department of Commerce and  
Insurance**

**Division 2235—State Committee of Psychologists  
Chapter 7—Continuing Education**

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**Title 20—DEPARTMENT OF  
COMMERCE AND INSURANCE**  
Division 2235—State Committee of  
Psychologists  
Chapter 7—Continuing Education

**20 CSR 2235-7.005 Definitions**

*PURPOSE:* This rule defines terms used in 20 CSR 2235 Chapter 7.

(1) “Accredited program, seminar, or activity”—Is a program, seminar, or activity presented under the auspices of—

- (A) Regionally accredited institution of higher education;
- (B) American psychology association;
- (C) Regional psychological association;
- (D) State psychological association;
- (E) Local psychological association;
- (F) American Medical Association; and
- (G) Other professional bodies or groups.

(2) “Committee”—The Missouri State Committee of Psychologists.

(3) “Credit hour”—At least fifty (50) minutes of instruction or the equivalent.

(4) “Psychologist”—A psychologist licensed to practice in the state of Missouri pursuant to section 337.010, RSMo et seq.

(5) “Accredited sponsor”—A sponsor all of whose programs, seminars, or activities are accredited.

(6) “Continuing education credit”—One (1) credit hour.

(7) “Recognized educational institution”—A school, college, university, or other institution of higher learning in the United States which has a graduate program in psychology and is accredited by one of the regional accrediting associations approved by the council on postsecondary accreditation, or one of the regional accrediting associations recognized by the Department of Education.

(8) “Reporting cycle”—Two (2) years from December 1, 1999 through November 30, 2001, and every two (2)-year period thereafter.

*AUTHORITY:* section 337.050.12, RSMo 2000.\* This rule originally filed as 4 CSR 235-7.005. Original rule filed Dec. 31, 1998, effective Aug. 30, 1999. Moved to 20 CSR 2235-7.005, effective Aug. 28, 2006. Amended: Filed July 9, 2008, effective Jan. 30, 2009.

*\*Original authority:* 337.050, RSMo 1977, amended 1981, 1989, 1993, 1995, 1996, 1998, 1999.

**20 CSR 2235-7.010 Continuing Education**

*PURPOSE:* This rule implements the continuing education mandates.

(1) Every psychologist licensed in Missouri shall, complete for each two- (2-) year reporting cycle at least forty (40) hours, of accredited “continuing education credits” (herein CE credits) relevant to the practice of psychology. The continuing education reporting cycle is the twenty-four- (24-) month period beginning on December 1 of odd numbered years and ending on November 30 of odd numbered years. Continuing education credits earned after November 30 for the immediately preceding reporting cycle shall not be applied to the next two- (2-) year reporting cycle.

(2) At least fifteen (15) of the forty (40) CE credits must be completed within Category A (i.e., formal programs which meet the requirements of 20 CSR 2235-7.030(1)(A)); and the remaining twenty-five (25) CE credits must be completed in either Category A or in Category B (i.e., informal programs or hours which meet the requirements of 20 CSR 2235-7.030(1)(B)).

(A) Three (3) of the forty (40) CE credits are to be in ethics (ethics credits). The three (3) ethics credits can be in either Category A or in Category B.

(3) A psychologist who becomes licensed during the middle of a reporting cycle shall be entitled to receive a “pro-rata” reduction in the number of required credits at the rate of five (5) hours for every three (3) full months between the date of licensing and what would be the normal date of commencement for the reporting cycle.

(4) If in any two- (2-) year cycle, the number of continuing education credits earned from Category A in 20 CSR 2235-7.030 exceeds forty (40) credits, the excess credits over forty (40) may be carried over to the next two- (2-) year cycle, up to a maximum of fifteen (15) hours.

*AUTHORITY:* section 337.050.12, RSMo Supp. 2020.\* This rule originally filed as 4 CSR 235-7.010. Original rule filed Dec. 31, 1998, effective Aug. 30, 1999. Moved to 20 CSR 2235-7.010, effective Aug. 28, 2006. Amended: Filed July 9, 2008, effective Jan. 30, 2009. Amended: Filed March 2, 2021,

effective Sept. 30, 2021.

*\*Original authority:* 337.050, RSMo 1977, amended 1981, 1989, 1993, 1995, 1996, 1998, 1999, 2020.

**20 CSR 2235-7.020 Continuing Education Reports**

*PURPOSE:* This rule establishes the criteria for maintaining record of continuing education claimed.

(1) Every psychologist shall maintain for a period of four (4) years from the completion of each reporting cycle full and complete records of all accredited continuing education (CE) programs attended or accredited continuing education credit hours earned during the immediately preceding two (2)-year reporting cycle.

(2) Such records shall be made available, upon reasonable request during regular business hours, to the committee or to such authorized representative as the committee may hereafter appoint from time-to-time for inspection, photocopying, or audit.

(3) For all Category A programs, such records shall, at a minimum, contain a listing of all programs attended by course name and for all accredited programs information showing either that the program sponsor is an accredited CE sponsor or that such individual program had been properly accredited, the number of CE hours awarded or earned for each such program or activity, and a copy of the program agenda, outline, or other course description.

(4) For the license renewal period commencing February 1, 2001 and every renewal period each two (2) years thereafter every psychologist shall attest on the license renewal application form, compliance with 20 CSR 2235-7.010. The committee may audit as deemed necessary.

*AUTHORITY:* section 337.030, RSMo Supp. 2007 and section 337.050.12, RSMo 2000.\* This rule originally filed as 4 CSR 235-7.020. Original rule filed Dec. 31, 1998, effective Aug. 30, 1999. Moved to 20 CSR 2235-7.020, effective Aug. 28, 2006. Amended: Filed July 17, 2006, effective Feb. 28, 2007. Amended: Filed July 9, 2008, effective Jan. 30, 2009.



*\*Original authority: 337.030, RSMo 1977, amended 1981, 1989, 1996, 2003 and 337.050, RSMo 1977, amended 1981, 1989, 1993, 1995, 1996, 1998, 1999.*

### 20 CSR 2235-7.030 Categories of Continuing Education Programs and Credits

*PURPOSE: This rule implements the continuing education mandates.*

(1) The committee recognizes the following categories of continuing education programs, seminars or activities and established credit hours.

(A) Category A formal activities, a minimum of fifteen (15) credits per reporting cycle. Category A activities are defined as—

1. Formal continuing education programs that may consist of programs, seminars, or activities accredited by any accredited or identified sponsor listed in 20 CSR 2235-7.005(1). The number of continuing education credits assigned by an association as defined in these rules will be accepted.

2. Regularly scheduled postgraduate courses offered by a “recognized educational institution” as defined in 20 CSR 2235-7.005(7), which are relevant to the practice of psychology. One (1) credit hour or the equivalent of academic credit constitutes fifteen (15) continuing education credits.

3. Writing or speaking, including a paper or other presentation at a formal professional meeting, a paper published in a professional journal, or a book or an original chapter in an edited book in the area of psychology or a related field. Credit will be granted for the year of publication or presentation in the case of a paper. Continuing education credits will be granted at the rate of two (2) per presentation, eight (8) for each published journal article or chapter in a published book, ten (10) for editing a published book, and fifteen (15) for the authorship of a published book.

4. Preparation and teaching a graduate level course at a recognized educational institution where the contents of which are primarily psychological. Continuing education credits will be granted at the rate of five (5) hours per class with a maximum of ten (10) per reporting cycle. No single course shall be reported more than one (1) time per reporting cycle.

(B) Category B other programs, seminars, or activities, a maximum of twenty-five (25) credits per reporting cycle of Category B activities may count towards the two (2)-year, forty (40) continuing education credit hour requirement in 20 CSR 2235-7.010. Category B programs, seminars, or activities

are defined as—

1. The categories of continuing education experiences and the number of hours of continuing education for each category are as follows:

A. Meetings. Registered attendance at relevant professional meetings (international, national, regional, state, local). Three (3) hours per day;

B. Workshops, seminars and courses. Registered attendance at relevant nonaccredited workshops, seminars, colloquium, grand rounds or academic courses. Number of actual attendance hours;

C. Preparation and teaching of an undergraduate level course at a recognized educational institution where the contents of which are primarily psychological, three (3) hours per class, nine (9) maximum per reporting cycle. No single course shall be reported more than one (1) time per reporting cycle; and

D. Individual study. Self-study of professional material including relevant books, journals, periodicals, other forms of media, and other materials and preparation of relevant lectures and talks to public groups. Preparation credit may not be claimed under this category for presentations credited under paragraph 1. of this subsection. The committee will accept a maximum of ten (10) hours continuing education credits in individual study.

(2) Experience Not Acceptable for Continuing Education. The committee will not consider personal psychotherapy, workshops for personal growth, services to professional associations, providing supervision or case conference as meeting the requirements for continuing education.

*AUTHORITY: section 337.030, RSMo Supp. 2007 and section 337.050.12, RSMo 2000.\* This rule originally filed as 4 CSR 235-7.030. Original rule filed Dec. 31, 1998, effective Aug. 30, 1999. Moved to 20 CSR 2235-7.030, effective Aug. 28, 2006. Amended: Filed July 17, 2006, effective Feb. 28, 2007. Amended: Filed July 9, 2008, effective Jan. 30, 2009.*

*\*Original authority: 337.030, RSMo 1977, amended 1981, 1989, 1996, 2003 and 337.050, RSMo 1977, amended 1981, 1989, 1993, 1995, 1996, 1998, 1999.*

### 20 CSR 2235-7.040 Verification of Continuing Education Credits and Programs

*PURPOSE: This rule implements the continuing education mandates.*

(1) At the end of each two (2)-year reporting cycle, each licensee shall attest on the license renewal application provided by the committee the continuing education requirements by the first of February immediately following the completion of the recording cycle.

(2) The licensee need not submit the specific verification of each continuing education experience claimed, but the individual licensee shall maintain records of continuing education credits as would substantiate meeting these regulations for five (5) years following the submission of the reporting form.

(3) The committee may require the licensee to submit documents for proof of compliance. Upon receipt of the notification requesting said documents the licensee shall forward documents to the committee’s office within thirty (30) days.

(4) Failure to provide the committee with proof of compliance with the continuing education credit requirement when requested will be considered a violation of the practice act and shall be cause for discipline pursuant to section 337.035, RSMo.

*AUTHORITY: section 337.050.12, RSMo Supp. 1998.\* This rule originally filed as 4 CSR 235-7.040. Original rule filed Dec. 31, 1998, effective Aug. 30, 1999. Moved to 20 CSR 2235-7.040, effective Aug. 28, 2006.*

*\*Original authority: 337.050, RSMo 1977, amended 1981, 1989, 1993, 1995, 1996, 1998.*

### 20 CSR 2235-7.050 Variances

*PURPOSE: This rule implements the continuing education mandates.*

Variances will be granted on a case-by-case basis upon written petition to the committee. The committee will review requests at the next regularly scheduled quarterly meeting following receipt of the request for a variance.

*AUTHORITY: section 337.050.12, RSMo Supp. 1998.\* This rule originally filed as 4 CSR 235-7.050. Original rule filed Dec. 31, 1998, effective Aug. 30, 1999. Moved to 20 CSR 2235-7.050, effective Aug. 28, 2006.*





*\*Original authority: 337.050, RSMo 1977, amended 1981, 1989, 1993, 1995, 1996, 1998.*

EFFECTIVE  
10-04-2020

NEBRASKA DEPARTMENT OF  
HEALTH AND HUMAN SERVICES

172 NAC 155

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 155 PSYCHOLOGY LICENSES

001. SCOPE AND AUTHORITY. These regulations govern the credentialing of psychologists, psychological assistants, psychologist associates, provisional licensed psychologists, and special licensed psychologists as set out in Nebraska Revised Statute (Neb. Rev. Stat.) §§ 38-3101 to 38-3133 of the Psychology Practice Act and the Uniform Credentialing Act (UCA). Persons providing psychology services to clients located in Nebraska must be licensed as a psychologist in Nebraska unless exempt.

002. DEFINITIONS. Definitions are set out in the Psychology Practice Act, the Uniform Credentialing Act, 172 Nebraska Administrative Code (NAC) 10, and this chapter.

002.01 BEHAVIORAL HEALTH PRACTITIONER. A licensed psychologist, special licensed psychologist, psychological assistant, psychologist associate, licensed independent mental health practitioner, licensed mental health practitioner, qualified physician, licensed alcohol and drug counselor, or other recognized profession who is licensed, certified, or regulated under the laws of this state, whose scope of practice includes mental health services or mental health service referrals.

002.02 CLIENT OR PATIENT. A recipient of psychological services within the context of a professional relationship. In the case of individuals with legal guardians, including minors and incompetent adults, the legal guardian will also be considered a client or patient for decision-making purposes relating to the minor or incompetent adult.

002.03 CONSULTATION. A professional collaborative relationship between a behavioral health practitioner or behavioral health entity and a consultant who is a licensed psychologist. The consulting psychologist must be qualified by license, training and experience to address the mental health problems of clients who are the subjects of consultation. When a mental health practitioner seeks consultation with a licensed psychologist for clients with major mental disorders, the consultation must be conducted in accordance with 172 NAC 94.

002.04 DIRECT SERVICE. A variety of activities, during the postdoctoral experience associated with a client system, including collateral contacts, for the purpose of providing psychological services.

002.04(A) DIRECT SERVICES. Includes, but are not limited to the following:

- (i) Interviewing;
- (ii) Therapy;
- (iii) Case conferences;
- (iv) Behavioral observations and management;
- (v) Evaluations;
- (vi) Treatment planning;
- (vii) Testing;
- (viii) Report writing;
- (ix) Clinical supervision of graduate students in an American Psychological Association accredited clinical, counseling, or school psychology program;
- (x) Consultations;
- (xi) Biofeedback and neurofeedback;
- (xii) Patient management, such as crisis management, triage, placement referrals, etc.;
- (xiii) Classroom teaching of graduate psychology courses in an American Psychological Association accredited clinical, counseling, or school psychology programs that involve examination of psychopathology, psychological assessment, or psychological intervention; and
- (xiv) Clinical research that involves examination of psychopathology, psychological assessment, or psychological intervention.

002.04(B) NON-DIRECT SERVICES. Includes, but are not limited to the following:

- (i) Insurance or managed care reviews relating to payment;
- (ii) Classroom teaching that is not for graduate courses in an American Psychological Association accredited clinical, counseling, or school psychology programs that involve examination of psychopathology, psychological assessment, or psychological intervention;
- (iii) Receiving supervision;
- (iv) Research that does not involve the examination of psychopathology, psychological assessment, or psychological intervention in clinical situations;
- (v) Program evaluation;
- (vi) Scheduling client appointments; and
- (vii) Administrative tasks related to mental health facilities and programs.

002.05 MAJOR MENTAL DISORDER. Any clinically significant mental or emotional disorder in which symptoms, regardless of specific diagnoses or the nature of the presenting complaint, are associated with present distress or disability or present significantly increased risk of suffering, death, pain, disability, or an important loss of freedom. No diagnosis from the Diagnostic and Statistical Manual of Mental Disorders (DSM) published by the American Psychiatric Association, nor any diagnosis from the International Classification of Diseases (ICD) published by the World Health Organization, of the edition or version used on the effective date of this chapter, is excluded from the category of Major Mental Disorder if the contemporary assessment indicates severe symptoms, as outlined in this section. These documents are available by contacting the publishing organizations. This includes currently observed or assessed dysfunction or impairment that portends danger to self or others, a disabling deterioration of function that seriously impairs daily functioning to include food, clothing, and shelter or an inability to establish or maintain a personal support system. Such

disorders may take many forms and have varying causes but must be considered a manifestation of behavioral, psychological, or biological dysfunction in the person. Behavioral or psychological disorder symptoms include one or more of the following:

- (A) Persistent or severe suicidal or homicidal thinking or behaviors injurious to self or others;
- (B) Psychotic symptoms which include delusions, hallucinations, or formal thought disorders, including evidence of frequent substitution of fantasy for reality;
- (C) Physical complaints or signs suggesting deterioration or anomaly in physiological, psychophysiological, or neuropsychological functioning;
- (D) Feeling, mood or affect in which the emotion is clearly disruptive in its effects on other aspects of a person's life. A marked change in mood, depression or anxiety that incapacitates a person;
- (E) Severe impairment in concentration and thinking, persistence, and pace. Frequent or consistently impaired thinking; or
- (F) Consistent inability to maintain conduct within the limits prescribed by law, rules, and strong mores or disregard for safety of others or destructive to property.

002.06 NATIONAL REGISTER. The National Register of Health Service Providers in Psychology (NRHSP) is a credentials bank that verifies that the psychologist applying for licensure in Nebraska has previously submitted primary source documentation demonstrating completion of specific education and training, holds an active unrestricted license, and has maintained professional and ethical standards.

002.07 NATIONAL STANDARDIZED EXAMINATION. The Examination for Professional Practice in Psychology (EPPP) or the Enhanced Examination for Professional Practice in Psychology (EPPPP) developed by the Professional Examination Service (PES) or another examination that is substantially equivalent and approved by the Board.

002.08 NEBRASKA JURISPRUDENCE EXAMINATION. The examination relating to statutes and regulations governing psychology in Nebraska and relevant federal laws and ethical standards in psychology.

002.09 POSTDOCTORAL EXPERIENCE. Psychology experience or practice under the direct supervision of a licensed psychologist qualified to offer the services provided. To be postdoctoral, the experience must follow the formal awarding of the doctoral degree by an appropriate institution of higher education. Such experience must be compatible with knowledge and skills acquired during formal doctoral or postdoctoral education in accordance with professional requirements and relevant to the intended area of practice.

002.10 QUALIFIED PHYSICIAN. An individual with a current license to practice medicine and surgery and has specialized training in mental health treatment or is a Board Certified Psychiatrist.

002.11 REGULAR EMPLOYMENT. For purposes of Neb. Rev. Stat. § 38-3113, regular employment is:

- (A) Work done in the context of an employer-employee relationship;
- (B) That the school system directly pays the school psychologist for all services rendered; and

- (C) That the agreed-upon school psychological services are provided in the context of a comprehensive service delivery system, are not limited to any specific type of service and include opportunities for follow-up and continuing consultation.

002.12 SUPERVISING LICENSED PSYCHOLOGIST. A Nebraska licensed psychologist, not a special licensed psychologist, who provides supervision.

003. CRIMINAL BACKGROUND CHECK. All applicants applying for a psychology license or provisional psychology license must submit a full set of fingerprints to the Nebraska State Patrol in compliance with Neb. Rev. Stat. § 38-131.

004. INITIAL PSYCHOLOGY LICENSE. To obtain a psychology license, an applicant must submit a complete application provided by the Department and provide documentation demonstrating that the applicant meets the credentialing requirements of Neb. Rev. Stat. §§ 38-131, 38-3114, 38-3115, 172 NAC 10, and this chapter. Applicants must submit the following:

004.01 EDUCATION. An official transcript, verifying completion of a doctoral degree from a program of graduate study in professional psychology, directly from the issuing institution, or the Association of State and Provincial Psychology Boards' credentialing data bank, or the National Register. If the program is not accredited by the American Psychological Association, the applicant must submit the following to show the program meets the requirements of Neb. Rev. Stat. § 38-3114:

- (A) Documentation, including syllabi or course descriptions, verifying that the applicant completed the following coursework:
  - (i) Scientific and professional ethics;
  - (ii) Research design and methodology;
  - (iii) Statistics and psychometrics;
  - (iv) Biological bases of behavior;
  - (v) Cognitive and affective bases of behavior;
  - (vi) Social bases of behavior;
  - (vii) Individual behavior;
  - (viii) Assessment and evaluation; and
  - (ix) Treatment and intervention.
- (B) Documentation that the program complies with the following:
  - (i) It was clearly identified and labeled as a psychology program and its intent was to education and train psychologists;
  - (ii) Has a permanent and stable standing, including organizational structure, leadership and funding, within the academic setting;
  - (iii) Has clear authority and primary accountability for the academic program with an identifiable psychology faculty and has a psychologist who is responsible for the training program;
  - (iv) Was integrated and has an organized sequence of study, including core course work and profession-wide competencies;
  - (v) Has an identifiable body of students who are matriculated in the degree program; and
  - (vi) Has degree granting authority and was regionally accredited.
- (C) Documentation that the program required students to successfully complete the following years of study and residency:

- (i) A minimum of 3 full-time academic years of graduate study, or equivalent, and an internship prior to receiving the doctoral degree;
- (ii) Two of the 3 academic years, or equivalent, must be at the program from which the doctoral degree is granted; and
- (iii) One year must be a full-time residency, or the equivalent, at the degree granting program. If the program is an on-line program, at least 600 hours must be live face-to-face in person interaction with faculty and students.

004.02 INTERNSHIP. Documentation of completion of an internship that was accredited by the American Psychological Association or if the internship is not accredited by the American Psychological Association, the applicant must submit:

- (A) Verification that the internship was accredited by the Association of Psychology Postdoctoral and Internship Centers (APIC); or
- (B) Verification and documentation of the following:
  - (i) The official school, college or university transcript must show completion of practica prior to entering the internship;
  - (ii) A letter from the internship director or a copy of the internship brochure that verifies the purpose of the internship was to train psychologists for the independent provision of direct psychology services;
  - (iii) The internship was at least 12 months in duration and consisted of at least 1,500 hours in not more than 24 months. School psychology internships may be 10 months in duration;
  - (iv) The internship was directed by a licensed psychologist;
  - (v) The internship was sequentially organized with progressively increased levels of responsibility and skills;
  - (vi) The internship required 4 hours of supervision per week, 2 of the 4 hours were individual face-to-face. For part time internships, the supervision requirements must be proportional to these standards;
  - (vii) The internship had 2 or more supervising licensed psychologists on-site; and
  - (viii) The internship included positions for 2 or more psychology interns.

004.03 SUPERVISED POSTDOCTORAL EXPERIENCE. Documentation of completion of at least 1 year of supervised postdoctoral experience.

004.03(A) COMPLETED IN NEBRASKA. If the postdoctoral experience was completed in Nebraska, the applicant must provide documentation that the applicant:

- (i) Holds or has held a provisional license as set out in 172 NAC 155-005; and
- (ii) Has completed postdoctoral experience as follows:
  - (1) Met the standards of supervision as set out in 172 NAC 155-011;
  - (2) Included 1,500 or more hours in total duration, including 1,000 or more hours of direct service hours earned in not more than 48 months; and
  - (3) Compatible with the knowledge and skills acquired during formal doctoral or postdoctoral education in accordance with professional requirements and relevant to the intended area of practice.

004.03(B) COMPLETED OUTSIDE OF NEBRASKA. If the postdoctoral experience was completed outside of Nebraska, it must have met the requirements of 172 NAC 155-004.03(A)(ii)(2).

004.04 EXAMINATION. Documentation of passing the national standardized examination with a minimum scaled score of 500 for all doctoral candidates and passing the Nebraska jurisprudence examination with a minimum score of 80%. The national standardized examination requirement is waived for applicants in the categories set out in Neb. Rev. Stat. § 38-3115.

005. PROVISIONAL PSYCHOLOGY LICENSE. To obtain a provisional license, an applicant must submit a complete application provided by the Department and provide documentation demonstrating that the applicant meets the requirements of Neb. Rev. Stat. §§ 38-131, 38-3122, 172 NAC 10, and this chapter.

005.01 LICENSE EXTENSION. The provisional license may be extended one time for an additional 2-year period upon approval by the Board and submission of a new application under this section.

006. TWENTY YEARS OF PSYCHOLOGY LICENSURE. To obtain a license based on 20 years of psychology licensure, an applicant must submit a complete application provided by the Department and provide documentation demonstrating that the applicant meets the requirements of Neb. Rev. Stat. § 38-3117, 172 NAC 10, and this chapter. Applicants must submit:

- (A) An official transcript, verifying completion of a doctoral degree in psychology, directly from the issuing institution, or the Association of State and Provincial Psychology Boards' credentialing data bank, or the National Register;
- (B) Verification of holding a current license based on a doctoral degree in psychology;
- (C) Verification of at least 20 years of licensed practice in psychology in the United States or a Canadian jurisdiction; and
- (D) Documentation of successful passage of the Nebraska jurisprudence examination with a minimum score of 80%.

007. RECIPROCITY PSYCHOLOGY LICENSE. To obtain a license based on reciprocity, an applicant must submit a complete application provided by the Department and provide documentation demonstrating that the applicant meets the requirements of 172 NAC 10 and this chapter. Applicants must submit documentation of:

- (A) A current license in another jurisdiction; and
- (B) A current Certification of Professional Qualification (CPQ) through the Association of State and Provincial Psychology Boards or a current credential at the doctoral level as a Health Service Provider by the National Register of Health Service Providers; or
- (C) Being licensed in a state participating in the Association of State and Provincial Psychology Boards Reciprocity Agreement; or
- (D) Meeting the requirements to obtain an initial license as set out in 172 NAC 155-004.

007.01 EXAMINATION. Applicants must submit documentation of passing the Nebraska jurisprudence examination with a minimum score of 80%.

007.02 TEMPORARY LICENSE. To obtain a temporary license, an individual must submit a complete application provided by the Department and provide documentation demonstrating that the applicant meets the requirements of Neb. Rev. Stat. §§ 38-129.01 or 38-3120, 172 NAC 10, and 172 NAC 155-007(A) through (D) of this chapter.

008. THIRTY DAYS PSYCHOLOGY PRACTICE WITHIN A ONE YEAR PERIOD. To obtain authority to practice for 30 days within a one year period, an applicant must submit a complete application provided by the Department and provide documentation demonstrating that the applicant meets the requirements of Neb. Rev. Stat. §§ 38-3119, 172 NAC 10, and this chapter. Applicants must submit documentation of:

- (A) A current license in another jurisdiction; and
- (B) An official transcript, verifying completion of a doctoral degree from a program of graduate study in professional psychology from an institution of higher education. The transcript must be submitted directly from the issuing institution, the Association of State and Provincial Psychology Boards' credentialing data bank, or the National Register.

009. REGISTRATION. To obtain registration, an applicant must submit a complete application provided by the Department and provide documentation demonstrating that the applicant meets the requirements of 172 NAC 10, Neb. Rev. Stat. §§ 38-3113 and 38-3116 for applicants who hold a special license as a psychologist, Neb. Rev. Stat. §§ 38-3113 and 38-3122 for provisional licenses, Neb. Rev. Stat. § 38-3113 for assistants or associates, and this chapter.

009.01 PSYCHOLOGICAL ASSISTANTS OR PSYCHOLOGIST ASSOCIATES. Applicants must submit an official transcript, directly by the issuing institution, verifying completion of a masters' degree in clinical psychology, counseling psychology, or educational psychology.

009.02 TERMINATION OF SUPERVISION. If a supervisor or registrant terminates supervision, he or she must notify the Department in writing immediately of the date of termination.

009.03 CHANGE OF OR ADDITIONAL SUPERVISOR. If a change in supervisor occurs or an additional supervisor is added, the registrant must submit an application as set out in 172 NAC 155-009.

010. SUPERVISING LICENSED PSYCHOLOGIST. The supervisor must:

- (A) Hold an active license, which is currently not limited, suspended, or on probation. If disciplined by the Department during the supervisory period, the supervisor must terminate the supervision immediately and notify the Department of the termination.
- (B) Not be a family member.
- (C) Arrange adequate supervision coverage in his or her absence.

011. SUPERVISION. Supervision applies to the following:

011.01 PROVISIONAL PSYCHOLOGY LICENSE. A professional relationship in which a licensed psychologist assumes legal and professional responsibility for the work of the provisional psychology licensee. The purpose of supervision is to provide training to assist the supervisee to achieve full licensure. The supervisor must:

- (A) Review raw data from the applicant's clinical work which is made directly available to the supervisor through such means as written clinical materials, direct observation, and video and audio recordings; and
- (B) Meet with the provisional licensee at least twice per month for a minimum of 4 total hours. Such meeting may include face-to-face consultation, telephone, video, or other



electronic means of communication and must ensure confidentiality of the conversation. The supervisor is responsible for documenting supervision meetings.

011.02 SPECIAL PSYCHOLOGY LICENSE. The supervisor will be responsible for determining the extent and character of supervision of a special psychology licensee, keeping in mind the education and experience of the supervisee. The supervisor assumes legal and professional responsibility for any work by the supervisee relating to major mental disorders. In all cases the supervisor must be competent to provide the services being supervised.

011.03 PROVISIONAL MENTAL HEALTH PRACTITIONER. A professional relationship in which a licensed psychologist has oversight responsibility for the mental health practice of the provisional mental health practitioner. The purpose of supervision is to provide training to assist the supervisee to achieve full licensure as a mental health practitioner. The supervisor must meet with the provisional licensee in accordance with 172 NAC 94.

011.04 SEEKING AN INDEPENDENT MENTAL HEALTH PRACTITIONER LICENSE. A professional relationship in which a licensed psychologist has oversight responsibility for the independent mental health practice of an individual seeking an independent mental health practitioner license. The purpose of supervision is to provide training to assist the supervisee to achieve full licensure as an independent mental health practitioner. The supervisor must meet with the applicant in accordance with 172 NAC 94.

011.05 PROVISIONAL ALCOHOL AND DRUG COUNSELOR. A professional relationship in which a licensed psychologist has oversight responsibility for the alcohol and drug clinical work of the provisional alcohol and drug counselor. The purpose of supervision is to enhance and promote the alcohol and drug clinical skills and competencies of the supervisee who is earning hours of clinical work experience to achieve full licensure as an alcohol and drug counselor. The supervisor must meet the requirements of 172 NAC 15.

011.06 PSYCHOLOGICAL ASSISTANT OR PSYCHOLOGIST ASSOCIATE. A professional relationship in which a licensed psychologist has oversight responsibility for the psychological work of an individual who administers and scores and may develop interpretations of psychological testing under the supervision of the licensed psychologist. Such individuals are deemed to be conducting their duties as an extension of the legal and professional authority of the supervising psychologist and must not independently provide interpretive information or treatment recommendations to clients or other health care professionals prior to obtaining appropriate supervision. The purpose of this supervision will be to provide oversight that insures competent and ethical practice in accordance with the statutes and Code of Conduct as promulgated by this Board. The supervisor must:

- (A) Review raw data from the assistant or associates work which is made directly available to the supervisor through such means as written clinical materials, direct observation, and video and audio recordings; and
- (B) Meet with the assistant or associate at least twice per month for a minimum of 4 total hours. Such meetings may include face-to-face consultation, telephone, video, or other electronic means of communication and must ensure confidentiality of the conversation. The supervisor is responsible for documenting supervision meetings.

012. TEST ADMINISTRATION BY UNLICENSED INDIVIDUALS. An individual who is trained by and is under the supervision of a licensed psychologist may administer and score tests which require no independent professional judgment and no interpretation of results. The individual must receive supervision, orders, and directions from a licensed psychologist. The supervisor must select the test to be administered and is ultimately responsible for the accuracy of the administration and scoring of the tests.

013. RENEWAL, WAIVER OF CONTINUING EDUCATION, AND INACTIVE STATUS. The licensee must meet the requirements set out in 172 NAC 10 and this chapter. All psychology licenses, except a provisional license and temporary license, issued by the Department will expire on January 1 of each odd-numbered year.

014. CONTINUING EDUCATION. Psychologists holding an active license in the State of Nebraska must complete at least 24 hours of acceptable continuing education hours during the 24-month period prior to the expiration date. This section does not apply to individuals who hold a provisional license or temporary license.

014.01 REQUIRED HOURS. At least 3 of the 24 hours of continuing education must be in ethics relating to psychology.

014.02 CONTINUING EDUCATION ACTIVITIES. Continuing education must directly relate to the practice of psychology as defined in Neb. Rev. Stat. § 38-3108. Continuing education hours are determined as follows:

014.02(A) DEVELOPING AND TEACHING A GRADUATE ACADEMIC COURSE. Developing and teaching a graduate academic course in an institution accredited by a regional accrediting agency is an approved continuing education activity. Hours will be granted only for the first time the licensee teaches the course during the renewal period and cannot be used for subsequent renewal periods. 1 semester hour of graduate academic credit equals 15 hours of continuing education.

014.02(B) COMPLETING A GRADUATE LEVEL COURSE. Satisfactorily completing a graduate level course offered by an institution accredited by a regional accrediting agency is an approved continuing education activity. Hours will be granted only for the first time it is completed, and it must be completed during the renewal period for which it is submitted. 1 semester hour of graduate academic credit equals 15 hours of continuing education.

014.02(C) AUTHORIZING OR EDITING A PEER-REVIEWED PSYCHOLOGICAL PRACTICE ORIENTED PUBLICATION. Continuing education hours may be earned only in the year of publication or first distribution. Hours are granted as follows:

- (i) Senior or 1<sup>st</sup> author of a peer-reviewed psychological practice oriented professional or scientific book equals 16 hours of continuing education;
- (ii) Senior or 1<sup>st</sup> author of a peer-reviewed psychological practice oriented professional or scientific book chapter equals 8 hours of continuing education;
- (iii) Senior or 1<sup>st</sup> author of a peer-reviewed psychological practice oriented professional journal article equals 8 hours of continuing education; and

- (iv) Editor of a peer-reviewed psychological practice oriented professional or scientific book or journal equals 16 hours of continuing education.

014.02(D) PRESENTING, ATTENDING, OR COMPLETING PROGRAMS. Presenting or attending workshops, seminars, symposia, colloquia, invited speaker sessions, meetings of professional or scientific organizations, homestudy, or videos are acceptable continuing education activities.

014.02(D)(i) HOUR. 60 minutes of presentation or attendance equals 1 hour of continuing education.

014.02(D)(ii) APPROVED CONTINUING EDUCATION PROVIDERS. Only activities approved by the following organizations are acceptable for renewal or reinstatement:

- (1) American Association of Marriage and Family Therapists (AAMFT) or its state Chapters;
- (2) American Counselors Association (ACA) or its state chapters or National Board for Certified Counselors (NBCC);
- (3) American Nurses Credentialing Center's Commission on Accreditation (ANCCC);
- (4) Nebraska Medical Association (NMA);
- (5) Nebraska Nurses Association (NNA);
- (6) National Association of Alcohol and Drug Abuse Counselors (NAADAC);
- (7) National Association of Social Workers (NASW) or its state chapters;
- (8) The Accreditation Council for Continuing Medical Education (ACCME);
- (9) The American Medical Association (AMA) or its state chapters;
- (10) The American Nurses Credentialing Center's Commission on Accreditation (ANCCCA); and
- (11) The American Psychological Association (APA) or its state chapters.

015. REINSTATEMENT. The applicant must meet the requirements set out in 172 NAC 10.

016. FEES. Fees are set out in 172 NAC 2.

017. PSYCHOLOGY INTERJURISDICTIONAL COMPACT. The applicant must meet the requirements set out in Neb. Rev. Stat. § 38-3901.

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## Agency 102

### Behavioral Sciences Regulatory Board

#### Article 1.—Certification of Psychologists

[Printable Format](#)

**102-1-16. Use of computerized psychological tests.** (a) To utilize computers in any aspect of psychological testing, the licensed psychologist shall:

- (1) conform to the professional standards for testing, as adopted by the American Psychological Association in the Standards for Educational and Psychological Tests, 1985, which is hereby adopted by reference;
- (2) specifically consider each of the following issues in testing each client:
  - (A) whether a particular test is appropriate for a particular client;
  - (B) whether the computerized version of a test is appropriate for use by a particular client;
  - (C) the evaluation, validity and reliability of the decision rules underlying interpretive statements and their supporting research;
  - (D) whether the integration of findings is correct; and
  - (E) whether the conclusions and recommendations are appropriate.
- (3) not use the results of a computerized test in decision-making about clients or make such results part of official client records unless such results are signed by the licensed psychologist utilizing the test;
- (4) be involved in a direct, supervisory, or consultative relationship to the client or to those persons using test findings for decision-making regarding the client;
- (5) assume the same degree of responsibility for the validity and reliability of interpretive statements and soundness of inferences, judgments, and recommendations based on computer-generated test results as would be assured if the psychologist had personally examined the client; and
- (6) make an explicit statement on the report as to whether the psychologist has seen or examined the client in person. (Authorized by and implementing K.S.A. 74-7507, as amended by L. 1986, Ch. 299, Sec. 42; effective, T-85-35, Dec. 19, 1984; effective May 1, 1985; amended May 1, 1987.)

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## Addiction Counseling Unprofessional Conduct Regulations

**K.A.R. 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~~an individual authorized to practice addiction counseling by the board, or an applicant ~~for an addiction counselor license or a clinical addiction counselor license~~to practice addiction counseling:

(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; or
- (6) has been convicted of a crime.

(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, gender expression, or sexual orientation;

(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~~party, 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, especially in telehealth practice;

(t) engaging in professional activities, including but not limited to, 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 towards one's client, supervisee, or student;

(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; ~~and-~~

(vv) failing to follow appropriate recordkeeping standards as described below:

-(1) each individual authorized to provide addiction counseling must maintain a record for each client that accurately reflects the licensee's contact with the client and the results of the addiction counseling or clinical addiction counseling services provided. Each licensee shall have ultimate responsibility for the content of the licensee's records and the records of those persons under the licensee's supervision. These records may be maintained in a variety of formats, if reasonable steps are taken to maintain the confidentiality, accessibility, and durability of the records. Each record shall be completed in a timely manner and, at a minimum, shall include the following information for each client in sufficient detail to permit planning for continuity of care:

(A) Adequate identifying data;

(B) the date or dates of services that the licensee or the licensee's supervisee provided;

(C) the type or types of services that the licensee or the licensee's supervisee provided;

(D) the initial assessment, conclusions, and recommendations;

(E) the treatment plan; and

(F) the clinical or progress notes from each session.

(2) If a practitioner is the owner or custodian of client records, the practitioner shall retain a complete record for the following time periods, unless otherwise provided by law:

(A) At least six years after the date of termination of one or more contacts with an adult; and

(B) for a client who is a minor on the date of termination of the contact or contacts, at least until the later of the following two dates:

(i) Two years past the date on which the client reaches the age of majority; or

(ii) six years after the date of termination of the contact or contacts with the minor.

(3) If a practitioner is the owner or custodian of the client records, it is the practitioner's responsibility to identify an alternate custodian of their records, in the event they are incapacitated or pass away unexpectedly and there is no other custodian of their records.

(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.)

## Behavior Analyst Unprofessional Conduct Regulations

**102-8-11. Unprofessional conduct.** Each of the following acts shall be considered unprofessional conduct for a licensed assistant behavior analyst, a licensed behavior analyst, or an applicant for an assistant behavior analyst license or a behavior analyst 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 has met any of the following 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; or
  - (4) has violated any provision of the act or any implementing regulation;
  
- (b) knowingly allowing another person to use one's license;
  
- (c) impersonating another person holding a license or registration issued by the board or any other agency;
  
- (d) having been convicted of a crime resulting from or relating to one's professional practice of applied behavior analysis;
  
- (e) knowingly aiding or abetting any individual who is not credentialed by the board to represent that individual as a person who was or is licensed by the board;
  
- (f) 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;
  
- (g) failing or refusing to cooperate within 30 days 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 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;

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

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

(j) discriminating against any client, student, directee, or supervisee on the basis of age, gender, race, culture, ethnicity, national origin, religion, sexual orientation, disability, language, or socioeconomic status;

(k) failing to advise and explain to each client, in understandable language, the respective rights, responsibilities, and duties involved in the licensee's professional relationship with the client;

(l) failing to provide each client, in understandable language, with a description of the services, fees, and payment expectations or failing to reasonably comply with that description;

(m) failing to provide each client, in understandable language, 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;

(n) failing to inform each client, student, or supervisee of any financial interests that might accrue to 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;

(o) 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;

(p) failing to provide copies of reports or records to a licensed healthcare provider authorized by the client following the licensee's receipt of a formal written request, unless the release of that information is restricted or exempted by law or by this article of the board's regulations, or the disclosure of the information would be injurious to the welfare of the client;

(q) 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 the client;

(2) permitting a third-party observation of the licensee's provision of applied behavior analysis services to the client; or

(3) releasing information concerning a client to a third person, unless required or permitted by law;

(r) failing to exercise due diligence in protecting the information regarding the client from disclosure by other persons in one's work or practice setting;

(s) engaging in professional activities, including billing practices and advertising, involving dishonesty, fraud, deceit, or misrepresentation;

(t) revealing information, a confidence, or a secret of any client, or failing to protect the confidences, secrets, or information contained in a client's records, unless at least one of the following conditions is met:

(1) Disclosure is required or permitted by law;

(2) failure to disclose the information presents a serious danger to the health or safety of an individual or the public;

(3) the licensee is a party to a civil, criminal, or disciplinary investigation or action arising from the practice of applied behavior analysis, in which case disclosure shall be limited to that action;  
or

(4) payment for services is needed;

(u) using alcohol or any illegal drug or misusing any substance that could cause impairment while performing the duties or services of a licensee;

(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 any 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 applied behavior analysis;

(aa) actively soliciting any clients of another agency or colleague without attempting to coordinate the continued provision of client services by that agency or colleague; or assuming professional responsibility for any clients of another agency or colleague without attempting to coordinate services for continuity of care. ~~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 the following 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 applied behavior analysis 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 applied behavior analysis services are provided or delivered under supervision;

(oo) failing to report unprofessional conduct of a licensed assistant behavior analyst, a licensed behavior analyst, or any other individual licensed by the board;

(pp) 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;

(qq) offering to perform or performing any service, procedure, treatment, or therapy that, by the accepted standards of applied behavior analysis 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;

(rr) practicing applied behavior analysis after one's license expires; and

(ss) using without a license, or continuing to use after a license has expired, any title or abbreviation defined by regulation.

(ss) directly soliciting testimonials from current clients or stakeholders for use in advertisements to obtain new clients.

(tt) failing to provide each client with a description of the proposed treatment procedures anticipated outcomes and possible risks to the client.

(uu) deriving or soliciting any form of substantial personal monetary profit or substantial personal gain as a result of their professional relationship with clients or relevant parties.

(vv) when entering a relationship with a third party, failure to clarify the nature of the relationship with each party and assess any potential conflicts.

(ww) failure to actively engage in professional development activities to maintain and further professional competence.

(xx) taking on more supervisees and trainees than allows for effective supervision.

(yy) when supervising and training, failing to incorporate and address topics related to diversity.

(zz) when supervising and training, failing to ensure that supervisees and trainees are competent to perform delegated tasks.

(aaa) failure to follow appropriate standard for recordkeeping, as described below:

(1)-Each licensed assistant behavior analyst and each licensed behavior analyst shall maintain a record for each client that accurately reflects the licensee's contact with the client and the client's progress.

Each licensee shall have ultimate responsibility for the content of the licensee's records and the records of those persons under the licensee's supervision. These records may be maintained in a variety of formats, if reasonable steps are taken to maintain the confidentiality, accessibility, and durability of the records. Each record shall be completed in a timely manner and, at a minimum, shall include the following information for each client in sufficient detail to permit planning for continuity of care:

(A) Adequate identifying data;

(B) the date or dates of services that the licensee or the licensee's supervisee provided;

(C) the type or types of services that the licensee or the licensee's supervisee provided;

(D) the initial assessment, conclusions, and recommendations;

(E) the treatment plan; and

(F) the clinical or progress notes from each session.

(2) If a licensee is the owner or custodian of client records, the licensee shall retain a complete record for the following time periods, unless otherwise provided by law:

(A) For an adult, at least six years after the date of termination of one or more contacts; and

(B) for a client who is a minor on the date of termination of the contact or contacts, at least until the later of the following two dates:

(i) Two years past the date on which the client reaches the age of 18; or

(ii) six years after the date of termination of the contact or contacts with the minor.

(Authorized by K.S.A. 2015 Supp. 65-7505; implementing K.S.A. 2015 Supp. 65-7504 and 65-7505; effective, T-102-6-29-16, June 29, 2016; effective Nov. 14, 2016.)



## Licensed Psychology Unprofessional Conduct Regulations

**K.A.R. 102-1-10a. Unprofessional conduct.** Each of the following shall be considered unprofessional conduct:

(a) Practicing psychology in an incompetent manner, which shall include the following acts:

- (1) Misrepresenting professional competency by offering to perform services that are inconsistent with the licensee's education, training, or experience;
- (2) performing professional services that are inconsistent with the licensee's education, training, or experience; and
- (3) without just cause, failing to provide psychological services that the licensee is required to provide under the terms of a contract;

(b) practicing with impaired judgment or objectivity, which shall include the following acts:

- (1) Using alcohol or other substances to the extent that it impairs the psychologist's ability to competently engage in the practice of psychology; and
- (2) failing to recognize, seek intervention, and make arrangements for the care of clients if one's own personal problems, emotional 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;

(c) engaging in harmful dual relationships, which shall include the following acts:

- (1) Making sexual advances toward or engaging in physical intimacies or sexual activities with either of the following:
  - (A) Any person who is a client, supervisee, or student; or
  - (B) any person that the licensee knows who has a significant relationship with the client, supervisee, or student;
- (2) failing to inform the client or patient of any financial interests that might accrue to the licensed psychologist for referral to any other service or for the sale, promotion, or use of any tests, books, electronic media, or apparatus; and
- (3) exercising undue influence over any client;

(d) making sexual advances toward or engaging in physical intimacies or sexual activities with, or exercising undue influence over any person who, within the past 24 months, has been a client;

(e) failing to obtain informed consent, which shall include the following acts:

- (1) Failing to obtain and document, in a timely manner, informed consent from the client or legally authorized representative for clinical psychological services before the provision of any of these services except in an emergency situation. This informed consent shall include a description of the possible effects of treatment or procedures when there are known risks to the client or patient;
- (2) failing to provide clients or patients with a description of what the client or patient may expect in the way of tests, consultation, reports, fees, billing, and collection; ~~and~~
- (3) failing to inform clients or patients when a proposed treatment or procedure is experimental; and

(4) failing to inform the client of the limit of a professional relationship and the requirements imposed by other parties.

(f) ignoring client welfare, which shall include the following acts:

- (1) Failing to provide copies of reports or records to a licensed healthcare provider authorized by the client following the licensee's receipt of a formal written request, unless the release of that information is restricted or exempted by law or by these regulations, or the disclosure of the information would be injurious to the welfare of the client;
- (2) failing to inform the client or patient that the client or patient is entitled to the same services from a public agency if the licensed psychologist is employed by that public agency and also offers services privately;
- (3) engaging in behavior that is abusive or demeaning to a client, student, or supervisee;
- (4) soliciting or agreeing to provide services to prospective clients or patients who are already receiving mental health services elsewhere without openly discussing issues of disruption of continuity of care with the prospective client or patient, or with other legally authorized persons who represent the client or patient, and when appropriate, consulting with the other service provider about the likely effect of a change of providers on the client's general welfare;
- (5) failing to take each of the following steps before termination for whatever reason, unless precluded by the patient's or client's relocation or noncompliance with the treatment regimen:
  - (A) Discuss the patient's or client's views and needs;
  - (B) provide appropriate pretermination counseling;
  - (C) suggest alternative service providers, as appropriate; and
  - (D) take other reasonable steps to facilitate the transfer of responsibility to another provider if the patient or client needs one immediately;
- (6) failing to arrange for another psychologist or other appropriately trained mental health professional to be available to handle clinical emergencies if the psychologist anticipates being unavailable for a significant amount of time;
- (7) failing to be available for the timely handling of clinical emergencies after having agreed to provide coverage for another psychologist;
- (8) failing to terminate a professional relationship if it becomes reasonably clear that the patient or client no longer needs the service, is not benefiting from continued service, or is being harmed by continued service;
- (9) failing to delegate to employees, supervisees, and research assistants only those responsibilities that these persons can reasonably be expected to perform competently on the basis of their education, training, or experience, either independently or with the level of supervision being provided;
- (10) failing to provide training and supervision to employees or supervisees and to take reasonable steps to see that these persons perform services responsibly, competently, and ethically; and
- (11) continuing to use or order tests, procedures, or treatment, or to use treatment facilities or services not warranted by the client's or patient's condition;

(g) failing to protect confidentiality or privacy, which ~~shall~~may include, but is not limited to, the following acts:

- (1) Failing to inform each client, supervisee, or student of the limits of client confidentiality, the purposes for which the information may be obtained, and the manner in which it may be used;

(2) revealing any information regarding a client or failing to protect information contained in a client's records, unless at least one of these conditions is met:

(A) Disclosure is required or permitted by law;

(B) failure to disclose the information presents a clear and present danger to the health and safety of an individual or the public;

(C) the psychologist is a party to a civil, criminal, or disciplinary investigation or action arising from the practice of psychology, in which case disclosure shall be limited to that action; or

(D) the patient has signed a written release that authorizes the psychologist to release information to a specific person or persons identified in the release; ~~and/or~~

(3) failing to obtain written, informed consent from each client or the client's legal representative or representatives or from any other participant before performing either of the following actions:

(A) Electronically recording sessions with the client, or other participants, including audio and video recordings; or

(B) permitting third-party observation of the activities of the client or participant;

(h) misrepresenting the services offered or provided, which shall include the following acts:

(1) Failing to inform a client if services are provided or delivered under supervision;

(2) making claims of professional superiority that cannot be substantiated;

(3) guaranteeing that satisfaction or a cure will result from the performance of professional services;

(4) knowingly engaging in fraudulent or misleading advertising; and

(5) taking credit for work not personally performed;

(i) engaging in improprieties with respect to fees and billing statements, which shall include the following acts:

(1) Exploiting clients or payers with respect to fees;

(2) misrepresenting one's fees;

(3) failing to inform a patient or client who fails to pay for services as agreed that collection procedures may be implemented, including the possibility that a collection agency may be used or legal measures may be taken; and

(4) filing claims for services that were not rendered;

(j) improperly using assessment procedures, which shall include the following acts:

(1) Basing assessment, intervention, or recommendations on test results and instruments that are inappropriate to the current purpose or to the patient characteristics;

(2) failing to identify situations in which particular assessment techniques or norms may not be applicable or failing to make adjustments in administration or interpretation because of relevant factors, including gender, age, race, and other pertinent factors;

(3) failing to indicate significant limitations to the accuracy of the assessment findings;

(4) failing to inform individuals or groups at the outset of an assessment that the psychologist is precluded by law or by organizational role from providing information about results and conclusions of the assessment;

(5) endorsing, filing, or submitting psychological assessments, recommendations, reports, or diagnostic statements on the basis of information and techniques that are insufficient to substantiate those findings;

(6) releasing raw test results or raw data either to persons who are not qualified by virtue of education, training, or supervision to use that information or in a manner that is inappropriate to the needs of the patient or client; and

(7) allowing, endorsing, or supporting persons who are not qualified by virtue of education, training, or supervision to administer or interpret psychological assessment techniques;

(k) violating applicable law, which shall include the following acts:

(1) Impersonating another person holding a license issued by this or any other board;

(2) claiming or using any method of treatment or diagnostic technique that the licensed psychologist refuses to divulge to the board;

(3) refusing to cooperate in a timely manner with the board's investigation of complaints lodged against an applicant or a psychologist licensed by the board. Any psychologist taking longer than 30 days to provide requested information shall have the burden of demonstrating that the psychologist has acted in a timely manner; and

(4) being convicted of a crime resulting from or relating to the licensee's professional practice of psychology;

(l) aiding an illegal practice, which shall include the following acts:

(1) Knowingly allowing another person to use one's license;

(2) knowingly aiding or abetting anyone who is not ~~credentialed~~ authorized to practice by the board to represent that individual as a person credentialed by the board;

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

(4) making a materially false statement or failing to disclose a material fact in an application for licensure or renewal of licensure; and

(5) failing to notify the board, within a reasonable period of time, that any of the following conditions apply to the psychologist or that the psychologist has knowledge, not obtained in the context of confidentiality, that any of the following conditions apply to another professional regulated by the board:

(A) A licensee has had a license, certificate, permit, registration, or other certificate, registration, or license in psychology or in the field of behavioral sciences, granted by any state or jurisdiction, that has been limited, restricted, suspended, or revoked;

(B) a licensee has been subject to disciplinary action by a licensing or certifying authority or professional association;

(C) a licensee has been terminated or suspended from employment for some form of misfeasance, malfeasance, or nonfeasance;

(D) a licensee has been convicted of a felony; or

(E) a licensee has practiced in violation of the laws or regulations regulating the profession;

A psychologist taking longer than 30 days to notify the board shall have the burden of demonstrating that the psychologist acted within a reasonable period of time;

(m) ~~failing to maintain and retain records as outlined in K.A.R. 102-1-20~~ failing to exercise professional conduct regarding recordkeeping by committing any of the following acts:

(1) failing to maintain a record for each client or patient that accurately reflects the licensee's contact with the client or patient and the results of the psychological service provided. Each

licensee shall have ultimate responsibility for the content of the licensee's records and the records of those persons under the licensee's supervision. The record may be maintained in a variety of media, if reasonable steps are taken to maintain confidentiality, accessibility, and durability. Each record shall be completed in a timely manner and shall include the following information for each client or patient who is a recipient of clinical psychological services:

(A) Adequate identifying data;

(B) the date or dates of services the licensee or the licensee's supervisee provided;

(C) the type or types of services the licensee or the licensee's supervisee provided;

(D) initial assessment, conclusions, and recommendations;

(E) a plan for service delivery or case disposition;

(F) clinical notes of each session; and

(G) sufficient detail to permit planning for continuity that would enable another psychologist to take over the delivery of services.

(2) If a licensee is the owner or custodian of client or patient records, failing to retain a complete record for the following time periods, unless otherwise provided by law:

(A) At least five years after the date of termination of one or more contacts with an adult; and

(B) for a client or patient who is a minor on the date of termination of the contact or contacts, at least until the later of the following two dates:

(i) Two years past the age of majority; or

(ii) five years after the date of termination of the contact or contacts with the minor; and

(3) If a licensee is the owner or custodian of client or patient records, failing to identify a repository for client records, should the psychologist become incapacitated or unable to access their records.

(n) improperly engaging in research with human subjects, which shall include the following acts:

(1) Failing to consider carefully the possible consequences for human beings participating in the research;

(2) failing to protect each participant from unwarranted physical and mental harm;

(3) failing to ascertain that the consent of the participant or the participant's representative, and assent of a minor participant, is voluntary and informed; and

(4) failing to preserve the privacy and protect the anonymity of the subjects within the terms of informed consent;

(o) engaging in improprieties with respect to forensic practice, which shall include the following acts:

(1) When conducting a forensic examination, failing to inform the examinee of the purpose of the examination and the difference between a forensic examination and a therapeutic relationship, and informing them of the scope of the assessment procedures;

(2) in the course of giving expert testimony in a legal proceeding, performing a psychological assessment in a biased, nonobjective, or unfair manner or without adequate substantiation of the findings;

(3) failing to conduct forensic examinations in conformance with established scientific and professional standards; and

(4) if a prior professional relationship with a party to legal proceeding precludes objectivity, failing to report this prior relationship and to clarify in both written report and actual testimony the possible impact of this prior relationship on the resulting conclusions and recommendations;

and

(p) engaging in improprieties with respect to supervision, which shall include the following acts:

(1) Failing to provide supervision in compliance with subsection (d) of K.A.R. 102-1-5a;

(2) failing to provide supervision to a person working towards licensure as a clinical psychotherapist in compliance with KAR 102-4-7a; and

(3) failing to provide regular, periodic, written supervisory feedback to the supervisee.

(Authorized by and implementing K.S.A. 2000 74-7507 and K.S.A. 74-5324; effective Jan. 4, 2002; amended Jan. 9, 2004.)

## Marriage and Family Therapy Unprofessional Conduct Regulations

**K.A.R. 102-5-12. Unprofessional conduct.** (a) Any license may be suspended, limited, conditioned, qualified, restricted, revoked, not issued, or not renewed upon a finding by the board that unprofessional conduct has occurred.

(b) Any of the following acts by either a marriage and family therapy licensee or a marriage and family therapy licensure applicant shall constitute unprofessional conduct:

(1) Obtaining or attempting to obtain a license or registration for oneself or another by engaging in fraud, bribery, deceit, misrepresentation, or by concealing a material fact;

(2) 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:

(A) 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;

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

(C) 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;

(D) has been convicted of a crime; or

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

(3) knowingly allowing another person to use one's license or registration;

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

(5) having been convicted of a crime resulting from or relating to one's professional practice of marriage and family therapy;

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

(7) 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;

(8) 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;

(9) 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. Any 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;

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

(11) treating any client, student, or supervisee in a cruel manner;

(12) discriminating against any client, student, or supervisee on the basis of color, race, age, gender, gender identity, religion, ethnicity, national origin, ~~or~~ disability, health status, sexual orientation, relationship status, socioeconomic status, or status in any other marginalized group;

(13) failing to advise and explain to each client the respective rights, responsibilities, and duties involved in the marriage and family therapy relationship;

(14) failing to provide each client with a description of what the client can expect in the way of services, consultation, reports, fees, billing, therapeutic regimen, or schedule, or failing to reasonably comply with that description;

(15) failing to provide each client with a description of the possible effects of the proposed treatment when the treatment is experimental or when there are clear and known risks to the client;

(16) 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;

(17) failing to inform each client that the client is entitled to the same services from a public agency if one is employed by that public agency and also offers services privately;

(18) failing to inform each client, student, or supervisee of the limits of client confidentiality, the purposes for which the information is obtained, and the manner in which the information may be used;



(19) revealing information, a confidence, or secret of any client, or failing to protect the confidences, secrets, or information contained in a client's records, except when at least one of these conditions is met:

(A) Disclosure is required or permitted by law;

(B) failure to disclose the information presents a clear and present danger to the health or safety of an individual or the public;

(C) the licensee or applicant is a party to a civil, criminal, or disciplinary investigation or action arising from the practice of marriage and family therapy, in which case disclosure is limited to that action; or

(D) the criteria provided by K.S.A. 65-6410, and amendments thereto, are met;

(20) failing to obtain written, informed consent from each client, or the client's legal representative or representatives, before performing any of these actions:

(A) Electronically recording sessions with that client;

(B) permitting a third-party observation of their activities; or

(C) releasing information concerning a client to a third person, except as required or permitted by law;

(21) failing to protect the confidences of, secrets of, or information concerning other persons when providing a client with access to that client's records;

(22) failing to exercise due diligence in protecting the information regarding and the confidences and secrets of the client from disclosure by other persons in one's work or practice setting;

(23) engaging in professional activities, including billing practices and advertising, involving dishonesty, fraud, deceit, or misrepresentation;

(24) using alcohol or illegally using any controlled substance while performing the duties or services of a marriage and family therapist;

(25) making sexual advances toward or engaging in physical intimacies or sexual activities with one's client, student, or supervisee;

(26) making sexual advances toward, engaging in physical intimacies or sexual activities with, or exercising undue influence over any person who ~~has ever, within the past 24 months, has~~ been one's client;

(27) exercising undue influence over any client, student, or supervisee, including promoting sales of services or goods, in a manner that will exploit the client, student, or supervisee for the financial gain, personal gratification, or advantage of oneself or a third party;

(28) 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;

(29) 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 marriage and family therapy;

(30) 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;

(31) making claims of professional superiority that one cannot substantiate;

(32) guaranteeing that satisfaction or a cure will result from performing or providing any professional service;

(33) claiming or using any secret or special method of treatment or techniques that one refuses to disclose to the board;

(34) continuing or ordering tests, procedures, or treatments or using treatment facilities or services not warranted by the client's condition, best interests, or preferences;

(35) taking credit for work not personally performed, whether by giving inaccurate or misleading information or by failing to disclose accurate or material information;

(36) if engaged in research, failing to fulfill these requirements:

(A) Consider carefully the possible consequences for human beings participating in the research;

(B) protect each participant from unwarranted physical and mental harm;

(C) ascertain that each participant's consent is voluntary and informed; and

(D) preserve the privacy and protect the anonymity of each subject of the research within the terms of informed consent;

(37) making or filing a report that one knows to be false, distorted, erroneous, incomplete, or misleading;

(38) failing to notify the client promptly when one anticipates terminating or interrupting service to the client;

(39) 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;

(40) abandoning employment under circumstances that seriously impair the delivery of professional care to clients and without providing reasonable notice to the employer;

- (41) failing to terminate marriage and family therapy services when it is apparent that the relationship no longer serves the client's needs or best interests;
- (42) supervising in a negligent manner anyone for whom one has supervisory responsibility;
- (43) when applicable, failing to inform a client that marriage and family therapy services are provided or delivered under supervision;
- (44) engaging in a dual relationship with a client, student, or supervisee;
- (45) failing to inform the proper authorities as required by K.S.A. 38-2223, and amendments thereto, that one knows or has reason to believe that a client has been involved in harming or has harmed a child, whether by physical, mental, or emotional abuse or neglect or by sexual abuse;
- (46) failing to inform the proper authorities as required by K.S.A. 39-1402, and amendments thereto, that one knows or has reason to believe that any of the following circumstances apply to a resident, as defined by K.S.A. 39-1401(a) and amendments thereto:
- (A) Has been or is being abused, neglected, or exploited;
  - (B) is in a condition that resulted from abuse, neglect, or exploitation; or
  - (C) needs protective services;
- (47) failing to inform the proper authorities as required by K.S.A. 39-1431, and amendments thereto, that one knows or has reason to believe that any of the following circumstances apply to an adult, as defined in K.S.A. 39-1430 and amendments thereto:
- (A) Is being or has been abused, neglected, or exploited;
  - (B) is in a condition that is the result of abuse, neglect, or exploitation; or
  - (C) needs protective services;
- (48) 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;
- (49) offering to perform or performing any service, procedure, or therapy that, by the accepted standards of marriage and family therapy 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;
- (50) practicing marriage and family therapy in an incompetent manner;
- (51) practicing marriage and family therapy after one's license expires;
- (52) using without a license or continuing to use after a license has expired any title or abbreviation prescribed by law to be used solely by persons who currently hold that type or class

of license; or

(53) violating any provision of this act or any regulation adopted under the act;

(54) practicing inappropriate boundaries with clients with regards to the use of social media, including but not limited to, using a personal profile to connect or communicate with clients on any social media platform;

(55) disclosing confidential information through public social media; or

(56) failure to follow appropriate standards or recordkeeping, as described below:

-(A) Content of marriage and family therapy or clinical marriage and family therapy records. Each licensed marriage and family therapist or clinical marriage and family therapist shall maintain a record for each client or client system that accurately reflects the licensee's contact with the client or client system and the results of the marriage and family therapy or clinical marriage and family therapy services provided. Each licensee shall have ultimate responsibility for the content of the licensee's records and the records of those persons under the licensee's supervision. These records may be maintained in a variety of media, if reasonable steps are taken to maintain confidentiality, accessibility, and durability. Each record shall be completed in a timely manner and shall include the following information for each client or client system:

(1) Adequate identifying data;

(2) the date or dates of services that the licensee or the licensee's supervisee provided;

(3) the type or types of services that the licensee or the licensee's supervisee provided;

(4) the initial assessment, conclusions, and recommendations;

(5) a plan for service delivery or case disposition;

(6) the clinical notes from each session; and

(7) sufficient detail to permit planning for continuity that would enable another marriage and family therapist or clinical marriage and family therapist to take over the delivery of services.

(B) Retention of records. If a licensee is the owner or custodian of client or client system records, the licensee shall retain a complete record for the following time periods, unless otherwise provided by law:

(1) At least six years after the date of termination of one or more contacts with an adult; and

(2) for a client who is a minor on the date of termination of the contact or contacts, at least until the later of the following two dates:

(i) Two years past the date on which the client reaches the age of majority; or

(ii) six years after the date of termination of the contact or contacts with the minor.

(Authorized by K.S.A. 65-6408 and K.S.A. 2007 Supp. 74-7507; implementing K.S.A. 65-6408; effective March 29, 1993; amended Dec. 19, 1997; amended July 11, 2003; amended Jan. 9, 2004; amended Aug. 8, 2008.)

## Master's Level Psychology Unprofessional Conduct Regulations

**K.A.R. 102-4-12. Unprofessional conduct.** (a) Any license may be suspended, limited, conditioned, qualified, restricted, revoked, not issued, or not renewed upon a finding that unprofessional conduct has occurred.

(b) Any of the following acts by a licensed master's level psychologist, a licensed clinical psychotherapist, or an applicant for licensure at the master's level of psychology shall constitute unprofessional conduct:

(1) Obtaining or attempting to obtain a license or registration for oneself or another by means of fraud, bribery, deceit, misrepresentation, or concealment of a material fact;

(2) except when such information has been obtained in the context of confidentiality, failing to notify the board, within a reasonable period of time, that any person regulated by the board or applying for a license or registration, including oneself, has met any of the following conditions:

(A) 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;

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

(C) 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;

(D) has been convicted of a crime; or

(E) has practiced the licensee's or registrant's profession in violation of the laws or regulations regulating the profession;

(3) knowingly allowing another person to use one's license or registration;

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

(5) having been convicted of a crime resulting from or relating to the licensee's practice of master's level psychology;

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

(7) knowingly aiding or abetting anyone who is not credentialed by the board to represent that individual as a person who is ~~credentialed~~ authorized to practice by the board;

(8) 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;

(9) 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. Any 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;

(10) offering to perform or performing services clearly inconsistent or incommensurate with one's training, education, or experience or with accepted professional standards, including, but not limited to, telehealth practice;

(11) treating any client, student, or supervisee in a cruel manner;

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

(13) failing to advise and explain to each client the respective rights, responsibilities, and duties involved in the professional relationship;

(14) failing to provide each client with a description of what the client can expect in the way of services, consultation, reports, fees, billing, therapeutic regimen, ~~or~~ schedule, the availability of and limitations of telehealth services, as well as the availability of after-hours crisis resources, or failing to reasonably comply with the description;

(15) failing to provide each client with a description of the possible effects of the proposed treatment when the treatment is experimental or when there are clear and known risks to the client;

(16) failing to inform each client, supervisee, or student of any financial interests that might accrue to the master's level psychologist or clinical psychotherapist from referral to any other service or from the use of any tests, books, or apparatus;

(17) failing to inform each client that the client is entitled to the same services from a public agency if one is employed by that public agency and also offers services privately;

(18) failing to provide each client or the client's legal representative with access to the client's records following the receipt of a formal written request, unless the release of this information is restricted or exempted by law, or when the disclosure of this information is precluded for a sufficiently compelling reason;

(19) failing to inform each client, supervisee, or student of the limits of client confidentiality, the purposes for which the information is obtained, and the manner in which the information may be used;

(20) revealing information, a confidence, or secret of any client, or failing to protect the confidences, secrets, or information contained in a client's records, except when at least one of these conditions is met:

(A) Disclosure is required or permitted by law;

(B) failure to disclose the information presents a clear and present danger to the health or safety of an individual or the public; or

(C) the master's level psychologist or clinical psychotherapist is a party to a civil, criminal, or disciplinary investigation or action arising from the practice of psychology, in which case disclosure is limited to that action;

(21) failing to obtain written, informed consent from each client, or the client's legal representative or representatives, before performing any of the following actions:

(A) Electronically recording sessions with that client;

(B) permitting a third-party observation of their activities; or

(C) releasing information concerning a client to a third person, except as required or permitted by

law;

(22) failing to protect ~~the confidences of confidential information, secrets of, or information~~ concerning other persons when providing ~~a client with~~ access to that client's records;

(23) failing to exercise due diligence in protecting the information regarding and the confidences ~~and secrets~~ of the client from disclosure by other persons in one's work or practice setting;

(24) engaging in professional activities, including but not limited to, billing practices and advertising, involving dishonesty, fraud, deceit, or misrepresentation;

(25) using alcohol or illegally using any controlled substance while performing the duties or services of a master's level psychologist or clinical psychotherapist;

(26) making sexual advances toward or engaging in physical intimacies or sexual activities with one's client, supervisee, or student;

(27) making sexual advances toward, engaging in physical intimacies or sexual activities with, or exercising undue influence over any person who, within the past 24 months, has been one's client, student, or supervisee;

(28) exercising undue influence over any client, supervisee, or student, including promoting sales of services or goods, in a manner that will exploit the client, student, or supervisee for the financial gain, personal gratification, or advantage of oneself or a third party;

(29) 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 the referral of the client or in connection with the performance of psychological or other professional services;

(30) directly receiving or agreeing to receive a fee or any other consideration from a client or from any third party for or in connection with the performance of psychological services, other than from an authorized employer in an employment situation as specified in this act;

(31) soliciting or assuming professional responsibility for clients of another agency or colleague without attempting to coordinate continuity of client services with that agency or colleague;

(32) making claims of professional superiority that one cannot substantiate;

(33) guaranteeing that satisfaction or a cure will result from the performance of psychological services;

(34) claiming or using any secret or special method of treatment or techniques that one refuses to disclose to the board;

(35) continuing or ordering tests, procedures, or treatments or using treatment facilities or services not warranted by the condition, best interests, or preferences of the client;

(36) failing to maintain a record for each client that conforms to the following minimal requirements:

(A) Contains adequate identification of the client;

(B) indicates the client's initial reason for seeking the master's level psychologist's or clinical psychotherapist's services;

(C) contains pertinent and significant information concerning the client's condition;

(D) summarizes the intervention, treatment, tests, procedures, and services that were obtained, performed, ordered, or recommended and the findings and results of each;

(E) documents the client's progress during the course of intervention or treatment provided by the master's level psychologist or clinical psychotherapist;

(F) is legible;

- (G) contains only those terms and abbreviations that are comprehensible to similar professional practitioners;
- (H) indicates the date, ~~and~~ nature, and method of delivery of any professional service that was provided; and
- (I) describes the manner and process by which the professional relationship terminated;
- (37) taking credit for work not personally performed, whether by giving inaccurate or misleading information or by failing to disclose accurate or material information;
- (38) if engaged in research, failing to fulfill these requirements:
- (A) Consider carefully the possible consequences for human beings participating in the research;
- (B) protect each participant from unwarranted physical and mental harm;
- (C) ascertain that the consent of each participant is voluntary and informed; and
- (D) preserve the privacy and protect the anonymity of each subject of the research within the terms of informed consent;
- (39) making or filing a report that one knows to be false, distorted, erroneous, incomplete, or misleading;
- (40) failing to notify the client promptly when termination or interruption of service to the client is anticipated;
- (41) 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;
- (42) abandoning employment under circumstances that seriously impair the delivery of professional care to clients and without providing reasonable notice to the employer;
- (43) failing to terminate the master's level psychology or clinical psychotherapy services when it is apparent that the relationship no longer serves the client's needs or best interests;
- (44) if the master's level psychologist or clinical psychotherapist is the owner or custodian of client records, failing to retain those records for at least two years after the date of termination of the professional relationship, unless otherwise provided by law;
- (45) supervising in an unprofessional or potentially harmful ~~negligent~~ manner anyone for whom one has supervisory responsibility;
- (46) failing to inform a client if master's level psychology or clinical psychotherapy services are provided or delivered under supervision;
- (47) engaging in a dual relationship with a client, student, or supervisee;
- (48) failing to inform the proper authorities as required by K.S.A. 38-2223, and amendments thereto, that one knows or has reason to believe that a client has been involved in harming or has harmed a child, whether by physical, mental, or emotional abuse or neglect or by sexual abuse;
- (49) failing to inform the proper authorities as required by K.S.A. 39-1402, and amendments thereto, that one knows or has reason to believe that any of the following circumstances apply to a resident, as defined by K.S.A. 39-1401(a) and amendments thereto:
- (A) Has been or is being abused, neglected, or exploited;
- (B) is in a condition that is the result of abuse, neglect, or exploitation; or
- (C) is in need of protective services;
- (50) failing to inform the proper authorities as required by K.S.A. 39-1431, and amendments thereto, that one knows or has reason to believe that any of the following circumstances apply to an adult, as defined in K.S.A. 39-1430 and amendments thereto:



- (A) Is being or has been abused, neglected, or exploited;
- (B) is in a condition that is the result of abuse, neglect, or exploitation; or
- (C) is in need of protective services;
- (51) ~~intentionally or negligently~~ failing to file a report or record required by state or federal law, willfully impeding or obstructing the filing of a report or record required by state or federal law, or inducing another person to take any of those actions;
- (52) offering to perform or performing any service, procedure, or therapy that, by the accepted standards of professional 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;
- (53) practicing master's level psychology or clinical psychotherapy in an incompetent manner;
- (54) practicing as a master's level psychologist or clinical psychotherapist after one's license expires;
- (55) using without a license, or continuing to use after the expiration of a license, any title or abbreviation prescribed by law for use solely by persons currently holding that type or class of license;
- (56) offering to provide or providing services in an employment situation other than that which is permitted by K.S.A. 74-5362, and amendments thereto, as an independent, contract, or private provider of psychological services;
- (57) practicing without adequate direction from a person authorized in K.S.A. 74-5362 and amendments thereto; and
- (58) violating any provision of this act or any regulation adopted under the act. (Authorized by K.S.A. 2007 Supp. 74-7507; implementing K.S.A. 74-5362 and K.S.A. 2007 Supp. 74-5369; effective Dec. 19, 1997; amended Jan. 9, 2004; amended Aug. 8, 2008.)

## Professional Counseling Unprofessional Conduct Regulations

**K.A.R. 102-3-12a. Unprofessional conduct.** (a) Any license may be suspended, limited, conditioned, qualified, restricted, revoked, not issued, or not renewed upon a finding of unprofessional conduct.

(b) Any of the following acts by a licensed professional counselor, a licensed clinical professional counselor, or an applicant for a professional counselor license or a clinical professional counselor license shall constitute unprofessional conduct:

(1) Obtaining or attempting to obtain a license or registration for oneself or another by means of fraud, bribery, deceit, misrepresentation, or concealment of a material fact;

(2) except when the information has been obtained in the context of confidentiality, failing to notify the board, within a reasonable period of time, that any of the following circumstances apply to any person regulated by the board or applying for a license or registration, including oneself:

(A) 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;

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

(C) 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;

(D) has been convicted of a crime; or

(E) has practiced the licensee's or registrant's profession in violation of the laws or regulations regulating the profession;

(3) knowingly allowing another person to use one's license or registration;

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

(5) having been convicted of a crime resulting from or relating to the licensee's professional practice of professional counseling or clinical professional counseling;

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

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

(8) 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;

(9) 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. Any 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;

(10) offering to perform or performing professional counseling, assessments, consultations, or referrals clearly inconsistent or incommensurate with one's training, education or experience or with accepted professional standards;

(11) treating any client, student, directee, or supervisee in an cruel-unprofessional or unethical manner;

(12) discriminating against any client, student, directee, or supervisee on the basis of ~~color, race, gender, religion, national origin, or disability~~ age, culture, disability, ethnicity, race, religion/spirituality, gender, gender identity, sexual orientation, marital/partnership status, language preference, socioeconomic status, immigration status, or any basis proscribed by law;

(13) failing to advise and explain to each client the respective rights, responsibilities, and duties involved in the professional counseling relationship;

(14) failing to provide each client with a description of what the client can expect in the way of services, consultation, reports, fees, billing, and therapeutic regimen or schedule, or failing to reasonably comply with the description;

(15) failing to provide each client with a description of the possible effects of the proposed treatment when the treatment is experimental or when there are clear and known risks to the client;

(16) failing to inform each client, student, directee, or supervisee of any financial interests that might accrue to the professional counselor or clinical professional counselor from a referral to any other service or from using any tests, books, or apparatus;

(17) failing to inform each client that the client is entitled to the same services from a public agency if the professional counselor or clinical professional counselor is employed by that public agency and also offers services privately;

(18) failing to inform each client, student, directee, or supervisee of the limits of client confidentiality, the purposes for which the information is obtained, and the manner in which the information may be used;

(19) revealing information, a confidence, or a secret of any client, or failing to protect the confidences, secrets, or information contained in a client's records, except when at least one of these conditions is met:

(A) Disclosure is required or permitted by law;

(B) failure to disclose the information presents a clear and present danger to the health or safety of an individual or the public; or

(C) the professional counselor or clinical professional counselor is a party to a civil, criminal, or disciplinary investigation or action arising from the practice of professional counseling or clinical professional counseling, in which case disclosure is limited to that action;

(20) failing to obtain written, informed consent from each client, or the client's legal representative or representatives, before performing any of these actions:

(A) Electronically recording sessions with that client;

(B) permitting a third-party observation of their activities; or

(C) releasing information concerning a client to a third person, except as required or permitted by law;

(21) failing to protect confidences of, secrets of, or information concerning other persons when providing a client with access to that client's records;

(22) failing to exercise due diligence in protecting the information regarding and the confidences and secrets of the client from disclosure by other persons in one's work or practice setting;

(23) engaging in professional activities, including but not limited to, billing practices and advertising, involving dishonesty, fraud, deceit, or misrepresentation;

(24) ~~using alcohol or illegally using a controlled substance~~ being under the influence of any substance that impairs professional judgment while performing the duties or services of a professional counselor or clinical professional counselor;

(25) making sexual advances toward or engaging in physical intimacies or sexual activities with one's ~~client~~, active student, directee, or supervisee;

(26) making sexual advances toward, engaging in physical intimacies or sexual activities with, or exercising undue influence over any person who is one's active client or, within the past 24-60 months, has been one's client;

(27) exercising undue influence over any client, student, directee, or supervisee, including promoting sales of services or goods, in a manner that will exploit the client, student, directee, or

supervisee for the financial gain, personal gratification, or advantage of oneself or a third party;

(28) 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 the referral of the client or in connection with performing professional counselor or clinical professional counselor services;

(29) permitting any person to share in the fees for professional services, other than a partner, employee, associate in a professional firm, or consultant authorized to practice as a professional counselor or clinical professional counselor;

(30) soliciting or assuming professional responsibility for clients of another agency or colleague without attempting to coordinate continuity of client services with that agency or colleague;

(31) making claims of professional superiority that one cannot substantiate;

(32) guaranteeing that satisfaction or a cure will result from the performance of professional services;

(33) claiming or using any ~~secret or special method of~~ untested or experimental treatment or techniques that one refuses to disclose to the board;

(34) ~~continuing-requesting, providing,~~ or ordering ~~testsassessments~~, procedures, or treatments or using treatment facilities or services not warranted by the condition, best interests, or preferences of the client;

(35) failing to maintain a record for each client that conforms to the following minimal requirements:

(A) Contains adequate identification of the client;

(B) indicates the client's initial reason for seeking the services of the professional counselor or clinical professional counselor;

(C) contains pertinent and significant information concerning the client's condition;

(D) summarizes the interventions, treatments, ~~testsassessments~~, procedures, and services that were obtained, performed, ordered, requested, or recommended and the findings and results of each;

(E) documents the client's progress during the course of intervention or treatment provided by the professional counselor;

(F) is legible;

(G) contains only those terms and abbreviations that are comprehensible to similar professional practitioners;

(H) indicates the date and nature of any professional service that was provided; and

(I) describes the manner and process by which the professional counseling or clinical professional counseling relationship terminated;

(36) taking credit for work not personally performed, whether by giving inaccurate or misleading information or failing to disclose accurate or material information;

(37) if engaged in research, failing to fulfill these requirements:

(A) Consider carefully the possible consequences for human beings participating in the research;

(B) protect each participant from unwarranted physical and mental harm;

(C) ascertain that the consent of each participant is voluntary and informed; and

(D) preserve the privacy and protect the anonymity of each subject of the research within the terms of informed consent, while ensuring privacy and informed consent;

(38) making or filing a report that one knows to be false, distorted, erroneous, incomplete, or misleading;

(39) failing to notify the client promptly when termination or interruption of service to the client is anticipated;

(40) 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;

(41) abandoning employment under circumstances that seriously impair the delivery of professional care to clients and without providing reasonable notice to the employer;

(42) failing to terminate the professional counseling or clinical professional counseling services when it is apparent that the relationship no longer serves the client's needs or best interests;

(43) if the professional counselor or clinical professional counselor is the owner or custodian of client records, failing to retain these records for at least five years after the date of termination of the professional relationship, unless otherwise provided by law. Timeframes for record retention for adults and minors should be consistent with state law;

(44) supervising or directing in a harmful or negligent manner anyone for whom one has supervisory or directory responsibility due to their position as a supervisee or student;

(45) failing to inform a client if professional counseling services are provided or delivered under supervision or direction;

(46) engaging in a dual relationship with a client, student, or supervisee;

(47) failing to inform the proper authorities as provided in K.S.A. 38-2223, and amendments thereto, that one knows or has reason to believe that a client has been involved in harming or has harmed a child, whether by physical, mental, or emotional abuse or neglect or by sexual abuse;

(48) failing to inform the proper authorities as required by K.S.A. 39-1402, and amendments thereto, that one knows or has reason to believe that any of the following circumstances apply to a resident, as defined by K.S.A. 39-1401(a) and amendments thereto:

- (A) Has been or is being abused, neglected, or exploited;
- (B) is in a condition that is the result of abuse, neglect, or exploitation; or
- (C) is in need of protective services;

(49) failing to inform the proper authorities as required by K.S.A. 39-1431, and amendments thereto, that one knows or has reason to believe that any of the following circumstances apply to an adult, as defined in K.S.A. 39-1430 and amendments thereto:

- (A) Is being or has been abused, neglected, or exploited;
- (B) is in a condition that is the result of abuse, neglect, or exploitation; or
- (C) is in need of protective services;

(50) intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing the filing of a report or record required by state or federal law, or inducing another person to take any of those actions;

(51) offering to perform or performing any service, procedure, assessment, or therapy that, by the accepted standards of professional counseling or clinical professional 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;

(52) practicing professional counseling or clinical professional counseling in an incompetent manner;

(53) practicing professional counseling or clinical professional counseling after one's license expires;

(54) using without a license, or continuing to use after the expiration of a license, any title or abbreviation prescribed by law for use solely by persons currently holding that type or class of license;

~~(55) diagnosing or treating any client who a professional counselor practicing under direction or a clinical professional counselor has reason to believe is suffering from a mental illness or disease, as opposed to a mental disorder; or~~

~~(56) violating any provision of this act or any regulation adopted under it;:-~~

(56) practicing inappropriate boundaries with clients with regards to use of social media, including but not limited to, using a personal profile to connect or communicate with clients on any social media platform, or accessing a client's social media pages without previous consent;

(57) disclosing confidential information through public social media; and

(58) If engaged in distance-counseling, failing to fulfill these requirements:

(A) Informing the client -of risks and benefits of distance counseling, (B) Disclosing the possibility of technology failure and providing alternative methods of service,

(C) Detailing emergency procedures to follow when the counselor is unavailable, and

(D) Taking appropriate steps to encrypt or ensure the security of confidential client information or any activity which protects confidential client information from risk of privacy breach.

(Authorized by K.S.A. 2007 Supp. 65-5809 and 74-7507; implementing K.S.A. 2007 Supp. 65-5809; effective Dec. 19, 1997; amended July 19, 2002; amended Jan. 9, 2004; amended Aug. 8, 2008.)



## **Social Work Unprofessional Conduct Regulations**

**K.A.R. 102-2-7. Unprofessional conduct.** Any of the following acts by a licensee or an applicant for a social work license shall constitute unprofessional conduct:

(a) Obtaining or attempting to obtain a license for oneself or another by means of fraud, bribery, deceit, misrepresentation, or concealment of a material fact;

(b) except when the information has been obtained in the context of a confidential relationship, failing to notify the board, within a reasonable period of time, that any of the following conditions apply to any person regulated by the board or applying for a license or registration, including oneself:

(1) 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 convicted of a felony; or

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

(c) knowingly allowing another individual to use one's license;

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

(e) having been convicted of a crime resulting from or relating to the licensee's professional practice of social work;

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

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

(h) 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;

(i) failing or refusing to cooperate in a timely manner with any request from the board for a response, information that is not obtained in the context of a confidential relationship, 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 acted in a timely manner;

(j) offering to perform or performing services clearly inconsistent or incommensurate with one's training, education, and experience and with accepted professional standards for social work;

(k) treating any client, student, or supervisee in a cruel manner;

(l) discriminating against any client, student, or supervisee on the basis of ~~color, race, gender, religion, national origin, or disability~~race, ethnicity, national origin, color, sex, sexual orientation, gender identity and expression, age, marital status, political belief, religion, immigration status, and mental or physical disability;

(m) failing to advise and explain to each client the respective rights, responsibilities, and duties involved in the social work relationship;

(n) failing to provide each client with a description of what the client can expect in the way of services, consultation, reports, fees, billing, therapeutic regimen, or schedule, or failing to reasonably comply with these descriptions;

(o) failing to provide each client with a description of the possible effects of the proposed treatment when there are clear and known risks to the client;

(p) failing to inform each client or supervisee of any financial interests that might accrue to the licensee from referral to any other service or from the use of any tests, books, or apparatus;

(q) failing to inform each client that the client is entitled to the same services from a public agency if the licensee is employed by that public agency and also offers services privately;

(r) failing to inform each client, supervisee, or student of the limits of client confidentiality, the purposes for which information is obtained, and the manner in which the information may be used;

(s) revealing information, a confidence, or secret of any client, or failing to protect the confidences, secrets, or information contained in a client's records, except when at least one of these conditions is met:

(1) Disclosure is required or permitted by law;

(2) failure to disclose the information presents a clear and present danger to the health or safety

of an individual or the public; or

(3) the licensee is a party to a civil, criminal, or disciplinary investigation or action arising from the practice of social work, in which case disclosure is limited to that action;

(t) failing to obtain written, informed consent from each client, or the client's legal representative or representatives, before performing any of these 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 party, except as required or permitted by law;

(u) failing to protect the confidences of, secrets of, or information concerning other persons when providing a client with access to that client's records;

(v) failing to exercise due diligence in protecting information regarding and the confidences and secrets of the client from disclosure by other persons in one's work or practice setting;

(w) engaging in professional activities, including but not limited to, billing practices and advertising, involving dishonesty, fraud, deceit, or misrepresentation;

(x) using alcohol or illegally using any controlled substance while performing the duties or services of a licensee;

(y) making sexual advances toward, including but not limited to sexual harassment, or engaging in physical intimacies or sexual activities with one's client, supervisee, or student;

(z) making sexual advances toward, including but not limited to sexual harassment, engaging in physical intimacies or sexual activities with, or exercising undue influence over any person who, within the past 24 months, has been one's client. If such conduct occurs with a former client after 24 months, it is the responsibility of the practitioner to demonstrate that the former client was not being exploited, coerced, or manipulated intentionally or unintentionally;

(aa) exercising undue influence over any client, supervisee, or student, including promoting sales of services or goods, in a manner that will exploit the client, supervisee, or student for the financial gain, personal gratification, or advantage of oneself or a third party;

(bb) 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 the referral of the client or patient or in connection with the performance of professional services;

(cc) permitting any person to share in the fees for professional services, other than a partner, employee, an associate in a professional firm, or a consultant authorized to practice social work;

(dd) soliciting or assuming professional responsibility for clients of another agency or colleague without informing and attempting to coordinate continuity of client services with that agency or colleague;

(ee) making claims of professional superiority that one cannot substantiate;

(ff) guaranteeing that satisfaction or a cure will result from the performance of professional services;

(gg) claiming or using any secret or special method of treatment or techniques that one refuses to divulge to the board;

(hh) continuing or ordering tests, procedures, or treatments or using treatment facilities or services not warranted by the condition, best interests, or preferences of the client;

(ii) if the social worker is the owner of the records, failing to maintain for each client a record that conforms to the following minimal standards:

(1) Contains adequate identification of the client;

(2) indicates the client's initial reason for seeking the licensee's services;

(3) contains pertinent and significant information concerning the client's condition;

(4) summarizes the intervention, treatment, tests, procedures, and services that were obtained, performed, ordered, or recommended and the findings and results of each;

(5) documents the client's progress during the course of intervention or treatment provided by the licensee;

(6) is legible;

(7) contains only those terms and abbreviations that are comprehensible to similar professional practitioners;

(8) indicates the date and nature of any professional service that was provided; and

(9) describes the manner and process by which the professional relationship terminated;

(jj) taking credit for work not performed personally, whether by giving inaccurate or misleading information or by failing to disclose accurate or material information;

(kk) if engaged in research, failing to fulfill these requirements:

(1) Consider carefully the possible consequences for human beings participating in the research;

(2) protect each participant from unwarranted physical and mental harm;

(3) ascertain that the consent of each participant is voluntary and informed; and

(4) preserve the privacy and protect the anonymity of each subject of the research within the terms of informed consent;

(ll) making or filing a report that one knows to be distorted, erroneous, incomplete, or misleading;

(mm) failing to notify the client promptly when termination or interruption of service to the

client is anticipated;

(nn) 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;

(oo) abandoning employment under circumstances that seriously impair the delivery of professional care to clients and without providing reasonable notice to the employer;

(pp) failing to terminate the social work services when it is apparent that the relationship no longer serves the client's needs or best interests;

(qq) if the licensee is the owner or custodian of client records, failing to retain those records for at least two years after the date of termination of the professional relationship, unless otherwise provided by law;

(rr) failing to exercise adequate supervision over anyone with whom the licensee has a supervisory or directory relationship;

(ss) failing to inform a client if social work services are provided or delivered under supervision or direction;

(tt) engaging in a dual relationship with a client, supervisee, or student;

(uu) failing to inform the proper authorities in accordance with K.S.A. 38-2223, and amendments thereto, that one knows or has reason to believe that a client has been involved in harming or has harmed a child, whether by physical, mental, or emotional abuse or neglect or by sexual abuse;

(vv) failing to inform the proper authorities in accordance with K.S.A. 39-1402, and amendments thereto, that one knows or has reason to believe that any of the following circumstances apply to a resident, as defined by K.S.A. 39-1401 and amendments thereto:

- (1) Has been or is being abused, neglected, or exploited;
- (2) is in a condition that is the result of abuse, neglect, or exploitation; or
- (3) is in need of protective services;

(ww) failing to inform the proper authorities in accordance with K.S.A. 39-1431, and amendments thereto, that one knows or has reason to believe that any of the following circumstances apply to an adult, as defined in K.S.A. 39-1430 and amendments thereto:

- (1) Is being or has been abused, neglected, or exploited;
- (2) is in a condition that is the result of abuse, neglect, or exploitation; or
- (3) is in need of protective services;

(xx) practicing social work in an incompetent manner;

(yy) practicing social work after one's license expires;

(zz) using without a license, or continuing to use after the expiration of a license, any title or abbreviation prescribed by the board for use only by persons currently holding that type or class of license;

(aaa) violating any provision of K.S.A. 65-6301 et seq., and amendments thereto, or any regulation adopted under that act;

(bbb) except as permitted by K.S.A. 65-6319 and amendments thereto, providing or offering to provide direction or supervision over individuals performing diagnoses and treatment of mental disorders;

(ccc) except as permitted by K.S.A. 65-6306 and K.S.A. 65-6319 and amendments thereto, engaging in the diagnosis and treatment of mental disorders;~~or~~

(ddd) engaging in independent private practice if not authorized by law;~~or~~

(eee) practicing inappropriate boundaries with clients with regards to use of social media, including but not limited to, using a personal profile to connect or communicate with clients on any social media platform;

(fff) disclosing confidential information through social media; or

(ggg) If engaged in distance-counseling, failing to fulfill these requirements:

(1) Informing the client of risks and benefits of distance counseling,

(2) Disclosing the possibility of technology failure and providing alternative methods of service,

(3) Detailing emergency procedures to follow when the counselor is unavailable, and

(4) Taking appropriate steps to encrypt or ensure the security of confidential client information or any activity which protects confidential client information from risk of privacy breach.

(Authorized by and implementing K.S.A. 2007 Supp. 65-6311 and K.S.A. 2007 Supp. 74-7507; effective May 1, 1982; amended, T-85-36, Dec. 19, 1984; amended May 1, 1985; amended, T-86-39, Dec. 11, 1985; amended May 1, 1986; amended May 1, 1987; amended May 1, 1988; amended Feb. 25, 1991; amended Aug. 4, 2000; amended Jan. 9, 2004; amended Dec. 19, 2008.)