

**BEHAVIORAL SCIENCES REGULATORY BOARD
BEHAVIOR ANALYST ADVISORY COMMITTEE MEETING
AGENDA FOR MEETING ON FEBRUARY 9, 2024**

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. 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.

You may view the meeting here: <https://youtube.com/live/rTr8Q0Rm4oI?feature=share>
To join the meeting by conference call: 877-278-8686, Pin #: 327072

Friday, February 9, 2023, 1:00 p.m.

- I. Call to Order and Roll Call**
- II. Agenda Approval**
- III. Approval of Minutes from Advisory Committee Meeting on December 8, 2023**
- IV. Executive Director's Report**
- V. Old Business**
 - A. Continued Review of Combined Proposed Changes to Unprofessional Conduct Regulations for All Professions**
 - i. Possible Language on Telehealth**
 - ii. Possible Language on Social Media**
 - B. Discussion on K.A.R. 102-8-9 Continuing Education**
 - C. Discussion on K.A.R. 102-8-10 Documentation of Continuing Education**
- VI. New Business**
 - A. Discussion on Possible New Regulation for Reinstating Licenses**
 - B. Discussion on Possible New Regulation Concerning Location of Client**
 - C. Discussion on Possible New Regulation on Requests for Additional Time to Complete Continuing Education Hours**
 - D. Discussion on Possible Survey for Behavior Analysts**
 - E. Advisory Committee New Members**
 - F. Discussion on Topics for 2024**
- VII. Next Meeting: April 2024 (Time and Date to be Determined)**
- VIII. Adjournment**

**KANSAS BEHAVIORAL SCIENCES REGULATORY BOARD
BEHAVIOR ANALYST ADVISORY COMMITTEE
DECEMBER 8, 2023**

Draft Minutes

- I. Call to Order.** Linda Heitzman-Powell, Chair of the Advisory Committee, called the meeting to order at 1 p.m.
- Committee Members.** Linda Heitzman-Powell, Jacqueline Lightcap, Allyson Bell, Kelley Harrison, Emily Kessler, Pamela Neidert, Christine Marie Stiehl, Stephanie Willey, Mike Williams, and Alice Zhang were present by Zoom.
- BSRB Staff.** David Fye and Leslie Allen attended by Zoom.
- II. Agenda Approval.** Emily Kessler moved to approve the agenda. Allyson Bell seconded. The motion passed.
- III. Approval of Minutes from the Advisory Committee Meeting on October 13, 2023.** Allyson Bell moved to approve the minutes. Christine Stiehl seconded. The motion passed.
- IV. Executive Director's Report.** David Fye, Executive Director for the BSRB, reported on agency operations, recent Board meetings, legislative updates, and other upcoming meetings.
- V. Old Business**
- A. Continued Review of Combined Proposed Changes to Unprofessional Conduct Regulations for All Professions.** Advisory Committees previously discussed whether to add language on requirements for crisis services after hours. The Executive Director showed the Advisory Committee possible draft language on this topic, which could be included in item (l) in the unprofessional conduct regulations. Advisory Committee members discussed whether including language on a standard would be more of a best practice or an unprofessional conduct standard. Christine Stiehl moved to not add the draft language at this time, but to continue discussion on this topic at a later time. Mike Williams seconded. The motion passed unanimously. By consensus, Advisory Committee members recommended the following changes to K.A.R. 102-8-11:
- i.** In item (a), striking the language, “Or any other person regulated by the board or applying for licensure.”
 - ii.** In item (j), adding any protected classes that are listed by the BACB that are not listed in the regulation.
 - iii.** In item (v), adding language to clarify that this relates to “clients, supervisees, and students.”
 - iv.** In item (w)(1), adding “current” in front of “client, supervisee, or student.”

- v. The Advisory Committee members noted their intention to add additional language at the next meeting concerning telehealth and social media.
- B. Discussion on K.A.R. 102-8-9 Continuing Education.** Due to time constraints, this discussion will be moved to the next meeting.
- C. Discussion on K.A.R. 102-8-10 Documentation of Continuing Education.** Due to time constraints, this discussion will be moved to the next meeting.

VI. New Business

- A. Discussion on Possible New Regulation for Reinstating Licenses.** Due to time constraints, this discussion will be moved to the next meeting.
- B. Discussion on Possible New Regulation Concerning Location of Client.** Due to time constraints, this discussion will be moved to the next meeting.
- C. Discussion on Possible New Regulation on Requests or Additional Time to Complete Continuing Education Hours.** Due to time constraints, this discussion will be moved to the next meeting.
- D. Discussion on Topics for 2024.** Due to time constraints, this discussion will be moved to the next meeting.

VIII. Next Meeting: Friday, February 9, 2024, at 1pm over Zoom.

IX. Adjournment. The Executive Director thanked Advisory Committee members for their service on the Advisory Committee this year. The meeting was adjourned.

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.)

RECORD KEEPING - ALT CUSTODIAN

SUGGESTED - ADDICTION COUNSELING - (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.

LICENSED PSYCH - (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.

SOCIAL MEDIA

SUGGESTED - MFT- (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;

PROFESSIONAL COUNSELING - (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

TELEHEALTH

SUGGESTED (adapted)– 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) 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.

PROFESSIONAL COUNSELING

(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.

102-8-9. Continuing education. (a) Each licensed assistant behavior analyst shall complete 30 hours of documented and approved continuing education oriented to the enhancement of the licensee's practice, values, ethics, skills, or knowledge during each two-year renewal period. Continuing education hours accumulated in excess of the requirement shall not be carried over to the next renewal period.

(b) Each licensed behavior analyst shall complete 30 hours of documented and approved continuing education oriented to the enhancement of the licensee's practice, values, ethics, skills, or knowledge during each two-year renewal period. Continuing education hours accumulated in excess of the requirement shall not be carried over to the next renewal period.

(c) During each two-year renewal period and as a part of the required continuing education hours, each licensee shall complete **four hours of professional ethics**. These hours shall be obtained from any of the activities specified in paragraphs (e)(1), (e)(2), (e)(3), (e)(4), (e)(9), and (e)(10).

(d) One hour of continuing education credit shall consist of at least 50 minutes of classroom instruction or at least one clock-hour of any other type of acceptable continuing education experience listed in subsection (e). One-quarter hour of continuing education credit may be granted for each 15 minutes of acceptable continuing education. Credit shall not be granted for fewer than 15 minutes.

(e) Acceptable continuing education, whether taken in Kansas or outside the state, shall consist of the following:

(1) An academic applied behavior analysis course or an academic course oriented to the enhancement of the licensee's practice, values, ethics, skills, or knowledge that is taken for academic credit. Each licensee shall be granted 15 continuing education hours for each semester credit hour or the academic equivalent of a semester credit hour that the licensee successfully completes;

(2) an academic applied behavior analysis course or an academic course oriented to the enhancement of the licensee's practice that is audited. Each licensee shall receive continuing education credit on the basis of the actual contact time that the licensee spends attending the course, up to a maximum of 15 hours per academic credit hour;

(3) a seminar, institute, conference, workshop, or course;

(4) an activity consisting of completing a computerized interactive learning module, viewing a **telecast or videotape**, listening to an **audiotape**, or reading with a posttest;

(5) an activity consisting of completing a computerized interactive learning module, viewing a **telecast or videotape**, listening to an **audiotape**, or reading without a posttest;

(6) a cross-disciplinary offering in medicine, law, a foreign or sign language, computer science, professional or technical writing, business administration, management sciences, or any other discipline if the offering is clearly related to the enhancement of the licensee's practice, values, ethics, skills, or knowledge. The maximum number of allowable continuing education hours shall be 10;

(7) a self-directed learning project preapproved by the board. The maximum number of allowable continuing education hours shall be 10;

(8) providing supervision to practicum or intern students. The maximum number of allowable continuing education hours shall be 10;

(9) the first-time preparation and presentation of an applied behavior analysis seminar, institute, conference, workshop, or course, or the substantial revision of an applied behavior analysis seminar, institute, conference, workshop, or course. The maximum number of allowable continuing education hours shall be 10 for documented preparation and presentation time;

(10) the preparation of a professional applied behavior analysis article published for the first time in a professional journal, a book chapter published by a recognized publisher, or a written presentation given for the first time at a statewide or national professional meeting. If more than one licensee or other professional authored the material, the continuing education credit shall be prorated among the authors. The maximum number of allowable continuing education hours shall be 10; and

(11) participation in a professional organization or appointment to a professional credentialing board, if the goals of the organization or board are clearly related to the enhancement of applied behavior analysis practice, values, ethics, skills, and knowledge. Participation may include holding office or serving on committees of the organization or board. The maximum number of allowable continuing education hours shall be 10.

(f) Continuing education credit approval shall not be granted for identical programs if the programs are completed within the same renewal period.

(g) Continuing education credit shall not be granted for the following:

(1) In-service training, if the training is for job orientation or job training or is specific to the employing agency; and

(2) any activity for which the licensee cannot demonstrate to the board's satisfaction that the program's goals and objectives are to enhance the licensee's practice, values, ethics, skills, or knowledge in applied behavior analysis.

(h) Each licensee shall maintain individual, **original** continuing education records for **three years** after the renewal date. These records shall document the licensee's continuing education activity attendance, participation, or completion as specified in K.A.R.

102-8-10. (Authorized by and implementing K.S.A. 2015 Supp. 65-7505; effective, T-102-6-29-16, June 29, 2016; effective Nov. 14, 2016.)

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Agency 102

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102-8-10. Documentation of continuing education. Each of the following forms of documentation shall be accepted as proof that a licensee has completed the continuing education activity:

- (a) An official transcript or other written proof indicating the licensee's passing grade for an academic course;
- (b) a statement signed by the instructor indicating the number of actual contact hours that the licensee attended for an audited academic course;
- (c) a signed statement from the provider of a seminar, institute, conference, workshop, or course indicating that the licensee attended the program;
- (d) for each videotape, audiotape, computerized interactive learning module, or telecast that the licensee utilized for continuing education purposes, a written statement from the licensee specifying the media format, content title, presenter or sponsor, content description, length, and activity date;
- (e) a copy of a self-directed project. The licensee shall submit this copy to the board to evaluate and certify the number of credit hours that the board may grant;
- (f) written, signed verification from the university practicum or intern instructor or other official training director for whom the licensee supervised undergraduate or graduate students or from the postgraduate supervisee for whom the licensee provided supervision;
- (g) a copy of an academic course syllabus and verification that the licensee presented the course;
- (h) a copy of a letter from the presentation sponsor or a copy of the brochure announcing the licensee as the presenter, the agenda of the presentation, and verification that the licensee presented the seminar, institute, conference, workshop, or course;
- (i) a copy of an article or book chapter written by the licensee and verification of publication or written presentation at a professional meeting. The licensee shall submit these materials to the board to evaluate and certify the number of hours of credit to be granted; and
- (j) a signed letter from a professional organization or certifying entity outlining the licensee's participation in that professional organization or credentialing board. (Authorized by and implementing K.S.A. 2015 Supp. 65-7505; effective, T-102-6-29-16, June 29, 2016; effective Nov. 14, 2016.)

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Example Regulation for License Reinstatement

102-8-7(a). License Reinstatement.

(a) A person whose license has expired may make written application to the board requesting reinstatement of the license in a manner prescribed by the board, and such application shall be accompanied by:

(1) The reinstatement fee established under K.A.R. 102-8-2, and amendments thereto, and, for any person whose license has been expired for one year or less, an additional fee equal to the reinstatement fee; and

(2) evidence satisfactory to the board that the person has completed during the previous 24 months the continuing education requirements for one license period.

(b) If the license of any individual has been suspended and the individual subsequently wants to apply for license reinstatement, the individual shall submit the following items:

(1) The completed reinstatement application form;

(2) the required reinstatement fee specified in K.A.R. 102-8-2;

(3) the continuing education reporting form and documentation pursuant to K.A.R. 102-8-10;

(4) proof satisfactory to the board that the individual has complied with sanctions and any other conditions imposed under the suspension; and

(5) any materials, information, evaluation or examination reports, or other documentation that may be requested by the board and that will enable the board to satisfactorily evaluate and determine whether or not the license should be reinstated.

(c) If the license of any individual has been revoked and the individual subsequently wants to apply for license reinstatement, the individual shall submit the following items:

(1) The completed reinstatement application form;

(2) the required reinstatement fee specified in K.A.R. 102-8-2;

(3) the continuing education reporting form and documentation pursuant to K.A.R. 102-8-10; and

(4) any materials, information, evaluation or examination reports, or other documentation that the board may request and that will enable the board to satisfactorily evaluate and determine whether or not to reinstate the license. Factors to be considered by the board in determining whether or not to reinstate the revoked license shall include the following:

(A) The extent to which the individual presently merits the public trust;

(B) the extent to which the individual has demonstrated consciousness of the misconduct that resulted in the license revocation;

(C) the extent of the individual's remediation and rehabilitation in regard to the misconduct that resulted in the license revocation;

- (D) the nature and seriousness of the original misconduct;
- (E) the individual's conduct after the license revocation;
- (F) the time elapsed since the license revocation; and
- (G) the individual's present knowledge and competence in addiction counseling skills.

Current Regulation Needing Adjusted

102-8-2. Fees. (a) Each applicant for licensure as an assistant behavior analyst or a behavior analyst shall pay the appropriate fee or fees as follows:

- (1) Initial assistant behavior analyst license, \$70;
- (2) initial behavior analyst license, \$70;
- (3) renewal of an assistant behavior analyst license, \$70; ~~or~~
- (4) renewal of a behavior analyst license, \$120;~~;~~
- (5) reinstatement of an assistant behavior analyst license, \$70;
- (6) reinstatement of a behavior analyst license, \$120.

(b) Fees paid to the board shall not be refundable. (Authorized by and implementing K.S.A. 2015 Supp. 65-7505; effective, T-102-6-29-16, June 29, 2016; effective Nov. 14, 2016.)

K.S.A. 65-6409 is MFT Statute. Should be K.S.A. 65-7501

K.S.A. 65-6402 is MFT Statute. Should be K.S.A. 65-7502

102-5-15. Services rendered to individuals located in this state. Except as authorized by K.S.A. 65-6409, and amendments thereto, each person, regardless of the person's physical location, who engages in either of the following activities shall be deemed to be engaged in the practice of applied behavior analysis in this state and shall be required to have a license, issued by the board, to practice applied behavior analysis as a licensed behavior analyst or a licensed assistant behavior analyst, as appropriate:

(a) performs any act included in subsection (b) of K.S.A. 65-6402, and amendments thereto, on or for one or more individuals who are physically located in this state at the time services are provided; or

(b) represents oneself to be a licensed behavior analyst or a licensed assistant behavior analyst available to perform any act included in subsection (b) of K.S.A. 65-6402, and amendments thereto, on or for one or more individuals who are physically located in this state at the time services are provided. (Authorized by K.S.A. 1999 Supp. 74-7507; implementing K.S.A. 65-6403, as amended by L. 1999, Ch. 117, § 19; effective May 11, 2001.)

Note: Modified language underlined; Review did not include verification of referenced statutes (gray highlight)

Draft Language on Request for Additional Time to Complete Continuing Education Hours

(New Regulation)

(a) A licensee who is unable to complete the required continuing education hours for renewal may request additional time to complete any remaining continuing education hours. Such request shall be made to the board not later than 30 calendar days prior to the expiration of the license and shall include:

- (1) The licensee's reason for requesting additional time, showing extenuating circumstances for why the hours could not be completed during the license period; and*
- (2) a plan outlining the manner in which the licensee intends to complete the remaining continuing education hours.*

(b) The board may grant a licensee up to three additional months beyond the license expiration date to complete the required continuing education hours.

(c) A licensee who receives additional time to complete continuing education hours under this subsection shall:

- (1) Renew the license prior to the license expiration date and report to the board the number of continuing education hours completed on such date;*
- (2) notify the board upon completing the remaining continuing education hours; and*
- (3) be subject to an audit by the board of the total number of continuing education hours completed for the applicable license period.*

(d) Continuing education hours completed during additional time granted under this subsection shall be credited only toward the requirements for the license period for which additional time is granted.

(e) A licensee shall not be approved for additional time to complete continuing education requirements in consecutive license periods.