

**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;
- (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 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 or engaging in physical intimacies or sexual activities with one's client, supervisee, or student;
- (z) 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;

- (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.

(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.)