

201 KAR 23:080. CODE OF ETHICAL CONDUCT.

RELATES TO: KRS 335.150(1) (g)

STATUTORY AUTHORITY: KRS 335.070(3), 335.150(1) (g)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 335.150(1) (g) provides that the board may take disciplinary action against an applicant or licensee who has violated the code of ethical conduct as set forth by the board by promulgation of an administrative regulation. This administrative regulation establishes the code of ethical conduct.

Section 1. Definitions.

(1) "Client" means:

- (a) An individual, family, or group who directly receives social work services from a social worker;
 - (b) A corporate entity or other organization if the contract is to provide a social work service of benefit directly to the corporate entity or organization; or
 - (c) A legal guardian who is responsible for making decisions relative to the provision of services for a minor or legally incompetent adult.
- (2) A person identified as a client pursuant to subsection (1) of this definition shall be deemed to continue to be a client for a period of five (5) years following the last date of service rendered to the person.
- (3) "Dual relationship" means a social, business, or personal relationship between a social worker and a client that coexists with the professional-client relationship between the social worker and the client.

Section 2. Client Relationships.

- (1) A legal guardian of a minor or legally incompetent adult shall be considered the client for the purpose of making decisions relative to the provision of services for the minor or legally incompetent adult.
- (2) The minor or legally incompetent adult shall be considered the client for an issue that:
- (a) Directly affects the physical or emotional safety of the individual, including a prohibited relationship; or
 - (b) Is specifically reserved to the individual and agreed to by the guardian prior to the rendering of the service.

(3) A client who directly receives the social work service shall be deemed to continue to be a client for a period of five (5) years following the last date of service actually rendered.

Section 3. Responsibility to Clients.

(1) A social worker shall promote the well-being of a client and, if required by law, the safety and well-being of an individual whose life might be affected by the client's behavior or circumstance.

(2) A social worker shall not illegally discriminate against an individual.

(3) A social worker shall not provide a service outside his scope of practice as established in 201 KAR 23:060.

(4) A social worker shall notify a client of the regulatory authority of the board by displaying a written notice in public view in the social worker's office or service site. The notice shall contain the:

(a) Name of the social worker;

(b) Type of social work license;

(c) License number of the social worker; and

(d) Name, address, and telephone number of the board.

(5) A social worker shall confine his practice to a condition imposed upon his license by a state or federal authority and shall not practice as a social worker as defined in KRS 335.020 if his license has been suspended or revoked.

(6) A social worker shall provide a service to a client in a manner that is respectful and appreciative of the client's culture.

(7) A social worker shall not refer a client or delegate a service to a provider whom the social worker has reason to believe is not qualified to perform a professional service.

(8) A social worker shall provide a service to a client in the least restrictive mode of care.

Section 4. Informed Consent.

(1) A social worker shall obtain informed consent from the client or his legal guardian in writing to provide a social work service. To obtain informed consent, a social worker shall inform the client of the following:

(a) The client's condition;

(b) The recommended social work service;

(c) Reasonable expectations of the benefits from the service;

(d) Possible foreseeable risks or negative consequences of the service;

(e) Possible alternative services; and

(f) The right to refuse a service.

(2) A social worker shall obtain written informed consent from the client or his legal guardian before audio taping or videotaping the client.

(3) A social worker shall inform a client of the social worker's duties and obligations to a third party if the third party has referred the client and has a continuing interest in the client's participation in a service plan.

(4) A social worker who provides a collateral service to a family member of a client shall inform the family member about the social worker's duties and obligations to the primary client and the possible limitations of service to the family member.

(5) Informed consent required by this section shall be obtained in writing and shall expressly state the nature of the informed consent.

Section 5. Professional Integrity.

(1) A social worker shall not provide a social work service if under the influence of alcohol, another mind-altering or mood-altering drug, or physical or psychological illness which impairs delivery of the services.

(2) A social worker shall not possess or distribute the board's examination material without authorization by the board.

(3) A social worker shall not interfere with a board investigation of a social worker through a willful means including:

(a) Misrepresentation of a fact;

(b) Undue influence of a witness;

(c) A threat toward a person; or

(d) Harassing communication toward a person.

(4) A social worker shall not verbally abuse or harass or physically threaten or assault a client, supervisee, employee, board member, or agent of the board.

Section 6. Responsibility to Students and Supervisees.

(1) A social worker shall promote the educational and training interests of his students and supervisees.

(2) A social worker shall not engage in a social, business, or personal relationship with his student or supervisee if that relationship might:

(a) Impair the social worker's professional judgment;

(b) Incur the risk of exploitation of the student or supervisee; or

(c) Otherwise violate a provision of this administrative regulation.

(3) If a social, business, or personal relationship cannot be avoided and if it does not impair the social worker's professional judgment, incur a risk of exploitation of the student or supervisee, or otherwise violate a provision of this administrative regulation, the social worker shall take appropriate professional precautions to ensure that judgment is not impaired and exploitation does not occur.

(4) A social worker shall not obtain or engage the service of his student or supervisee in an activity except an activity that promotes a student's or supervisee's academic, educational, or training interest.

(5) A social worker shall not engage in sexual intimacy or contact with his student or supervisee.

(6) A social worker shall not enter into a professional-client relationship with his student or supervisee.

(7) A social worker shall not permit a student or supervisee to perform or to hold himself out as competent to perform a professional service beyond his level of training, experience, or competence.

Section 7. Advertising.

(1) A social worker shall accurately present his services, education, professional credentials, qualifications, and license level to the public.

(2) A social worker shall not display a license issued by the board which has expired, or has been suspended or revoked.

(3) A social worker shall not use professional identification, including a business card, office sign, letterhead, telephone directory listing, or electronic listing, if it includes a statement that is false, fraudulent, misleading, or deceptive. A statement shall be deemed false, fraudulent, misleading or deceptive if it:

(a) Contains a material misrepresentation of fact; or

(b) Is intended to, or is likely to, create an unjustified expectation by the public or by a client.

Section 8. Payment for Services.

(1) A social worker shall ensure that a client is informed of the fee and billing arrangement before rendering a service.

(2) A social worker shall not bill, or permit a client or third party to be billed, for a social work service if he knows that the service was:

(a) Not provided;

(b) Improperly provided;

(c) Provided by another individual who is not identified on the billing statement; or

(d) Unnecessary.

(3) A social worker shall not offer or accept payment or other compensation for referral of a client.

(4) A social worker shall not accept a form of remuneration for a service that involves the bartering of services.

(5) A social worker may take legal measures to collect a fee if:

(a) A client does not pay the agreed fee for a rendered service; and

(b) The social worker:

1. Gives reasonable advance notice to the client; and

2. Does not release more information about the client than is necessary to collect the fee.

Section 9. Confidentiality.

(1) A social worker shall hold communications with a client in confidence and shall maintain a record of client information in a confidential manner.

(2) A social worker may disclose client information if:

(a) The client has signed an authorization to release information;

(b) The social worker is required by law to disclose essential information out of a duty to protect, warn, or report;

(c) The social worker is a defendant in a civil or criminal action or is a respondent in a disciplinary process; or

(d) A client has raised his mental condition as an element in a civil action and the court has ordered the release of the client's information.

(3) A social worker shall not disclose more client information than is necessary to meet the requirements of law.

(4) A social worker shall remove identifying information about the client from a training manual, professional writing, or classroom presentation.

(5) A social worker shall protect the confidentiality of a deceased client.

Section 10. Client Records.

- (1) A social worker shall not deceptively alter a client record.
- (2) A social worker shall retain and secure a client record in a manner that maintains confidentiality and, if authorized by subsection (3) of this section, shall destroy a record in a manner that ensures confidentiality.
- (3) A social worker shall maintain a client record for at least five (5) years from the date of termination of a service, or until a client reaches the age of twenty (20) years, whichever is longer.

Section 11. Dual Relationships.

- (1) A social worker shall not enter into a dual relationship with a client if the relationship might:
 - (a) Impair the social worker's professional judgment;
 - (b) Incur the risk of exploitation of the client; or
 - (c) Otherwise violate a provision of this administrative regulation.
- (2) If a dual relationship cannot be avoided and if it does not impair the social worker's professional judgment, incur a risk of exploitation of the client, or otherwise violate a provision of this administrative regulation, the social worker shall take appropriate professional precautions to ensure that judgment is not impaired and exploitation does not occur.
- (3) A social worker shall not obtain or engage the service of a client if obtaining or engaging the service might:
 - (a) Impair the social worker's professional judgment;
 - (b) Incur the risk of exploitation of the client; or
 - (c) Otherwise violate a provision of this administrative regulation.
- (4) A social worker shall not engage in sexual intimacy or contact with a client or former client.
- (5) A social worker shall not engage in a personal relationship or engage in sexual intimacy or contact with a member of a client's immediate family or an individual who is otherwise an intimate of the client.
- (6) A social worker shall not use his professional relationship with a client or a former client to further his personal interest or personal gain.
- (7) A social worker shall not enter into a professional-client relationship with a member of the social worker's immediate family, an intimate, or a personal friend unless this relationship does not pose a risk of harm to the client or to a member of the client's immediate family.

(8) A social worker shall be solely responsible for acting appropriately in regard to a relationship with a client or former client. A client or a former client's initiation of a personal, sexual, or business relationship shall not justify, excuse, or provide a defense for a violation of this section.

Section 12. Referral and Termination.

(1) A social worker shall make a timely and appropriate referral of a client for a social work or other service if:

- (a) The social worker is unable to provide the work or service; or
- (b) The client's need exceeds the competency of the social worker.

(2) A social worker shall terminate a social work service if a client:

- (a) Has attained his stated goal or objective; or
- (b) Fails to benefit from the social work service.

(3) A social worker shall communicate the referral or the termination of a social work service to a client.

(4) A social worker shall not terminate a social work service or refer a client for the purpose of entering into a personal relationship with the client, including:

- (a) A sexual, romantic relationship;
- (b) A financial or business relationship; or
- (c) Other activity that might serve a personal, political, or religious interest of the social worker.

Section 13. Research.

(1) A social worker shall obtain written informed consent from a client or a client's guardian if the client is a subject of a research project.

(2) A client's consent shall comply with the requirements of federal and state law regulating research with a human subject and shall include at least the following:

- (a) The scope and purpose of the research;
- (b) The procedures used to protect the client's confidentiality interests;
- (c) The client's right to participate or to refuse to participate without negative consequence to service delivery;
- (d) The possible risks and benefits of participation; and
- (e) The client's right to withdraw from participation without negative consequence to service delivery.

(3) A social worker shall protect the privacy and anonymity of a client who is a research subject and shall inform a client of a limitation on confidentiality that might arise from participation in the research project.

Section 14. Duty to Report.

A social worker who has personal knowledge of a violation of the code of ethical conduct shall report to the board the name of the offending social worker and the nature of the ethical violation. The social worker shall not report the name of the client or client identifying information unless the client has given informed consent to him. (3 Ky.R. 266; eff. 10-6-76; Am. 9 Ky.R. 732; eff. 1-6-83; 23 Ky.R. 4206; 24 Ky.R. 864; eff. 10-13-97; 27 Ky.R. 198; 741; eff. 9-11-2000.)