

## Chapter Psy 5

## CONDUCT

Psy 5.01 Professional conduct.

Psy 5.02 Actions subsequent to disciplinary proceedings.

**Psy 5.01 Professional conduct.** The practice of psychology is complex and varied and, therefore, allows for a broad range of professional conduct. The following acts constitute unprofessional conduct by applicants for licensure and licensees of the board and are prohibited. Complaints regarding these acts shall be investigated and may lead to disciplinary proceedings.

(1) Engaging in false, fraudulent, misleading or deceptive advertising, or maintaining a professional relationship with one engaging in such advertising.

(2) Gross negligence in the practice of psychology.

(3) Misrepresentation of professional competency by offering to perform services that are unwarranted on the basis of education, training, or experience.

(4) Performance of professional services inconsistent with training, education, or experience.

(5) Conviction of a crime or violation of any law the circumstances of which substantially relate to the circumstances of the professional practice of psychology.

(6) Undertaking or continuing professional services after having been adjudged incompetent by a court of law.

(7) Reporting distorted, erroneous, or misleading psychological information.

(8) Engaging in false, fraudulent, misleading or deceptive billing practices.

(9) Allowing professional judgment to be controlled by another.

(10) Aiding or furthering discrimination on the basis of race, color, sex, creed, national origin, ancestry, handicap or sexual orientation by means of service given to a client.

(11) Practicing or attempting to practice while the licensee has a physical or mental impairment, including impairment related to alcohol or other drugs, which is reasonably related to the licensee's ability to adequately undertake the practice of psychology in a manner consistent with the safety of client or public.

(12) Revealing facts, data, information, records or communication received from a client in a professional capacity except in the following circumstances:

(a) With the informed consent of the client or the client's authorized representative.

(b) With prior notification to the client at the time the information was elicited of the use and distribution of the information.

(c) If necessary to prevent injury to the client or another person.

(d) Pursuant to the lawful order of a court of law.

(e) Use of case history material for teaching or research purpose, or in textbooks or other literature, provided that proper precautions are taken to conceal the identity of the client.

(f) Where otherwise permitted or required under ss. 51.30 and 146.82, Stats.

(g) When required by federal or state law.

(13) Failure to obtain written, informed consent from the client or client's legal representative prior to the use of observation or electronic taping, recording or filming procedures.

(14) Engaging in sexual contact, sexual conduct, kissing, or any other behavior which could reasonably be construed as seduc-

tive, romantic, harassing, or exploitative, with any of the following:

(a) A client.

(b) A former client within 2 years of termination of professional services.

(c) A former client beyond 2 years of termination of professional services, unless the licensee can demonstrate that there has been no exploitation of the former client, and that the former client is not vulnerable by reason of emotional or cognitive disorder to exploitive influence by the psychologist, in light of all relevant factors, including:

1. The length of time which had passed between the termination of professional services and the conduct.

2. The nature and duration of the professional services.

3. The circumstances of termination.

4. The client's personal history.

5. The client's mental status at the time the conduct took place.

6. The likelihood of adverse impact on the client or others.

7. Statements or actions made by the licensee during the course of professional services suggesting or inviting the possibility of a post-termination sexual or romantic relationship with the client.

(d) A person to whom the licensee is providing teaching, supervisory or other instructional services.

(14m) Accepting as a client a person with whom the licensee has engaged in sexual contact or sexual conduct.

(15) Failure to provide clients a description of what may be expected in the way of tests, consultation, reports, fees, billing, therapeutic regimen or schedule.

(16) Failure to provide clients a description of possible effects of proposed treatment.

(17) Failure to avoid prohibited dual relationships.

(18) Failure to conduct an assessment, evaluation, or diagnosis as a basis for treatment consultation.

(19) Employing or claiming to have available secret techniques or procedures that the licensee refuses to divulge.

(20) Engaging in experimental treatment or services without assuring objectivity through keeping adequate records and consulting with colleagues.

(21) In the conduct of research, failure to inform study participants of all features of the research that might reasonably be expected to influence willingness to participate; failure to ensure as soon as possible participants' understanding of the reasons and justification for methodological requirements of concealment or deception in the study; failure to protect participants from physical or mental discomfort, harm or danger, or to notify the participant of such danger; and failure to detect and remove any undesirable consequences to the participants resulting from research procedures.

(22) Failure to inform the client of financial interests which are not obvious and which might accrue to the licensee for referral to or for any use of service, product, or publication.

(23) Refusal upon request to advise the board of the nature of the specialties included within the licensee's practice.

(24) Failure to respond honestly and in a timely manner to a request for information from the board or with any other request for information by the board. Taking longer than 30 days to respond creates a rebuttable presumption that the response is not timely.

(25) Impersonation of another person holding a license issued by this or another board.

(26) Allowing another person to use one's license.

(27) Using fraud or deception in applying for a license.

(28) Violation of ch. 455, Stats., or any rule of professional conduct promulgated under ch. 455, Stats.

(29) Failure to notify the board of having a license, certificate, permit or registration granted by this or any other state for the practice of psychology or school psychology limited, restricted, suspended or revoked, or having been subject to other disciplinary action by the licensing or certifying authority thereof.

(30) For licensees of the board who are employed by a public agency and who also offer their services privately:

(a) Failure to inform the client that the client is entitled to the same service from the public agency.

(b) Failure to inform the client that the licensee is an employee of that same public agency.

(c) Failure to avoid a dual relationship.

(31) Failure to notify clients when service will be interrupted or terminated.

(32) Having a license, certificate, permit, registration, or other practice credential granted by another state or by any agency of the federal government to practice psychology which becomes limited, restricted, suspended, or revoked, or having been subject to other adverse action by the state licensing authority or by any agency of the federal government, including but not limited to the denial or limitation of an original credential, or the surrender of a credential, whether or not accompanied by findings of negligence or unprofessional conduct.

(33) Failure to maintain adequate records relating to services provided to a client in the course of a professional relationship.

Each patient record entry shall be dated, shall identify the treating therapist, and shall be sufficiently legible to be understood and to allow interventions by other professionals. Unless records are subject to a different records retention policy by an entity with an obligation to maintain treatment records, a licensee shall retain treatment records for at least 7 years. Such records shall contain all of the following:

(a) Pertinent patient history.

(b) Pertinent objective findings related to examination and test results.

(c) Assessment or diagnosis.

(d) Plan of treatment for the patient.

(e) A discharge summary upon termination of treatment.

(34) Violating any provision of ch. 455, Stats., or any rule or order of the board.

**History:** Cr. Register, September, 1991, No. 429, eff. 10-1-91; r. and recr. (14), cr. (14m), Register, August, 1995, No. 476, eff. 9-1-95; am. (7), cr. (32), Register, June, 1999, No. 522, eff. 7-1-99; CR 02-124: am. (11), (24) and (31), cr. (12) (g) and (33) Register July 2003 No. 571, eff. 8-1-03; CR 03-079: am. (14) (intro.) and (c) (intro.), (17), (24), renum. (33) to be (33) (intro.) and am., cr. (33) (a) to (e) and (34), Register May 2004 No. 581, eff. 6-1-04; **CR 04-021: cr. (14) (d) Register July 2004 No. 583, eff. 8-1-04.**

**Psy 5.02 Actions subsequent to disciplinary proceedings. (1)** In disciplinary proceedings that result in stipulation, settlement, reprimand, suspension, revocation, or limitation of a license issued by this board, the standard departmental policies will be followed.

(2) The following steps will be taken by the licensee of the board to protect the welfare of any clients affected by the board's action. These steps may include either or both of the following depending on the needs of the client and the nature of the disciplinary proceedings:

(a) Notification of clients regarding the termination of services by the subject of the board's action.

(b) Facilitation of the transfer of clients to other professionals who will be responsible for the clients' continuing care.

**History:** Cr. Register, September, 1991, No. 429, eff. 10-1-91; r. (1) (a) and (b), Register, June, 1999, No. 522, eff. 7-1-99.