

## Chapter Psy 5

### CONDUCT

Psy 5.01 Professional conduct.

Psy 5.02 Telehealth.

**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 or private practice of school psychology.

(2m) Engaging in conduct that falls below the standard of minimal competence within the practice of psychology or school 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 practice of psychology or private practice of school 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, exploitative, 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.

(12m) Failing to have security protocols for access to facts, data, information, records, or communication received from a client in a professional capacity.

(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 seductive, 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) Engaging in any prohibited dual relationship or any relationship which is reasonably likely to impair the licensee's objectivity in providing professional services.

(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 partici-

pant 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 by the board. Taking longer than 30 days to respond creates a rebuttable presumption that the response is not timely.

**(25)** Appropriation of the identity 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 promulgated by the board.

**(29)** Failure to notify the board within 30 days of any disciplinary or adverse action taken by any other jurisdiction against a license, certificate, permit or registration granted for the practice of psychology or school psychology.

**(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 any prohibited dual relationship or any relationship which is reasonably likely to impair the licensee's objectivity in providing professional services.

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

**(32)** Having a credential granted by another jurisdiction to practice psychology or school psychology denied, limited, suspended, surrendered, or revoked, or otherwise disciplined or adverse action taken, 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 psychologist, 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.

**(34)** Violating any provision of an order of any board or jurisdiction that regulates the practice of psychology or school psychology.

**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; CR 17-078: am. (2), cr. (2m), am. (5), (8), cr. (12m), r. and recr. (17), r. (18), am. (24), (25), (28), (29), (30) (c), r. and recr. (32), renum. (33) (intro.) to (33) and am., r. (33) (a) to (e), am. (34) Register July 2018 No. 751, eff. 8-1-18.

**Psy 5.02 Telehealth.** **(1)** The standards of practice and professional conduct under this chapter apply to a licensee regardless of whether health care service is provided in person or by telehealth.

**(2)** A psychologist who uses a telehealth visit to provide psychological services to a patient located in this state shall either be licensed as a psychologist by the board, or shall meet the requirements to exercise the authority to practice interjurisdictional telepsychology under s. 455.50 (4), Stats.

**History:** CR 21-016: cr. Register May 2023 No. 809, eff. 6-1-23; correction in (2) made under s. 35.17, Stats., Register May 2023 No. 809.