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~~TITLE 172 - NEBRASKA DEPARTMENT OF HEALTH PROFESSIONAL AND OCCUPATIONAL LICENSES REGULATIONS~~

~~CHAPTER 156 - REGULATIONS DEFINING UNPROFESSIONAL CONDUCT BY A PSYCHOLOGIST~~

~~001 SCOPE OF REGULATIONS. These regulations are intended to define and set forth what constitutes unprofessional conduct pursuant to the Uniform Licensure Law and Neb. Rev. Stat. 71-1,206 to 71-1,226.~~

~~002 DEFINITIONS.~~

~~002.01 Client means any person with whom the Psychologist has an agreement to provide psychological services.~~

~~002.02 Clinical Psychology means that branch of psychology concerned with the assessment, diagnosis, and treatment of mental, emotional and behavioral disorders.~~

~~002.03 Psychological services shall be the provision of services in the practice of psychology.~~

~~002.04 Unprofessional conduct is conduct which fails to conform to the accepted standards for the psychology profession and which could jeopardize the health safety and welfare of the client and shall include but not be limited to the conduct described in these regulations and Neb. Rev. Stat. 71-148.~~

~~003 INFORMED CONSENT. A psychologist shall obtain from a client or his or her legal representative informed and voluntary consent before providing or assisting in the care of treatment of the client. Failure to do so shall constitute unprofessional conduct. A client shall be deemed to have not given his or her informed and voluntary consent if the psychologist:~~

~~003.01 Fails to advise a client of a conflict of interest. A conflict of interest exists if the exercise of the psychologist's professional judgment on behalf of the client will be or reasonably will be impaired or adversely affected by his or her own financial, business, property or personal interest.~~

~~003.02 Fails to clarify the nature of the relationship to all parties directly affected by the services.~~

~~003.03 Fails to advise a client of a known bias or prejudice which seriously affects the psychologist's objectivity in dealing with the client.~~

~~004 COMPETENCE. A psychologist shall not provide services or use techniques for which he or she is not trained or experienced. Unprofessional conduct in the practice of psychology shall include but is not limited to:~~

~~004.01 Failure to consider a client as an individual and imposing on the client any stereotypes of behavior, values or roles related to age, gender, religion, race, disability, nationality or sexual orientation which would unreasonably interfere with the objectivity provision of psychological services to the client.~~

~~004.02 Making decisions involving clients based on test results for which the psychologist has made an interpretation in an area or areas where he or she is not trained or experienced.~~

~~004.03 Making decisions involving clients based on interpretations of test results by others whom the psychologist knows are not adequately trained or experienced.~~

~~004.04 Providing psychological services in which his or her serious personal problems may cause a competent psychologist to believe it will lead to inadequate performance or harm to a client, colleague, student, or research participant.~~

~~004.05 Willful or gross neglect of a client of record.~~

~~004.06 Terminating a relationship which a client without informing the client of such termination and providing the client with information regarding adequate alternatives for treatment.~~

~~004.07 Failing to take appropriate care when working with minors or other persons who are unable to give voluntary, informed consent, to protect their best interests.~~

~~005 PUBLIC STATEMENTS. A psychologist shall be accurate and objective when advertising regarding professional services or products. Unprofessional conduct includes but is not limited to:~~

~~005.01 Advertising of psychological products or services which contain: A) a false, fraudulent, misleading, deceptive statement; B) a testimonial from a patient which attests to performance of superior performance of professional service of psychologist's services; C) a statement guaranteeing any professional services; D) a statement intended or likely to appeal to a client's fears, anxieties, or emotions concerning the possible results of failure to obtain the offered services; E) a statement concerning the comparative desirability of offered services; F) a statement of direct solicitation of individual clients.~~

~~005.02 Giving anything of value to a representative of the press, radio, television, or other communication medium in anticipation of or in return for professional publicity in a news item.~~

~~005.03 Advertising for "personal growth groups", clinics, and agencies without a clear statement of purpose and a clear description of the services to be provided.~~

~~005.04 advertising for psychological devices, books or other products offered for commercial sale without making reasonable efforts to ensure presentation of nondeceptive, accurate, or nonmisleading statements.~~

~~005.05 Knowingly permitting others to misrepresent the psychologist's professional qualifications or the psychologist's affiliation with products or services for personal gain of the psychologist.~~

~~005.06 Providing individual formal diagnostic or formal therapeutic services outside the context of the psychologist/client relationship.~~

~~005.07 Making deceptive or misleading representations of the psychologist's education, training, or experience.~~

~~006 CONFIDENTIALITY. A psychologist shall hold in confidence information obtained from a client,~~

~~except in those unusual circumstances in which to do so would result in clear danger to the person or to others or where otherwise required by law. Failure to do so shall constitute unprofessional conduct.~~

~~007 PROFESSIONAL RELATIONSHIPS. A psychologist shall safeguard the welfare of clients and maintain appropriate professional relationships with clients and research participants. Unprofessional conduct includes but is not limited to:~~

~~007.01 Using skills of the psychologist to exploit clients.~~

~~007.02 Failure to terminate a clinical or consulting relationship with a client when the client is clearly and convincingly not benefiting from it.~~

~~007.03 Intentional failure to report to the Board of Examiners of Psychologists known unprofessional conduct by a psychologist. Information that becomes known to a psychologist in the course of psychotherapy and is otherwise subject to the protection of confidentiality is exempt from this provision.~~

~~007.04 Abandoning or neglecting a client with whom a professional relationship exists.~~

~~008 SEXUAL MISCONDUCT. A psychologist shall in no circumstances engage in sexual acts with clients, students who are under direct evaluative control of the psychologist, or with individuals who are currently participating in research conducted by or under the direction of the psychologist. Specifically with regard to the clients, such unprofessional conduct includes but is not limited to:~~

~~008.01 Engaging in sexual relationships with a client, regardless of the clients consent.~~

~~008.02 Soliciting a sexual relationship with a client.~~

~~008.03 Committing an act with a client punishable as a sexual or sexual related crime.~~

~~008.04 Engaging in any sexual act with a client or with a person who has been a client. Nothing in these regulations shall be construed to allow for a pre-arranged waiting period.~~

~~008.05 Engaging in sexual harassment of a client. Sexual harassment is defined as deliberate or repeated comments, gestures, or physical contacts of a sexual nature that are unnecessary in the professional relationship with a client.~~

~~009 FEES FOR SERVICES. A psychologist shall solicit or obtain fees for professional service in an appropriate manner consistent with the laws of the State of Nebraska. Unprofessional conduct includes but is not limited to:~~

~~009.01 Solicitation of professional patronage by agents or persons, popularly known as cappers or steerers, or profiting by the acts of those representing themselves to be agents of the psychologist.~~

~~009.02 Receipt of fees on the assurance that a manifestly incurable disease can be permanently cured.~~

~~009.03 Division of fees, or agreeing to split or divide the fees received for professional services with any person for bringing or referring a patient.~~

~~009.04 Ordering or utilizing tests, treatment, or use of treatment facilities not warranted by the condition of the patient.~~

~~009.05 Falsely or fraudulently claiming to have performed a professional service, charging for a service, or representing a service as the psychologist's own when he or she has not rendered due service or substantially assumed responsibility for the service.~~

~~010 ASSESSMENT AND TREATMENT TECHNIQUES. A psychologist shall make reasonable efforts to preclude misuse in the development, publication and utilization of psychological assessment techniques for use with clients. Unprofessional conduct includes but is not limited to:~~

~~010.01 Failure, in reporting assessment results, to indicate any serious concerns or special circumstances that exist regarding validity or reliability because of the circumstances of the assessment or the inappropriateness of the norms for the person tested.~~

~~010.02 Failure to make reasonable efforts to avoid and prevent the misuse of obsolete psychological tests and instruments.~~

~~010.03 Offering scoring and interpretation services for which the validity of the programs and procedures used in arriving at interpretations cannot be supported by adequate evidence.~~

~~010.04 Encouraging or promoting the use of psychological assessment techniques by inadequately trained or otherwise unqualified persons through teaching, sponsorship, or supervision.~~

~~010.05 In presenting psychological information, failure to make reasonable efforts to present such information objectively, fully, and accurately.~~

~~011 RESEARCH WITH HUMAN PARTICIPANTS. A psychologist shall respect the dignity and welfare of human research participants, and shall comply with these regulations governing such psychological research. Unprofessional conduct includes but is not limited to:~~

~~011.01 Except in minimal risk research unless care and treatment is provided in such research, failure to establish an agreement with research participants, prior to their participation, that clarifies the obligations and responsibilities of the psychologist and of the participant. Except where the nature of the research precludes full disclosure, the failure to inform participants of all aspects of the research that might reasonably be expected to influence willingness to participate, or the failure to explain all aspects of the research about which a participant inquires, also constitute unprofessional conduct; where the nature of the research precludes full prior disclosure, or where the research is with children or with participants who have impairments, the failure to tax additional safeguards to protect the welfare and dignity of the research participants constitutes unprofessional conduct.~~

~~011.02 Where methodological requirements of a study make the use of concealment or deception necessary, unprofessional conduct includes failure of the investigator to:~~

~~a. Determine before conducting the study whether the use of the techniques is justified by the study's prospective scientific, educational or applied value;~~
~~b. Determine before conducting the study whether alternative procedures are available that do not use concealment or deception; or~~
~~c. Provide the participants with an explanation as soon as possible.~~

~~011.03 Failure to grant a participant the right to decline to participate in or to withdraw from the research any time.~~

~~011.04 Failure to protect and or inform the participant of undue physical and mental discomfort, harm, and danger that may arise from research procedures; failure to inform participants of risks of such consequences; use of research procedures likely to cause serious or lasting harm to a participant unless the research has a potential benefit and fully informed and voluntary consent is obtained from the participant.~~

~~011.05 Except where scientific or humane values justify delaying or withholding information, the failure to provide participants, after data is collected, with information about the nature of the study or the failure to make reasonable efforts to remove any misconceptions that may have arisen constitute unprofessional conduct. Where scientific or humane values justify delaying or withholding this information, unprofessional conduct includes failure by the investigator to monitor the research and to ensure that there are no undue damaging consequences for participants.~~

~~011.06 Failure to make reasonable efforts to detect and remove or correct undesirable consequences for the individual participants, including long term effects.~~

~~011.07 Failure to make reasonable efforts to minimize the possibility that his or her research findings will be misleading.~~

~~011.08 Failure to make reasonable efforts to prevent distortion, misuse, or suppression of psychological findings by an institution or agency of which he or she is an employee.~~

~~011.09 Solicitation of research participants, when clinical services or other professional services are offered as an inducement for participation, without making clear the nature of the services as well as the costs and other obligations to be accepted by participants.~~

~~012 ADOPTION OF APA CODE OF ETHICAL STANDARDS. The Board hereby adopts the Ethical Standards of Psychologists of the American Psychological Association (APA) as the Code of Professional Conduct for the practice of Psychology in Nebraska. Copies of the Ethical Standards of Psychologists are available from the Board or from the American Psychological Association.~~

~~These Rules and Regulations revise 172 NAC 156 and replace 172 NAC 157, Code of Professional Conduct for the Practice of Psychology.~~

~~Approved by Attorney General: _____~~
~~Approved by the Governor: _____~~
~~Filed by the Secretary of State: _____~~
~~**EFFECTIVE DATE:**~~