

201 KAR 44:040. Professional Conduct and Code of Ethics.

RELATES TO: KRS 319B.030, 319B.040, 319B.140

STATUTORY AUTHORITY: KRS 319B.030 (1)(h), 319B.140 (1)(b), (d)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 319B.030(1)(h) requires the board to establish standards of practice for person licensed pursuant to KRS Chapter 319B. This administrative regulation defines unprofessional conduct and sets forth a code of ethics for persons licensed under KRS Chapter 319B.

Section 1. Failure to comply with any of the provisions in this administrative regulation shall constitute unprofessional conduct in the practice of Licensed Prosthetist, Licensed Orthotist, Licensed Prosthetist/Orthotist, Licensed Pedorthist, or Licensed Orthotic Fitter.

Section 2. Responsibilities to Other Licensed Healthcare Practitioner or Provider. The licensee shall:

- (1) Receive and document a prescription or other valid referral, authorization, hospital or skilled nursing facility order from a licensed healthcare practitioner or provider:
 - (a) Authorized by law to provide those prescriptions; and
 - (b) Which is consistent with the standards of the healthcare practitioner or provider;
- (2) Consult and coordinate with the licensed healthcare practitioner or provider to determine and to document the medical appropriateness of the orthotic, prosthetic, or pedorthic device;
- (3) Notify the licensed healthcare practitioner or provider of changes in the patient's condition that may affect the patient's orthotic, prosthetic or pedorthic treatment plan; and
- (4) Notify and obtain authorization from the licensed healthcare practitioner or provider prior to repair or adjustment of an orthotic, prosthetic, or pedorthic device if:
 - (a) The repairs or adjustments do not conform to the original prescription; or
 - (b) The repairs or adjustments substantially alter the design or function of the originally prescribed device.

Section 3. Responsibilities to the Patient. (1) The licensee shall:

- (a) Monitor and observe the patient's physical condition regarding the orthotic, prosthetic, or pedorthic care and the prescribed device;
- (b) Ensure the orthotic, prosthetic, or pedorthic device is functioning appropriately to implement the patient's treatment plan;
- (c) Maintain as confidential all information relating to a patient's identity, background, condition, treatment or management plan, or any other private information relating to the patient;
- (d) Not communicate any confidential information to any person or entity who is not providing direct medical care to the patient:
 1. Without the prior written consent of the patient or patient's legal guardian; or
 2. Unless required by a court order or other applicable legal requirements;
- (e) Comply with KRS 422.317;
- (f) Complete all patient care documentation within thirty (30) days from date of service;
- (g) Submit all insurance requirements necessary for billing within thirty (30) days from the date of service;
- (h) Accept a patient regardless of race, gender, color, religion or national origin or on any basis that would constitute illegal discrimination under state or federal law;
- (i) Refer a patient to another licensed healthcare practitioner or provider if the nature and extent of a problem of the patient exceeds the scope of competence of the licensee;
- (j) Inform the patient of the patient's right to seek orthotic, prosthetic, or pedorthic services

from any qualified healthcare practitioner or provider; and

(k) Consult the patient's parent, legal guardian, or other third party who has decision-making authority for the patient when the patient's personal judgment to make decisions concerning the device or services being offered may be impaired.

(2) The licensee shall not:

(a) Engage in false, misleading, or deceptive acts related to the cost of the services provided or recommended;

(b) Utilize or continue orthotic, prosthetic or pedorthic services beyond the point of reasonable benefit or by providing services more frequently than medically necessary unless consented to in writing by the patient;

(c) Submit false, misleading, or deceptive information regarding payment or reimbursement;

(d) Engage in the excessive use of alcoholic beverages or the abusive use of controlled substances;

(e) Verbally or physically abuse a client;

(f) Delegate to an unlicensed employee or person a service which requires the skill, knowledge, or judgment of a licensee under KRS Chapter 319B;

(g) Aid or abet an unlicensed person to practice when a license is required; or

(h) Exercise undue influence in a manner as to exploit the patient for financial or other personal advantage to the licensee or a third party.

Section 4. Patient Documentation. A licensee shall complete all documentation as follows:

(1) A patient assessment to include:

(a) The documentation required by Section 2(1)(a) of this administrative regulation;

(b) Physical evaluation; and

(c) Patient's written and informed consent;

(2) A treatment plan to include:

(a) Documentation of subjective, objective, assessment, and plan of care;

(b) Applicable documentation to support treatment modality; and

(c) Follow-up and evaluation of clinical outcomes; and

(3) Practice management to include:

(a) Documented L coding for prescribed orthotic or prosthetic device; and

(b) Billing, fee, and insurance arrangements.

Section 5. Responsibilities to Research Subjects. The licensee, if engaged in a research project or study, shall:

(1) Ensure that all patients affiliated with those projects or studies consent in writing to the use of the results of the study;

(2) Maintain as confidential all information relating to a patient's identity, background, condition, treatment or management plan, or any other information relating to the patient;

(3) Maintain patient dignity and well-being;

(4) Ensure the research is conducted in accordance with all federal and state laws;

(5) Take steps to prevent false, misleading, or deceptive acts and practices relating to the research project or study; and

(6) Immediately report, in writing, unethical or illegal conduct to the board or appropriate law enforcement authority, if the licensee has reason to believe that any unethical or illegal conduct has occurred or is likely to occur.

Section 6. Responsibilities to the Kentucky Board of Prosthetics, Orthotics and Pedorthics.

(1) The licensee shall:

- (a) Comply with the reporting requirements of KRS 319B.050(1) and (4);
- (b) Notify the board, in writing, within thirty (30) days after the date upon which:
 - 1. A payment is made by the licensee, or on the licensee's behalf, to settle a claim of professional negligence;
 - 2. Conviction of a felony in any court;
 - 3. A disciplinary action against the licensee by any other governmental licensing authority of this state or any other state; or
 - 4. Suspension or cessation of participation of any federal or state reimbursement program;
- (c) File an initiating complaint with the board if the licensee has actual knowledge, which may be inferred from the circumstances, that another licensee has committed a violation of KRS Chapter 319B or the administrative regulations;
- (d) Use the correct designation following the licensee's name on any patient record or advertising as follows:
 - 1. If the licensee is an Orthotist, "LO";
 - 2. If the licensee is a Prosthetist, "LP";
 - 3. If the licensee is a Prosthetist/Orthotist, "LPO";
 - 4. If the licensee is a Pedorthist, "LPed";
 - 5. If the licensee is an Orthotic Fitter, "LOF"; or
 - 6. Appropriate designations for advanced academic degrees or bona fide certifications, if any, following the above designations; and
- (e) Supervise any American Board for Certification in Orthotics, Prosthetics and Pedorthics (ABC) certified or its equivalent orthotic or prosthetic assistants in the licensee's charge following all current guidelines established by ABC or its equivalent.
- (2) The licensee shall not:
 - (a) Fail to cooperate with the board by:
 - 1. Not furnishing any papers or documents requested by the board;
 - 2. Not furnishing in writing a complete explanation covering the matter contained in a complaint filed with the board;
 - 3. Not appearing before the board at a time and place designated; or
 - 4. Not properly responding to subpoenas issued by the board;
 - (b) Pay any financial interest, compensation, or other value to be received by a referral source for:
 - 1. Services provided by the licensee;
 - 2. Prosthetic, orthotic, pedorthic devices; or
 - 3. Other services the licensee may recommend for the patient;
 - (c) Have, or attempt to have, sexual relations with:
 - 1. An active patient of record, unless a consensual sexual relationship existed between them before the licensee-patient relationship commenced;
 - 2. A patient of record for a period of ninety (90) days from the last date of service rendered to the patient or;
 - 3. A parent, legal guardian, or other third party, who has decision-making authority for:
 - a. An active patient of record; or
 - b. For a period of ninety (90) days from the last date of service rendered to the patient whichever is longer;
 - (d) Use any advertising material, promotional literature, testimonial, guarantee, warranty, label, brand, insignia, or any other representation however disseminated or published which is false, misleading, deceptive, or untruthful; or
 - (e) Commit or attempt to commit any unfair, false, misleading, or deceptive act or practice. (38 Ky.R. 431; 901; 1121; eff. 1-6-2012; 43 Ky.R. 1438; 1942; eff. 6-2-2017.)