



Keuler, Kelly,
Hutchins, Blankenship
& Sigler, LLP
— ATTORNEYS —

Audiology and the Law

A view into the Professional Code of Ethics
for Kentucky Audiologists and a National
Legislative Update in the Field of
Audiology



James A. Sigler

In 2023, James A. (Jim) Sigler completed his 35th year as a litigator and practicing attorney in western Kentucky. Jim is a Senior Partner at Keuler, Kelly, Hutchins, Blankenship, and Sigler, LLP. Jim tried eight civil jury trials to defense verdicts in 2018-2021.

Jim's practice spans a broad range of areas, including medical and hospital malpractice defense, civil rights claims and multi-party toxic tort litigation. Jim has defended nearly 1,000 clients in virtually every area of civil injury litigation, spanning 42 counties in Western Kentucky.

Jim is a prompt and efficient litigator and he uses his experience to successfully resolve claims asserted against his clients. His professionalism and proficiency have earned him the prestigious AV Preeminent rating from Martindale-Hubbell.

201 KAR 17:041

Professional Code of Ethics

KRS 334A.080(3) requires the Board of Speech-Language Pathology and Audiology to promulgate responsible administrative regulations, including administrative regulations which delineate qualifications for licensure and renewal of licensure. This administrative regulation establishes the code of ethics.

Section 1: Responsibility to Patients



Keuler, Kelly,
Hutchins, Blankenship
& Sigler, LLP
— ATTORNEYS —



(1) A licensee shall:

(a) Advance and protect the welfare of the patient;

(b) Respect the rights of a person seeking his assistance;
and

(c) Make reasonable efforts to ensure that his services are
used appropriately.

(2) A licensee shall **not**:

(a) Exploit the trust and dependency of a patient;

(b)

1. Except as provided by subparagraph 2 of this paragraph, engage in a dual relationship with a patient, including a social, business, or personal relationship that may:

a. Impair professional judgment;

b. Incur a risk of exploitation of the patient; or

c. Otherwise violate a provision of this administrative regulation;

2. If a dual relationship cannot be avoided, and does not impair professional judgment, incur a risk of exploitation of the patient, or otherwise violate a provision of this administrative regulation, a licensee shall take appropriate professional precautions to ensure that judgment is not impaired and exploitation of the patient does not occur;



A licensee shall **not**:

- (c) Use his professional relationship with a patient to further his own interests;
- (d) Continue a therapeutic relationship unless it is reasonably clear that the patient is benefiting from the relationship;
- (e) Fail to assist a person in obtaining other therapeutic services if the licensee is unable or unwilling, for appropriate reasons, to provide professional help;
- (f) Abandon or neglect a patient in treatment without making reasonable arrangements for the continuation of treatment;
- (g) Videotape, record, or photograph the provision of services without having first obtained written informed consent from the patient;
- (h) Permit third-party observation without first obtaining oral or written informed consent from the patient;
- (i) Engage in sexual or other harassment or exploitation of his patient, student, trainee, supervisee, employee, colleague, research subject, or actual or potential witness or complainant in an investigation or ethical proceeding; or
- (j) Diagnose, treat, or advise on a problem outside the recognized boundaries of his competence.



Section 2: Confidentiality



Keuler, Kelly,
Hutchins, Blankenship
& Sigler, LLP
— ATTORNEYS —



- (1) A licensee shall respect and guard the confidences of each individual patient.
- (2) A licensee shall not disclose a patient confidence except:
 - (a) As mandated, or permitted by law;
 - (b) To prevent a clear and immediate danger to a person;
 - (c) During the course of a civil, criminal, or disciplinary action arising from the therapy, at which the licensee is a defendant; or
 - (d) In accordance with the terms of a written waiver. If the patient is a minor, a parent may provide a waiver.
- (3) A licensee may use patient or clinical materials in teaching, writing, and public presentations if:
 - (a) A written waiver has been obtained in accordance with subsection (2)(d) of this section; or
 - (b) Appropriate steps have been taken to protect patient identity and confidentiality.
- (4) A licensee shall store or dispose of patient records so as to maintain confidentiality.

Section 3: Professional Competence and Integrity



Keuler, Kelly,
Hutchins, Blankenship
& Sigler, LLP
— ATTORNEYS —

A licensee shall maintain standards of professional competence and integrity and shall be subject to disciplinary action in accordance with KRS 334A.180:

(1) Upon conviction of a felony, or a misdemeanor related to the practice of the licensee.

Conviction shall include adjudication based on:

(a) A plea of no contest or an "Alford Plea"; or

(b) The suspension or deferral of a sentence.

(2) If his license or certificate is subject to disciplinary action by another state's regulatory agency that the board determines violates applicable Kentucky state law or administrative regulation;

(3) Upon a showing of impairment due to mental incapacity or the abuse of alcohol or other substances which negatively impact the licensee's practice;

(4) If the licensee misrepresented or concealed a material fact in obtaining a license, renewing a license, or reinstating a license;

(5) If he has refused to comply with an order issued by the board; or

(6) If he has failed to cooperate with the board by not:

(a) Furnishing in writing a complete explanation to a complaint filed with the board;

(b) Appearing before the board at the time and place designated; or

(c) Properly responding to a subpoena issued by the board.



Section 4: . Responsibility to His Student or Supervisee



Keuler, Kelly,
Hutchins, Blankenship
& Sigler, LLP
— ATTORNEYS —



A licensee shall:

- (1) Be aware of his influential position with respect to a student or supervisee;
- (2) Avoid exploiting the trust and dependency of a student or supervisee;
- (3) Avoid a social, business, personal, or other dual relationship that could:
 - (a) Impair professional judgment; or
 - (b) Increase the risk of exploitation;
- (4) Take appropriate precautions to ensure that judgment is not impaired and to prevent exploitation if a dual relationship cannot be avoided;
- (5) Not engage in sexual intimacy or contact with a:
 - (a) Student;
 - (b) Employee; or
 - (c) Supervisee;



(6) Not permit a student or supervisee to perform or represent himself as competent to perform a professional service beyond his level of:

- (a) Training;
- (b) Experience; or
- (c) Competence;

(7) Not disclose the confidence of a student or supervisee except:

- (a) If permitted or mandated by law;
- (b) If it is necessary to prevent a clear and immediate danger to a person;
- (c) During the course of a civil, criminal, or disciplinary action arising from the supervision, at which the licensee is a defendant;
- (d) In an educational or training setting, if there are multiple supervisors or professional colleagues who share responsibility for the training of the supervisee; or
- (e) In accordance with the terms of a written informed consent agreement.

Section 5: Financial Arrangements



Keuler, Kelly,
Hutchins, Blankenship
& Sigler, LLP
— ATTORNEYS —

A licensee shall:

- (1) Disclose his fees to a patient and supervisee at the beginning of service;
- (2) Make financial arrangements with a patient, third-party payor, or supervisee that:
 - (a) Are reasonably understandable; and
 - (b) Conform to accepted professional practices;
- (3) Not offer or accept payment for a referral; and
- (4) Represent facts truthfully to a patient, third-party payor, or supervisee regarding services rendered



Section 6: Advertising



Keuler, Kelly,
Hutchins, Blankenship
& Sigler, LLP
— ATTORNEYS —



(1) A licensee shall:

- (a) Accurately represent education, training, and experience relevant to the practice; and
- (b) Not use professional identification, including a business card, office sign, letterhead or telephone or association directory listing, that includes a statement or claim that is false, fraudulent, misleading, or deceptive pursuant to subsection (2) of this section.

(2) A statement shall be considered false, fraudulent, misleading, or deceptive if it:

- (a) Contains a material misrepresentation of fact;
- (b) Is intended to or likely to create an unjustified expectation; or
- (c) Deletes a material fact or information.

Legislative Updates



Keuler, Kelly,
Hutchins, Blankenship
& Sigler, LLP
— ATTORNEYS —

Licensing

Alaska: SB 157 creates a Sunrise Review Board to review any proposed changes to licensure unless the proposal has been the subject of a review within the preceding four years. This bill is still pending in the legislature.

Rhode Island: H 7388 requires state agencies to conduct a comprehensive review of all entry regulations and allow any person to petition to modify or repeal entry regulations. This bill is still pending in the legislature.

Maryland: SB 714 determines who will submit licensing board candidates to the governor's office. The legislature has passed this bill.

Hearing Health

Arizona: HB 2112 expands coverage for hearing aids for children. The bill passed the House but has not passed the Senate.

Wisconsin: Legislation that specifies that a license is not required to sell or fit over-the-counter hearing aids has recently been passed.

Washington: Legislation that expands screening and support for cytomegalovirus has been enacted.

Wyoming: The legislature has passed a bill that creates adult hearing aids program.

Coverage of Services

Kentucky: SB 111 requires insurance coverage for habilitative and rehabilitative speech therapy as a treatment for stuttering. The bill was enacted.

Delaware: HB 273 would require insurance coverage for speech-language disorders. The bill has passed the House and awaits action in the Senate.

Florida: HB 7016 includes appropriations to increase the Medicaid reimbursement rate for occupational, physical, and speech therapies.

Other causes that are making their way to state legislators:

- North Carolina: pushing for increased Medicaid rates.
- Kentucky: pushing to require insurance plans to cover habilitative and rehabilitative speech therapy as a treatment for stuttering.
- Washington: pushing to provide an annual increase in reimbursement for audiology and speech-language pathology private practices by requiring a cost-of-living adjustment in contracts between providers and insurers

Source: American Speech-Language-Hearing Association: <https://www.asha.org/news/2024/2024-state-legislative-updates-for-audiologists-and-speech-language-pathologists/>

Other Changes in the Law

Expansion of Hearing Aid Dispenser Scope of Practice

Nebraska: a regulatory proposal that would expand the scope of practice of hearing instrument specialists in a manner that harms consumers and infringes upon the audiology scope of practice has been proposed in the legislature.

South Dakota: HB 1029 expands hearing aid specialists' scope of practice. This bill was enacted.

Telepractice

South Carolina: H 4159. The Telehealth and Telemedicine Modernization Act updated telepractice rules in the state and created a new process for out-of-state providers to serve clients in the state without a South Carolina license. This bill was passed.

Washington. S 5481 allows for out-of-state telehealth providers to serve patients in the state without a Washington state license. This bill was passed.

Special Education

Iowa: Study Bill 542/ HF 2612 severely undercut Iowa Area Education Agencies and allows schools to contract with outside companies for special education services. This bill was passed.

Thank You!

270.448.8888

100 South 4th Street, Suite 400
Paducah, KY 42001

kkhblaw.com

This PowerPoint is designed to provide general information and was prepared by professionals in regard to the subject matter covered. It is provided with the understanding that the authors are not engaged in rendering legal, accounting, or other professional service on an ongoing basis or for any specific matter unless engaged. This outline should not be utilized as a substitute for professional services in specific situations. If legal advice is required, the service of a professional should be sought.

