

This is an amendment to 16.26.9 NMAC, Section 8 effective 1/10/2020.

Explanatory Statement: Corrections were made in Sections 6 and 8 of this rule to eliminate the use of ‘and/or’ per current legislative styles.

16.26.9.8 CODE OF ETHICS:

A. The purpose of the Code of Ethics is to preserve high standards of integrity and ethical principles in the discharge of obligations to the public by the professions of speech-language pathologists, audiologists and hearing aid dispensers. Every individual who practices as a licensed speech-language pathologist, audiologist or hearing aid dispenser shall abide by the Code of Ethics. Any action that violates the Code of Ethics is to be considered unethical and subject to disciplinary action by the board. Failure of the code to specify any particular responsibility or practice is not to be construed as a denial of the existence of a responsibility or practice in that area. The rules of ethics are specific statements of minimally acceptable professional conduct or of prohibitions and are applicable to all licensed individuals. The fundamental rules of ethical conduct as they relate to responsibility to the public are described in three categories, principles of ethics, ethical proscriptions and matters of professional propriety.

(1) Principles of ethics: Six principles serve as a basis for the ethical evaluation of professional conduct and form the underlying moral basis for the Code of Ethics. Licensed individuals subscribing to this code shall observe these principles as affirmative obligations under all conditions of professional activity.

(2) Ethical proscriptions: Ethical proscriptions are formal statements of prohibitions that are derived from the principles of ethics.

(3) Matters of professional propriety: Matters of professional propriety represent guidelines of conduct designed to promote the public interest and thereby better inform the public and particularly the persons in need of service by the speech-language pathologist, audiologist and hearing aid dispenser as to the availability and the rules governing the delivery of these services.

B. Principles of ethics 1: Individuals shall honor their responsibility to hold paramount the welfare of the persons they serve professionally.

(1) Licensed individuals shall use every resource including referral to other specialists as needed, to ensure that high quality service is provided.

(2) Licensed individuals shall fully inform the persons they serve of the nature and possible effects of the services rendered and products dispensed.

(3) Licensed individuals shall fully inform subjects participating in research or teaching activities of the nature and possible effects of these activities.

(4) Licensed individuals shall evaluate the effectiveness of services rendered and of products dispensed and shall provide services or dispense products only when benefit can reasonably be expected.

(5) Licensed individuals shall maintain adequate records of professional services rendered and products dispensed and shall provide access to those records when appropriately authorized.

(6) Licensed individuals shall use persons in research or as subjects of teaching demonstrations only with their fully informed consent.

(7) Licensed individuals' fees shall be commensurate with services rendered.

(8) Licensed individuals shall take all reasonable precautions to avoid injury to persons in the delivery of professional services.

(9) Licensed individuals whose services are adversely affected by substance abuse or other health-related conditions shall seek professional assistance and, where appropriate, withdraw from the affected area of practice.

C. Ethical proscriptions:

(1) Licensed individuals shall not discriminate in the delivery of professional services on the basis of race or ethnicity, gender, age, religion, national origin, sexual orientation, or disability.

(2) Licensed individuals shall not guarantee the results of any treatment, procedure, or product, directly or by implication; however, they may make a reasonable statement of prognosis. Caution must be exercised not to mislead any person served professionally to expect results that cannot be predicted from sound evidence.

- (3) Licensed individuals must not evaluate, treat, or dispense except in a professional relationship.
- (4) Licensed individuals shall not evaluate, treat, or dispense solely by correspondence. This does not preclude follow-up correspondence with persons previously served, nor providing them with general information of an educational nature.
- (5) Licensed individuals shall not reveal, without proper authorization any professional or personal information about the person served professionally, unless required to do so, or unless doing so is necessary to protect the welfare of the person or of the community.
- (6) Licensed individuals must not charge for services not rendered.
- (7) Licensed individuals must not exploit any person in the delivery of professional services, including accepting persons for treatment when benefit cannot reasonably be expected or continuing treatment when it is no longer necessary.

D. Principles of ethics II: Licensed individuals shall maintain high standards of professional competence.

- (1) Licensed individuals shall engage in those aspects of the professions that are within the scope of their licensed professional competence.
- (2) Licensed individuals shall identify competent, dependable referral sources for persons served professionally.
- (3) Licensed individuals shall insure that all equipment used in the provision of services is in proper working order and is properly calibrated.
- (4) Licensed individuals shall continue their professional development.
- (5) Licensed individuals shall possess appropriate qualifications for services provided.

E. Ethical proscriptions:

- (1) Licensed individuals must not provide services by prescriptions from anyone who is not licensed pursuant to these regulations.
- (2) Licensed individuals shall prohibit any of their staff from providing services that they are not licensed or qualified to perform.
- (3) Licensed individuals must not require or delegate any service requiring professional competence and licensure of/to anyone who is not competent and licensed to engage in any practice that is a violation of the Code of Ethics.
- (4) Licensed individuals must not offer clinical services by supportive personnel for whom they do not provide appropriate supervision and assume full responsibility.
- (5) Licensed individuals shall not provide professional services without exercising independent professional judgement, regardless of referral source or prescription.

F. Principles of ethics III:

- (1) Licensed individuals shall honor their responsibility to the public by providing accurate information in all communications involving any aspect of professional service rendered.
- (2) Licensed individuals' statements to the public - advertising, announcing, and marketing their professional services and products - shall adhere to prevailing and acceptable professional standards.
- (3) Licensed individuals' statements to the public shall provide accurate information about the nature and management of communication disorders, the products dispensed thereof, about the professions and about professional services.

G. Ethical proscriptions:

- (1) Licensed individuals shall not misrepresent their credentials, competence, education, training, title, or experience.
- (2) Licensed individuals shall not misrepresent diagnostic information, services rendered, or products dispensed, or artifice to defraud in connection with obtaining payment or reimbursement for such services or products.
- (3) Licensed individuals must not make public statements regarding professional services and products that contain representations or claims that are false, deceptive or misleading.
- (4) Licensed individuals must not use professional or commercial affiliations in any way that would mislead or limit services to persons served professionally.

H. Matters of professional propriety: Licensed individuals should announce services in a manner consistent with highest professional standards in the community.

I. Principles of ethics IV:

(1) Licensed individuals shall maintain objectivity in all matters concerning the welfare of persons served professionally. Licensees who dispense products to the public shall observe the following standards.

(a) Products associated with professional practice must be dispensed as a part of a program of comprehensive habilitative care.

(b) Fees established for professional services must be independent of whether a product is dispensed.

(c) Persons served shall be provided freedom of choice for the source of services and products.

(d) Price information about professional services rendered and products dispensed must be disclosed by providing or posting a complete schedule of fees and charges in advance of rendering services, which differentiates between fees for professional services and charges for products dispensed.

(e) Products dispensed to the person served must be evaluated to determine effectiveness.

(2) Any person who practices the sale or fitting of hearing aids shall deliver to any person supplied with a hearing aid, a receipt that shall contain:

(a) the licensee's signature, [the] address of the [licensee's] regular place of business and [the number of his license] license number; it shall also show the make and model of the hearing aid furnished along with the full terms of the sale clearly stated; if the hearing aid is not new, the receipt must clearly show whether the hearing aid is used or reconditioned, whichever is applicable in terms of any guarantee; the receipt shall also show that the purchaser was advised that the licensee was not a licensed physician and that the examination and recommendation was made as a hearing aid dispenser or fitter and not as a medical diagnosis or prescription; the receipt shall also include language stating that each prospective purchaser was informed at the time of the initial examination for possible sale and fitting of a hearing aid about hearing aid options that can provide a direct connection between the hearing aid and assistive listening systems in accordance with the latest standards for accessible design adopted by the United States department of justice in accordance with the federal Americans with Disabilities Act of 1990, as amended. Each licensee and purchaser must initial acknowledging that counseling for the above-mentioned options took place and that the purchaser was informed concerning these options, and whether the hearing aid(s) contain(s) a tele-coil or t-switch;

(b) the information regarding the trial period which shall be a minimum of 45 consecutive days; if the 45th day falls on a holiday, weekend, or a day the business is not open, the effective date shall be the first day the business reopens; full disclosure of the conditions of any offer of a trial period with a money back guarantee or partial refund; a trial period shall not include any time that the hearing aid is in the possession of the dispenser or the manufacturer; any extension of the 45-day refund period must be in writing and submitted to the client;

(c) shall also include the name, address, and telephone number of the speech language pathology, audiology and hearing aid dispensing practices board in the event a complaint needs to be filed.

(3) Any purchaser of a hearing instrument shall be entitled to a refund of the purchase price advanced by purchaser for the hearing instrument, less the agreed-upon amount associated with the trial period, upon return of the instrument to the licensee in good working order within the trial period. Should the order be canceled by purchaser prior to the delivery of the instrument, the licensee may retain the agreed-upon charges and fees as specified in the written contract. The purchaser shall receive the refund due no later than the 30th day after the date on which the purchaser cancels the order or returns the hearing instrument to the licensee.

J. Ethical proscriptions:

(1) Licensed individuals must not participate in activities that constitute a conflict of interest.

(2) Licensed individuals must not directly or indirectly give or offer to give money or anything of value to any person who advises another person in a professional capacity as an inducement to influence them or have them influence others to purchase or contract to purchase products sold or offered for sale by the licensee, or to refrain from dealing in the products of competitors.

K. Matters of professional propriety:

(1) Licensed individuals should not accept compensation for supervision or sponsorship from a supervised or sponsored individual.

(2) Individuals should present products they have developed to their colleagues in a manner consonant with highest professional standards.

L. Principles of ethics V: Licensed individuals shall honor their responsibilities to the professions and their relationships with members of allied professions.

M. Matters of professional propriety:

(1) Licensed individuals should seek to provide and expand services to persons with speech, language and hearing handicaps as well as assist in establishing high professional standards for such programs.

(2) Licensed individuals should educate the public about speech, language and hearing processes and handicaps, and matters related to professional competence.

(3) Licensed individuals should strive to increase knowledge within the professions and share research with colleagues.

(4) Licensed individuals should establish harmonious relations with colleagues and members of other professions and endeavor to inform members of the related professions of services provided by speech-language pathologists, audiologists and hearing aid dispensers.

(5) Licensed individuals should assign credit to those who have contributed to a publication in proportion to their contribution.

N. Principles of ethics VI:

(1) Licensed individuals shall uphold the dignity of the professions and freely accept the professional self imposed standards.

(2) Licensed individuals who have reason to believe that the Code of Ethics has been violated shall inform the board.

(3) Licensed individuals shall cooperate fully with the board in any investigation and adjudication of matters of professional conduct related to this Code of Ethics.

O. Principles of Ethics VII: Licensed audiologists and hearing aid dispensers shall, at the time of the initial examination for possible sale and fitting of a hearing aid if a hearing loss is determined, inform each prospective purchaser about hearing aid options that can provide a direct connection between the hearing aid and assistive listening systems in accordance with the latest standards for accessible design adopted by the United States department of justice in accordance with the federal Americans with Disabilities Act of 1990, as amended.
[8/4/1981; 8/4/1996; 11/9/1996; 11/7/1998; 16.26.9.8 NMAC - Rn & A, 16 NMAC 26.9.8, 2/3/2006; A, 06/07/2010; A, 1/10/2020]