

311.597 Acts declared to constitute dishonorable, unethical, or unprofessional conduct.

As used in KRS 311.595(9), "dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public or any member thereof" shall include but not be limited to the following acts by a licensee:

- (1) Prescribes or dispenses any medication:
 - (a) With the intent or knowledge that a medication will be used or is likely to be used other than medicinally or for an accepted therapeutic purpose;
 - (b) With the intent to evade any law with respect to sale, use, or disposition of the medication;
 - (c) For the licensee's personal use or for the use of his immediate family when the licensee knows or has reason to know that an abuse of a controlled substance is occurring, or may result from such a practice;
 - (d) In such amounts that the licensee knows or has reason to know, under the attendant circumstances, that said amounts so prescribed or dispensed are excessive under accepted and prevailing medical practice standards; or
 - (e) In response to any communication transmitted or received by computer or other electronic means, when the licensee fails to take the following actions to establish and maintain a proper physician-patient relationship:
 1. Verification that the person requesting medication is in fact who the patient claims to be;
 2. Establishment of a documented diagnosis through the use of accepted medical practices; and
 3. Maintenance of a current medical record.For the purposes of this paragraph, an electronic, on-line, or telephonic evaluation by questionnaire is inadequate for the initial evaluation of the patient or for any follow-up evaluation.
- (2) Issues, publishes, or makes oral or written representations in which grossly improbable or extravagant statements are made which have a tendency to deceive or defraud the public, or a member thereof, including but not limited to:
 - (a) Any representation in which the licensee claims that he can cure or treat diseases, ailments, or infirmities by any method, procedure, treatment, or medicine which the licensee knows or has reason to know has little or no therapeutic value;
 - (b) Represents or professes or holds himself out as being able and willing to treat diseases, ailments, or infirmities under a system or school of practice:
 1. Other than that for which he holds a certificate or license granted by the board, or
 2. Other than that for which he holds a degree or diploma from a school otherwise recognized as accredited by the board, or
 3. Under a school or system which he professes to be self-taught.

For purposes of this subsection, actual injury to a patient need not be established.

- (3) A serious act, or a pattern of acts committed during the course of his medical practice which, under the attendant circumstances, would be deemed to be gross incompetence, gross ignorance, gross negligence, or malpractice.
- (4) Conduct which is calculated or has the effect of bringing the medical profession into disrepute, including but not limited to any departure from, or failure to conform to the standards of acceptable and prevailing medical practice within the Commonwealth of Kentucky, and any departure from, or failure to conform to the principles of medical ethics of the American Medical Association or the code of ethics of the American Osteopathic Association. For the purposes of this subsection, actual injury to a patient need not be established.
- (5) Failure by a licensee to report a known or observed violation of KRS Chapter 311 by another licensee as described in KRS 311.606.

Effective: July 15, 2002

History: Amended 2002 Ky. Acts ch. 130, sec. 17, effective July 15, 2002. -- Amended 1994 Ky. Acts ch. 190, sec. 10, effective July 15, 1994; ch. 265, sec. 13, effective July 15, 1994; and ch. 470, sec. 13, effective July 15, 1994. -- Amended 1992 Ky. Acts ch. 441, sec. 24, effective July 14, 1992. -- Amended 1980 Ky. Acts ch. 188, sec. 254, effective July 15, 1980. -- Created 1978 Ky. Acts ch. 107, sec. 6, effective June 17, 1978.

Legislative Research Commission Note (7/15/94). This statute was amended by 1994 Ky. Acts chs. 265 and 470, which were companion bills and are substantively identical. These Acts have been codified together. For the few minor variations between the Acts, Acts ch. 470 prevails under KRS 446.250, as the Act which passed the General Assembly last. 1994 Ky. Acts ch. 190, sec. 10 is not in conflict with these two Acts and has been codified together with them.