

645—304.2 (272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided in rule 645—304.3(272C) when the board determines that the licensee is guilty of any of the following acts or offenses:

304.2(1) Fraud in procuring a license. Fraud in procuring a license includes, but is not limited to, the following:

- a.* An intentional perversion of the truth in making application for a license to practice in this state;
- b.* False representations of a material fact, whether by word or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a license in this state; or
- c.* Attempting to file or filing with the board or the department of public health any false or forged diploma or certificate or affidavit or identification or qualification in making an application for a license in this state.

304.2(2) Professional incompetency. Professional incompetency includes, but is not limited to:

- a.* A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice.
- b.* A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other speech pathologists or audiologists in the state of Iowa acting in the same or similar circumstances.
- c.* A failure to exercise the degree of care which is ordinarily exercised by the average speech pathologist or audiologist acting in the same or similar circumstances.
- d.* Failure to conform to the minimal standard of acceptable and prevailing practice of a licensed speech pathologist or audiologist in this state.

304.2(3) Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

304.2(4) Use of untruthful or improbable statements in advertisements. Use of untruthful or improbable statements in advertisements includes, but is not limited to, an action by a licensee in making information or intention known to the public which is false, deceptive, misleading or promoted through fraud or misrepresentation.

304.2(5) Practice outside the scope of the profession.

304.2(6) Habitual intoxication or addiction to the use of drugs.

- a.* The inability of a licensee to practice with reasonable skill and safety by reason of the excessive use of alcohol on a continuing basis.
- b.* The excessive use of drugs which may impair a licensee's ability to practice with reasonable skill or safety.

304.2(7) Obtaining, possessing, attempting to obtain or possess, or administering controlled substances without lawful authority.

304.2(8) Falsification of client records.

304.2(9) Acceptance of any fee by fraud or misrepresentation includes, but is not limited to, billing for services which were not rendered or charging fees which are inconsistent with any prior agreements reached with the clients.

304.2(10) Negligence by the licensee in the practice of the profession. Negligence by the licensee in the practice of the profession includes a failure to exercise due care, including negligent delegation of duties or supervision of employees or other individuals, whether or not injury results; or any conduct, practice or conditions which impair the ability to safely and skillfully practice the profession.

304.2(11) Conviction of a crime related to the profession or occupation of the licensee or the conviction of any crime that would affect the licensee's ability to practice within the profession, regardless of whether the judgment of conviction or sentence was deferred. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

304.2(12) Violation of a regulation, rule, or law of this state, another state, or the United States, which relates to the practice of speech pathology or audiology.

304.2(13) Revocation, suspension, or other disciplinary action taken by a licensing authority of this state, another state, territory, or country; or failure of the licensee to report such action within 30 days of the final action by such licensing authority. A stay by an appellate court shall not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, such report shall be expunged from the records of the board.

304.2(14) Failure of a licensee or an applicant for licensure in this state to report any voluntary agreements restricting the individual's practice of speech pathology or audiology in another state, district, territory or country.

304.2(15) Failure to notify the board of a criminal conviction within 30 days of the action, regardless of the jurisdiction where it occurred.

304.2(16) Failure to notify the board within 30 days after occurrence of any judgment or settlement of a malpractice claim or action.

304.2(17) Engaging in any conduct that subverts or attempts to subvert a board investigation.

304.2(18) Failure to comply with a subpoena issued by the board or failure to cooperate with an investigation of the board.

304.2(19) Failure to respond within 30 days of receipt of communication from the board which was sent by registered or certified mail.

304.2(20) Failure to comply with the terms of a board order or the terms of a settlement agreement or consent order.

304.2(21) Failure to pay costs assessed in any disciplinary action.

304.2(22) Submission of a false report of continuing education or failure to submit the biennial report of continuing education.

304.2(23) Failure to report another licensee to the board for any violations listed in these rules, pursuant to Iowa Code section 272C.9.

304.2(24) Knowingly aiding, assisting, or advising a person to unlawfully practice speech pathology or audiology.

304.2(25) Failure to report a change of name or address within 30 days after it occurs.

304.2(26) Representing oneself as a licensed speech pathologist or audiologist when one's license has been suspended or revoked, or when one's license is on inactive status.

304.2(27) Permitting another person to use the licensee's license for any purpose.

304.2(28) Permitting an unlicensed employee or person under the licensee's control to perform activities that require a license.

304.2(29) Unethical conduct. In accordance with Iowa Code section 147.55(3), behavior (i.e., acts, knowledge, and practices) which constitutes unethical conduct may include, but is not limited to, the following:

a. Verbally or physically abusing a client or coworker.

b. Improper sexual contact with or making suggestive, lewd, lascivious or improper remarks or advances to a client or coworker.

c. Betrayal of a professional confidence.

d. Engaging in a professional conflict of interest.

e. Mental or physical inability reasonably related to and adversely affecting the licensee's ability to practice in a safe and competent manner.

f. Being adjudged mentally incompetent by a court of competent jurisdiction.

304.2(30) Repeated failure to comply with standard precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.

304.2(31) Violation of the following code of ethics:

a. Claims of expected clinical results shall be based upon sound evidence and shall accurately convey the probability and degree of expected improvement.

b. Records shall be adequately maintained for the period of time required by applicable state and federal laws.

c. Persons served professionally or the files of such persons will be used for teaching or research purposes only after obtaining informed consent from those persons or from the legal guardians of such persons.

d. Information of a personal or professional nature obtained from persons served professionally will be released only to individuals authorized by the persons receiving professional service or to those individuals to whom release is required by law.

e. Relationships between professionals and between a professional and a client shall be based on high personal regard and mutual respect without concern for race, religious preference, sex, or age.

f. Referral of clients for additional services or evaluation and recommendation of sources for purchasing appliances shall be without any consideration for financial or material gain to the licensee making the referral or recommendation for purchase.

g. Licensees who dispense products to persons served professionally shall provide clients with freedom of choice for the source of services and products.

h. Failure to comply with current Food and Drug Administration regulations 21 CFR §801.420, "Hearing aid devices; professional and patient labeling," and 21 CFR §801.421, "Hearing aid devices, conditions for sale."

304.2(32) Violation of the terms of an initial agreement with the impaired practitioner review committee or violation of the terms of an impaired practitioner recovery contract with the impaired practitioner review committee.

[ARC 8872B, IAB 6/30/10, effective 8/4/10; ARC 9947B, IAB 12/28/11, effective 2/1/12]