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RULE ADOPTION

LAW AND PUBLIC SAFETY DIVISION OF CONSUMER AFFAIRS

NEW JERSEY STATE BOARD OF PSYCHOLOGICAL EXAMINERS
STATE BOARD OF PSYCHOLOGICAL EXAMINERS RULES

Additions to proposals are indicated by <<+ Text +>>; deletions from proposals are indicated by <<- Text ->>. Changes in tables are made but not highlighted.

Adopted Amendments: N.J.A.C. 13:42-1.3, 3.1, 3.2, 4.1, 4.2, 5.1, 7.1, 7.2, 8.1, 8.3, 9.1, 9.3, 9.4, 10.1, 10.5, 10.9, 10.10, 10.12, 10.13, and 10.14

Adopted New Rule: N.J.A.C. 13:42-3.6

Adopted Repeal: N.J.A.C. 13:42-4.3

Proposed: November 1, 1999 at 31 N.J.R. 3218(a).

Adopted: May 8, 2000 by the New Jersey State Board of Psychological Examiners, Kenneth G. Roy, Ed.D., Chairman.

Filed: November 1, 2000 as R.2000 d.476, with substantive changes not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3) and with N.J.A.C. 13:42-10.1(b) and 10.10(d) not adopted.

Authority: N.J.S.A. 45:14B-13, 44 and 45.

Effective Date: December 4, 2000. Expiration Date: October 13, 2003.

Federal Standards Statement

A Federal standards analysis is not required because the adopted amendments and new rule arise under State statute and are not subject to Federal requirements or standards.

Full text of the adoption follows:

<< NJ ADC 13:42-1.3 >>

13:42-1.3 Employment by a nonprofit bona fide community organization; exemption from licensure

(a) Pursuant to N.J.S.A. 45:14B-6(a)3, a psychologist employee of a nonprofit organization which is a bona fide community agency supported wholly or in major part by public funds is exempted from licensure provided the employee is under the direct supervision of a licensed practicing psychologist. For purposes of this section, "direct supervision" shall mean acts performed at a nonprofit bona fide community organization wherein he or she is <<- physically present on the premises at all times during the performance of such acts and such acts are performed pursuant to his or her order, control, and full professional responsibility->> <<+constantly accessible, either on- site or through electronic communication, and available to render assistance when required and that the licensee shall retain full professional responsibility for client care and treatment+>>.

(b)-(g) (No change.)

SUBCHAPTER 3. ONE-YEAR UNSUPERVISED AND THREE-YEAR SUPERVISED TEMPORARY PERMITS FOR TRAINING PENDING ORAL EXAMINATIONS

<< NJ ADC 13:42-3.1 >>

13:42-3.1 One-year unsupervised permit

(a) The Board shall issue a numbered temporary permit for the unsupervised practice of psychology for a period not to exceed one year to a psychologist who:

1. Holds a license in good standing as a psychologist in another state with licensure requirements substantially similar to those of this State;
2. (No change.)
3. Has not engaged in any act or practice which would be the basis for denying a permit under the Uniform Enforcement Act, N.J.S.A. 45:1-14 et seq.;
4. Meets all requirements of New Jersey law other than passing of the oral examination in this State;
5. Has had at least two years of active post-doctoral experience in the practice of applied psychology within the four years immediately preceding application;
6. Has had no disciplinary action taken against a license to practice psychology held in any other state;
7. Provides the Board with a specific written plan for the practice of psychology in this State during the one-year term of unsupervised practice including, but not limited to, the number and kind of cases to be assumed, any affiliation or association with another mental health care provider in this State, and a statement in regard to whether the permit holder will be billing clients for psychological services directly or through another entity such as an employer; and
8. Has filed an application for licensure with the Board.

(b) The holder of a temporary permit pursuant to (a) above shall, within 90 days of issuance of the permit, submit to the Board a work sample for oral examination. Failure to meet this deadline may, upon notice to the permit holder, result in revocation of the permit.

Recodify existing (g)-(h) as (c)-(d) (No change in text.)

<< NJ ADC 13:42-3.2 >>

13:42-3.2 Three-year supervised permit

(a) The Board shall issue a numbered temporary permit for the supervised practice of psychology for a period not to exceed three years to a qualified individual who meets all requirements of New Jersey law, including the Practicing Psychology Licensing Act, N.J.S.A. 45:14B-1 et seq., other than the requisite number of hours of post-doctoral supervised experience and/or passing of the written and oral examinations and has not engaged in any act or practice which would be the basis for denying a permit under the Uniform Enforcement Act, N.J.S.A. 45:1-14 et seq. An applicant for licensure who has not completed the requirement for post-doctoral supervised experience shall be required to obtain a three-year supervised permit and comply with all of the provisions of this subchapter including those applicants who intend to obtain the supervised experience in a practice or facility that is otherwise exempt pursuant to N.J.S.A. 45:14B-6, N.J.S.A. 45:14B-8, or N.J.A.C. 13:42- 1.2 through 1.5.

(b)-(d) (No change.)

<< NJ ADC 13:42-3.6 >>

13:42-3.6 Responsibilities of applicant for one-year unsupervised and three- year supervised temporary permits

(a) An applicant for a one-year unsupervised or three-year supervised temporary permit shall have on file with the

Board an application for licensure together with all supporting material as required by N.J.A.C. 13:42-2.1(a), with the exception of the two year supervised experience requirement.

(b) The applicant shall request in writing the issuance of a one-year unsupervised or three-year supervised temporary permit to practice psychology until passing of the written and oral examinations and/or for the purpose of meeting the supervised experience requirement.

(c) A supervised permit holder shall see only those clients assigned to the permit holder by the supervisor.

(d) A supervised permit holder shall not set a professional fee or receive a professional fee from a client. A supervised permit holder may be compensated only through the supervisor or employing entity as provided in N.J.A.C. 13:42-4.6. An unsupervised permit holder may set and receive professional fees.

(e) A one-year unsupervised and three-year supervised permit holder shall limit client contact to no more than 20 client or group contact hours in any one week.

(f) A supervised permit holder shall not engage in unsupervised or independent practice.

(g) A supervised permit holder shall be responsible for the supervisor's compliance with the requirements of N.J.A.C. 13:42-4.4(a) through (c).

(h) A permit holder shall include his or her permit number on any printed representations of practice.

(i) A permit holder shall not advertise, except a one-year unsupervised permit holder may identify the location of his or her practice solely by name and address. A permit holder may indicate the degree held such as Ph.D., but any use of the words "psychology," "psychologist," or any of its derivatives shall be prohibited for any permit holder prior to licensure.

(j) Prior to commencement of client treatment, a one-year unsupervised permit holder shall obtain a written disclosure form, which shall be signed by the client and retained as part of the client record, acknowledging that the client has been informed that:

1. Services are to be rendered by a permit holder who is not a licensed psychologist; and
2. Third party payors may not necessarily reimburse services rendered by a person not licensed by the Board.

(k) A one-year unsupervised and three-year supervised permit holder shall be prohibited from performing evaluations in custody cases.

<< NJ ADC 13:42-4.1 >>

13:42-4.1 Amount of supervision required

(a) An applicant for licensure shall be required to document the competent performance of at least two years of full time or full time equivalent supervised experience in the practice of psychology, at least one year of which shall have been completed subsequent to the applicant's receipt of his or her doctoral degree.

(b) The equivalent of one year of full time supervised experience shall be a minimum of 1,750 hours. The 1,750 hours shall include:

1. One thousand client contact hours completed in accordance with the limitations provided in N.J.A.C. 13:42-3.6(e);
2. Two hundred hours of supervision. At least 100 hours shall be individual face-to-face supervision; the remaining 100 hours may be individual or group supervision. The ratio shall be one hour of supervision for each five hours of client contact per week; and

3. Five hundred fifty hours in other work-related activities such as recordkeeping, consultations, report writing, etc.

<< NJ ADC 13:42-4.2 >>

13:42-4.2 Authorized supervisors

(a) Supervision of experience for licensure purposes, including experience in exempt settings, shall be rendered by:

1. (No change.)

2. For supervised experience obtained in another state, a psychologist licensed in that state for at least two years and who is eligible for licensure in New Jersey.

<< NJ ADC 13:42-4.3 >>

13:42-4.3 (Reserved)

<< NJ ADC 13:42-5.1 >>

13:42-5.1 Board-approved written examination; oral examination

(a) (No change.)

(b) A candidate who passes the written examination shall then take an oral examination of his or her professional practice based on a work sample in accord with guidelines to be supplied to the candidate by the Board and as follows:

1. The candidate shall within 90 days of notification of successful completion of the written examination, present a current work sample representative of the candidate's present practice. For the purposes of this rule, "current" work sample is defined to mean a work sample either in progress or completed no more than one year prior to its submission for the oral examination. The dates of client service shall be specifically mentioned on the cover page. Exceptions may be granted for good cause shown.

2.-3. (No change.)

(c) (No change.)

<< NJ ADC 13:42-7.1 >>

13:42-7.1 Independent practice

(a) (No change.)

(b) A licensee with a restricted or limited license to practice psychology <<+as a result of a disciplinary action+>> shall not employ a licensee or hire an independent contractor with an unrestricted or unlimited license to practice psychology.

(c)-(d) (No change.)

<< NJ ADC 13:42-7.2 >>

13:42-7.2 Partnership, professional service corporation, or limited liability entity

(a) A licensee shall not practice psychology in a general business corporation except as provided in N.J.A.C. 13:42-7.5. A licensee may practice in any of the following business entities: partnership, professional service corporation, limited liability company, or limited liability partnership as long as the owners (partners, shareholders, members) of the entity consist solely of New Jersey licensed health care professionals. A licensee may practice in a business entity

described in this section which itself is owned by one or more of the entities described so long as all of the owners of such entities are New Jersey licensed health care professionals and as allowed by law pursuant to N.J.S.A. 42:2B-1 et seq. In all business entities described in this section, each licensee who is an owner shall retain authority to exercise his or her own professional judgment within accepted standards of practice regarding care, skill and diligence in examinations, diagnosis and treatment of the licensee's individual clients.

(b) The professional services offered by each practitioner, whether a partner, shareholder, or member, shall be the same or shall be in a closely allied professional health care field.

(c)-(d) (No change.)

SUBCHAPTER 8. CLIENT RECORDS: CONFIDENTIALITY

<< NJ ADC 13:42-8.1 >>

13:42-8.1 Preparation and maintenance of client records

(a)-(g) (No change.)

(h) The licensee shall establish procedures for maintaining the confidentiality of client records in the event of the licensee's relocation, retirement, death, or separation from a group practice, and shall establish reasonable procedures to assure the preservation of client records which shall include at a minimum:

1. Establishment of a procedure by which patients can obtain treatment records or acquiesce in the transfer of those records to another licensee or health care professional who is assuming the responsibilities of that practice;
2. Publication of a notice of the cessation and the established procedure for the retrieval of records in a newspaper of general circulation in the geographic location of the licensee's practice, at least once each month for the first three months after the cessation; and
3. Making reasonable efforts to directly notify any patient treated during the six months preceding the cessation, providing information concerning the established procedure for retrieval of records.

<< NJ ADC 13:42-8.3 >>

13:42-8.3 Access to copy of client record

(a)-(f) (No change.)

(g) Records maintained as confidential pursuant to N.J.A.C. 13:42-8.1(c) shall be released:

1. If requested or subpoenaed by the Board or the Office of the Attorney General in the course of any Board investigation;

2.-4. (No change.)

(h)-(i) (No change.)

<< NJ ADC 13:42-9.1 >>

13:42-9.1 Definitions

For the purposes of this subchapter, the following terms shall have the indicated meanings unless the context clearly indicates otherwise:

. . . "Electronic media" include, but are not limited to, radio, television, telephone, Internet and other electronic means

of communication.

. . . "Print media" includes newspapers, magazines, periodicals, professional journals, telephone directories, circulars, handbills, flyers, billboards, signs, direct mail, matchcovers, business cards, stationery and other items disseminated by means of the printed word.

. . . << NJ ADC 13:42-9.3 >>

13:42-9.3 Minimum content of advertising

(a) All licensee advertisements and public representations, including advertisements in a classified directory, business card and professional stationery, but not including an office entry sign, shall contain the following:

1. The licensee's name and license number; and
2. The address and telephone number of the licensee's practice location.

(b) If the advertisement utilizes a business name, then the name and license number of at least one licensee responsible for the psychological service practice in the facility shall appear in the advertisement.

(c) (No change.)

<< NJ ADC 13:42-9.4 >>

13:42-9.4 Use of professional credentials and certifications

(a) A licensee shall accurately and objectively represent his or her competence, education, training and experience in all advertisements and professional representations.

(b) (No change.)

(c) A licensee may include in an advertisement degrees earned from bona fide accredited educational institutions. A licensee also may include in an advertisement, certifications obtained from bona fide accrediting bodies so long as the name of the accrediting body is identified and the discipline in which the certification was obtained is specified in the advertisement.

(d) (No change.)

<< NJ ADC 13:42-10.1 >>

13:42-10.1 Posting of practice authorization <<+and notification of availability of fee information+>>

<<+(a)+>> Every licensee shall prominently display in every place of conducting independent practice the following notice:

(Name of Individual) is licensed by the Board of Psychological Examiners, an agency of the Division of Consumer Affairs. Any member of the consuming public may notify the Board of any complaint relative to the practice conducted under this license at the Division of Consumer Affairs, Board of Psychological Examiners, Post Office Box 45017, 124 Halsey Street, Newark, New Jersey 07101.

<<+(b) Every licensee shall post a conspicuous notice in the waiting room stating: "INFORMATION ON PROFESSIONAL FEES IS AVAILABLE TO YOU ON REQUEST." +>>

<< NJ ADC 13:42-10.5 >>

13:42-10.5 Maintaining competence in testing situations

(a) A licensee who utilizes psychometric instruments in assessment shall be required to have completed foundational course work in psychometric theory/tests and measurement and graduate level course work in individual assessment. Completion of a workshop or continuing education in the use of a specific test shall not be substituted for the required foundational course work.

(b) (No change.)

(c) Psychometric instruments shall be administered in the manner prescribed in the technical manual which accompanies the psychometric instrument, unless an extenuating circumstance exists, such as an unforeseen or unusual circumstance pertaining to a particular client, in which case psychometric instruments may be administered by alternative procedures. If a test is administered by alternative procedures, then the impact of such deviations on reliability, validity, or fairness shall be addressed in the report. While it is recognized that there are differing schools of thought in the psychological literature regarding issues of test fairness, use of appropriate norms, and appropriate item content for various subgroups, licensees shall be responsible for employing psychometric instruments in a nondiscriminatory manner and with sensitivity to cultural differences. Licensees shall present the results of assessments and their interpretations in such a way as to minimize the potential for misuse by others.

(d) A licensee shall make reasonable efforts to avoid use of obsolete testing measures. This subsection shall not be construed, however, to require the use of a more recent edition of an instrument if, in the licensee's professional judgment, a previous version is more appropriate for the particular assessment.

(e) Licensees who employ computerized narrative reports shall have the knowledge, skill and ability to interpret the scales of the instrument independently. Licensees shall not rely on the interpretations contained in a computerized narrative report as though the report were individually tailored specifically for that examinee. Statements in the narrative shall be evaluated in the context of the facts of the case and the licensee's own impressions of the test subject. Licensees shall be responsible for conclusions and recommendations based on computerized narrative reports and shall not be relieved of such responsibility by the use of a computerized narrative report.

(f)-(g) (No change.)

<< NJ ADC 13:42-10.9 >>

13:42-10.9 Sexual misconduct

(a) As used in this section, the following terms have the following meanings unless the context indicates otherwise:

"Client" means any person who is the recipient of a professional psychological service rendered by a licensee. "Client" for purposes of this section also means a person who is the subject of professional examination even if the purpose of that examination is unrelated to treatment.

"Sexual contact" means the knowing touching of a person's body directly or through clothing, where the circumstances surrounding the touching would be construed by a reasonable person to be motivated by the licensee's own prurient interest or for sexual arousal or gratification. "Sexual contact" includes, but is not limited to, the imposition of a part of the licensee's body upon a part of the client's body, sexual penetration, or the insertion or imposition of any object or any part of a licensee or client's body into or near the genital, anal, or other opening of the other person's body.

"Sexual harassment" means solicitation of any sexual act, physical advances, or verbal or non-verbal conduct that is sexual in nature, and which occurs in connection with a licensee's activities or role as a provider of psychological services, and that is either unwelcomed, offensive to a reasonable person, or creates a hostile work place environment, and the licensee knows, should know, or is told this, or is sufficiently severe or intense to be abusive to a reasonable person in that context. "Sexual harassment" may consist of a single extreme or severe act, or multiple acts, and may include, but is not limited to, conduct of a licensee with a client, co-worker, employee, student, or supervisee whether or not such individual is in a subordinate position to the licensee.

(b) A licensee shall not engage in sexual contact with a current client, a former client to whom psychological services were rendered within the immediately preceding 24 months, a current student, a direct supervisee or supervisor, or a research subject.

(c) In circumstances where any of the persons listed in (b) above are, or should be recognized by the licensee as, clearly vulnerable by reason of emotional or cognitive disorder to exploitive influence by the licensee, <<- the 24 month limitation set forth in (b) above shall not apply and->> the prohibition <<+on sexual contact+>> shall extend indefinitely.

(d) A licensee shall not engage in sexual harassment in a professional setting (including, but not limited to, an office, hospital or health care facility) or outside of the professional setting.

(e) (No change in text.)

(f) In the treatment of sexual dysfunction as well as in other areas of the practice of psychology, a licensee shall not engage in the following conduct, which is hereby defined as professional misconduct:

1. Sexual contact or deliberately hurtful contact between licensee and client;
2. In therapy groups, activities which promote, allow, or involve physical contact of a sexual or deliberately hurtful nature between the licensee and group members, or between group members themselves; and
3. Discussion of an intimate sexual nature with a client, unless that discussion is directly related to legitimate client needs and furthers the client's psychological treatment. At no time shall any such discussions include disclosure by the licensee to the client of his or her own intimate sexual relations or relationships.

(g) A licensee shall not engage in any other activity which would lead a reasonable person to believe that the activity serves the licensee's personal prurient interests or is for the sexual arousal, sexual gratification, or sexual abuse of the licensee or client.

(h) A licensee shall not seek or solicit sexual contact with a client and shall not seek, solicit, accept, or participate in sexual contact with any person in exchange for professional services.

(i) Violation of any of the prohibitions or directives set forth at (b) through (h) above shall be deemed to constitute professional misconduct pursuant to N.J.S.A. 45:1-21(e).

(j) It shall not be a defense to any action under this section that:

1. The client solicited or consented to sexual contact with the licensee; or
2. The licensee was in love with or had affection for the client.

<< NJ ADC 13:42-10.10 >>

13:42-10.10 Financial arrangements with clients and others

(a)-(c) (No change.)

(d) Before <<-rendering psychological services->> <<+commencing the therapeutic relationship+>>, a licensee shall <<-provide specific information to the client, in writing, concerning the financial arrangements for said services->> <<+assist clients to understand financial arrangements+>>. The information provided to the client shall include, but not be limited to:

1.-4. (No change.)

(e)-(g) (No change.)

(h) All permit holders and licensees shall provide to their clients or their clients' designated insurance carriers, a receipt, when applicable, for services rendered.

<< NJ ADC 13:42-10.12 >>

13:42-10.12 Billing

(a) The licensee's bill shall include at least the following information:

1. The licensee's name, license number, tax identification number and original signature, except in the case of electronic billing, where an original signature is not required;

2.-6. (No change.)

(b) (No change.)

<< NJ ADC 13:42-10.13 >>

13:42-10.13 Conflicts of interest

(a) A licensee shall not enter into or continue any treating relationship or supervisory relationship <<+of another person offering clinical services+>>, in which he or she has any family, personal, financial or beneficial interest other than that arising from the usual therapist-client relationship. Examples of such relationships include, but are not limited to, spousal-spousal supervision, parent-child supervision, child-parent supervision, intimate partner supervision.

(b)-(f) (No change.)

<< NJ ADC 13:42-10.14 >>

13:42-10.14 Prohibition on kickbacks and rebates

(a) (No change.)

(b) A licensee shall not permit the division of fees for professional services other than among licensed health care professionals in the same or in a closely allied professional health care field engaged in a bona fide partnership, professional service corporation, limited liability company, limited liability partnership, employment relationship, or between a licensee and an applicant for licensure who is working under the supervision of the licensee pursuant to a Board issued temporary permit. A licensee shall not divide fees for professional services rendered to a client with a psychologist practicing as an independent contractor.

(c) (No change.)