

New Jersey Register
VOLUME 36, NUMBER 7
MONDAY, APRIL 5, 2004
RULE ADOPTION
LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF PSYCHOLOGICAL EXAMINERS
BOARD OF PSYCHOLOGICAL EXAMINERS RULES

Readoption with Amendments: N.J.A.C. 13:42

Proposed: November 3, 2003 at 35 N.J.R. 5039(a).

Adopted: February 2, 2004 by the State Board of Psychological Examiners, Victoria W. Jeffers, Ph.D., President.

Filed: March 12, 2004 as R.2004 d.140, with substantive changes not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

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

Effective Dates: March 12, 2004, Readoption;
April 5, 2004, Amendments.
Expiration Date: March 12, 2009.

Federal Standards Statement

A Federal standards analysis is not required because the rules readopted with amendments are consistent with State statutes governing the professional practice of psychology and there are no applicable Federal standards.

Full text of the readoption can be found in the New Jersey Administrative Code at N.J.A.C. 13:42.

Full text of the adopted amendments follows :

SUBCHAPTER 4. SUPERVISION OF CANDIDATES FOR LICENSURE

<< NJ ADC 13:42-4.6 >>

13:42-4.6 Financial arrangements between supervisor and supervisee

Recodify existing (b)-(c) as (a)-(b) (No change in text.)

SUBCHAPTER 5. EXAMINATION

<< NJ ADC 13:42-5.1 >>

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

(a) A candidate who has been admitted to sit for examination shall take the Examination for Professional Practice in Psychology sponsored by the Association of State and Provincial Psychology Boards (ASPPB). A passing score shall be that as established by the ASPPB at the time of the examination.

(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 where the treatment <<-occurred->> <<+services were terminated+>> within one year before the submission of the <<-oral examination->> <<+work sample+>>. The dates of client service shall be specifically mentioned on the cover page.

2.-3. (No change.)

(c) (No change.)

<< NJ ADC 13:42-5.3 >>

13:42-5.3 Out-of-State psychologists; admittance to oral examination

(a) (No change.)

(b) An out-of-State psychologist, who can demonstrate proof of meeting all requirements for licensure other than the Board-approved written examination and who can demonstrate satisfactory completion of 20 years of licensed, responsible and competent practice in another state, shall be admitted to take the oral examination in New Jersey.

<< NJ ADC 13:42-5.4 >>

13:42-5.4 License without examination

(a) A psychologist who holds a diploma from the American Board of Professional Psychology awarded by examination, and who meets all other requirements of New Jersey law, shall be licensed following satisfactory completion of an oral interview with the Board or designated member(s) thereof.

(b) A psychologist who holds the Association of State and Provincial Psychology Boards (ASPPB) Certificate of Professional Qualification (CPQ) in psychology and who meets all other requirements of New Jersey law, shall be licensed following satisfactory completion of an oral interview with the Board or designated member(s) thereof.

<< NJ ADC 13:42-5.6 >>

13:42-5.6 Failure of examination; when retaking permitted

(a) The written examination may be retaken in accordance with the rules established by the Association of State and Provincial Psychology Boards (ASPPB) provided that all applicable requirements have been satisfied.

(b) The oral examination may be retaken only as follows:

1. (No change.)

2. Successive reexamination no sooner than one year after the date of the previous reexamination;

3. After the first failure and each subsequent failure, the Board may mandate additional training, educational casework and/or supervision prior to reexamination.

SUBCHAPTER 6. BOARD FEES

<< NJ ADC 13:42-6.1 >>

13:42-6.1 Board fees

(a) Charges for examinations, licensure and other services are:

1.-8. (No change.)

9. Certification of licensure \$35.00

10. (No change.)

(b) (No change.)

SUBCHAPTER 7. ACCEPTABLE PROFESSIONAL PRACTICE

<< NJ ADC 13:42-7.1 >>

13:42-7.1 Independent practice

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

(d) Any additional types of employees or other remunerated <<- individuals->> <<+licensed or certified mental health or health professionals+>> other than those in (c) above may be employed within the professional practice only with the advance review and approval of the Board.

SUBCHAPTER 8. CLIENT RECORDS: CONFIDENTIALITY

<< NJ ADC 13:42-8.1 >>

13:42-8.1 Preparation and maintenance of client records

(a)-(b) (No change.)

(c) The licensee shall include in the client record material pertinent to the nature and extent of the professional interaction, for example:

1.-17. (No change.)

18. If services are rendered by a permit holder, the written disclosure form signed by the client as required by N.J.A.C. 13:42-4.4(f).

(d)-(h) (No change.)

<< NJ ADC 13:42-8.3 >>

13:42-8.3 Access to copy of client record

(a) For purposes of this section, "authorized representative" means, but is not necessarily limited to, a person designated by the client or a court to exercise rights under this section. An authorized representative may be client's attorney or an agent of a third party payor with whom the client has a contract which provides that the third party payor be given access to records to assess a claim for monetary damages or reimbursement.

(b) A licensee may require the record request to be in writing. No later than 30 days from receipt of a request from a client or duly authorized representative, the licensee shall provide a copy of the client record and/or billing records, including reports relating to the client. Limitations on this requirement are set forth in (e) below and N.J.A.C. 13:42-8.6(b) and in N.J.A.C. 13:42-11.

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

(e) A licensee may withhold information contained in the client record from a client or the client's guardian if, in the reasonable exercise of his or her professional judgment, the licensee believes release of such information would adversely affect the client's health or welfare.

1. That record or the summary, with an accompanying explanation of the reasons for the original refusal, shall nevertheless be provided upon request of and directly to:

i.-ii. (No change.)

iii. The client's health insurance carrier (except as may be limited by N.J.A.C. 13:42-11).

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

(h) When a request is made for release of already completed reports to enable the client to receive ongoing care by another practitioner, the licensee shall not require prior payment for the professional services to which such reports relate as a condition for making such reports available. A licensee may, however, require advance payment for a report prepared for services as an expert witness.

NJ ADC 13:42-8.5 >>

13:42-8.5 Confidentiality

(a) (No change.)

(b) In the case of a client's death:

1. Confidentiality survives the client's death and a licensee shall preserve the confidentiality of information obtained from the client in the course of the licensee's teaching, practice or investigation;

2. The disclosure of information in a deceased client's records is governed by the same provisions for living patients set forth in N.J.A.C. 13:42-8.3, 8.4 and 8.5; and

3. A licensee shall retain a deceased client's record for at least seven years from the date of last entry, unless otherwise provided by law.

Recodify existing (b)-(f) as (c)-(g) (No change in text.)

<< NJ ADC 13:42-8.6 >>

13:42-8.6 Minors

(a) <<-If->> <<+Unless otherwise ordered by a court, if+>> the client is a minor, a parent or <<+legal+>> guardian <<-who has custody (whether sole or joint)->> will be deemed to be an authorized representative, as defined at N.J.A.C. 13:42-8.3(a). <<+When the patient is more than 14 years of age, but has not yet reached the age of majority, the authorization shall be signed by the patient and by the patient's parent or legal guardian, pursuant to N.J.S.A. 45:14B-36(e).+>>

(b) This section shall not require a licensee to release to a minor's parent or guardian records or information relating to the minor's sexually transmitted disease, termination of pregnancy or substance abuse or any other information that in the reasonable exercise of the licensee's professional judgment may adversely affect the minor's health or welfare.

(c) Unless otherwise ordered by a court, at least one parent or guardian shall consent to the treatment of a minor. If one parent consents, a licensee may treat a minor even over the objection of the other parent.

(d) The provisions at N.J.A.C. 13:42-8.3, 8.4 and 8.5 shall apply to access to client records, access by a managed health care plan to information in client record and confidentiality of minors.

SUBCHAPTER 10. GENERAL OBLIGATIONS OF A LICENSEE

<< NJ ADC 13:42-10.1 >>

13:42-10.1 Posting of practice authorization

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.

<< NJ ADC 13:42-10.4P >>

13:42-10.3 (Reserved)

13:42-10.4 Professional responsibilities to the Board, other regulatory authorities, or the public

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

(d) A licensee shall maintain competence consistent with professional responsibilities, including the following:

1.-4. (No change.)

5. A licensee shall practice only in his or her area of competence, consistent with his or her training, experience, education or supervision, and shall make appropriate referrals to practitioners of related or other professions.

<< NJ ADC 13:42-10.6 >>

13:42-10.6 Research

(a) A licensee shall observe research requirements consistent with accepted standards of practice including, but not limited to, the following:

1.-2. (No change.)

3. In reporting research results, a licensee shall reveal contrary or disconfirming data or acknowledge the existence of alternative hypotheses and explanations of the findings;

4.-5. (No change.)

<< NJ ADC 13:42-10.7 >>

13:42-10.7 Reporting of violations of other licensees

(a) A licensee shall promptly notify the Board when in possession of information which reasonably indicates that another licensee has demonstrated an impairment, gross incompetence, repeated acts of incompetence or professional misconduct which would present an imminent danger to a client or to the public health, safety or welfare.

(b) Notwithstanding the provisions of (a) above, when a licensee in the course of a professional relationship with a client who is not a licensee of the Board obtains information from the client about another licensee's suspected unlawful conduct, the licensee shall report the information only with the written permission of the client or authorized representative.

(c) Notwithstanding the requirements of (a) above, a licensee who acquires knowledge of impairment, gross incompetence, repeated acts of incompetence or professional misconduct in the course of treating a client-psychologist or an individual exempt from licensure pursuant to N.J.A.C. 13:42-1.3 and N.J.S.A. 45:14B-8 shall not be obligated to notify the Board if:

1.-2. (No change.)

Recodify existing (e)-(f) as (d)-(e) (No change in text.)

<< NJ ADC 13:42-10.8 >>

13:42-10.8 Professional interactions with clients

(a) A licensee shall not abandon or neglect a client in need of professional care without making reasonable arrangements for the continuation of such care or offering to help the client find alternative sources of assistance.

(b) (No change.)

(c) (No change in text.)

(d) A licensee shall not order or perform excessive tests, treatment or use of treatment facilities not warranted by the condition of the client.

(e) (No change in text.)

(f) A licensee, whether practicing privately or within an institution or agency utilizing psychological services, shall not distort, misuse or suppress the psychological findings by the licensee or others.

(g) A licensee shall not misuse his or her influence in a manner that exploits the client's trust and dependency.

<< NJ ADC 13:42-10.10 >>

13:42-10.10 Financial arrangements with clients and others

(a) A licensee shall inform clients of the financial arrangements for psychological services. Such financial arrangement(s) should be in writing. If the licensee elects not to provide the financial arrangement(s) in writing, the burden of demonstrating compliance with the regulations in this subchapter shall be on the licensee. The information provided to the client shall include, but not be limited to:

1. The fee for services or the basis for determining the fee to be charged, unless services are provided during an emergency or in other circumstances where disclosure of such information would adversely affect the client's health or welfare;

2. (No change.)

3. Whether Medicaid clients are accepted;

4. Whether Medicare clients are accepted and, if so, if the licensee shall bill the client for any balance remaining after assignment;

5. Any other information, to the extent known to the licensee, concerning insurance coverage, including whether other third party payor plans are accepted; and

6. The financial consequences, if any, of missed sessions.

(b) A supervisor may segregate fees received from clients being treated by the supervisee in recognition of the fact that

fees charged to such clients shall be less than the usual, reasonable and customary fees charged by the supervisor to his or her own clients.

(c) Where payment of the usual fee would be a hardship, a licensee <<+may adjust the fee, or+>> shall assist clients to find other sources or make appropriate referrals for provision of the needed services.

(d) (No change in text.)

<< NJ ADC 13:42-10.13 >>

13:42-10.13 Conflicts of interest; dual relationships

(a) A licensee shall not refer a client to a health care service in which the licensee has any financial or significant beneficial interest unless the licensee has:

1. Disclosed that he or she has a financial interest; and
2. Provided an alternative referral source.

(b) A licensee shall not prescribe goods or devices which the licensee sells or leases to the client, unless as follows:

1. The goods or devices are an integral part of the professional treatment for that client;
2. The item and its fee (if any) are specified on the billing statement under the licensee's professional office name; and
3. Any fee is set at a level which does not exceed a recoupment of the reasonable actual expense to the licensee for provision of the goods or devices. The burden of justifying the fee shall be on the licensee.

(c) 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 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.

(d) A licensee shall not enter into any dual relationship. Examples of such dual relationships include, but are not limited to, professional treatment of employees, tenants, students, supervisees, close friends or relatives. Entering into any business relationships or paying or bartering for any services provided by any current client shall also be prohibited.

(e) A licensee who recognizes the existence of a conflict of interest or dual relationship shall take action to terminate the conflict or the dual relationship.

(f) A licensee shall not enter into financial arrangements with clients which are likely to impair professional judgment. Improper financial arrangements shall include, but are not limited to, loans (whether borrower or lender) or assumption of liabilities for debt.

(g) A licensee shall not enter into a financial arrangement or any other potentially exploitive relationship with a former client which is likely to be the product of judgment impaired by the former relationship.

<< NJ ADC 13:42-10.14 >>

13:42-10.14 Prohibition on referral fees and fee splitting

(a) A licensee shall not pay, offer to pay or receive any fee or other form of compensation for referral of a client for professional services or for the purchase of goods. This subsection shall not prohibit a licensee from:

- 1.-2. (No change.)

3. Contributing a fee to a professionally sponsored referral service.

(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. This subsection shall not prohibit a licensee from charging a flat fee to an independent contractor on a per hour or per service basis to coverage expenses.

(c) (No change.)

<< NJ ADC 13:42-10.16 >>

13:42-10.16 Client accessibility to therapist of choice

A licensee shall not enter into any business agreement that interferes with or restricts the ability of a client to see or continue to see his or her therapist of choice.

<< NJ ADC 13:42-10.17 >>

13:42-10.17 License renewal; active/inactive

(a) Licenses shall be renewed biennially upon a form provided by the Board.

(b) The Board shall send a notice of renewal to each of its licensees at least 60 days prior to the expiration of the license. If the notice to renew is not sent at least 60 days prior to the expiration date, no monetary penalties or fines shall apply to the holder for failure to renew.

(c) Every holder of a license issued or renewed by the Board who seeks renewal shall submit a renewal application and pay a renewal fee prior to the date of expiration of the license. If the holder does not renew the license prior to its expiration date, the holder may renew the license within 30 days of its expiration date by submitting a renewal application and paying a renewal fee and a late fee. Any license not renewed within 30 days of its expiration date shall be suspended without a hearing.

(d) Any individual who continues to practice with an expired license after 30 days following its expiration date shall be deemed to be engaged in the unlicensed practice of psychology, even if no notice of suspension has been provided to the individual.

(e) Renewal applications for all licenses shall provide the applicant with the option of either active or inactive renewal. A renewal applicant electing to renew as inactive shall not engage in the provision of psychology services within the State.

(f) An applicant who selects the inactive renewal option shall remain on inactive status for the entire renewal period unless, upon application to the Board, the Board permits the inactive applicant to return to active status.

<< NJ ADC 13:42-10.18 >>

13:42-10.18 Reinstatement

Pursuant to the Uniform Enforcement Act, N.J.S.A. 45:1-1 et seq., the Board may reinstate the license of an applicant whose license has been suspended for failure to renew provided that the applicant otherwise qualifies for licensure.

SUBCHAPTER 11. ACCESS TO TREATMENT INFORMATION IN DESIGNATED HEALTH INSURANCE PROGRAMS

13:42-11.2 Definitions

As used in this subchapter, the following words shall have the following meanings unless the context clearly indicates otherwise and except as otherwise expressly provided:

"Psychological services" means the provision of professional services which are founded upon psychological principles derived from a base of scientific knowledge and a recognized and accepted theory of clinical application; and used to promote the optimal development of an individual's potential or to ameliorate an individual's emotional disturbances and maladjustment as manifested in personal and interpersonal situations. Psychological services shall be selected and rendered to clients based upon the client's need, the treating psychologist's professional experience, knowledge of empirical and theoretical literature and professional guidelines and standards. Psychological services shall be necessary and appropriate in light of the client's circumstances, the diagnosis, the reasonableness of goals, and the adequacy of progress.