

VOLUME 44, ISSUE 13

ISSUE DATE: **JULY 2, 2012**

RULE ADOPTIONS

**LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
CERTIFIED PSYCHOANALYSTS ADVISORY COMMITTEE**

44 N.J.R. 1905(a)

Adopted New Rules: N.J.A.C. 13:42A

Rules of the Certified Psychoanalysts Advisory Committee

Proposed: July 5, 2011 at 43 N.J.R. 1498(a) (see also 43 N.J.R. 2521(a)).

Adopted: May 27, 2012 by Eric T. Kanefsky, Acting Director, **Division of Consumer Affairs.**

Filed: June 8, 2012 as R.2012 d.131, **with substantial and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 45:14BB-12.

Effective Date: July 2, 2012.

Expiration Date: July 2, 2019.

Summary of Public Comments and Agency Responses:

The official comment period ended November 2, 2011. The Board received 169 comments from the following individuals:

1. Josephine S. Minardo, PsyD, Executive Director, New Jersey Psychological Association
2. Lisa Piemont
3. Louise Carter
4. Ellen G. Ehrlich, Ed.D., RN, NCPsyA
5. Nancy Gerber
6. Michael A. Saunders
7. Marshall E. Saunders, CPA
8. Ken Bareford
9. Katherine Kaliades
10. Stanley Hayden, Ph.D.

11. Carolyn Mazza, Vice President Sales, PCM Data Processing, Inc.
12. Susan P. Chrystal, M.Div. NCPYSA, Licensed Psychoanalyst, State of New York
13. Demetria Delia, Ph.D., LCSW
14. Andrew Lapides, LCSW, The Morris Guild of Psychotherapy LLC
15. Judith Lapides, Psychoanalytic Student
16. Morris Freedman, Ed.D.
17. Barbara Goldschmidt
18. Mark Brodsky
19. Robin Brodsky
20. Jeff Piemont
21. Benjamin Piemont
22. Imke Oster, Psychoanalyst in training at ACAP, NJ
23. Susan L. Saunders, LCSW
24. Helen Flores
25. Michele Corker, Student at ACAP
- [page=1906] 26. Lillesol S. Kane, Ph.D.
27. David W. Beck
28. Dwight Panozzo, Ph.D., LCSW
29. Stephani R. Simon, LCSW, Assistant Director of Department of Psychiatry and Behavioral Health, Christ Hospital
30. Judy Nighland, MA, Ed.D.
31. Olivia S. Taylor
32. Mary L. Robinson, MA
33. Annette Vaccaro, ATR-BC, LCSW, NCPsyA
34. John Vaccaro, M.D.
35. Ryan Williams, MA
36. Kirsten Kane
37. Gabriell Marshall-Salomon, M.D.

38. Alina Enista, Ph.D.
39. Loretta M. Calabrese
40. Christopher M. Henry, MA
41. Maurice Lovell, Ph.D.
42. Abbot Melvin J. Valvano, OSB.MA, MAPC., President, St. Benedicts Prep. School, Abbot of Newark Abbey
43. C. Seth Warren, Ph.D., Director, Center for Psychotherapy & Psychoanalysis of New Jersey
44. Carolyn T. Torre, Director, Regulatory Affairs, New Jersey State Nurses Association
45. David Shulman, Ph.D.
46. Pamela Armstrong-Manchester, LP, NBCPsyA, President, National Association for the Advancement of Psychoanalysis
47. Margery C. Quakenbush, Ph.D., LP, NCPsyA, Executive Directory, National Association for the Advancement of Psychoanalysis
48. Patricia Shulman, LCSW
49. Eric Sherman, LCSW, Acting Director of Training, Center for Psychotherapy and Psychoanalysis of New Jersey
50. Connie Gleim Bareford, RN, Ph.D., PHCNS-BC
51. Elizabeth Fantagone
52. Denise K. Allen, APRN, BC
53. Margaret H. Pipchick, Ph.D., APN
54. Kathryn Keller, Ph.D.
55. Sandra Sinicropi, LCSW
56. Michael E. Mcgriff
57. Carol Bihler
58. John Orenczak
59. Richard Roszucar
60. Elisabeth Roszucar
61. Jean Gerado, RN
62. Richard Reichbart, Ph.D.
63. Allyson Cherins, MS Eduation, Special Education Teacher

64. Marilyn Anthony, SLP-CCC
65. Larry Anthony
66. William C. Noble, Psy.D., LP
67. Rev. Debra P. Given, Pastor, The Presbyterian Church in Leonia
68. Arleen Levine, Licensed Professional Counselor, Licensed Psychoanalyst (NY), Board Certified Art therapist
69. Charles Pumilia, Psy.D, NCPsyA
70. Lynn Siepser, LCSW, Psy.A.
71. Margaret A Eisen, MA Counseling Psychology, Seton Hall University
72. Jean Diamond, MA Behavioral Sciences Psy., Kean University
73. Harold L. Eisen
74. Selma Latner, PsyD
75. Janice Victor, LCSW, NCPsyA, President, NJSCSW
76. Irwin J. Badin, Ph.D.
77. Ruth Shuskin
78. Arnold Shuskin
79. BP Thornton Jr., MA
80. Lester H. Barbanell, Ed.D., Member NAAP
81. Rachela M. Paul, PsyA.
82. Harvey Weiss
83. Alice Weiss
84. Julia C. Washington
85. Alan Leiterman
86. Michele Collins, MS, CTRS
87. Teresa Gemilees, CTRS
88. Vicki Trujillo, Recreation Therapist
89. Margaret G. Maziarz
90. Girlie dePerio, CTRS, Recreation Therapist
91. Michael Ruth, Recreation Therapist

92. Debra A Raraello, CRTS
93. Michael DiGirolano, MT-BC
94. Leonard Johnson Jr., Vocational Rehabilitation Counselor
95. Wendy Winograd, LCSW, NCPsyA
96. Philip E. Wilson, LCSW
97. Michelina Alano
98. Dean C. Morales, Asst. Dir, Rehab Services
99. Randy Bobish
100. C. Helena Farber, RN, BSN
101. Seymour B. Farber
102. Evans J. Herman
103. Nancy L. Herman
104. Evi Meinhardt
105. Alan Moscowitz
106. Elaine Pincus
107. Marilyn Rosenbaum
108. Leon Rosenbaum
109. Ruth Ross
110. Kobra Rahimi
111. Ethel Singer
112. Marilyn Wald
113. Richard Kesin
114. Christine R. Good
115. Liliko Ogasawicz
116. Carol Triano, Ed.D., LP, NCPsyA
117. Miguel Perdomo-Carnes
118. Susan Carnes
119. Barbara Yellowitz, NAAP

120. Linda G. Gochfeld, M.D., Psychiatrist
121. Susan Mamis
122. Philip Brilliant
123. Olivia Taylor
124. Rabbi Ellen Lewis, NAAP
125. Suzanne Saldarini, MA, LPC, NCPsyA
126. Richard Grupenhoff, Professor Emeritus, Rowan University
127. Carroll Arkema, LMFT, LP
128. Brian Thronton Jr. MA
129. Jesse Rosenberg
130. Joyce Rosenberg, M.S.T.
131. Millicent Lambert, MA, NC PsyA
132. Ferti Schoen, Licensed Psychoanalyst NY
133. Jodi Kosofsky
134. Pamela Lovell
135. Robin Semel, MA, LPC
136. Wallace N. Fletcher, D.Min. NCPsyA
137. Stephen Goldenring, CLU, CHFC, CLTC
138. Vicki Semel, PsyD
139. Debra Goldenring, M.D, F.A.A.P.
140. Daniel C. Goldberg, Ph.D.
141. Ruth Goldsmith, MSW, LCSW
142. Joshua B. Lerner, LCSW, BCD, FIPA, Training and Supervising Analyst, Center for Psychotherapy and Psychoanalysis of New Jersey
143. Joseph Braun, Ph.D.
144. Susan Masluk, MSW, LCSW, Center for Psychotherapy & Psychoanalysts of New Jersey, NASW
145. Kenneth A. Frank, Ph.D.
146. Sylvia E. Flescher, M.D.

147. Nina Williams, Psy.D.
148. Nora Heflin Williams, M.D., L.L.C.
149. Robert T. Morrow, Ph.D.
150. Harlene Goldschmidt, Ph.D.
151. Susan D. Stein, LCSW
152. Howard L. Schwartz, M.D.
153. Rose Oosting, Ph.D.
154. Sandra Sinicropi, LCSW
- [page=1907] 155. Monica Carsky, Ph.D., Clinical Psychologist
156. B. Sue Epstein, Ph.D.
157. Anna Burton, M.D.
158. Debra Roelke, Ph.D., Psychologist/Psychoanalyst
159. Martin Silverman
160. Tolga Taneli, M.D.
161. Nell T. Jackson, M.A., Licensed Professional Counselor
162. Barry P. Cohen, Ph.D.
163. Andrew Roth, Ph.D.
164. Alexandra Granville, LCSW
165. Carol S. Marcus, Ph.D., Licensed Psychologist
166. Marion B. Houghton, M.Ed., Ed.S., LMFT
167. Morton Fridman, M.D.
168. Nathaniel Donson, M.D.
169. Osna L. Haller, Ph.D.

1. COMMENT: Four commenters request that the Director hold a hearing on the new regulations. The commenters contend that the complexity of the new regulations, and the fact that the proposal was published in the middle of the summer when many individuals interested in the new regulations are not available, indicate the need for a public hearing.

RESPONSE: N.J.S.A. 52:14B-4 requires an agency to hold a public hearing if, within 30 days of the publication of the proposed regulation in the New Jersey Register, sufficient public interest is shown in having a public hearing. N.J.A.C. 13:1E-4.3 states that sufficient public interest is indicated by the submission of at least 50 written requests for a public hearing. As only two of the commenters requested a hearing by August 4, 2011, 30 days from the publication of the notice of proposal, the standard for

sufficient public interest set forth in N.J.A.C. 13:1E-4.3 has not been met and the Director need not hold a public hearing. As the nature of issues with the proposed rules was adequately covered by the written comments, the Director does not believe it is necessary to hold a public hearing.

2. COMMENT: Two commenters are concerned that the comment period for the notice of proposal ended on September 3, 2011 and ask that the comment period be extended. One of the commenters contends that many psychoanalysts take vacations in July and August and that this means that they were unable to review the proposed new regulations in time to submit comments. The commenter contends that this appears to be an effort to limit comments on the proposed new regulations.

RESPONSE: In order to ensure that all interested parties had enough time to review and comment on the proposed new rules, the Director extended the comment period from September 3, 2011 to November 2, 2011 in a notice published in the New Jersey Register on September 19, 2011 at 43 N.J.R. 2521(a).

3. COMMENT: The majority of the commenters support the new regulations. They believe that all mental health professions should be regulated and appreciate the recognition of the practice of psychoanalysis. Several of the commenters appreciate that the regulations recognize those who did not attend nationally accredited psychoanalytic institutes. They also appreciate the fact that the regulations allow flexibility as to the frequency of sessions an applicant must complete in order to qualify for certification.

RESPONSE: The Director thanks the commenters for their support.

4. COMMENT: One commenter contends that the new regulations are no different from those that were proposed in 2004.

RESPONSE: The new rules proposed on July 5, 2011, at 43 N.J.R. 1498(a) are almost the same as those proposed in 2004. After reviewing the 2004 notice of proposal, and researching educational standards for psychoanalysis, the Director determined that the rules proposed in 2004 appropriately set the minimum standard for the practice of psychoanalysis. The rules proposed in 2011 include N.J.A.C. 13:42A-7.10, which requires a State certified psychoanalyst to provide patients with documentation indicating the goals of therapy, his or her training and education, and a description of the school of thought in which the psychoanalyst was educated.

5. COMMENT: One commenter asks why the Committee has not sent her any communications and asks why she did not know that the Committee existed. The commenter also asks who the Committee represents.

RESPONSE: The Committee had no way of specifically identifying all of the individuals who are currently providing psychoanalysis or are interested in doing so, and was therefore unable to communicate with the commenter. The Committee does not represent any particular individuals or groups, its members were appointed by the Governor to provide the Director with advice on drafting the rules and on regulating the practice of State certified psychoanalysts.

6. COMMENT: One commenter contends that psychoanalysis currently provided in New Jersey is done under the auspices of an analyst's license as a mental health practitioner or, if he or she is not licensed, under the auspices of his or her educational institution. Requiring State certification indicates that the State does not accept this decades long practice.

RESPONSE: P.L. 2000, c. 57 (the Act), does not require an individual to obtain State certification in order to provide psychoanalysis. The Act was enacted by the Legislature to establish clear certification standards for psychoanalysts and to protect the health and welfare of the public by identifying individuals who are qualified to call themselves State certified psychoanalysts.

7. COMMENT: Several commenters contend that the Committee is not fair and balanced and does not

fully represent the psychoanalytic community in New Jersey. They contend that the Committee is made up of representatives of a minority group, which does not represent the majority of psychoanalysts in New Jersey. Two of the commenters identify this group as the Academy of Clinical and Applied Psychoanalysis. A commenter contends that this group informed students in the past that it was approved for State certified psychoanalyst training. One commenter contends that this group is dedicated to training people from outside the mental health profession. Many of the commenters contend that new members of the Committee must be appointed who better reflect the opinions and views of the majority of New Jersey psychoanalysts so that new regulations can be developed.

RESPONSE: The Director is aware that there are concerns with the composition of the Committee. These concerns are one of the reasons why the rules proposed in 2004 were not adopted. Several Committee members are recused from discussion on the rules because of their association with psychoanalytic institutions. Due to these concerns, no Committee meetings were held to discuss these rules prior to their proposal in 2011. In preparing the 2011 notice of proposal, the Director reviewed the recommendations the Committee made for these rules in 2004. He then researched educational standards for psychoanalysis independent of any Committee input. This research, in addition to the information obtained from the Committee was the basis of the proposed rules that are now being adopted. There is a clear need to move forward to implement the statute and the Director has independently evaluated the issues after the 2004 Committee notice of proposal.

8. COMMENT: A commenter is concerned with the **Division of Consumer Affairs** process for appointing Committee members. The commenter contends that this process was not open or transparent and that the Division has not indicated that it was aware that appointed members do not represent the majority view as to psychoanalysis.

RESPONSE: The Division did not appoint Committee members. Members are appointed by the Governor with the advice and consent of the Senate, and therefore, the comment is beyond the scope of this rulemaking.

9. COMMENT: A commenter contends that there was no attempt to replace a Committee member who left after the first Committee meeting and that the commenter knows of several psychoanalysts interested in being on the Committee who were rejected by "screeners."

RESPONSE: The Director is not aware of who the "screeners" referred to by the commenter are. As stated in response to prior comments, Committee members are appointed by the Governor with the advice and consent of the Senate, and therefore, the comment is beyond the scope of this rulemaking.

10. COMMENT: A commenter contends that the public member appointed to the Committee, who is a physician, is a faculty member at the Academy of Clinical and Applied Psychoanalysis. The commenter contends that this means that the public member does not represent the public.

[page=1908] RESPONSE: All necessary steps in the development of the notice of proposal were taken to address conflicts and the need to recuse members. And as the Committee members are appointed by the Governor with the advice and consent of the Senate, the comment is beyond the scope of this rulemaking.

11. COMMENT: Several commenters point out that N.J.S.A. 45:14BB-4 established term limits for Committee members and that the same members have been serving since 2000.

RESPONSE: As stated in response to prior comments, the Director is aware of concerns with the Committee. Committee members are appointed by the Governor with the advice and consent of the Senate, and therefore, the comment is beyond the scope of this rulemaking.

12. COMMENT: Several commenters object to the new regulations based on the fact that the Committee has not met since 2007, and the fact that the regulations were proposed without any Committee meetings, published agendas, or minutes. The commenters contend that stakeholders were

prevented from providing their positions on the new regulations.

RESPONSE: As discussed in response to prior comments, the Director is aware of concerns with the process. Opposition to the rules that were originally proposed on December 6, 2004 at 36 N.J.R. 5220(a) was based on differing national standards for the education and preparation of psychoanalysts for certification. This difference hinged on the frequency of the personal psychoanalysis a student is required to complete during his or her education. One school of thought holds that students must complete at least three sessions per week of personal psychoanalysis during their education. The other school does not impose any standards as to the frequency of personal psychoanalysis during education, as long as the required number of hours is met. The Committee was unable to arrive at a resolution to these concerns as of its last meeting, held in 2007, and the Director proposed the rules in 2011, based on his own determinations. Prior to the last Committee meeting in 2007, the Committee met with the following individuals, so as to provide the Director with input from as many stakeholders as possible: James Wulach, Ph.D., NJ Psychological Association; Carolyn Torre, RN, MA, APN, NJ State Nurses Association; James Garofallou, Ph.D., Contemporary Center for Advanced Psychoanalytic Studies; Irwin Badin, Ph.D., Institute for Psychoanalysis and Psychotherapy of NJ; Stanley Hayden, Ph.D., NJ Center for Modern Psychoanalysis; Janice Victor, LCSW, New Jersey Institute for Training in Psychoanalysis, New Jersey Society for Clinical Social Work; David S. Maclsaac, Ph.D., New York Institute for Psychoanalytic Self Psychology, New Jersey Extension; Joel Bernstein, Ph.D., The Institute for Psychoanalytic Studies, Inc. Teaneck, NJ; Lorna Goldberg, MSW, LCSW, The Institute for Psychoanalytic Studies, Inc. Teaneck, NJ; Sheila Zaretsky, Ph.D., Academy of Clinical and Applied Psychoanalysis; Lisa Piemont, Ph.D., Academy of Clinical and Applied Psychoanalysis; Nathan Stockhamer, Ph.D., Accreditation Council for Psychoanalytic Education, Inc.; Sheila Hafter Gray, M.D., Accreditation Council for Psychoanalytic Education, Inc.; Dr. David J. Dalrymple, D.Min. LCPC, N.C.PsyA, Office of Accreditation American Board for Accreditation in Psychoanalysis, Inc.; Kate Morrell, National Accreditation Board of Psychoanalysis, Inc.; Dr. Lucy Holmes, Society of Modern Psychoanalysts; Dr. Eric Nuetzel, the Board of Professional Standards of the American Psychoanalytic Association; and Dr. Myrna C. Weiss, Board of Professional Standards of the American Psychoanalytic Association.

13. COMMENT: A commenter contended that the Committee made no effort to meet with any New Jersey or national organizations when it made its decision as to the appropriateness of education requirements. Another commenter contended that the Committee did not attempt to negotiate differences as to training and practice standards.

RESPONSE: As stated in response to prior comments, the Committee met with many different individuals representing different groups in order to provide the Director with input from as many stakeholders as possible.

14. COMMENT: One commenter is concerned that exempting psychoanalysis from regulation and licensing will leave consumers with no entity to which they can address complaints regarding psychoanalysts. The commenter contends that a process has to be established to address complaints and disciplinary hearings for psychoanalysts.

RESPONSE: The adoption of N.J.A.C. 13:42A will establish a certification process for psychoanalysts who wish to be identified as State certified. This is a "titing" process whereby those who wish to use the title "State Certified Psychoanalyst" must be certified. The rules also establish a complaint and disciplinary hearing process for those who are State certified psychoanalysts.

15. COMMENT: A commenter asks who was involved in determining the qualifications to obtain State certification as a psychoanalyst. She also asks who was involved in the Committee.

RESPONSE: The Director developed the rules that establish qualifications for obtaining State certification as a psychoanalyst based on independent research and information from the Committee. Committee membership is available on the Committee' website, <http://www.njconsumeraffairs.gov/psyan/>.

16. COMMENT: A commenter points out that the regulations do not establish a scope of practice for

State certified psychoanalysts. The commenter asks what tasks a State certified psychoanalyst may perform, the tasks that they are prohibited from performing, what kinds of patients they prohibited from seeing, and if they are permitted to perform other forms of psychotherapy outside of psychoanalysis.

RESPONSE: The Director believes that the definition of "psychoanalytic services" from N.J.S.A. 45:14BB-3 and N.J.A.C. 13:42A-1.2 provide adequate guidance as to the services that State certified psychoanalysts may provide. If it becomes apparent that further clarification is necessary in the future, the Director will entertain drafting a scope of practice rule for State certified psychoanalysts.

17. COMMENT: A commenter is concerned because the regulations do not address frequently encountered difficulties in routine mental health practice, such as the treatment of special conditions or assessment and diagnostic issues with developmental conditions. The regulations also do not address clinical requirements of diagnosis, differential diagnosis, assessment of conditions not treatable by psychoanalysis, or the need for referral to other medical or mental health providers.

RESPONSE: As stated in the Response to Comment 16, the Director believes that the definition of "psychoanalytic services" provides the minimum standard as to the practices of State certified psychoanalysts.

18. COMMENT: The summary of the notice of proposal stated that opposition to previously proposed regulations "hinged on the frequency of the personal psychoanalysis a student is required to complete during his or her education." A commenter contends that opposition to the previous proposal was based on more than just concerns as to frequency of personal psychoanalysis and that it was focused on all of the standards for psychoanalytic training.

RESPONSE: The majority of the comments received on the 2004 notice of proposal focused on the frequency of personal psychoanalysis a student is required to complete during his or her education. The notice of proposal Summary was accurate in that that had been the primary focus of concern of the comments received in 2004.

19. COMMENT: The summary of the notice of proposal stated that there were two schools of thought as to psychoanalytic training. A commenter contends that this characterization is inaccurate as it indicates that there are two equally justified points of view as to psychoanalytic training. The commenter contends that there are many schools of thought on psychoanalytic training and that the version codified in N.J.A.C. 13:42A is a minority view that is not influential.

RESPONSE: The research undertaken by the Director, and the comments submitted on the notice of proposal, indicates that there are two distinct approaches to psychoanalytic education. This was accurately addressed in the Summary of the notice of proposal.

20. COMMENT: A commenter is concerned because the new regulations protect the title "State certified psychoanalyst" but do not protect the practice of psychoanalysis. The commenter contends that the new regulations allow anyone to refer to him- or herself as a "psychoanalyst."

RESPONSE: P.L. 2000, c. 57 regulates the use of the title "State certified psychoanalyst." The Act does not provide the authority to regulate the practice of psychoanalysis outside of those individuals who obtain State certification. Absent such statutory authority, the rules cannot address all psychoanalytic practice. The commenter is correct that [page=1909] the new rules would not prohibit anyone from referring to him- or herself as a "psychoanalyst."

21. COMMENT: One commenter asks if an individual will be prohibited from using the title "certified psychoanalyst."

RESPONSE: N.J.S.A. 45:14BB-9 and N.J.A.C. 13:42A-1.4 reserve the title "State certified psychoanalyst" to those who obtain State certification. The statute and rule do not address the use of the title "certified psychoanalyst" and do not prohibit the use of this title.

22. COMMENT: Two commenters contend that N.J.A.C. 13:42A-1.4 should be amended to clarify that anyone may use the term "psychoanalyst" or "certified psychoanalyst." The commenters point out that these terms have been used for decades by individuals who are licensed to practice in a mental health field who have completed additional training in psychoanalysis.

RESPONSE: N.J.A.C. 13:42A-1.4 addresses the use of the term "State certified psychoanalyst." There are no restrictions on the use of any other titles associated with psychoanalysis and it is not necessary to amend the rule as the commenters suggest.

23. COMMENT: One commenter asks if a consumer looking for a psychoanalyst will assume that a State certified psychoanalyst has a higher level of training and qualifications than an individual who does not hold State certification.

RESPONSE: The Director is unable to comment on the decisions a hypothetical consumer may make as to an individual's training and qualifications.

24. COMMENT: One commenter asks what the title "State certified psychoanalyst" specifies in terms of training.

RESPONSE: Any individual who is authorized to use the title "State certified psychoanalyst" will be required to meet the training requirements of N.J.A.C. 13:42A-2.1, 2.2, or 2.3.

25. COMMENT: Several commenters ask why the regulations do not address psychoanalysts who will choose to not obtain State certification.

RESPONSE: The rules implement P.L. 2000, c. 57, which addresses those individuals who choose to obtain State certification. The Act does not require an individual to obtain State certification in order to provide psychoanalytic services and does not authorize the Director to draft rules addressing the practice of such an individual.

26. COMMENT: A commenter asks if State certification will be in addition to an individual's other credentials as an independent licensed mental health professional.

RESPONSE: N.J.A.C. 13:42A-2.1 does not require an individual to hold a license from another mental health board in order to obtain State certification. The commenter is correct that State certification is separate and apart from any other licensing a professional may have.

27. COMMENT: Several commenters were concerned because the new regulations do not address individuals licensed in other mental health disciplines who use psychoanalysis as part of their professional practice. They ask that the regulations be amended to clarify the status of such individuals.

RESPONSE: As discussed in response to prior comments, statutes and rules do not require any individual to obtain State certification in order to provide psychoanalytic services. Accordingly, an individual who is licensed in other mental health disciplines may use psychoanalysis without holding State certification and it is unnecessary to amend the rules as the commenters request.

28. COMMENT: Several commenters point out that the regulations allow individuals who are not licensed by other mental health boards or committees to obtain certification and to provide counseling and therapy. Two of these commenters contend that the regulations should require applicants for certification as State certified psychoanalysts to hold licenses from other mental health boards or committees. A commenter contends that, if mental health licensure was a requirement for certification, there would be little opposition to the regulations.

RESPONSE: The commenters are correct that a license from another mental health board or committee is not a prerequisite for obtaining State certification. N.J.S.A. 45:14BB-6 establishes the

prerequisites for State certification. As this statute does not require licensure from another mental health board or committee in order to obtain State certification, the Director does not have the authority to require such licensure via an administrative rule.

29. COMMENT: One commenter asks why the Division is creating a new category for psychoanalysts given that it already has procedures for licensing and regulating mental health professions.

RESPONSE: The Director has not created a new category for psychoanalysts. This category was created by P.L. 2000, c. 57. The rules at N.J.A.C. 13:42A effectuate this statutory provision.

30. COMMENT: A commenter contends that the regulations should exempt other professionals from State certification requirements.

RESPONSE: As discussed in response to prior comments, State certification is not required for any individual and it is not necessary to exempt other professionals as the commenter recommends.

31. COMMENT: Several commenters are concerned because there is no grandfathering provision for individuals currently practicing psychoanalysis.

RESPONSE: P.L. 2000, c. 57 did not authorize grandfathering provisions for individuals currently practicing psychoanalysis. Absent such statutory authorization, the Director cannot adopt rules recognizing alternative certification standards for individuals currently practicing. The Director points out that nothing in P.L. 2000, c. 57 prohibits such individuals from continuing to practice psychoanalysis, as long as they do not identify themselves as "State Certified Psychoanalysts."

32. COMMENT: Two commenters were concerned that the regulations recognize the American Board for Accreditation in Psychoanalysis (ABAP). One of the commenters does not believe the Director investigated the standards of the ABAP and contends that there are differing opinions as to the legitimacy of the ABAP. According to this commenter, all of the Committee members are associated with the ABAP. Only 12 institutions are members of the ABAP. It requires 300 hours of clinical experience and 150 hours of supervised clinical practice, of which 50 may be in group supervision. The commenter contends that this is significantly lower than the experience and supervised practice requirements for psychologist licensure. One commenter contends that the regulations ignore the existence of other accrediting entities.

RESPONSE: The ABAP is not mentioned in N.J.A.C. 13:42A. The rules do not recognize any specific entities with regard to accreditation. N.J.A.C. 13:42A-2.1 establishes that an accredited institution is one that is accredited by a United States regional or national accrediting body recognized within the national academic community.

33. COMMENT: Several commenters are concerned with the role external accreditation of psychoanalytic institutes plays in the new regulations. The commenters contend that most psychoanalytic institutes are not accredited. One of the commenters contends that the regulations will prevent graduates from non-accredited institutes from obtaining State certification because the regulations require that graduates undergo personal analysis and be supervised by a State certified psychoanalyst. According to the commenter, non-accredited schools do not have faculty members who will be State certified.

RESPONSE: N.J.A.C. 13:42A-2.2 establishes a process by which graduates of institutes that are not accredited may obtain State certification. The intent of this rule was to ensure that individuals who attend non-accredited schools may obtain State certification. The Director recognizes that many non-accredited schools will not have faculty members who graduated from accredited schools and that this may prevent graduates of non-accredited schools from obtaining certification pursuant to N.J.A.C. 13:42A-2.2. Such a change would be too substantive to make upon adoption. The Director will propose to amend N.J.A.C. 13:42A-2.2 at a later date so that a psychoanalyst providing personal psychoanalysis to a student, and a psychoanalyst supervising a student's psychoanalytic cases, need not have graduated from an accredited psychoanalytic institute. In order to ensure that these psychoanalysts have met standards that establish their expertise, the amended rule will require that such psychoanalysts hold a

license to practice in a mental health field.

34. COMMENT: Several commenters contend that the training requirements in the new regulations are inadequate and will not protect the public. The commenters contend that these training standards do not meet the standards accepted by the majority of psychoanalysts. The commenters contend that this view is supported by the vast majority of psychoanalysts in the United States.

[page=1910] RESPONSE: Based on independent research and information from the Committee, the Director is confident that the training requirements establish the minimum standards necessary to prepare an individual to obtain State certification and practice psychoanalysis.

35. COMMENT: One commenter asks if the training requirements for certification are comparable to standards from other psychoanalytic training institutes.

RESPONSE: The training requirements are the minimum foundation necessary to prepare an individual to obtain State certification and practice psychoanalysis. Some psychoanalytic training institutes may require more than what is required by N.J.A.C. 13:42A. Graduates from such institutes will have met the minimum standard required by the rules and will be eligible for State certification.

36. COMMENT: One commenter contends that the regulations favor a lesser trained group of individuals over those who are more highly trained. Another commenter contends that the regulations allow unqualified individuals to represent that they offer the same services as those who have been properly educated and trained to perform psychoanalysis. A third commenter is concerned that the regulations will confuse consumers and lead them to believe that an individual is adequately prepared to provide psychoanalysis when that individual does not have adequate training.

RESPONSE: As discussed in response to prior comments, the Director believes that the education and training standards established by N.J.A.C. 13:42A provide the appropriate foundation necessary in order to practice psychoanalysis. They do not favor one group over another as any individual who meets these standards will be eligible for State certification. The Director points out that N.J.A.C. 13:42A-7.10 requires State certified psychoanalysts to disclose to patients a description of the specific school of thought in which he or she was educated.

37. COMMENT: One commenter contends that the majority of psychoanalysts in New Jersey did not complete training that is similar to that required by the new regulations.

RESPONSE: The information the Director received from the Committee and independent research indicated that the standards in N.J.A.C. 13:42A are the appropriate minimum foundation necessary in order to practice psychoanalysis. While it may be the case that many individuals currently practicing psychoanalysis have completed more training than that required by the rules, such individuals will be eligible for State certification as they will have met the necessary standards established by the rules.

38. COMMENT: A commenter is concerned that the State will be legally liable for certifying individuals who are not prepared to provide mental health services. These certified individuals will be permitted to complete their psychoanalytic training and provide treatment without any prior training. The commenter contends that the regulations should not allow untrained and unlicensed people to attend psychoanalytic training and to obtain State certification.

RESPONSE: The Director believes that the standards for State certification established in N.J.A.C. 13:42A are the minimum standards to practice psychoanalysis based on P.L. 2000, c. 57. As discussed in response to prior comments, P.L. 2000, c. 57 does not require an applicant for State certification to hold a license from another mental health board or committee. The law does not require an individual to obtain State certification in order to provide psychoanalytic services.

39. COMMENT: A commenter contends that the educational standards in the new regulations prepare an individual to practice psychoanalytic psychotherapy and not psychoanalysis. The commenter contends

that many institutions have a program for psychoanalytic psychotherapy, which is less rigorous than the program for psychoanalysis.

RESPONSE: P.L. 2000, c. 57 does not recognize the category of "psychoanalytic psychotherapy." The law authorizes the certification of psychoanalysts who have met the minimum standards necessary to practice safely and effectively. The standards established by N.J.A.C. 13:42A are these minimum standards. There is a firm basis to conclude that practitioners trained in the techniques identified by N.J.A.C. 13:42A will be able to provide safe and effective services to the public.

40. COMMENT: Several commenters contend that the regulations discriminate against existing psychoanalytic programs, like the Center for Psychotherapy and Psychoanalysis of New Jersey, and their graduates because such graduates are required to undergo subjective review by the **Division of Consumer Affairs** in order to obtain State certification. The commenters contend that the regulations could make it impossible for such graduates to obtain certification.

RESPONSE: The rules do not require any graduate to undergo a subjective review. The Director believes N.J.A.C. 13:42A-2.1 and 2.2 establish clear and objective standards for obtaining State certification. As discussed in Response to Comment 33, the Director will propose to amend N.J.A.C. 13:42A-2.2 at later date to address concerns regarding the ability of graduates of non-accredited psychoanalytic programs to qualify for certification.

41. COMMENT: One commenter contends that the regulations must provide a process to review and accept qualified psychoanalytic training programs on a case-by-case basis. Such a process would have to include procedures for establishing that a program is acceptable without requiring accreditation, which the commenter contends is controversial.

RESPONSE: Establishing acceptance of training programs on a case-by-case basis would be subjective and would not provide the clear and objective process that is established by N.J.A.C. 13:42A-2.1 and 2.2. Accordingly, the Director will not change the rules to provide the process recommended by the commenter. The Director points out that N.J.A.C. 13:42A-2.2 establishes a process by which applicants who graduated from non-accredited programs may obtain State certification.

42. COMMENT: One commenter contends that the new regulations create three classes of psychoanalysts: those who are currently practicing who graduated from accredited institutes; those who obtain State certification; and any other psychoanalysts.

RESPONSE: The Director does not agree that the rules created three classes of psychoanalysts. The rules reflect the statutory provisions of P.L. 2000, c. 57, which provides a process by which individuals may obtain State certification if they wish to do so. The Act does not require State certification in order to provide psychoanalytic services, so it may be seen as creating two categories of psychoanalysts: those who obtain State certification and may refer to themselves as "State certified psychoanalysts" and those who do not obtain State certification and may not use that title.

43. COMMENT: A commenter contends that the regulations would permit an individual who holds a master's degree in any field to obtain State certification.

RESPONSE: Pursuant to N.J.S.A. 45:14BB-6, one of the requirements for State certification is a master's degree from an accredited institution of higher education. The statute does not specify a particular field for the master's degree; an individual who holds a master's degree in any field will meet this requirement. Applicants must also have received certificates of graduation in psychoanalysis from free-standing psychoanalytic institutes and pass the certification examination before they are qualified for State certification.

44. COMMENT: One commenter contends that "credit hours" is not meaningful language for institute training. In the commenter's institute, course are measured by classroom hours, student are required to complete 648 of classroom hours over 36 courses in four years.

RESPONSE: The term "credit hour" is easily understood to refer to the number of hours in a course. The Director believes that 72 credit hours of classes is the minimum that an applicant must complete in order to qualify for State certification. An applicant who completes more than the required 72 credit hours will have met this minimum standard for State certification.

45. COMMENT: Several commenters contend that "psychoanalysis" is defined as an intensive treatment that must occur at least three times a week. One commenter contends that many national organizations and psychoanalytic societies in New Jersey recognize this three-times a week standard as the minimum training requirement. A commenter contends that weekly treatment that occurs once or twice a week does not adequately prepare a student to practice safely and effectively. One of the commenters recommends that N.J.A.C. 13:42A-2.2(a)2iii be amended to require that the 300 hours of personal psychoanalysis have a frequency of at least three times a week.

RESPONSE: As the Summary of the notice of proposal indicates, the Director has found that there is no dispositive evidence that indicates that [page=1911] psychoanalysis treatment occurring three times a week is the optimal standard for preparing students to practice psychoanalysis. As such, it is not appropriate or necessary for the Director to impose a requirement that personal psychoanalysis occur three times a week as part of an applicant's training rather than one or two times a week.

46. COMMENT: Several commenters contend that the regulations do not require clinical training and contend that such training is necessary for independent clinical practice. One commenter contends that general clinical training would educate State certified psychoanalysts as to the limits and proper usage of psychoanalysis. One of the commenters contends that the regulations must set forth clinical training standards for individuals who have no prior mental health training. Such training should include general psycho-diagnosis, clinical assessment, differential diagnosis, and general principles of clinical intervention.

RESPONSE: N.J.A.C. 13:42A-2.1 provides a pathway for an applicant graduate from an accredited psychoanalytic institute. Accreditation entities for psychoanalytic institutes require that the institutes include clinical training as part of their program. N.J.A.C. 13:42A-2.2 provides the pathway for an applicant who did not attend an accredited psychoanalytic institute. Such an applicant must hold a New Jersey license, registration, or certificate in a mental health profession and must complete clinical training and work experience from a psychoanalytic institute.

47. COMMENT: One commenter contends that 150 hours of psychoanalytic supervision is insufficient. The commenter's institute requires closer to 400 hours.

RESPONSE: The Director believes that the standards in N.J.A.C. 13:42A-2.2 establish the appropriate experience under psychoanalytic supervision that an applicant must complete in order to qualify for State certification and practice in a safe and effective manner.

48. COMMENT: A commenter contends that supervision during education from an experienced analyst must be provided on an individual basis and not as part of a group. The commenter contends that this is the almost universally accepted standard recognized by many national organizations and psychoanalytic societies in New Jersey. The commenter recommends that N.J.A.C. 13:42A-2.2(a)2iv be amended to require that all 150 hours of supervision be provided individually.

RESPONSE: The Director believes that applicants can obtain useful information and experience through the interaction that is obtained through group supervision and will not prohibit such supervision as the commenter recommends.

49. COMMENT: A commenter contends that psychoanalysis programs require that patients treated by students undergo psychoanalysis at least three times a week. The commenter recommends that N.J.A.C. 13:42A-2.2(a)2iv be amended to require that the 150 hours of psychoanalysis provided under supervision be at a frequency of at least three times a week.

RESPONSE: The Director points out that not every psychoanalysis program requires patients to be treated at least three times a week. As discussed in response to prior comments, independent research has indicated that there is no dispositive evidence that psychoanalysis that occurs three times a week is the optimal or exclusive standard for psychoanalysis. Absent such evidence, it is not appropriate for the Director to change N.J.A.C. 13:42A-2.2 as the commenter recommends. The Director believes that there is benefit to be derived from affording greater flexibility.

50. COMMENT: One commenter contends that referring to once or twice weekly treatment as "psychoanalysis" will mislead patients.

RESPONSE: As discussed in response to prior comments, there is no dispositive evidence that psychoanalysis must be provided three times a week for there to be a therapeutic benefit.

51. COMMENT: Two commenters contend that 300 hours of personal psychoanalysis is not sufficient to prepare an individual to practice psychoanalysis. One of the commenters compares this requirement to the thousands of hours of clinical training required to become a licensed psychologist.

RESPONSE: The Director believes that the 300 hour hours of personal psychoanalysis required of applicants who did not attend accredited psychoanalytic institutes is the minimum necessary to prepare an applicant to obtain State certification and practice psychoanalysis safely and effectively.

52. COMMENT: Three commenters request that N.J.A.C. 13:42A-2.2(a)3 be amended to include psychiatric advanced practice nurses in the list of recognized mental health professionals. The commenters point out that psychiatric advanced practice nurses are licensed by the Board of Nursing. They are required to have a master's degree in psychiatric advanced practice nursing and to hold national certification. The commenters point out that N.J.A.C. 13:42A-4.3 recognizes the American Nurses Association as an entity that can approve or offer continuing education programs. The commenters contend that this recognition means that the Committee is aware that psychiatric advanced practice nurses are mental health professionals.

RESPONSE: The Director has changed N.J.A.C. 13:42A-2.2(a)3 upon adoption to include psychiatric advanced practice nurses as the commenters recommended. As the rules recognize the American Nurses Association for continuing education purposes, leaving recognition of advanced practice nurses out of N.J.A.C. 13:42A-2.2 was an oversight.

53. COMMENT: A commenter recommends that N.J.A.C. 13:42A-2.3 be amended to permit the Director to waive education, experience, and examination requirements for State certification for those who are licensed in New Jersey as psychologists.

RESPONSE: The Director does not believe that the commenter's recommended change conforms to the education, experience, and examination requirements of P.L. 2000, c. 57 and the Director will not change N.J.A.C. 13:42A-2.3 as the commenter recommended.

54. COMMENT: Two commenters recommend that the Director amend N.J.A.C. 13:42A-4.3(a) to include the New Jersey Society for Clinical Social Work in the list of entities that can offer continuing education courses for psychoanalysts.

RESPONSE: As the New Jersey Society for Clinical Social Work is substantively similar to the other entities recognized by N.J.A.C. 13:42A-4.3, the Director has changed subsection (a) upon adoption to include the New Jersey Society for Clinical Social Work.

55. COMMENT: One commenter contends that the fact that the National Association for the Advancement of Psychoanalysis (NAAP) is the first entity recognized in N.J.A.C. 13:42-4.3 indicates that the psychoanalysis certification act is biased in favor of one branch of psychoanalysis. The commenter contends that the NAAP primarily exists to accredit institutes that educate people who are not licensed to

practice in the mental health field. The commenter is also concerned that the Society of Modern Psychoanalysts is second in the list of entities recognized by N.J.A.C. 13:42A-4.3. The commenter contends that these two organizations would not be viewed by the majority of psychoanalysts as the top two sources for continuing education. The commenter asks why societies for Psychoanalytic Self-psychology, Interpersonal Psychoanalysis, or Object Relations Psychoanalysis not included in N.J.A.C. 13:42A-4.3. The commenter contends that these entities were left out because the regulations are directed to service the needs of one group of psychoanalysts.

RESPONSE: The fact that some entities are listed first or second in N.J.A.C. 13:42A-4.3 does not indicate a preference for those entities. The Director has searched the internet for societies for Psychoanalytic Self-psychology, Interpersonal Psychoanalysis, or Object Relations Psychoanalysis. None of these societies appear to offer continuing education courses or programs. If such societies do offer continuing education courses or programs, the Director will review these courses to determine if it is appropriate to propose to amend N.J.A.C. 13:42A-4.3 at a later date to include these societies.

56. COMMENT: One commenter is concerned that N.J.A.C. 13:42A-4.3 does not recognize training institutes that are not accredited by NAAP, even though such institutes are usually approved by state psychological associations or state chapters of the National Association of Social Workers as sources for continuing education.

RESPONSE: If the American Psychological Association, the National Association of Social Workers, or a State chapter of these associations recognizes an institution as a source for continuing education, N.J.A.C. 13:42A-4.3 allows a State certified psychoanalyst to obtain continuing education credits from such institutions.

[page=1912] 57. COMMENT: Several commenters contend that the regulations are discriminatory against long-standing psychoanalytic institutes in that they do not allow such institutes, like the Center for Psychotherapy and Psychoanalysis of New Jersey, to provide continuing education credits.

RESPONSE: If the Center for Psychotherapy and Psychoanalysis of New Jersey is recognized as a source of continuing education by any of the entities listed in N.J.A.C. 13:42A-4.3, it may provide continuing education credits for State certified psychoanalysts.

58. COMMENT: A commenter contends that a psychoanalyst should never be permitted to become romantically involved with a patient or former patient.

RESPONSE: The Director believes that the prohibitions of N.J.A.C. 13:42A-7.8 provide appropriate boundaries between romantic interactions between patients and State certified psychoanalysts. The Director points out that similar prohibitions are imposed by other mental health boards in New Jersey.

59. COMMENT: Two commenters contend that the informed consent required by N.J.A.C. 13:42A-7.10 will not protect the public from individuals insufficiently trained to provide psychoanalysis. One commenter contends that the informed consent will not provide the public with any benchmarks for being a psychoanalyst or inform them that there are other mental health professionals who are trained to provide psychoanalysis. Another commenter contends that the informed consent will not notify the public of the risks posed by allowing insufficiently trained individuals to become mental health professionals. The commenter contends that the public should not have to assess the training of professionals once they are certified by the State.

RESPONSE: As discussed in response to prior comments, there is no dispositive evidence that one type of psychoanalytic training is superior to another. In the absence of such evidence, the Director has drafted rules that allow individuals from different types of psychoanalytic institutes to obtain State certification. The requirements at N.J.A.C. 13:42A-7.10 ensure that a patient is aware that there are differing approaches to education and training and are aware of which type of education and training his or her psychoanalyst has completed. An informed patient can then use the information disclosed to learn more about the different approaches mental health professionals may pursue in offering treatment.

Summary of Agency-Initiated Change Upon Adoption:

The Director has changed N.J.A.C. 13:42A-4.3 upon adoption to provide the correct name for the American Nurses Association.

At N.J.A.C. 13:42A-6.2(f), the Director discovered an incorrect cross-reference pertaining to confidentiality of records. The subsection is proposed to cross reference N.J.A.C. 13:42A-6.1(b), but the actual regulation pertaining to confidentiality of records is N.J.A.C. 13:42A-6.1(d).

Federal Standards Statement

A Federal standards analysis is not required because there are no Federal laws or standards applicable to the adopted new rules.

Full text of the adopted new rules follows (additions to proposal indicated in boldface with asterisks ***thus***; deletions from proposal indicated in brackets with asterisks *[thus]*):

CHAPTER 42A

CERTIFIED PSYCHOANALYSTS ADVISORY COMMITTEE RULES

SUBCHAPTER 1. GENERAL PROVISIONS

13:42A-1.1 Purpose and scope

(a) The rules in this chapter implement the provisions of P.L. 2000, c. 57, N.J.S.A. 45:14BB-1 et seq., the Psychoanalysts State Certification Act.

(b) This chapter shall apply to all persons applying for certification as a psychoanalyst and to persons certified as psychoanalysts in the State of New Jersey by the Director or a designee.

13:42A-1.2 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Committee" means the Certified Psychoanalysts Advisory Committee established pursuant to N.J.S.A. 45:14BB-4.

"Director" means the Director of the **Division of Consumer Affairs** in the Department of Law and Public Safety or a designee.

"National psychoanalytic association" means a national professional organization of psychoanalysts, which is generally recognized in the psychoanalytic community, that conducts on-site visits of psychoanalytic institutes applying for accreditation.

"Psychoanalytic services" means therapeutic services that are based on an understanding of the unconscious and how unconscious processes affect the human mind as a whole, including actions, thoughts, perceptions and emotions.

"State-certified psychoanalyst" means an individual who has met the eligibility requirements contained in N.J.S.A. 45:14BB-6 and N.J.A.C. 13:42A-2.1 who holds a current, valid certification as a psychoanalyst issued by the Director or a designee.

13:42A-1.3 Office of the Certified Psychoanalysts Advisory Committee

The office of the Committee shall be maintained at 124 Halsey Street, Newark, New Jersey. The mailing address of the Certified Psychoanalysts Advisory Committee is Post Office Box 45050, Newark, New Jersey 07101. The website address is <http://www.njconsumeraffairs.gov/psyan/>.

13:42A-1.4 Use of title

No person shall use the title, "State Certified Psychoanalyst" or the abbreviation "SCP" or "SCPsyA," unless certified by the Director or a designee pursuant to the provisions of N.J.S.A. 45:14BB-1 et seq. and this chapter. No person shall hold himself or herself out as a State-certified psychoanalyst in the State of New Jersey while his or her certificate is in inactive status.

13:42A-1.5 Fee schedule

(a) Charges for certification and other services are as follows:

1. Application fee	\$ 100.00
2. Examination fee	\$ 175.00
3. Initial certification fee	
i. During the first year of a biennial renewal period	\$ 275.00
ii. During the second year of a biennial renewal period	\$ 138.00
4. Biennial renewal fee	\$ 275.00
5. Verification fee	\$ 25.00
6. Replacement wall certificate fee	\$ 25.00
7. Duplicate certificate fee	\$ 25.00
8. Inactive certification fee	\$ 175.00
9. Late renewal fee (to be established by rule by the Director)	
10. Reinstatement fee (to be established by rule by the Director)	

SUBCHAPTER 2. QUALIFICATIONS; APPLICATION PROCESS

13:42A-2.1 Requirements for certification as a psychoanalyst

(a) To be eligible to be certified as a State-certified psychoanalyst, an applicant shall:

1. Be at least 18 years of age;
2. Be of good moral character;
3. Have received at least a master's degree from an accredited institution of higher education. For purposes of this section "accredited" shall mean the institution is accredited by a United States regional or national accrediting body recognized within the national academic community or the institution is chartered or approved by a foreign government after meeting requirements established by a governmental or independent educational agency recognized in the foreign country. In order to meet the requirements of this paragraph, the applicant shall:
 - i. Submit proof that the institution of higher education is accredited as defined in (a)3 above, if requested by the Committee; and
 - ii. If the applicant is a graduate of a foreign institution of higher education, submit a certification by a foreign transcript evaluating service on the Committee's approved list establishing that the foreign degree

is the substantial equivalent of a master's degree in the U.S.;

4. Have received a certificate of graduation in psychoanalysis from a free-standing psychoanalytic institute that is either:

i. Accredited by a national psychoanalytic association at the time the applicant graduated and approved by the Director or a designee; or

ii. Chartered by a state or foreign government with substantially similar requirements as those for accreditation by a national psychoanalytic association and approved by the Director or a designee;

5. Have passed an examination to determine the applicant's competence to practice psychoanalytic services; and

6. Have undergone a criminal history record background check pursuant to N.J.S.A. 45:1-29.

[page=1913] 13:42A-2.2 Requirements for applicants holding a certificate of graduation from a nonaccredited psychoanalytic institute

(a) The Director or a designee may waive the requirement in N.J.A.C. 13:42A-2.1(a)4 that the applicant hold a certificate from an accredited psychoanalytic institute and allow an applicant to take the examination, if the applicant has:

1. Received a certificate of graduation in psychoanalysis from a free-standing, psychoanalytic institute that:

i. Has not been accredited as set forth in N.J.A.C. 13:42A-2.1(a)4i; or

ii. Has been chartered by a state or foreign government that does not have substantially similar requirements of accreditation as those required by a national psychoanalytic association and has not been approved by the Director or a designee; and

2. Documented clinical training and work experience from a psychoanalytic institute, which requires at a minimum:

i. Three hundred hours of patient contact hours in psychoanalytic treatment;

ii. Seventy-two credit hours of classroom instruction in psychoanalysis;

iii. Three hundred hours of personal psychoanalysis with a psychoanalyst who holds a certificate of graduation from a psychoanalytic institute that meets the requirements of N.J.A.C. 13:42A-2.1(a)4; and

iv. One hundred and fifty hours of supervision of psychoanalytic cases with a psychoanalyst who holds a certificate of graduation from a psychoanalytic institute that meets the requirements of N.J.A.C. 13:42A-2.1(a)4 and does not serve as the applicant's personal psychoanalyst, of which 50 hours shall be individual supervision with one supervisor working on one case, plus a minimum of 100 hours of supervision with at least one other supervisor, not necessarily with one case; at least 50 hours of those 100 hours shall be individual supervision; and

3. A current State of New Jersey license, registration*,* or certificate in a mental health profession, which includes a licensed physician, a licensed psychologist, a licensed social worker, a licensed clinical social worker, a licensed marriage and family therapist, a licensed professional counselor, a licensed rehabilitation counselor*,* [and]* a licensed clinical alcohol and drug counselor*, **and a psychiatric advanced practice nurse***.

13:42A-2.3 Certification by endorsement

The Director or a designee shall waive the education, experience and examination requirements for State certification and issue a State certification by endorsement to any applicant who holds a current license, registration or certificate to practice psychoanalysis issued by the agency of another state or country that has requirements for licensure, registration or certification equivalent to or higher than those required in this State for certification.

SUBCHAPTER 3. EXAMINATION

13:42A-3.1 Examination

An applicant shall take and pass the examination to determine the applicant's appropriate competencies, qualifications and abilities to practice psychoanalysis, pursuant to the statute and rules in this chapter except as provided in N.J.A.C. 13:42A-2.2 or 2.3.

SUBCHAPTER 4. CONTINUING EDUCATION

13:42A-4.1 Certification renewal and continuing education requirement

All State-certified psychoanalysts shall complete 20 credits of continuing education for certification renewal. A State-certified psychoanalyst shall confirm on the renewal application that he or she has completed all continuing education requirements pursuant to N.J.A.C. 13:42A-4.2 during the biennial period preceding application for renewal.

13:42A-4.2 Credit requirements

(a) A State-certified psychoanalyst shall not be required to obtain continuing education credits during the biennial period in which initial certification was obtained but shall be subject to the requirements of N.J.A.C. 13:42A-4.1 for all subsequent biennial renewal periods.

(b) A State-certified psychoanalyst who earns more than 20 credits of continuing education during a biennial period may not carry any credits into the next succeeding biennial period.

(c) A State-certified psychoanalyst who is ordered by the Committee to complete continuing education courses or programs for remedial purposes shall not use that continuing education toward the required 20 credits of continuing education per biennial period.

13:42A-4.3 Acceptable sources of continuing education; continuing education credits

(a) The following are acceptable sources of continuing education credits if directly related to the clinical and theoretical practice of psychoanalysis:

1. Credits granted by the following organizations for completing courses or programs:

- i. Accredited psychoanalytic institutes;
- ii. The National Association for the Advancement of Psychoanalysis;
- iii. The Society of Modern Psychoanalysts;
- iv. The American Psychoanalytic Association;
- v. The American Group Psychotherapy Association;
- vi. The Eastern Group Psychotherapy Society;
- vii. The New Jersey Group Psychotherapy Association;
- viii. Other national psychoanalytic associations;
- ix. The National Board for Certified Counselors;
- x. The American Counseling Association;
- xi. The American Psychological Association;
- xii. The American Psychiatric Association;
- xiii. The National Association of Social Workers;

xiv. The New Jersey Society for Clinical Social Work;

[xiv.] ***xv.*** The American Association for Marriage and Family Therapy;

[xv.] ***xvi.*** The Commission on Rehabilitation Counselors Certification;

[xvi.] ***xvii.*** The American Orthopsychiatric Association;

[xvii.] ***xviii.*** The American Medical Association;

[xviii.] ***xix.*** The American ***[Nursing]* *Nurses*** Association;

[xix.] ***xx.*** The National Association of Alcoholism and Drug Abuse Counselors; and

[xx.] ***xxi.*** Any of the New Jersey State chapters and affiliates of the organizations or associations listed in (a)1i through *[xix]* ***xx*** above;

2. Completing graduate coursework at an accredited institution of higher education or an accredited psychoanalytic institute: hour for hour credit;

3. Authoring a refereed article published in a professional journal: eight credits per article; and

4. Teaching new graduate coursework at an accredited institution of higher education or an accredited psychoanalytic institute or presenting a new course or program: one and one-half credit for each hour of teaching or presenting. For the purposes of this paragraph, "new" means a course that the State-certified psychoanalyst has not taught or presented previously in any educational setting.

(b) A State-certified psychoanalyst who has attended or wishes to attend a course or program that has not been approved or offered by any of the organizations listed in (a)1 above may apply to and obtain approval from one of the listed organizations in (a)1 above in order to obtain continuing education credit from the Committee.

(c) The Committee will not conduct independent reviews of any continuing education courses or programs.

13:42A-4.4 Documentation of continuing education credit

(a) A State-certified psychoanalyst shall retain documentation of continuing education credit in order to verify program attendance or activity completion and shall submit such documentation to the Committee upon its request. The Committee may periodically audit the records of State-certified psychoanalysts, on a random basis, to determine compliance with continuing education requirements of this subchapter.

(b) A State-certified psychoanalyst shall verify attendance at continuing education courses or programs by a certificate of attendance or by a written statement from the course or program instructor. The verification shall include the name of the State-certified psychoanalyst, [page=1914] the name of the sponsor, the title, location and date of the course or program and the number of continuing education credits awarded.

(c) A State-certified psychoanalyst shall verify continuing education activities by retaining the following:

1. For publications, a copy of the published article;
2. For program presentations, copies of the program, syllabus, outlines and bibliographies;
3. For teaching, copies of the syllabus, bibliography, course outline and verification from the academic institution that the course was "new" as defined by N.J.A.C. 13:42A-4.3(a)4; and
4. For graduate coursework, an official transcript.

(d) A State-certified psychoanalyst shall maintain verification documentation for five years following the continuing education activity.

(e) Failure to complete continuing education requirements or falsification of any information pertaining to continuing education may result in the Committee taking any appropriate disciplinary measures, including suspension of certification, pursuant to N.J.S.A. 45:1-21.

13:42A-4.5 Waiver of continuing education requirements

(a) The Director may waive continuing education requirements on an individual basis for reasons of hardship, such as illness, disability, active service in the military or other good cause.

(b) A State-certified psychoanalyst who seeks a waiver of the continuing education requirements shall provide to the Committee, in writing, the specific reasons and any additional documentation the Committee may request in support of the waiver.

SUBCHAPTER 5. CERTIFICATION RENEWAL; CHANGE OF STATUS; REINSTATEMENT

13:42A-5.1 Certification renewal

(a) Certifications shall be renewed biennially upon a form provided by the Committee. Each applicant shall attest whether the continuing education requirements of N.J.A.C. 13:42A-4 have been completed during the prior 24-month renewal period.

(b) The Committee shall send a notice of renewal to each State-certified psychoanalyst at least 60 days prior to the expiration of the certificate. 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) The State-certified psychoanalyst shall submit the renewal application and pay the renewal fee pursuant to N.J.A.C. 13:42A-1.5 prior to the date of expiration of the certificate. If the State-certified psychoanalyst does not renew the certificate prior to its expiration date, the State-certified psychoanalyst may renew it no later than 30 days after its expiration date by submitting a renewal application and paying a renewal fee and a late fee pursuant to N.J.A.C. 13:42A-1.5. The State-certified psychoanalyst who fails to renew the certificate within 30 days after the expiration date of the certificate shall have the certification suspended without a hearing.

(d) A person who continues to hold him- or herself out as a State-certified psychoanalyst after 30 days following the expiration date of the certificate shall be deemed to be engaged in the uncertified practice of psychoanalysis, even if no notice of suspension has been provided to the person.

(e) Renewal applications for all certificates shall provide the applicant with the option of either active or inactive renewal. Renewal applicants electing to renew as inactive shall not hold themselves out to the public as State-certified psychoanalysts. An applicant who selects the inactive renewal option shall remain on inactive status for the entire renewal period, unless the applicant applies for change of status pursuant to N.J.A.C. 13:42A-5.2.

13:42A-5.2 Change of status

Upon application to the Director, the Director may permit an applicant who has been on inactive status to return to active status provided such applicant has completed 10 continuing education credits per year for each year the applicant has been on inactive status.

13:42A-5.3 Reinstatement of expired certificate

(a) A person seeking reinstatement within five years following the expiration date of the State-certified psychoanalyst certification shall submit the following to the Committee:

1. A completed reinstatement application;
2. An affidavit of employment listing each job held during the period of suspended certification, which

includes the names, addresses and telephone numbers of each employer;

3. A certification verifying completion of the continuing education credits required pursuant to N.J.A.C. 13:42A-4 for the renewal of a State-certified psychoanalyst certification; and

4. Payment of a reinstatement fee as set forth in N.J.A.C. 13:42A-1.5.

(b) A person seeking reinstatement after more than five years following the expiration date of the State-certified psychoanalyst certification shall satisfy the requirements of (a) above and shall successfully complete the examination required for initial certification.

SUBCHAPTER 6. PATIENT RECORDS; CONFIDENTIALITY

13:42A-6.1 Preparation and maintenance of patient records

(a) A State-certified psychoanalyst shall contemporaneously prepare and maintain separately for each patient a permanent record, which accurately reflects the State-certified psychoanalyst's contact with the patient whether in an office, hospital or other treatment, evaluation or consultation setting.

(b) A State-certified psychoanalyst shall include in the patient record the following information pertinent to the nature and extent of the professional interaction between the State-certified psychoanalyst and the patient:

1. The patient's name, address and telephone number;
2. The patient's complaint on intake;
3. Initial and ongoing diagnostic impressions;
4. Dates of all treatment, evaluation or consultation sessions and progress or session notes, if any;
5. The client identity on each page;
6. Fees charged and paid; and
7. In a multi-person practice, the identity of each provider of treatment, evaluation or consultation.

(c) The patient record shall contain information regarding referrals to other professionals.

(d) When records are to be maintained as confidential, the State-certified psychoanalyst shall establish and maintain a procedure to protect such records from access by unauthorized persons.

(e) The State-certified psychoanalyst shall retain the permanent patient record for at least seven years from the date of last entry, unless otherwise provided by law.

13:42A-6.2 Access to copy of patient record

(a) For purposes of this section, "authorized representative" means, but is not necessarily limited to, a person designated by the patient or a court to exercise rights under this section. An authorized

representative may be the patient's attorney or an agent of a third-party payor with whom the patient has a contract that provides that the third-party payor be given access to records to assess a claim for monetary damages or reimbursement.

(b) A State-certified psychoanalyst may require the record request to be in writing. No later than 30 days from receipt of a request from a patient or duly authorized representative, the State-certified psychoanalyst shall provide a copy of the patient record and/or billing records, including reports relating to the patient.

(c) The State-certified psychoanalyst may elect to provide a summary of the record, as long as the summary adequately reflects the patient's history and treatment, unless otherwise required by law.

(d) A State-certified psychoanalyst may charge a reasonable fee for the preparation of a summary and reproduction of records, which shall be no greater than an amount reasonably calculated to recoup the costs of transcription or copying.

(e) A State-certified psychoanalyst may withhold information contained in the patient record from a patient or the patient's authorized representative if, in the reasonable exercise of his or her professional [page=1915] judgment, the State-certified psychoanalyst believes release of such information would adversely affect the patient'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. The patient's attorney;
- ii. Another psychoanalyst or other licensed health care professional; or
- iii. The patient's health insurance carrier.

(f) Records maintained as confidential pursuant to N.J.A.C. 13:42A-6.1*[(b)]****(d)*** shall be released:

1. If requested or subpoenaed by the Committee or the Office of the Attorney General in the course of any Committee investigation;
2. Pursuant to an order of a court of competent jurisdiction;
3. Upon a waiver of the patient or an authorized representative to release the patient record to any person or entity, including to the Violent Crimes Compensation Board; or
4. In order to contribute appropriate patient information to the patient record maintained by a hospital, nursing home or similar licensed institution that is providing or has been asked to provide treatment to the patient.

(g) A State-certified psychoanalyst's obligation under this section to release information shall include the obligation to complete forms or reports required for third-party reimbursement of patient treatment expenses.

(h) When a request is made for release of already completed reports to enable the patient to receive

ongoing care by another practitioner, the State-certified psychoanalyst shall not require that payment shall have been made for the professional services to which such reports relate as a condition for making such reports available. A State-certified psychoanalyst may, however, require advance payment for a report prepared for services as an expert witness.

13:42A-6.3 Confidentiality

(a) A State-certified psychoanalyst shall preserve the confidentiality of information from a patient in the course of the State-certified psychoanalyst's teaching, practice or investigation. However, the State-certified psychoanalyst shall reveal the information to appropriate professionals, public authorities and threatened individual(s) or their representatives only if in the State-certified psychoanalyst's judgment, exercised in accordance with the standards of the profession, any one of the following circumstances occur:

1. There is a clear and imminent danger to the individual or the public;
2. There is probable cause to believe that an identifiable potential victim of a patient is likely to be in danger; or
3. Release of such information is otherwise mandated by law.

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

1. Confidentiality survives the patient's death and a State-certified psychoanalyst shall preserve the confidentiality of information obtained from the patient in the course of the patient's teaching, practice or investigation.
2. The disclosure of information in a deceased patient's records is governed by the same provisions for living patients set forth in (a) above and N.J.A.C. 13:42A-6.2; and
3. A State-certified psychoanalyst shall retain a deceased patient's record for at least seven years from the date of last entry, unless otherwise provided by law.

(c) A State-certified psychoanalyst may discuss the information obtained in clinical or consulting relationships, or in evaluating data concerning children, students, employees and others, only for professional purposes and only with persons clearly connected with the case.

(d) A State-certified psychoanalyst may reveal in writing, lectures or other public forums, personal information obtained during the course of professional work only as follows:

1. With prior consent of the patients or persons involved; or
2. Where the identity of the patient or person involved is adequately disguised.

(e) A State-certified psychoanalyst may share confidential communications with other interested parties, in a non-public forum, only where the original source and other persons involved have given their express permission to do so.

(f) A State-certified psychoanalyst may reveal the identity of research subjects only if the subjects have

granted explicit permission.

(g) A State-certified psychoanalyst may release confidential documents, testimony or other information contained in the patient record only in accordance with the provisions of N.J.A.C. 13:42A-6.2 and this section.

SUBCHAPTER 7. GENERAL OBLIGATIONS OF A STATE-CERTIFIED PSYCHOANALYST

13:42A-7.1 Posting of practice authorization

A State-certified psychoanalyst shall prominently display the current certificate in every location where the State-certified psychoanalyst practices.

13:42A-7.2 Notification of change of address; service of process

(a) A State-certified psychoanalyst shall notify the Committee, in writing, not later than 30 days after any change in the address of record on file with the Committee.

(b) Service of an administrative complaint or other process initiated by the Committee, the Attorney General or the **Division of Consumer Affairs** at the address of record on file with the Committee shall be deemed adequate notice for the commencement of any inquiry or disciplinary proceeding.

13:42A-7.3 Reporting of conduct of other State-certified psychoanalysts

(a) A State-certified psychoanalyst shall promptly notify the Committee when in possession of information that reasonably indicates that another State-certified psychoanalyst has demonstrated an impairment, gross incompetence, repeated acts of incompetence or professional misconduct that would present an imminent danger to a patient or to the public health, safety or welfare. If a State-certified psychoanalyst obtains information from a patient about another State-certified psychoanalyst's suspected unlawful conduct, the State-certified psychoanalyst shall report the information only with the written permission of the patient.

(b) Notwithstanding the provisions of (a) above, a State-certified psychoanalyst who acquires knowledge of impairment, gross incompetence, repeated acts of incompetence or professional misconduct in the course of treating a patient-State-certified psychoanalyst shall not be obligated to notify the Committee if:

1. The treating State-certified psychoanalyst reasonably believes that the improper conduct has ceased and the current treatment is adequate to prevent a recurrence of the impairment, incompetence or professional misconduct; or

2. The treating State-certified psychoanalyst has reasonable cause to believe that the patient-State-certified psychoanalyst is currently receiving professional supervisory and educational measures, which are reasonably likely to protect patients against gross incompetence.

(c) A State-certified psychoanalyst is not exempt from reporting any information otherwise required by law, such as the mandatory reporting of an abused child as defined in N.J.S.A. 9:6-8.10 et seq. and mandatory reporting required by the Health Care Professional Responsibility and Reporting Enhancement Act, N.J.S.A. 45:1-33 et seq.

13:42A-7.4 Professional interactions with patients

(a) A State-certified psychoanalyst who does not possess the requisite training, experience, education or supervision for a particular case shall obtain supervision for that case or make appropriate referrals to practitioners. Failure to obtain supervision or make the appropriate referral shall be deemed professional misconduct.

(b) A State-certified psychoanalyst shall not abandon nor neglect a patient in need of professional care without making reasonable arrangements for the continuation of such care or offering to assist the patient in finding alternative sources of assistance.

13:42A-7.5 Financial arrangements with patients and others

(a) A State-certified psychoanalyst shall inform patients, preferably in writing, of the financial arrangements for psychoanalytical services. If the [page=1916] State-certified psychoanalyst elects not to provide the financial arrangement(s) in writing, the burden of demonstrating that the patient has been informed of the financial arrangements shall be on the State-certified psychoanalyst.

(b) A State-certified psychoanalyst, upon request, shall provide to a patient or the patient's designated insurance carrier, a statement of services.

13:42A-7.6 Conflicts of interest

(a) A State-certified psychoanalyst shall not refer a patient to a person or entity in which the State-certified psychoanalyst has any financial or significant beneficial interest unless:

1. The State-certified psychoanalyst has disclosed that he or she has a financial interest; and
2. The State-certified psychoanalyst has provided an alternative referral.

(b) A State-certified psychoanalyst shall not enter into or continue any treating relationship in which he or she has any family, personal, financial, business, employment or beneficial interest other than that arising from the State-certified psychoanalyst-patient relationship. Entering into any business relationship or paying or bartering for any services provided by any current patient shall also be prohibited.

13:42A-7.7 Prohibition on referral fees and fee splitting

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

1. Paying a flat fee for regular advertising services;
2. Paying a flat fee for the State-certified psychoanalyst's placement on a commercially sponsored "referral list" of health care providers; or
3. Contributing a fee to a professionally sponsored referral service.

(b) A State-certified psychoanalyst shall not permit the division of fees for professional services other than

among health care professionals in the same or in a closely allied professional health care field engaged in a bona fide partnership or professional service corporation, limited liability company or limited liability partnership.

(c) A State-certified psychoanalyst shall not divide fees for professional services rendered to a patient with a State-certified psychoanalyst practicing as an independent contractor. This subsection shall not prohibit a State-certified psychoanalyst from charging a flat fee to an independent contractor on a per hour or per service basis to cover expenses.

13:42A-7.8 Sexual misconduct

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

"Patient" means any person who is the recipient of psychoanalytic services rendered by a certificate holder. "Patient" for purposes of this section also means a person who is the subject of professional consultation or evaluation even if the purpose of that consultation or evaluation 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 a State-certified psychoanalyst'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 State-certified psychoanalyst's body upon a part of the patient's body, sexual penetration or the insertion or imposition of any object or any part of a State-certified psychoanalyst's or patient'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 State-certified psychoanalyst's activities or role as a provider of psychoanalytic services, that is either unwelcome, offensive to a reasonable person or creates a hostile work place environment and the State-certified psychoanalyst knows, should know or is told this, or that 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 State-certified psychoanalyst with a patient, co-worker, employee, employer, student, supervisee or supervisor whether or not such individual is in a subordinate position to the State-certified psychoanalyst.

(b) A State-certified psychoanalyst shall not engage in sexual contact with a current patient, a former patient to whom psychoanalytic 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 State-certified psychoanalyst as clearly vulnerable by reason of emotional or cognitive disorder to exploitive influence by the State-certified psychoanalyst, the prohibition on sexual contact shall extend indefinitely.

(d) A State-certified psychoanalyst 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) A State-certified psychoanalyst shall not accept as a patient a former sexual partner.

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

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

1. The patient solicited or consented to sexual contact with the State-certified psychoanalyst; or
2. The State-certified psychoanalyst was in love with or had affection for the patient.

13:42A-7.9 Advertising

(a) A State-certified psychoanalyst may advertise, in print or electronic media. The advertisement shall include, at a minimum, the name of the State-certified psychoanalyst as registered with the Committee and the designation "State Certified Psychoanalyst" or "SCP" or "SCPsyA."

(b) A State-certified psychoanalyst shall not make any statement or claim or make use of any professional format which is false, fraudulent, misleading or deceptive with regard to the performance of professional services or accepted standards of professional practice.

(c) A State-certified psychoanalyst who is on inactive status shall not hold himself or herself out to the public as a State-certified psychoanalyst.

13:42A-7.10 Informed consent

(a) Prior to providing an initial professional service to a patient, a State-certified psychoanalyst shall provide the patient with documentation indicating:

1. The goals of therapy;
2. The State-certified psychoanalyst's training and education; and
3. If the State-certified psychoanalyst was educated in a specific school of thought, such as modern or classical, a description of that school of thought.