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RULE ADOPTIONS

LAW AND PUBLIC SAFETY

DIVISION OF CONSUMER AFFAIRS

STATE BOARD OF PSYCHOLOGICAL EXAMINERS

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

Adopted Repeal: N.J.A.C. 13:42-10.15

Rules of the State Board of Psychological Examiners

Proposed: February 2, 2009 at 41 N.J.R. 712(a).

Adopted: May 4, 2009 by the State Board of Psychological Examiners, Nancy E. Friedman, Ph.D., Chair.

Filed: July 2, 2009 as R.2009 d.241, **with substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.6) and **with the proposed amendment to N.J.A.C. 13:42-8.3 not adopted.**

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

Effective Dates: July 2, 2009, Readoption;

August 3, 2009 , Amendments and Repeal.

Expiration Date: July 2, 2014.

Summary of Public Comment and Agency Response follows:

The official comment period ended April 3, 2009. The Board received one comment from Amy L. Altenhaus, Ph.D.

COMMENT: The commenter pointed out that psychologists who perform evaluations review large files from hospitals, prisons and other professionals and their files can sometimes run to more than 1,000 pages. The commenter asks if evaluation files are covered by the \$ 100.00 fee for copying or if this fee only applies to treatment files.

[page=2976] RESPONSE: The commenter is perfectly correct, as proposed, N.J.A.C. 13:42-8.3(d) would impose a \$ 100.00 cap on all files, which would include both treatment files and evaluations review files. However, after further review, the Board realizes that certain files can be very voluminous in nature and the \$ 100.00 cap would have a greater negative economic impact than originally considered. Reverting back to the original language at this point in time still protects the public, as the fee charged must be reasonable, but the Board will be considering how to address this issue to impose a more neutral cap on copying fees and if such review leads to the need for a change to the rules, such amendment would be proposed at that time.

Summary of Agency-Initiated Change:

N.J.A.C. 13:42-4.6(a) provides examples as to financial arrangements between supervisors and supervisees. The Board proposed to delete one of these examples, which recognized that supervisors could designate a supervisee as an

independent contractor. Another of these examples, which recognizes that a supervisor could agree to pay a supervisee the entirety of the client fees charged by the supervisor, is premised on the supervisee being an independent contractor. As the Board has deleted the independent contractor example, it is not appropriate to retain the example of paying the supervisee client fees and the Board is deleting this example upon adoption.

Federal Standards Statement

A Federal standards analysis is not required because there are no Federal laws or standards applicable to the rules readopted with amendments and a repeal.

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

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

SUBCHAPTER 1. SCOPE OF PRACTICE; PERSONS REQUIRING LICENSURE; EXEMPTIONS FROM LICENSURE; UNLICENSED PRACTICE

13:42-1.2 Persons requiring licensure; persons not requiring licensure

(a) Persons requiring licensure include all those whose conduct is within the scope of practice set forth in N.J.A.C. 13:42-1.1 and whose practice is not otherwise exempt pursuant to N.J.S.A. 45:14B-6, and 45:14B-8, N.J.A.C. 13:42-1.4 and 1.5 and (b) below, including the following:

1. Persons offering services to the public in private practice, in partnership with other licensed health care professionals, in professional service corporations as shareholders or employees, and in or affiliated with all forms of managed health care organizations (for example, HMO, PPO, IPA, etc.); and
2. Employees of general business corporations to the extent such practice is permitted pursuant to N.J.A.C. 13:42-7.5.

(b) (No change.)

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

(a)-(d) (No change.)

(e) At the time employment of the unlicensed psychologist employee commences, the exempt entity or exempt practitioner shall submit to the Board a notice specifying the following information:

1.-3. (No change.)

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

13:42-1.5 Member of other professional group doing work of psychological nature; exemption from licensure

(a) The following individuals, who do work of a psychological nature consistent with the accepted standards of their respective professions, are exempt from licensure under the Practicing Psychology Licensing Act provided they do not hold themselves out to the public by any title or description stating or implying that such person is a psychologist or is licensed to practice psychology:

1.-12. (No change.)

13. A licensed marriage and family therapist;

14.-17. (No change.)

SUBCHAPTER 2. INITIAL QUALIFICATIONS

13:42-2.1 Application; qualifications to sit for examination

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

Recodify existing (h) and (i) as (g) and (h) (No change in text.)

SUBCHAPTER 4. SUPERVISION OF CANDIDATES FOR LICENSURE

13:42-4.6 Financial arrangements between supervisor and supervisee

(a) Financial arrangements between the supervisor and supervisee shall be reasonable and may take into account the special teaching arrangement that forms the context of the relationship. For example, the supervisor may*[:]*

[1. Designate] ***designate*** the supervisee as a part-time employee*[: or]* *.*

[2. Agree to pay the supervisee the entirety of the client fees charged by the supervisor.]

(b) (No change.)

13:42-6.1 Board fees

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

1. (No change.)

2. Examination fee: \$ 350.00 written, \$ 300.00 oral.

3.-10. (No change.)

(b) (No change.)

SUBCHAPTER 7. ACCEPTABLE PROFESSIONAL PRACTICE

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

(a) A licensee shall not practice psychology in a general business corporation except as provided in N.J.A.C. 13:42-7.5. A licensee may practice in any of the following business entities:

1. Partnership;

2. Professional service corporation;

3. Limited liability company; or

4. Limited liability partnership, as long as the owners (partners, shareholders, members) of the entity consist solely of New Jersey licensed health care professionals.

(b) A licensee may practice in a business entity described in this section which itself is owned by one or more of the entities described, so long as all of the owners of such entities are New Jersey licensed health care professionals and as allowed by law pursuant to N.J.S.A. 42:2B-1 et seq.

(c) In all business entities described in this section, each licensee who is an owner shall retain authority to exercise his or her own professional judgment within accepted standards of practice regarding care, skill and diligence in examinations, diagnosis and treatment of the licensee's individual clients.

Recodify existing (b), (c) and (d) as (d), (e) and (f) (No change in text.)

13:42-7.5 Shareholder or employee of a general business corporation

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

SUBCHAPTER 8. CLIENT RECORDS: CONFIDENTIALITY

13:42-8.2 Use of personal or other computer to prepare client records

(a)-(d) (No change.)

13:42-8.3 Access to copy of client record

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

[(d) A licensee may charge a fee for the reproduction of records requested pursuant to (b) above, which shall be no greater than \$ 1.00 per page or \$ 100.00 for the entire record, whichever is less. If the record requested is less than 10 pages, the licensee may charge up to \$ 10.00 to cover postage and the costs associated with retrieval of the record.]

[page=2977] ***(d)A licensee 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)-(h) (No change.)

13:42-8.4 Access by a managed health care plan to information in client record

(a) (No change.)

(b) A psychologist whose client has explicitly waived the psychologist-client privilege established by N.J.S.A. 45:14B-28 may release requested information deemed professionally appropriate, not limited by the constraints of the Peer Review Law, N.J.S.A. 45:14B-31 et seq., to a third-party payor whose benefit plan is qualified under the Federal Employee Retirement Income Security Act (ERISA); that is:

1.-2. (No change.)

SUBCHAPTER 10. GENERAL OBLIGATIONS OF A LICENSEE

13:42-10.1 Posting of practice authorization

Every licensee shall prominently display in every place of conducting independent practice his or her current renewal certificate, or current duplicate renewal certificate, and 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 .

13:42-10.12 Billing

(a) (No change.)

(b) A licensee billing for services rendered by a permit holder or an exempt professional practicing under supervision shall include all of the following information on the bill in addition to the information required pursuant to (a) above:

1. The name and permit number of the supervisee.

2.-3. (No change.)

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

(a) (No change.)

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

(c) (No change.)

13:42-10.15 (Reserved)