

## 53 N.J.R. 538 (b)

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### RULE ADOPTIONS

#### Reporter

53 N.J.R. 538 (b)

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#### Agency

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LAW AND PUBLIC SAFETY > DIVISION OF CONSUMER AFFAIRS > STATE BOARD OF MARRIAGE AND FAMILY THERAPY EXAMINERS > PROFESSIONAL COUNSELOR EXAMINERS COMMITTEE

#### Administrative Code Citation

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**Adopted Amendments:** N.J.A.C. 13:34-10.2, 13.1, 15.1, 15.2, 18.6, 24.2, 27.6, and 31.2

#### Text

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**Supervisor Qualifications; Continuing Education Requirements; Minors; Custody/Parenting Time Evaluations**

Proposed: August 5, 2019, at 51 N.J.R. 1247(a).

Adopted: August 13, 2020, by the State Board of Marriage and Family Therapy Examiners, Lorraine M. Barry, Ed.S., President.

Filed: March 3, 2021, as R.2021 d.029, **with non-substantial changes** not requiring additional public notice or comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 45:8B-13 and 34 et seq.

Effective Date: April 5, 2021.

Expiration Date: March 3, 2024.

**Summary** of Public Comments and Agency Responses:

The official comment period ended on October 4, 2019. The Professional Counselor Examiners Committee (Committee) received comments from Glenn Duncan, LPC, LCADC, CCS, ACS, Owner, Advanced Counselor Training LLC.

1. COMMENT: One commenter expressed concern with the existing limit on the number of mental health counselors that may be supervised by a qualified supervisor as set forth at N.J.A.C. 13:34-13.1(g). The commenter believes that the limit of six mental health counselors is too restrictive and recommended that the Committee increase to 24 the number of supervisees.

The commenter stated that, as professionals, counselors grow and their practices change throughout the course of their careers. The commenter also stated that counselors can practice in areas in which they have received training and can focus their entire practice on any behavioral healthcare issue that they have received training and in which they have experience working (that are allowed by regulations). The commenter contended, however, that even though counselors are required to receive education and gain experience in providing clinical supervision, they cannot focus their entire practice on the provision of clinical supervision for beginning licensed associate counselors.

The commenter expressed support for the Committee's proposed amendment to not include independently licensed practitioners as a mental health professional for purposes of the supervisee limitation. The commenter, however, believes that this inclusion will not have a significant impact for those wishing to change their focus to the provision of clinical supervision because independent practitioners are not mandated by regulations to receive clinical supervision. The commenter stated that this amendment is mostly pertinent for those licensed professional counselors who work in Department of Mental Health and Addictive Services (DMHAS) licensed facilities who have to supervise any clinician who sees clients (including independent practitioners).

The commenter stated that a clinical supervision practice of beginning licensed mental health counselors (licensed associate counselors) should not be restricted to six, as that would account for only six hours per 40-hour work week in the provision of clinical supervision. The commenter also stated that, if a licensed professional counselor wants to change the counselor's own practice to conduct more clinical supervision, the counselor is restricted in doing so under the Committee's regulation. The commenter recommended increasing the maximum number of supervisees with whom a qualified licensed

professional counselor may be allowed to work and provided the following amended language:

"(g) A qualified supervisor shall not supervise more than a total of twenty-four mental health professionals at any one time. For the purposes of this subsection, mental health professionals shall also include those mental health professionals who are licensed to engage in independent practice."

The commenter contended that this amendment will allow a qualified supervisor to utilize more practice hours per week dedicated to the practice of clinical supervision, making clinical supervision a more viable, closer to full-time career option for licensed professional counselors. The commenter stated that this is currently not the case with the existing regulation (even with the allowance of independent practitioners in this proposed amendment). The commenter stated that the recommended amendment would allow for 24 hours per week of a licensed professional counselor's 40-hour work week to be focused specifically on clinical supervision, still generously allowing time each work week for the performance of other clinical/administrative duties, and/or for the time to increase supervisee hours for those who need more than one supervision hour in any given week. The commenter also stated that the recommended amendment includes independent practitioners as part of the 24 total supervisees allowed, thus the 24 supervisees are the maximum total for any qualified supervisor.

RESPONSE: The Committee declines to increase to 24 the total number of mental health professionals that a qualified supervisor may supervise at any one time because it will harm those seeking treatment, as well as licensed associate counselors who are receiving clinical [page=539] supervision as they prepare to engage in independent practice. The Committee notes that the purpose of clinical supervision is to ensure that the licensed associate counselors are properly trained and clinically competent. The Committee believes that increasing the number of supervisees to 24 will impact a supervisor's ability to address all clinical issues that could arise with the increased caseload, which would negatively impact patient health, safety, and welfare.

#### **Federal Standards Statement**

A Federal standards analysis is not required because the adopted amendments are governed by N.J.S.A. 45:8B-34 et seq., and are not subject to any Federal requirements or standards.

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

SUBCHAPTER 10. PROFESSIONAL COUNSELORS AND ASSOCIATE COUNSELORS:  
PURPOSE AND SCOPE; DEFINITIONS; SCOPE OF PRACTICE

13:34-10.2 Definitions

The following words and terms, as used in N.J.A.C. 13:34-10 through 19, shall have the following meanings, unless the context clearly indicates otherwise.

...

"Qualified supervisor" means an individual who holds a clinical license to engage in the practice of professional counseling, marriage and family therapy, psychology, psychiatry, or social work for a minimum of three years in the state where the services are being provided, and who has:

1. A clinical supervisor's certificate from the National Board for Certified Counselors Center for Credentialing and Education or its successor;

2. An equivalent clinical supervisor credential recognized by the individual's respective professional healthcare licensing board; or

3. (No change in text.)

A "qualified supervisor" shall satisfy all requirements set forth in N.J.A.C. 13:34-13.1.

...

SUBCHAPTER 13. ASSOCIATE COUNSELORS: SUPERVISION

13:34-13.1 Supervisor qualifications; supervisor responsibilities

(a) A qualified supervisor, as defined in N.J.A.C. 13:34-10.2, shall meet the following requirements prior to supervising the provision of professional counseling services:

1. The individual shall have obtained 4,500 hours of work experience subsequent to holding a clinical license to provide mental health counseling services. The 4,500 hours shall have been obtained over a minimum of three years, but no more than six years; and

2. The individual shall hold an approved clinical supervisor credential from the Center for Credentialing and Education of the National Board for Certified Counselors (NBCC) or an equivalent clinical supervisor credential recognized by the individual's respective professional healthcare licensing board, if applicable, or shall have completed a minimum of three graduate credits in clinical

supervision from a regionally accredited institution of higher education.

(b) Notwithstanding (a) above **\*,\*** or the definition of "qualified supervisor **\*,\***"[,]**]** an individual who, as of **\*(**(the effective date of this amendment)**)\*** **\*April 5, 2021\***, was deemed a qualified supervisor by the Committee shall continue to be allowed to supervise the provision of professional counseling services in accordance with this chapter.

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

(g) A qualified supervisor shall not supervise more than a total of six mental health professionals at any one time. For purposes of this subsection, mental health professionals shall not include those mental health professionals who are licensed to engage in independent practice.

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

SUBCHAPTER 15. PROFESSIONAL COUNSELORS AND ASSOCIATE COUNSELORS:  
CONTINUING EDUCATION

13:34-15.1 License renewal and continuing education requirement

(a) All licensed professional counselors shall complete 40 contact hours of continuing education for license renewal (effective the biennial renewal period commencing on December 1, 2020). The licensed professional counselor shall confirm on the renewal application that the licensee has completed all continuing education requirements pursuant to N.J.A.C. 13:34-15.2 and this section during the biennial period preceding application for renewal.

(b) (No change.)

13:34-15.2 Contact-hour requirements for licensed professional counselors

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

(c) Commencing with the biennial renewal period beginning on December 1, 2018, at least one of the 40 contact hours of continuing education shall, pursuant to P.L. 2017, c. 341, be in educational programs or topics concerning prescription opioid drugs, including the risks and signs of opioid abuse, addiction, and diversion. This one credit shall not be eligible for carry-over as described in (e) below.

(d)-(e) (No change.)

SUBCHAPTER 18. PROFESSIONAL COUNSELORS AND ASSOCIATE COUNSELORS:  
CLIENT RECORDS; CONFIDENTIALITY

13:34-18.6 Minors

(a) Unless otherwise ordered by a court, if the client is a minor, a parent or legal guardian will be deemed to be an authorized representative, as defined at N.J.A.C. 13:34-18.3(a). Except as provided for at N.J.S.A. 9:17A-4, when the client is more than 14 years of age, but has not yet reached the age of majority, the authorization shall be signed by the client and by the client's parent or legal guardian, pursuant to N.J.S.A. 45:14B-36(e).

(b) This section shall not require a licensee to release to a minor's parent or guardian records or information relating to the minor's sexually transmitted disease, termination of pregnancy or substance abuse, treatment considered confidential information in accordance with N.J.S.A. 9:17A-4, or any other information that in the reasonable exercise of the licensee's professional judgment may adversely affect the minor's health or welfare.

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

SUBCHAPTER 24. REHABILITATION COUNSELORS: CONTINUING EDUCATION

13:34-24.2 Contact-hour requirements for licensed rehabilitation counselors

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

(d) Commencing with the biennial renewal period beginning on December 1, 2018, at least one of the 40 contact hours of continuing education shall, pursuant to P.L. 2017, c. 341, be in educational programs or topics concerning prescription opioid drugs, including the risks and signs of opioid abuse, addiction, and diversion. This one credit shall not be eligible for carry-over as described in (e) below.

(e) (No change in text.)

SUBCHAPTER 27. REHABILITATION COUNSELORS: CLIENT RECORDS;  
CONFIDENTIALITY

13:34-27.6 Minors

(a) Unless otherwise ordered by a court, if the client is a minor, a parent or legal guardian will be deemed to be an authorized representative, as defined at N.J.A.C. 13:34-27.3(a). Except as provided for at N.J.S.A. 9:17A-4, when the client is more than 14 years of age, but has not yet reached the age of majority, the authorization

shall be signed by the client and by the client's parent or legal guardian, pursuant to N.J.S.A. 45:14B-36(e).

[page=540] (b) This section shall not require a licensee to release to a minor's parent or guardian records or information relating to the minor's sexually transmitted disease, termination of pregnancy or substance abuse, treatment considered confidential information in accordance with N.J.S.A. 9:17A-4, or any other information that in the reasonable exercise of the licensee's professional judgment may adversely affect the minor's health or welfare.

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

SUBCHAPTER 31. PROFESSIONAL COUNSELORS: CUSTODY/PARENTING TIME EVALUATIONS AND/OR TERMINATION OF PARENTAL RIGHTS EVALUATIONS

13:34-31.2 Definitions

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

"Custody/parenting time evaluation" means the analysis performed by a licensed professional counselor to provide comprehensive, objective, and impartial information to the court or to attorneys, which assists in making decisions as to custody/parenting time arrangements that will best provide for the needs of the minor child(ren) involved.

"Licensee" means a licensed professional counselor.

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