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RULE ADOPTIONS

Reporter

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Agency

LAW AND PUBLIC SAFETY > DIVISION OF CONSUMER AFFAIRS > STATE BOARD OF MARRIAGE AND FAMILY THERAPY EXAMINERS > ART THERAPISTS ADVISORY COMMITTEE

Administrative Code Citation

Adopted New Rules: N.J.A.C. 13:34D

Text

Art Therapists Advisory Committee Rules

Proposed: May 6, 2019, at 51 N.J.R. 543(a).

Adopted: September 12, 2019, by the State Board of Marriage and Family Therapy Examiners, Lorraine M. Barry, Ed.S., President.

Filed: October 15, 2019, as R.2019 d.115, with **non-substantial changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 45:8B-51 et seq.

Effective Date: November 18, 2019.

Expiration Date: November 18, 2026.

Summary of Public Comment and Agency Response:

The official comment period ended on July 5, 2019. **The Art Therapists Advisory Committee (Committee) received no comments on the notice of proposal.**

Federal Standards Statement

A Federal standards analysis is not required because the adopted new rules are governed by N.J.S.A. 45:8B-51 et seq., and are not subject to any Federal requirements or standards. Although the adopted new rules are not subject to any Federal requirements or standards, where deemed appropriate, the Committee has voluntarily required licensees to comply with applicable Federal laws and regulations. Specifically, adopted new N.J.A.C. 13:34D-5.5 requires licensed art therapists to preserve the confidentiality of information obtained from a client in the course of professional treatment unless disclosure is required by Federal law. Adopted new N.J.A.C. 13:34D-5.4 requires an art therapist whose client has explicitly waived the art therapist-client confidentiality privilege to release client information to a third-party payor whose benefit plan is qualified under the Federal Employee Retirement Income Security Act (ERISA). Adopted new N.J.A.C. 13:34-6.9 provides that failure to comply with Federal laws related to the practice of art therapy will be deemed professional misconduct.

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

CHAPTER 34D

ART THERAPISTS ADVISORY COMMITTEE

SUBCHAPTER 1. GENERAL PROVISIONS

13:34D-1.1 Purpose and scope

(a) The rules in this chapter implement the provisions of P.L. 2015, c. 199 (N.J.S.A. 45:8B-51 et seq.), the Art Therapist Licensing Act (Act).

(b) This chapter shall apply to all persons presently practicing, those seeking to practice, and those seeking licensure to engage in the practice of art therapy in the State of New Jersey.

(c) This chapter shall not apply to the activities and services of:

1. An individual exempt from the provisions of the Act pursuant to N.J.S.A. 45:8B-59, including, but not limited to, physicians, psychologists, psychoanalysts, registered nurses, marriage and family therapists, social workers, occupational therapists, professional or rehabilitation counselors, clinical alcohol and drug counselors, or any other professional licensed by the State, when acting within the scope of his or her profession and doing work of a nature consistent with his or her training, provided he or she does not hold him- or herself out to the public as a licensed professional or associate art therapist or

represent him- or herself by any professional title regulated by the Act or this chapter.

2. The activities of an art therapy nature on the part of persons employed by an accredited or State-approved college or university, or working in a recognized training program, provided that these activities and services constitute a part of a supervised course of study and that those persons are designated by a title such as "art therapy intern" or other title clearly indicating the training status appropriate to the level of training.

13:34D-1.2 Definitions

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

"Act" means the Art Therapist Licensing Act, P.L. 2015, c. 199 (N.J.S.A. 45:8B-51 et seq.).

"Address of record" means an address designated by a licensee, which is part of the public record and may be disclosed upon request. "Address of record" may be a licensee's home, business, or mailing address, but shall not be a post office box, unless the licensee also provides another address that includes a street, city, state, and zip code.

"Art therapy" means the integrated use of psychotherapeutic principles with art media and the creative process to assist individuals, families, or groups in:

1. Increasing awareness of self and others;
2. Coping with symptoms, stress, and traumatic experiences;
3. Enhancing cognitive abilities; and

4. Identifying and assessing clients' needs in order to implement therapeutic intervention to meet developmental, behavioral, mental, and emotional needs. "Identifying and assessing clients' needs" includes, but is not limited to, diagnosis.

"Board" means the State Board of Marriage and Family Therapy Examiners.

"Committee" means the Art Therapists Advisory Committee of the State Board of Marriage and Family Therapy Examiners established as a committee pursuant to N.J.S.A. 45:8B-54.

"Licensed associate art therapist" means an individual who holds a current, valid license issued pursuant to N.J.S.A. 45:8B-61 and

N.J.A.C. 13:34D-2 and who shall practice art therapy only under the supervision of a qualified supervisor in accordance with N.J.A.C. 13:34D-3.

"Licensed professional art therapist" means an individual who holds a current, valid license issued pursuant to N.J.S.A. 45:8B-51 et seq., and N.J.A.C. 13:34D-2.

"Licensee" means a licensed professional art therapist and a licensed associate art therapist.

13:34D-1.3 Office location

The offices of the Committee shall be at 124 Halsey Street, Newark, New Jersey 07101. The mailing address of the Committee is PO Box 45055, Newark, New Jersey 07101. The website of the Committee is <http://www.njconsumeraffairs.gov/art/pages/default.aspx>.

13:34D-1.4 License lists

A current list of licensed New Jersey art therapists shall be maintained and made available at the Committee's office and on the Committee's website at www.njconsumeraffairs.gov/pages/verification.aspx.

13:34D-1.5 Applications

Application forms and information regarding licensure of practicing art therapy may be obtained from the Art Therapists Advisory Committee, PO Box 45055, 124 Halsey Street, Newark, New Jersey 07101 and on the Committee's website at <http://www.njconsumeraffairs.gov/art/pages/default.aspx>.

13:34D-1.6 Licensee to display notice

Every licensee shall prominently display in a conspicuous location in his or her office the following notice:

Professional art therapists and associate art therapists are licensed by the State Board of Marriage and Family Therapy Examiners, Art Therapists Advisory Committee, an agency of the New Jersey Division of Consumer Affairs. Any member of the consuming public having a complaint concerning the practice conducted by a professional or associate art therapist should notify the Art Therapists Advisory Committee, PO Box 45055, 124 Halsey Street, Newark, New Jersey 07101, (<http://www.njconsumeraffairs.gov/art/Pages/default.aspx>) www.njconsumeraffairs.gov/art/Pages/default.aspx, or the New Jersey Division of Consumer Affairs, PO Box 45027, 124

Halsey Street, Newark, New Jersey 07101,
(<http://www.njconsumeraffairs.gov>) www.njconsumeraffairs.gov/.

13:34D-1.7 Hearings to conform to law

The conduct of all hearings shall conform to the requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and 52:14F-1 et seq.

13:34D-1.8 Notification of address of record; service of process; notification of disciplinary action

(a) A licensee shall notify the Committee in writing within 30 days of any change in the address of record and shall specify whether the address is a residence or an employment address.

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

(c) A licensee shall, within 30 days of receiving a notice of disciplinary action taken against the licensee in another jurisdiction, report to the Committee in writing his or her receipt of such notification and provide a copy of the notification and the underlying documentation of the disciplinary action.

13:34D-1.9 Notification of change of name

(a) A licensee whose name has been legally changed shall forward to the Committee by certified mail, return receipt requested, no later than 30 days following the change of name, the following:

1. Legal evidence of such change; and

2. Copies of two forms of identification, one of which shall be a United States government-issued or State government-issued photo identification.

(b) Upon receipt of the items set forth in (a) above, the Committee shall issue to the licensee a new license.

(c) Upon receipt of the new license as set forth in (b) above, the licensee shall immediately remit the original license to the Committee.

13:34D-1.10 License renewal

(a) The Committee shall send a notice of renewal to each licensee, at least 60 days prior to the expiration of the license. The notice of renewal shall explain inactive renewal and advise the licensee of the

option to renew as inactive. If the notice to renew is not sent 60 days prior to the expiration date, no monetary penalties or fines shall apply to the holder for failure to renew, provided that the license is renewed within 60 days from the date the notice is sent, or within 30 days following the date of license or registration expiration, whichever is later.

(b) A licensee shall renew his or her license for a period of two years from the last expiration date. The licensee shall submit a renewal application to the Committee, along with the renewal fee set forth in N.J.A.C. 13:34D-1.13, prior to the date of license expiration.

(c) A licensee may renew his or her license by choosing inactive status. A licensee electing to renew his or her license as inactive shall not engage in the practice of art therapy, or hold herself or himself out as eligible to engage in the practice of art therapy in New Jersey, until such time as the license is returned to active status.

(d) If a licensee does not renew the license prior to its expiration date, the licensee may renew the license within 30 days of its expiration by submitting a renewal application, a renewal fee, and a late fee as set forth in N.J.A.C. 13:34D-1.13. During this 30-day period, the license shall be valid and the licensee shall not be deemed practicing without a license.

(e) A licensee who fails to submit a renewal application within 30 days of license expiration shall have his or her license suspended without a hearing.

(f) A licensee who continues to engage in the practice of art therapy with a suspended license shall be deemed to be engaging in the unauthorized practice of art therapy and shall be subject to action consistent with N.J.S.A. 45:1-14 et seq., even if no notice of suspension has been provided to the individual.

13:34D-1.11 License reactivation

(a) A licensee who holds an inactive license pursuant to N.J.A.C. 13:34D-1.10(c) may apply to the Committee for reactivation of the inactive license. A licensee seeking reactivation of an inactive license shall submit:

1. A renewal application;

2. A certification of employment listing each job held during the period the license, registration, or certification was inactive, which includes the name, address, and telephone number of each employer;

3. The renewal fee for the biennial period for which reactivation is sought, as set forth in N.J.A.C. 13:34D-1.13; and

4. Evidence of having completed all continuing education credits that were required to be completed during the biennial period immediately prior to the renewal period for which reactivation is sought, consistent with the requirements set forth at N.J.A.C. 13:34D-4.1 and 4.2.

i. An applicant who holds a valid, current license in good standing issued by another state to engage in the practice of art therapy and submits proof of having satisfied that state's continuing education requirements for that license, shall be deemed to have satisfied the requirements of (a)4 above. If the other state does not have any continuing education requirements, the requirements of (a)4 above shall apply.

ii. To the extent that specific courses are required to satisfy the continuing education requirement for, or are required to have been satisfied prior to, the biennial period for which reactivation is sought, the Committee will allow applicants to take the courses within 12 months following reactivation.

(b) If the Committee review of an application establishes a basis for concluding that there may be practice deficiencies in need of remediation prior to reactivation, the Committee may require the applicant to submit to, and successfully pass, an examination or an assessment of skills, a refresher course, or other requirements as determined by the Committee prior to reactivation of the license. If that examination or assessment identifies deficiencies or educational needs, the Committee may require the applicant, as a condition of reactivation of licensure, to take and successfully complete any education or training or to submit to any supervision, monitoring, or limitations as the Committee determines is necessary to ensure that the applicant practices with reasonable skill and safety. The Committee, in its discretion, may restore the license subject to the applicant's completion of the training within a period of time prescribed by the Committee following the restoration of the license. In making its determination whether there are practice deficiencies requiring remediation, the Committee shall consider the following non-exhaustive list of factors:

1. Length of duration license was inactive;
2. Employment history;
3. Professional history;

4. Disciplinary history and any action taken against the applicant's license or registration by any licensing board;

5. Actions affecting the applicant's privileges taken by any institution, organization, or employer, related to the practice of art therapy or other professional or occupational practice in New Jersey, any other state, the District of Columbia, or in any other jurisdiction;

6. Pending proceedings against a professional or occupational license issued to the licensee by a professional board in New Jersey, any other state, the District of Columbia, or in any other jurisdiction; and

7. Civil litigation related to the practice of art therapy or other professional or occupational practice in New Jersey, any other state, the District of Columbia, or in any other jurisdiction.

13:34D-1.12 License reinstatement

(a) A licensee who has had his or her license suspended pursuant to N.J.A.C. 13:34D-1.10(e) may apply to the Committee for reinstatement. A licensee applying for reinstatement shall submit:

1. A reinstatement application;

2. A certification of employment listing each job held during the period of suspended license, which includes the names, addresses, and telephone number of each employer;

3. The renewal fee for the biennial period for which reinstatement is sought;

4. The past due renewal fee for the biennial period immediately preceding the renewal period for which reinstatement is sought;

5. The reinstatement fee set forth in N.J.A.C. 13:34D-1.13; and

[page=1676] 6. Evidence of having completed all continuing education credits that were required to be completed during the biennial period immediately prior to the renewal period for which reinstatement is sought, consistent with the requirements set forth in N.J.A.C. 13:34D-4.1 and 4.2.

i. An applicant who holds a valid, current license in good standing issued by another state to engage in the practice of art therapy and submits proof of having satisfied that state's continuing education requirements for that license, shall be deemed to have satisfied the requirements of (a)6 above. If the other state does not have any continuing education requirements, the requirements of (a)6 above shall apply.

ii. To the extent that specific courses are required to satisfy the continuing education requirement for, or are required to have been satisfied prior to, the biennial period for which reinstatement is sought, the Committee will allow applicants to take the courses within 12 months following reinstatement.

(b) If a Committee review of an application establishes a basis for concluding that there may be practice deficiencies in need of remediation prior to reinstatement, the Committee may require the applicant to submit to, and successfully pass, an examination or an assessment of skills, a refresher course, or other requirements as determined by the Committee prior to reinstatement of the license. If that examination or assessment identifies deficiencies or educational needs, the Committee may require the applicant, as a condition of reinstatement of licensure, to take and successfully complete any education or training or to submit to any supervision, monitoring, or limitations as the Committee determines is necessary to ensure that the applicant practices with reasonable skill and safety. The Committee, in its discretion, may restore the license subject to the applicant's completion of the training within a period of time prescribed by the Committee following the restoration of the license. In making its determination whether there are practice deficiencies requiring remediation, the Committee shall consider the following non-exhaustive list of factors:

1. Length of duration license was suspended;
2. Employment history;
3. Professional history;
4. Disciplinary history and any action taken against the applicant's license by any licensing board;
5. Actions affecting the applicant's privileges taken by any institution, organization, or employer, related to the practice of art therapy or other professional or occupational practice in New Jersey, any other state, the District of Columbia, or in any other jurisdiction;
6. Pending proceedings against a professional or occupational license issued to the licensee by a professional board in New Jersey, any other state, the District of Columbia, or in any other jurisdiction; and
7. Civil litigation related to the practice of art therapy or other professional or occupational practice in New Jersey, any other state, the District of Columbia, or in any other jurisdiction.

(a) The Committee shall charge the following fees:

- 1. Application fee..... \$ 75.00
- 2. Initial license fee:
 - i. Professional art therapist:
 - (1) If paid during the first year of a biennial renewal period \$ 250.00
 - (2) If paid during the second year of a biennial renewal period\$ 125.00
 - ii. Associate art therapist:
 - (1) If paid during the first year of a biennial renewal period\$ 180.00
 - (2) If paid during the second year of a biennial renewal period \$ 90.00
- 3. Verification of licensure..... \$ 25.00
- 4. Biennial renewal:
 - i. Professional art therapist..... \$ 250.00
 - ii. Associate art therapist..... \$ 180.00
- 5. Reinstatement fee..... \$ 125.00
- 6. Late renewal fee..... \$ 50.00
- 7. Replacement wall certificate..... \$ 40.00
- 8. Duplicate license fee..... \$ 25.00

13:34D-2.1 Application procedure: licensed professional art therapist

(a) An applicant for licensure as a professional art therapist shall satisfy the following requirements:

1. The applicant shall be at least 18 years of age;
2. The applicant shall submit a completed application for licensure;
3. The applicant shall submit evidence of good moral character, which shall be an ongoing requirement for licensure;
4. The applicant shall not be engaged in any practice or conduct upon which the Committee shall have grounds to refuse to issue, suspend, or revoke a license that it issues pursuant to N.J.S.A. 45:1-21 et seq.;
5. The applicant shall have satisfied the educational requirements set forth at N.J.A.C. 13:34D-2.2. An official transcript documenting satisfaction of the educational requirements shall be sent to the Committee directly from the accredited institution and shall indicate the degree awarded, the applicant's field of study, and the specific courses completed toward the degree;
6. The applicant shall have satisfied the supervised experience requirements set forth at N.J.A.C. 13:34D-2.5. The applicant shall submit documentation of required clinical supervision to the Committee;
7. The applicant shall submit a Certification and Authorization Form for a Criminal History Background Check;
8. A certificate of completion of the online New Jersey Art Therapy Jurisprudence Orientation taken within six months of the date of application; and
9. The applicant shall submit the application fee set forth at N.J.A.C. 13:34D-1.13.

(b) Upon satisfaction of the requirements in (a) above, an applicant for licensure shall be authorized by the Committee to take the Art Therapy Credentials Board Examination administered by the Art Therapy Credentials Board, or its successor.

(c) Upon successful passage of the Art Therapy Credentials Board Examination, and upon submission of the initial licensing fee set forth at N.J.A.C. 13:34D-1.13, an applicant for licensure shall be granted a license by the Committee.

(d) An application shall be deemed abandoned and closed if:

1. The application has not been completed by the applicant within 12 months after it was received by the Committee;

2. The applicant fails to sit for or fails to pass the Art Therapy Credentials Board Examination within 12 months or any 12-month period thereafter upon written notification of eligibility to take the examination; or

3. The applicant fails to submit the licensing fee within six months following the date of notification from the Committee that his or her application for licensure has been approved.

(e) An application submitted subsequent to the abandonment of a prior application shall be treated as a new application and shall comply with the requirements of (a) and (b) above.

13:34D-2.2 Educational requirements for licensure: professional art therapist

(a) An applicant for licensure shall hold a master's degree in art therapy, or a closely related field with specialization in art therapy, from either an American Art Therapy Association (AATA)-approved or Commission on Accreditation of Allied Health Education Programs (CAAHEP)-accredited art therapy education program, from a regionally accredited educational institution of higher education; or a master's degree or doctoral degree in a field closely related to art therapy without specialization in art therapy and demonstrates to the Committee that he or she has completed course work content and training substantially equivalent to that required for a master's degree in art therapy from a regionally accredited educational institution of higher education.

(b) An applicant for licensure with a master's degree in art therapy or a closely related field with specialization in art therapy, shall complete a minimum of:

1. Sixty graduate credit-hours from either an AATA-approved or CAAHEP-accredited art therapy education program, from a regionally accredited educational institution of higher education; and

[page=1677] 2. Four thousand five hundred hours of supervised experience, consistent with the provisions of N.J.A.C. 13:34D-2.5, of which a minimum of 3,500 hours shall be completed after the award of the master's degree.

(c) An applicant for licensure with a doctoral degree in a field closely related to art therapy without specialization in art therapy, shall complete a minimum of:

1. Ninety graduate credit-hours in that closely related field;

2. Thirty graduate credit-hours in a post-graduate art therapy program from a regionally accredited educational institution of higher education; and

3. Three thousand hours of supervised experience in art therapy, consistent with the provisions of N.J.A.C. 13:34D-2.5, of which a minimum of 1,000 hours shall be completed after the award of the master's degree.

(d) An applicant for licensure with a master's degree in a field closely related to art therapy without specialization in art therapy, shall complete a minimum of:

1. Sixty graduate credit-hours in that closely related field;

2. Thirty graduate credit-hours in a post-graduate art therapy program, which satisfies the course work set forth in (e) below, from a regionally accredited educational institution of higher education; and

3. Four thousand five hundred hours of supervised experience in art therapy consistent with the provisions of N.J.A.C. 13:34D-2.5, of which a minimum of 3,500 hours shall be completed after the award of the master's degree.

(e) An applicant for licensure shall satisfy the following required areas of graduate course work in art therapy from a regionally accredited educational institution of higher education:

1. The art therapy profession;

2. Theory and practice of art therapy;

3. Human growth and developmental dynamics in art;

4. Application of art therapy with people in different treatment settings;

5. Art therapy appraisal, diagnosis, and assessment;

6. Ethical and legal issues of art therapy practice;

7. Matters of cultural and social diversity bearing on the practice of art therapy;

8. Standards of good art therapy practice; and

9. Group art therapy.

(f) The Committee shall not base its determination as to whether it will recognize an educational institution's program solely on the failure of any professional organization of art therapists to accredit the program.

13:34D-2.3 Application procedure: licensed associate art therapist

(a) An applicant for licensure as an associate art therapist shall satisfy the following requirements:

1. The applicant shall be at least 18 years of age;
2. The applicant shall submit a completed application for licensure;
3. The applicant shall submit evidence of good moral character, which shall be an ongoing requirement for licensure;
4. The applicant shall not be engaged in any practice or conduct upon which the Committee shall have grounds to refuse to issue, suspend, or revoke a license that it issues, pursuant to N.J.S.A. 45:1-21;
5. The applicant shall have satisfied the educational requirements set forth at N.J.A.C. 13:34D-2.4. An official transcript documenting satisfaction of the educational requirements shall be sent to the Committee directly from the accredited institution and shall indicate the degree awarded, the applicant's field of study, and the specific courses completed toward the degree;
6. The applicant shall submit a Certification and Authorization Form for a Criminal History Background Check;
7. A certificate of completion of the online New Jersey Art Therapy Jurisprudence Orientation taken within six months of the date of application; and
8. The applicant shall submit the application fee set forth at N.J.A.C. 13:34D-1.13.

(b) Upon satisfaction of the requirements at (a) above, an applicant for licensure shall be authorized by the Committee to take the Art Therapy Credentials Board Examination administered by the Art Therapy Credentials Board or its successor.

(c) Upon successful passage of the Art Therapy Credentials Board Examination, and upon submission of the initial licensing fee set forth at N.J.A.C. 13:34D-1.13, an applicant for licensure shall be granted a license by the Committee.

(d) An application shall be deemed abandoned and closed if:

1. The application has not been completed by the applicant within 12 months after it was received by the Committee;

2. The applicant fails to sit for or fails to pass the Art Therapy Credentials Board Examination within 12 months or any 12-month period thereafter upon written notification of eligibility to take the examination; or

3. The applicant fails to submit the licensing fee within six months following the date of notification from the Committee that his or her application for licensure has been approved.

(e) An application submitted subsequent to the abandonment of a prior application shall be treated as a new application and shall comply with the requirements of (a) and (b) above.

13:34D-2.4 Educational requirements for licensure: associate art therapist

(a) An applicant for licensure shall hold a master's degree in art therapy, or a closely related field with specialization in art therapy, from either an American Art Therapy Association (AATA)-approved or Commission on Accreditation of Allied Health Education Programs (CAAHEP)-accredited art therapy education program, from a regionally accredited educational institution of higher education; or a master's degree or doctoral degree in a closely related field to art therapy without specialization in art therapy and demonstrates to the Committee that she or he has completed course work content and training substantially equivalent to that required for a master's degree in art therapy from a regionally accredited educational institution of higher education.

(b) An applicant for licensure with a master's degree in art therapy or a closely related field with specialization in art therapy, shall complete a minimum of 60 graduate credit-hours in an art therapy program that is AATA-approved or CAAHEP-accredited, from a regionally accredited educational institution of higher education.

(c) An applicant with a doctoral degree in a planned educational program of 90 graduate credit-hours in a field closely related to art therapy without specialization in art therapy, shall complete a minimum of 30 graduate credit-hours in an art therapy program from a regionally accredited educational institution of higher education.

(d) An applicant with a master's degree in a planned educational program of 60 graduate credit-hours in a field closely related to art therapy without specialization in art therapy, shall complete a minimum

of 30 graduate credit-hours in an art therapy program from a regionally accredited educational institution of higher education.

(e) An applicant for licensure shall satisfy the following required areas of graduate course work in art therapy from an accredited college or university program from a regionally accredited college or university program:

1. The art therapy profession;
2. Theory and practice of art therapy;
3. Human growth and developmental dynamics in art;
4. Application of art therapy with people in different treatment settings;
5. Art therapy appraisal, diagnosis, and assessment;
6. Ethical and legal issues of art therapy practice;
7. Matters of cultural and social diversity bearing on the practice of art therapy;
8. Standards of good art therapy practice; and
9. Group art therapy.

(f) The Committee shall not base its determination as to whether it will recognize an educational institution's program solely on the failure of any professional organization of art therapists to accredit the program.

13:34D-2.5 Experiential requirements for licensure as a professional art therapist

(a) The following words and terms as used in this section and N.J.A.C. 13:34D-3, shall have the following meanings, unless the context clearly indicates otherwise.

[page=1678] "Direct supervision" means the ongoing process of supervision by a qualified supervisor who is immediately available to assist the licensed associate art therapist.

"Group supervision" means the ongoing process of supervising between two and six students and/mental health counselors at one time in a group setting by a qualified supervisor.

"Qualified supervisor" means an individual who holds a clinical license to provide mental health counseling services in the state where the services are being provided, and who satisfies the experiential

requirements and has one of the approved clinical supervisor credentials set forth at N.J.A.C. 13:34D-3.2(a). A "qualified supervisor" shall satisfy all requirements set forth at N.J.A.C. 13:34D-3.2.

"Supervised professional art therapy experience" means the rendering of art therapy services while under the direct supervision of a qualified supervisor.

"Supervision" means: (1) ensuring that the extent, kind, and quality of art therapy performed is consistent with the education, training, and experience of the person being supervised; (2) reviewing client or patient records, monitoring and evaluating assessment, diagnosis, and treatment decisions of the art therapist trainee; (3) monitoring and evaluating the ability of the licensed associate art therapist to provide services to the particular clientele at the site or sites where he or she will be practicing; (4) ensuring compliance with laws, rules, and regulations governing the practice of licensed professional art therapy; (5) completing that amount of direct observation, or review of audio or videotapes of art therapy, as deemed appropriate by the supervisor; and (6) completing the services, including consulting, teaching, and counseling, conducted by an Art Therapy Certified Supervisor (ATCS) credentialed by the Art Therapy Credentials Board or approved by the Committee, as set forth on the documentation of supervision forms required at N.J.A.C. 13:34D-3.2 and available on the Committee's website at www.njconsumeraffairs.gov/art/Pages/default.aspx.

(b) An applicant for licensure as a professional art therapist shall submit to the Committee documentation, on a form provided by the Committee, establishing that the applicant has met the supervised art therapy experience requirements for licensure, as set forth below:

1. For applicants with a master's degree in art therapy or a closely related field with specialization in art therapy, and for those applicants who hold a master's degree in a field closely related to art therapy without specialization in art therapy, the applicant shall complete a minimum of 4,500 hours of supervised professional art therapy experience consistent with the requirements of (c) below and N.J.A.C. 13:34D-3.2. A minimum of 3,500 of the required 4,500 hours shall be completed after the award of the master's degree.

2. For applicants with a doctoral degree in a field closely related to art therapy without specialization in art therapy, the applicant shall complete a minimum of 3,000 hours of supervised experience in art therapy consistent with the requirements of (c) below and N.J.A.C. 13:34D-3.2. An applicant may substitute for 1,000 hours of the required

supervised art therapy experience, 30 graduate credit-hours beyond the master's degree if those graduate credit-hours are closely related to art therapy. A minimum of 1,000 hours of the required 3,000 hours shall be completed after the award of the master's degree.

(c) Supervised professional art therapy experience shall be acquired as follows:

1. At least one hour per week of individual supervision with a qualified supervisor;

2. A minimum of one-half of the required hours of supervised professional art therapy experience shall be conducted face-to-face with a qualified supervisor. In accordance with the definition of "supervision" in (a) above, the qualified supervisor shall determine the appropriate amount of direct observation, or review of audio or videotapes of art therapy;

3. A maximum of two hours per month of group supervision;

4. No more than 30 hours of supervised professional art therapy experience shall be obtained in any one week. No more than 125 hours of supervised professional art therapy experience shall be obtained in any one month; and

5. A minimum of one-half of the required hours of supervised professional art therapy experience shall include the application of art therapy interventions.

13:34D-2.6 Licensure by reciprocity

(a) Upon receipt of a completed application, application fee, consent to a criminal history record background check, and requisite fee for such a check, the Committee shall issue a professional art therapist or associate art therapist, as applicable, license to any person who documents that the person holds a valid, current corresponding license in good standing issued by another state, if:

1. The Committee determines that the state that issued the license had, at the time of issuance, education, training, and examination requirements for licensure substantially equivalent to the current standards of this State;

2. The applicant has been practicing as a licensed professional or associate art therapist, as applicable, or its equivalent in another state, for a period of at least one year within the five years prior to the date of application; and

3. The requirements of (c) below are satisfied.

(b) Prior to the issuance of the license, the Committee shall have received:

1. Documentation reasonably satisfactory to the Committee that the applicant's license in each state in which the applicant is licensed is in good standing;

2. The results of a criminal history record background check of the files of the Criminal Justice Information Services Division in the Federal Bureau of Investigation and the State Bureau of Identification in the Division of State Police that does not disclose a conviction for a disqualifying crime; and

3. Designation of an agent in this State for service of process if the applicant is not a State resident and does not have an office in this State.

(c) For purposes of this section, "good standing" means that:

1. No action has been taken against the applicant's license or registration by any licensing board;

2. No action adversely affecting the applicant's privileges to practice art therapy has been taken by any out-of-State institution, organization, or employer;

3. No disciplinary proceeding is pending that could affect the applicant's privileges to practice art therapy;

4. All fines levied by any out-of-State board have been paid; and

5. There is no pending or final action by any criminal authority for violation of law or regulation, or any arrest or conviction for any criminal or quasi-criminal offense under the laws of the United States, New Jersey, or any other state, including, but not limited to: criminal homicide; aggravated assault; sexual assault, criminal sexual contact or lewdness; or any offense involving any controlled dangerous substance or controlled dangerous substance analog.

(d) For purposes of this section, a "substantially equivalent" examination need not be identical to the current examination requirements of this State, but such examination shall be nationally recognized and of comparable scope and rigor.

(e) If the education and examination requirements in the state in which the applicant is licensed are not substantially equivalent to the Committee's current standards as required in (a) above, the Committee will consider an applicant's individual experience to compensate for such disparity. In making a determination whether an applicant's

experience would compensate for such disparity in substantial equivalence in education or examination, the Committee shall consider:

1. The length of the experience;
2. Whether the experience was supervised by another individual;
3. The applicant's professional history;
4. The applicant's employment history; and
5. The applicant's education history.

(f) Not later than six months after the issuance of a license, an applicant shall provide the Committee with evidence reasonably satisfactory to the Committee verifying the applicant's education, training, and examination results.

(g) The Committee, after the licensee has been given notice and an opportunity to be heard, may revoke any license based on a license issued by another state obtained through fraud, deception, or misrepresentation.

(h) Within six months of the date of application, an applicant shall complete the online New Jersey Art Therapy Jurisprudence Orientation and shall submit to the Committee a certificate of completion.

[page=1679] (i) The Committee may grant a license without examination to an applicant seeking reciprocity who holds a corresponding license from another state who does not meet the good standing requirement of (c) above due to a pending action by a licensing board, a pending action by an out-of-State institution, organization, or employer affecting the applicant's privileges to practice, a pending disciplinary proceeding, or a pending criminal charge or arrest for a crime, provided the alleged conduct of the applicant that is the subject of the action, proceeding, charge or arrest, assuming it is true, does not demonstrate a serious inability to practice art therapy, adversely affect the public health, safety, or welfare, result in economic or physical harm to a person, or create a significant threat of such harm.

13:34D-2.7 Credit towards licensure for education, training, and experience received while serving as a member of the Armed Forces: professional art therapist

(a) An applicant who has served in the Armed Forces of the United States (Armed Forces) and who does not meet all of the training, education, and experience requirements for licensure under N.J.A.C. 13:34D-2.2 and 2.5 may apply to the Committee for recognition of the

applicant's training, education, or experience received while serving as a member of the Armed Forces, which the Committee shall consider, together with any training, education, and experience obtained outside of the Armed Forces, for determining substantial equivalence to the training, education, and experience required for licensure.

(b) The Committee shall issue a license to the applicant, if the applicant presents evidence to the Committee that:

1. The applicant has been honorably discharged from active military service;

2. The relevant training, experience, and education the applicant has received in the military, together with any training, education, and experience obtained outside the Armed Forces, is substantially equivalent in scope and character to the training, experience, and education required for licensure under N.J.A.C. 13:34D-2.2 and 2.5.

i. An applicant seeking credit for military training and experience shall submit to the Committee the applicant's Verification of Military Experience and Training (VMET) Document, DD Form 2586.

ii. An applicant seeking credit for education courses and/or training completed while in the military, who does not hold a master's degree in art therapy, or a closely related field with specialization in art therapy, from either an American Art Therapy Association (AATA)-approved or Commission on Accreditation of Allied Health Education Programs (CAAHEP)-accredited art therapy education program, from a regionally accredited educational institution of higher education which provides the training and course work described at N.J.A.C. 13:34D-2.2, shall submit to the Committee, a Joint Services Transcript of his or her education and/or training for a determination that the education courses and/or training completed are substantially equivalent in level, scope, and intent to the educational requirements described and required for licensure under N.J.A.C. 13:34D-2.2. For the purpose of determining substantial equivalence of the applicant's military education and/or training, the Committee shall consider only those courses relevant to the practice of art therapy that have been evaluated by the American Council on Education for substantial equivalence to civilian postsecondary curricula.

iii. An applicant seeking credit for education courses completed while in the military who does not hold a master's degree or doctoral degree in a field closely related to art therapy, which includes the course work required at N.J.A.C. 13:34D-2.2(c), shall submit to the Committee, a Joint Services Transcript of his or her education, for a determination that the education courses completed are substantially equivalent in level, scope, and intent to a post graduate degree or a

program of training and course work, as described and required for licensure under N.J.A.C. 13:34D-2.2. For the purpose of determining substantial equivalence of the applicant's military education and/or training, the Committee shall consider only those courses relevant to the practice of art therapy that have been evaluated by the American Council on Education for substantial equivalence to civilian postsecondary curricula; and

3. The applicant complies with all other requirements for licensure as a professional art therapist including successful completion of the Art Therapy Credentials Board Examination administered by the Art Therapy Credentials Board or its successor as set forth at N.J.A.C. 13:34D-2.1, and completion of the online New Jersey Art Therapy Jurisprudence Orientation taken within six months of the date of application.

(c) It is the applicant's responsibility to provide timely and complete evidence of the education, training, and experience gained in the military for review and consideration.

(d) If the applicant's military training, education, and experience, or a portion thereof, is not deemed to be substantially equivalent to that required for licensure, the Committee shall credit whatever portion of the military training, education, or experience that is substantially equivalent towards meeting the requirements under N.J.A.C. 13:34D-2.2 and 2.5 for the issuance of the license.

(e) Satisfactory evidence of such education, training, and experience shall be assessed on a case-by-case basis.

13:34D-2.8 Credit towards licensure for education, training, and experience received while serving as a member of the Armed Forces: associate art therapist

(a) An applicant who has served in the Armed Forces of the United States (Armed Forces) and who does not meet all of the training, education, and experience requirements for licensure under N.J.A.C. 13:34D-2.3 and 2.4 may apply to the Committee for recognition of the applicant's training, education, or experience received while serving as a member of the Armed Forces, which the Committee shall consider, together with any training, education, and experience obtained outside of the Armed Forces, for determining substantial equivalence to the training, education, and experience required for licensure.

(b) The Committee shall issue a license to the applicant, if the applicant presents evidence to the Committee that:

1. The applicant has been honorably discharged from active military service;

2. The relevant training, experience, and education the applicant has received in the military, together with any training, education, and experience obtained outside the Armed Forces, is substantially equivalent in scope and character to the training, experience, and education required for licensure under N.J.A.C. 13:34D-2.4.

i. An applicant seeking credit for military training and experience shall submit to the Board the applicant's Verification of Military Experience and Training (VMET) Document, DD Form 2586.

ii. An applicant seeking credit for education courses and/or training completed while in the military, who does not hold a master's degree in art therapy or in a closely related field with specialization in art therapy, from either an American Art Therapy Association (AATA)-approved or Commission on Accreditation of Allied Health Education Programs (CAAHEP)-accredited art therapy education program, from a regionally accredited educational institution of higher education, which provides the training and course work described at N.J.A.C. 13:34D-2.4, shall submit to the Committee a Joint Services Transcript of his or her education and/or training for a determination that the education courses and/or training completed are substantially equivalent in level, scope, and intent to the educational requirements described and required for licensure under N.J.A.C. 13:34D-2.4. For the purpose of determining substantial equivalence of the applicant's military education and/or training, the Committee shall consider only those courses relevant to the practice of art therapy that have been evaluated by the American Council on Education for substantial equivalence to civilian postsecondary curricula.

iii. An applicant seeking credit for education courses completed while in the military who does not hold a master's degree or doctoral degree in a closely related field to art therapy, which includes the course work required at N.J.A.C. 13:34D-2.4, shall submit to the Board a Joint Services Transcript of his or her education, for a determination that the education courses completed are substantially equivalent in level, scope, and intent to a post graduate degree or a program of training and course work, as described and required for licensure under N.J.A.C. 13:34D-2.4. For the purpose of determining substantial equivalence of the applicant's military education and/or training, the Committee shall consider only those courses relevant to the practice of art therapy that have been evaluated by the American Council on Education for substantial equivalence to civilian postsecondary curricula; and

[page=1680] 3. The applicant complies with all other requirements for licensure as an associate art therapist including successful completion of the Art Therapy Credentials Board Examination administered by the Art Therapy Credentials Board or its successor as set forth at N.J.A.C. 13:34D-2.3, and completion of the online New Jersey Art Therapy Jurisprudence Orientation taken within six months of the date of application.

(c) It is the applicant's responsibility to provide timely and complete evidence of the education, training, and experience gained in the military for review and consideration.

(d) If the applicant's military training, education, and experience, or a portion thereof, is not deemed to be substantially equivalent to that required for licensure, the Committee shall credit whatever portion of the military training, education, or experience that is substantially equivalent towards meeting the requirements under N.J.A.C. 13:34D-2.3 and 2.4 for the issuance of the license.

(e) Satisfactory evidence of such education, training, and experience shall be assessed on a case-by-case basis.

13:34D-2.9 Licensure for applicants engaged in the practice of art therapy prior to *[(360 days after the effective date of this new rule)]* ***November 13, 2020***

(a) Prior to *[(360 days after the effective date of this new rule)]* ***November 13, 2020***, a person may apply for licensure as a professional art therapist without satisfying the education, experiential, and examination requirements of N.J.A.C. 13:34D-2.1, if the applicant has completed:

1. A minimum of 45 graduate credit-hours, which includes a master's degree or doctorate from a regionally accredited institution of higher education, in subject matter that is primarily art therapy in content; and

2. Not less than five years of experience in the practice of art therapy. For purposes of this paragraph, each year of experience in the practice of art therapy shall consist of 1,500 hours.

(b) Prior to *[(360 days after the effective date of this new rule)]* ***November 13, 2020***, a person may apply for licensure as a professional art therapist without satisfying the education and experiential requirements of N.J.A.C. 13:34D-2.1, if the applicant has:

1. Completed a minimum of 45 graduate semester hours, which includes a master's degree from a regionally accredited institution of higher education; and

2. Passed the Art Therapy Credentials Board Examination.

(c) An applicant who meets the requirements of (a) or (b) above shall submit a completed application for licensure, a Certification and Authorization Form for a Criminal History Background Check, and a certificate of completion of the online New Jersey Art Therapy Jurisprudence Orientation taken within six months of the date of application.

(d) In addition to the documentation requirements of (c) above, an applicant who meets the requirements of (a) above shall also submit attestations from employers indicating that the applicant has completed the experience requirement of (a)2 above (which shall include dates of employment, summary of hours worked, and the type of work performed). If the applicant is unable to obtain an attestation, the Committee shall accept W-2 or 1099 forms or a notarized affidavit from the applicant.

(e) Once the Committee has determined that an applicant is qualified for licensure, the Committee shall inform the applicant that he or she must submit to the Committee the initial license fee as set forth at N.J.A.C. 13:34D-1.13.

SUBCHAPTER 3. SUPERVISION: ASSOCIATE ART THERAPISTS; ART STUDENTS

13:34D-3.1 Supervision

(a) Art therapy students shall provide art therapy services only under the supervision of an Art Therapy Certified Supervisor (ATCS) or Registered Art Therapist (ATR) credentialed by the Art Therapy Credentials Board pursuant to the provisions of this subchapter.

(b) A licensed associate art therapist shall practice art therapy only under the supervision of a qualified supervisor pursuant to the provisions of this subchapter.

13:34D-3.2 Qualified supervisor: requirements and responsibilities

(a) Prior to supervising the provision of art therapy services, a qualified supervisor shall be:

1. A licensed professional art therapist or licensed mental health professional who holds the Art Therapy Certified Supervisor (ATCS) credential from the Art Therapy Credentials Board;

2. A licensed professional art therapist or licensed mental health professional who holds the Board Certified Registered Art Therapist (ATR-BC) credential from the Art Therapy Credentials Board and has five

years of work experience subsequent to holding a clinical license to provide mental health counseling services;

3. A licensed professional art therapist or licensed mental health professional who holds the Registered Art Therapist (ATR) credential from the Art Therapy Credentials Board, has completed a minimum of three graduate credits in clinical supervision from a regionally accredited institution of higher education, and five years of work experience subsequent to holding a clinical license to provide mental health counseling services; or

4. A licensed mental health professional acting within his or her scope of practice who holds either a master's degree or 30 post-graduate credits in art therapy, and who satisfies the supervisor experiential and/or credentialing requirements of his or her respective professional licensing board.

(b) A qualified supervisor shall be responsible for creating a written supervision plan with the licensed associate art therapist. The supervision plan shall outline the work setting, the licensed associate art therapist's job description, including the nature of his or her duties and his or her qualifications, and the qualified supervisor's responsibilities and qualifications. Supervision may be provided through live/direct observation or through the review of videotapes, audiotapes, and/or self-reporting of sessions with clients, consistent with the requirements of (d) below.

(c) The written supervision plan shall be approved by the Committee prior to the performance of art therapy by the licensed associate art therapist.

(d) A qualified supervisor shall perform and document the following activities with the licensed associate art therapist:

1. The qualified supervisor shall perform at least one of the following activities with the licensed associate art therapist:

- i. Work as a co-counselor with the licensed associate art therapist;
- ii. Observe the licensed associate art therapist's sessions with clients;
- iii. View videotapes of the licensed associate art therapist's session with clients;
- iv. Listen to audiotapes of the licensed associate art therapist's session with clients; or
- v. View original, representation, or reproduction of client art work;

2. The qualified supervisor shall perform at least one of the following activities with the licensed associate art therapist:

i. React to case presentations given by the licensed associate art therapist; or

ii. Conduct role-playing sessions with the licensed associate art therapist; and

3. The qualified supervisor shall perform all of the following activities:

i. Engage in problem-solving discussions with the licensed associate art therapist concerning individual clients;

ii. Enter into problem-solving discussions concerning the licensed associate art therapist's own problems that affect the licensed associate art therapist's work with clients;

iii. Offer feedback to the licensed associate art therapist concerning specific interventions utilized with clients;

iv. Offer feedback to the licensed associate art therapist concerning the licensed associate art therapist's personal qualities as they affect work with clients;

v. Offer feedback to the licensed associate art therapist concerning the supervision experience; and

vi. Offer feedback on response art produced by licensed associate art therapist. For purposes of this subparagraph, "response art" shall mean artwork created by art therapists in response to material that arises in their therapy work.

[page=1681] (e) A qualified supervisor shall maintain all documentation with respect to the supervision provided to licensed associate art therapists for a minimum of seven years. A qualified supervisor shall attest to compliance with the supervision requirements of this section by completing all forms provided by the Committee.

(f) A qualified supervisor shall supervise no more than a total of six mental health counselors at any one time.

(g) Prior to a licensed associate art therapist's commencement of client treatment, the qualified supervisor shall obtain a written disclosure, which shall be signed by the client and retained as part of the client record, acknowledging that the client has been informed that services are to be rendered by an associate art therapist under the supervision of a qualified supervisor. If the written disclosure is included as part of another document provided for the client's

information, the disclosure shall be set forth in a conspicuous manner, so that it shall be easily readable, clearly understood, signed by the client, and retained as part of the client record.

1. The written disclosure shall also contain a specific consent for the client's original art work, reproduction, or representation thereof to be shared with the qualified supervisor.

(h) A qualified supervisor shall retain full professional responsibility for collecting fees from clients.

(i) A qualified supervisor shall be responsible for knowing the name and either the diagnosis or the nature of the problem of each client being treated by the licensed associate art therapist. A qualified supervisor shall be ultimately responsible for the welfare of the client with respect to the treatment being rendered by the licensed associate art therapist.

(j) A qualified supervisor shall ensure that the licensed associate art therapist maintains, on an annual basis until the licensed associate art therapist is licensed as an art therapist, documentation of supervised experience, using forms provided by the Committee for that purpose. The supervisor shall attest to compliance with the standards set forth in this section and shall indicate the hours and dates during which the licensed associate art therapist has been under supervision, the nature of the cases assigned, and the proficiency rating earned by the licensed associate art therapist.

(k) A qualified supervisor shall supervise only in areas for which he or she possesses the requisite skills, training, and experience.

(l) A qualified supervisor shall not supervise an individual with whom the supervisor has a relationship that may compromise the objectivity of the supervisor or impair the professional judgment of the supervisor. Examples of inappropriate supervisory relationships include, but are not limited to, current and former clients, current employers, relatives of the supervisor, immediate relatives of current clients, current students, or close friends.

13:34D-3.3 Responsibilities of licensed associate art therapists

(a) The licensed associate art therapist shall maintain documentation of supervised experience for each 52-week period of supervised experience until the licensed associate art therapist is licensed as an art therapist.

(b) A licensed associate art therapist shall not engage in practice under supervision in any area for which the licensed associate art therapist has not had appropriate education and training.

(c) A licensed associate art therapist shall not engage in unsupervised or independent practice.

(d) A licensed associate art therapist shall not receive a professional fee from a client. A licensed associate art therapist may be compensated only through the supervisor or employing entity.

1. Nothing in this subsection shall be construed to prohibit a licensed associate art therapist from receiving from a client, on behalf of the supervisor or employing entity, fees for professional services.

(e) A licensed associate art therapist who advertises professional services, shall comply with N.J.A.C. 13:34D-7 and include the name(s) and credentials of his or her supervisor(s). The qualified supervisor shall be aware of and approve of all services being offered by the licensed associated art therapist. A licensed associate art therapist shall not advertise that he or she engages in independent practice.

(f) An applicant may purchase the services of a qualified supervisor, if the supervision occurs in an art therapy setting and the supervisor fulfills the activities and responsibilities of a supervisor as set forth at N.J.A.C. 13:34D-3.1.

SUBCHAPTER 4. CONTINUING EDUCATION

13:34D-4.1 Continuing education requirements for license renewal

(a) A licensed professional art therapist shall complete 40 contact hours of continuing education for license renewal. The licensed professional art therapist shall confirm on the renewal application that the licensee has completed all continuing education requirements pursuant to N.J.A.C. 13:34D-3.1 and 3.2 during the biennial period preceding application for renewal.

(b) An associate art therapist licensed for two or more biennial renewal periods, shall complete 40 contact hours of continuing education for all subsequent renewals of his or her license, consistent with the requirements of this subchapter.

13:34D-4.2 Contact-hour requirements for licensed art therapists

(a) A licensed art therapist shall complete at least five of the 40 contact hours required at N.J.A.C. 13:34D-4.1 in ethical and legal standards in the art therapy profession, regardless of the number of contact hours accrued during the biennial period. The online New Jersey Jurisprudence Orientation shall not satisfy this continuing education requirement.

(b) A licensee shall complete at least three of the 40 contact hours of continuing education as required at N.J.A.C. 13:34D-4.1 in the subject area of social and cultural competence. For the purposes of this subsection, social and cultural competence includes, but is not limited to, an understanding of the cultural context of relationships; issues and trends in a diverse society related to such factors as culture, ethnicity, nationality, age, gender, sexual orientation, mental and physical characteristics, education, family values, religious and spiritual values, and socioeconomic status; and unique characteristics of individuals, couples, families, ethnic groups, and communities, including any of the following:

1. Multicultural and pluralistic trends, including characteristics and concerns between, and within, diverse groups nationally and internationally;

2. Attitudes, beliefs, understandings, and acculturative experiences, including specific experiential learning activities;

3. Individual, couple, family, group, and community strategies for working with diverse populations and ethnic groups;

4. Art therapists' roles in social justice, advocacy, and conflict resolution, cultural self-awareness, the nature of biases, prejudices, process of intentional and unintentional oppression and discrimination, and other culturally supported behaviors that are detrimental to the growth of the human spirit, mind, or body;

5. Theories of multicultural counseling, theories of identity development, and multicultural competencies;

6. Ethical and legal considerations relating to issues of diversity; and

7. Applying an understanding of artistic language, symbolism, and metaphoric properties of media and meaning across cultures and within a diverse society.

(c) If the licensed art therapist earns more than 40 contact hours during a biennial period, the professional art therapist may carry a maximum of 10 contact hours into the next succeeding biennial period. The continuing education hours required in (a) and (b) above shall not be eligible for carry forward.

(d) A licensed art therapist 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 40 credits of continuing education per biennial period.

13:34D-4.3 Approval of courses or programs

(a) The following are acceptable sources of continuing education, as long as the content areas set forth in (c) or (d) below or are directly related to art therapy:

1. Courses and programs approved by the American Art Therapy Association; the Art Therapy Credentials Board, Inc.; the American Association for Marriage and Family Therapy; the National Association of Social Workers; the American Psychological Association; the National Board for Certified Counselors; the American Counseling Association; the American Psychiatric Association; the Commission on Rehabilitation Counselors Certification; the American Medical Association; the American Nursing Association; the Association for Addiction Professionals; the National Association of Alcoholism and Drug Abuse [page=1682] Counselors; the National Association for Advancement of Psychoanalysis; the member boards of the International Certification and Reciprocity Consortium/Alcohol and Other Drug Abuse, Inc.; the National Hospice and Palliative Care Organization; and any State or local affiliated chapter approved by one of these organizations;

2. Teaching or completing graduate coursework at a regionally accredited institution of higher education;

3. Authoring a peer-reviewed article published in a professional journal within the preceding biennial period;

4. Authoring a book chapter, monograph, or book;

5. Presentation of a new course, program, or workshop approved by one of the organizations listed in (a)1 above;

6. Developing and completing courses or programs that provide distance learning opportunities approved by one of the organizations listed in (a)1 above or a regionally accredited institution of higher education;

7. Completing and having accepted a doctoral dissertation from a regionally accredited institution of higher education;

8. Attendance at conferences, programs, lectures, courses, or workshops of one of the organizations listed in (a)1 above; and

9. Exhibition in a juried art show.

(b) A licensee may seek credit for attendance at a program or course that is not offered by one of the organizations listed in (a)1 above, provided that:

1. Prior to seeking approval of continuing education credit from the Committee for attending or presenting a course or program that has not been approved by any of the organizations listed in (a)1 above, the art therapist shall first apply to, and obtain approval from, one of the listed organizations; and

2. The art therapist seeks approval from the Committee within 60 days prior to the licensee attending the course or program.

(c) The following are acceptable content areas for continuing education:

1. Psychological and psychotherapeutic theories and practice;
2. Art therapy assessment;
3. Art therapy theory, practice, and processes;
4. Client populations and multicultural competence;
5. Art therapy and media; and
6. Professionalism and ethics.

(d) A course or program in the subject area of social and cultural competence for the purpose of fulfilling the three contact-hour continuing education requirement shall be obtained consistent with (a) above or shall be subject to the approval of the Committee. A course or program in the subject area approved by the Board of Marriage and Family Therapy Examiners, the Board of Social Work Examiners, the State Board of Psychological Examiners, the Professional Counselor Examiners Committee, or the Alcohol and Drug Counselor Committee shall be deemed acceptable by this Committee.

13:34D-4.4 Continuing education credits and contact-hour calculation

(a) The Committee shall grant credit only for continuing education courses and programs that are at least one contact hour long and are directly related to art therapy practice. For purposes of this subchapter, a "contact hour" means a 60-minute clock hour with no less than 50 minutes of content within the hour. Courses and programs may include one 10-minute break for each contact hour.

(b) An art therapist shall complete, and be able to verify the completion of, continuing education as set forth at N.J.A.C. 13:34D-3.3 in order to receive continuing education credit. The Committee shall grant an art therapist continuing education credit for each biennial renewal period as follows:

1. Attending conferences, programs, courses, or workshops: one contact hour of continuing education for each hour of attendance, or the number of contact hours of continuing education as calculated by the organization, whichever is greater;

2. Completing graduate coursework at a regionally accredited institution of higher education: 15 continuing-education-contact hours for each semester course credit awarded beyond the required educational standards that the art therapist must complete for licensure as set forth in N.J.A.C. 13:34D-2;

3. Teaching courses offered at a regionally accredited institution of higher education: 15 continuing-education-contact hours for each semester course credit awarded for each new course that an art therapist teaches. For the purposes of this paragraph, "new" means a course that the art therapist has not taught previously in any educational setting;

4. Authoring a peer-reviewed article published in a professional journal within the preceding biennial period: four continuing-education-contact hours per article with a maximum of eight contact hours per biennial period;

5. Authoring a published book chapter or monograph related to the practice of art therapy: eight continuing-education-contact hours per chapter or monograph with a maximum of 16 contact hours per biennial period;

6. Publication of a book related to the practice of art therapy: 15 continuing-education credits per publication to a maximum of 15 contact hours per biennial period;

7. Course or program presentation: one and one-half continuing-education-contact hours for each hour of a new offering up to a maximum of nine continuing-education-contact hours. For the purposes of this paragraph, "new" means a course or program that the art therapist has not previously presented;

8. Completion and acceptance of doctoral dissertation for a doctoral degree in art therapy or a closely related field: 40 contact hours of continuing education per biennial period;

9. Juried art show: limited to one show or 10 continuing-education credits per biennial period; and

10. Developing and completing programs from one of the approved organizations set forth at N.J.A.C. 13:34D-4.3(a) that provide distance learning opportunities, such as Internet, video, audio, or CD-ROM, through the use of integrated technology/communication systems,

verified with details of the program, such as learning objectives, verification of assignments completed, achievements of stated learning objectives, inclusive dates, and number of enrollees: the amount of continuing education contact hours as calculated by the endorsing organization, up to a maximum of 10 contact hours of continuing education per biennial period.

(c) An art therapist shall obtain no more than 10 contact hours of continuing education through electronic media distance learning courses or programs. Webinars shall not be considered electronic media distance learning courses if they are live (not previously recorded) and synchronous (the instructor and licensee interact with each other in real time).

13:34D-4.5 Documentation of continuing education credit

(a) An art therapist shall retain documentation of the continuing education hours that the art therapist completes in order to verify program attendance or activity completion. Each art therapist shall submit such documentation to the Committee upon its request. The Committee may periodically audit the records of art therapists, on a random basis, to determine compliance with continuing education requirements of this subchapter.

(b) An art therapist shall verify attendance at continuing education courses or programs by a certificate of attendance or by a statement from the course or program instructor. The verification shall include the name of the licensee, the name of the sponsor, the title, location, and date of the course or program, the signature of a program official, and the number of continuing education hours awarded.

(c) An art therapist shall verify continuing education activities by retaining the following:

1. For attendance at programs or courses, a certificate of completion from the provider;
2. For graduate coursework, an official transcript;
3. For teaching, copies of the syllabus, bibliography, course outline, and verification from the academic institution that the course was "new" as defined at N.J.A.C. 13:34D-4.4(b)3;
4. For publications, a copy of the published article, book chapter, monograph, or book;
5. For course or program presentations, copies of the program, syllabus, outlines, and bibliographies;

[page=1683] 6. For doctoral dissertations, a letter from committee chairperson accepting the dissertation;

7. For juried art exhibitions, documentation from the organization hosting the art exhibition that includes the artist's name, juror's name(s), and date of exhibition; and

8. For distance learning, a certificate of successful completion from the endorsing professional organization.

(d) An art therapist shall maintain verification documentation for five years following the renewal period for which the Committee has granted the art therapist continuing education credit.

(e) Falsification of any information submitted with the renewal application or failure to meet the continuing education requirements may result in the Committee taking appropriate disciplinary measures, including suspension of license, pursuant to N.J.S.A. 45:1-21.

(f) The Committee may reject any continuing education contact hours claimed for continuing education credit that are not relevant to the practice of art therapy in the State of New Jersey.

13:34D-4.6 Waiver of continuing education requirements

(a) The Committee 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 as established by the licensed professional or associate art therapist.

(b) An art therapist who seeks a waiver of the continuing education requirements shall provide to the Committee, in writing, the specific reasons for requesting the waiver and such additional documentation as the Committee may request in support of the waiver.

SUBCHAPTER 5. CLIENT RECORDS; CONFIDENTIALITY

13:34D-5.1 Preparation and maintenance of client records

(a) A licensee shall prepare a permanent client record for each client that accurately reflects the client contact with the licensee whether in an office, hospital, agency, or other treatment, evaluation, or consultation setting.

(b) A licensee shall make entries in the client record contemporaneously with the services provided. A licensee may dictate an entry for later transcription, provided the transcription is dated and identified as "preliminary" until the licensee reviews the transcription and finalizes the entry in the client record.

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

1. The client name, address, and telephone number;
2. The client complaint on intake;
3. Medical history recognized as of potential significance;
4. Past and current medications;
5. Significant social history;
6. Findings on appropriate assessment;
7. A diagnostic impression;
8. Contemporaneous and dated progress or session notes, including specific components of treatment, evaluation, or consultation;
9. Dates of all treatment, evaluation, or consultation sessions;
10. The location of treatment, evaluation, or consultation;
11. An evaluation of progress (if applicable);
12. A prognosis;
13. The client identity on each page;
14. Fees charged and paid;
15. The identity of each provider of treatment, evaluation, or consultation (and supervisor, if any);
16. If services are rendered by an associate art therapist, the written disclosure form and release for art work, if applicable, signed by the client; and
17. Information regarding referrals to other professionals.

(d) The client record shall contain the written disclosure form required pursuant to N.J.A.C. 13:34D-3.2(g) and reports and records provided by other professionals and integrated into the client's treatment, evaluation, or consultation report.

(e) A licensee may make corrections or additions to an existing record provided that each change is clearly identified as such, dated, and initialed by the licensee. Any other alteration of records shall be deemed professional misconduct.

(f) When records are to be maintained as confidential, the licensee shall establish and maintain a procedure to protect such records from access by unauthorized persons.

(g) The licensee shall retain the permanent client record for at least seven years from the date of last entry, unless otherwise provided by law; in the case of a minor, the licensee shall retain the record until the minor reaches the age of 25.

1. This requirement shall not apply to a licensee employed in an agency setting, if the agency's policy does not permit a licensee to control the retention of records.

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

1. Establishment of a procedure by which patients can obtain treatment records or acquiesce in the transfer of those records to another licensee or health care professional who is assuming the responsibilities of that practice; and

2. Making reasonable efforts to directly notify any patient treated during the six months preceding the cessation, and providing information concerning the established procedure for retrieval of records.

(i) N.J.A.C. 13:34D-5.1(f), (g), and (h) shall not apply to a licensee employed in an agency setting who does not, by agency policy, have control over client records.

13:34D-5.2 Use of personal or other computer to prepare client records

(a) A licensee who prepares a client record maintained solely on a personal or other computer shall use a write-protected program that:

1. Contains an internal permanently activated date and time recordation for all entries;

2. Automatically prepares a back-up copy of the file; and

3. Is designed in such manner that, after the licensee "signs" by means of a confidential personal code (CPC), the entry cannot be changed in any manner.

(b) Notwithstanding the permanent status of a prior entry, the licensee may make a new entry at any time and may indicate correction to a prior entry.

(c) The licensee shall include in the client record at least two forms of identification; for example, name, and record number or any other specific identifying information of the client.

(d) The licensee shall finalize or "sign" the entry by means of a CPC. Where more than one individual is authorized to make entries into the computer file of any client record, the licensee responsible for the practice shall ensure that each person obtains a CPC and uses the program in the same manner.

13:34D-5.3 Access to copy of client record

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

(b) A licensee may require the record request to be in writing. The licensee shall provide a copy of the client record and/or billing records, including reports relating to the client, no later than 30 days from receipt of a request from a client or duly authorized representative. Limitations on this requirement are set forth at (g) below and N.J.A.C. 13:34D-5.5.

(c) Unless otherwise required by law, the licensee may elect to provide a summary of the record, as long as the summary adequately and accurately reflects the client's history and treatment.

(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) The licensee's obligation under this section to release information shall include the obligation to complete forms or reports required for third-party reimbursement of client treatment expenses. The licensee may charge reasonable fees for completion of reports other than health [page=1684] insurance claim forms, for which no fee may be charged pursuant to N.J.S.A. 45:1-12.

(f) When a request is made for release of already completed reports to enable the client to receive ongoing care by another practitioner,

or for use in judicial proceedings, the licensee shall not require prior payment for the professional services to which such reports relate as a condition for making such reports available. A licensee may, however, require advance payment for a report prepared for the licensee's services as an expert witness.

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

1. The client's attorney;
2. Another licensed health care professional; or
3. The client's health insurance carrier.

13:34D-5.4 Access by a managed health care plan to information in client record

(a) With regard to a client whose treatment cost is covered by a wholly insured health insurance plan or a managed health care plan, a licensee shall make all required information available upon the request of the client or duly authorized representative with the client's consent.

(b) A licensee whose client has explicitly waived the art therapist-client confidentiality privilege established at N.J.S.A. 45:8B-66 may release requested information deemed professionally appropriate to a third-party payor whose benefit plan is qualified under the Federal Employee Retirement Income Security Act (ERISA); that is, the plan of a self-insured employer or an entity providing administrative services to that employer for the purposes of determining entitlement to benefits.

13:34D-5.5 Confidentiality

(a) A licensee shall preserve the confidentiality of information obtained from a client in the course of performing art therapy services for the client, except in the following circumstances:

1. Disclosure is required by Federal or State law, rule, or regulation;
2. Disclosure is required by the Board, Committee, or the Office of the Attorney General, during the course of an investigation;

3. Disclosure is required by a court of competent jurisdiction pursuant to an order;

4. The licensee has information that the client presents a clear and present danger to the health or safety of an individual;

5. The licensee is a party defendant to a civil, criminal, or disciplinary action arising from the art therapy services provided, in which case a waiver of the privilege accorded by this section shall be limited to that action; or

6. The client agrees, in writing, to waive the privilege accorded by this section. In circumstances where more than one person in a family is receiving art therapy services, each family member who is at least 18 years of age or older must agree to the waiver. Where required by Federal or State law persons under the age of 18 years of age must agree to the waiver. Absent a waiver of each family member, a licensee shall not disclose any information received from any family member.

(b) A licensee shall establish and maintain written procedures to protect client records from access by unauthorized persons.

(c) A licensee shall establish written procedures for maintaining the confidentiality of client records in the event of the licensee's relocation, retirement, or death and shall establish reasonable written procedures to ensure the preservation of client records.

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

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

2. The disclosure of information in a deceased client's records is governed by the same provisions for living clients set forth at N.J.A.C. 13:34D-5.3, 5.4, and 5.6; and

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

(e) A licensee 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, as provided under applicable State and Federal laws, rules, and regulations.

(f) A licensee 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 clients or persons involved; or
2. Where the identity of the client or person involved is adequately disguised.

13:34D-5.6 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. 13:34D-5.3(a). 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, except as provided for at N.J.S.A. 9:17A-4.

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

(d) The provisions at N.J.A.C. 13:34D-5.3, 5.4, and 5.5, concerning access to client records, access by a managed health care plan to information in client records, and confidentiality of records, shall apply to minors.

13:34D-5.7 Transfer or disposal of records

(a) If a licensee ceases to engage in practice or it is anticipated that he or she will remain out-of-practice for more than three months, the licensee shall comply with the requirements concerning termination of services set forth at N.J.A.C. 13:34D-6.3 and shall:

1. Establish a procedure by which clients can obtain a copy of the treatment records or acquiesce in the transfer of those records to another licensee or health care professional who is assuming responsibilities of the practice. However, a licensee shall not charge

a client for a copy of the records when the records will be used for purposes of continuing treatment or care;

2. Make reasonable efforts to directly notify any client treated during the six months preceding the cessation, providing information concerning the established procedure for retrieval of records; and

3. If a licensee is unable to notify all clients, publish a notice of the cessation and the established procedure for the retrieval of records in a newspaper of general circulation in the geographic location of the licensee's practice, at least once each month for the first three months after the cessation.

SUBCHAPTER 6. PROFESSIONAL MISCONDUCT

13:34D-6.1 Financial arrangements with clients

(a) Fees for art therapy services shall be reasonable and commensurate with the status and experience of a licensee consistent with the provisions of N.J.A.C. 13:34D-6.8 prohibiting excessive fees.

(b) When an appropriate fee schedule cannot be arranged, or the payment of the usual fee would be a hardship, a licensee shall refer the client to other sources for the provision of needed services.

(c) A licensee providing art therapy services shall provide and maintain a written list of current fees for standard services and shall provide the list to a client prior to the commencement of services.

(d) Before engaging in a clinical relationship, a licensee shall assist a client to understand financial arrangements. The information provided to the client shall include at least the following:

[page=1685] 1. The fee for services or the basis for determining the fee to be charged;

2. Whether the licensee will accept installment payments or assignments from a third-party payor;

3. That insurance coverage may not be available in all circumstances; and

4. The financial consequences, if any, of missed appointments.

13:34D-6.2 Conflicts of interest

(a) A licensee providing art therapy services shall not enter into any relationship that would be expected to limit objectivity and impair professional judgment, or increase the risk of exploitation. Examples of such relationships include, but are not limited to, the following:

employees, tenants, students, supervisees, close friends, spouses, or relatives.

(b) A licensee who has identified a conflict of interest shall notify the parties involved and shall take action to eliminate the conflict.

(c) A licensee providing art therapy services shall not provide those services in circumstances that would be expected to limit the licensee's objectivity and impair professional judgment, or increase the risk of exploitation.

13:34D-6.3 Termination of services

(a) A licensee shall terminate services to a client when the services are no longer required or no longer meet the client's needs or interests.

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

(c) A licensee who anticipates the termination or interruption of services to a client shall promptly notify the client and shall provide for the transfer, referral, or continuation of services in relation to the client's needs and preferences.

(d) A licensee who intends to cease to engage in practice or anticipates that he or she will remain out-of-practice for more than three months shall comply with the requirements set forth in N.J.A.C. 13:34D-5.7.

13:34D-6.4 Sexual misconduct and harassment

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

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

"Harassment" means one egregious act or repeated comments, contacts, or gestures that are based upon the following and that have the purpose or effect of intimidating or offending the individual based upon his or her race, religion, color, gender, national origin, marital status, sexual orientation, physical, or mental disability.

"Sexual contact" means the knowing touching of a person's body directly or through clothing, where the circumstances surrounding the

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

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

(b) A licensee shall not seek, solicit, or engage in sexual contact with a client with whom he or she has a current client-art therapist relationship.

(c) In circumstances where the client is, or should be recognized by the licensee as, clearly vulnerable by reason of emotional or cognitive disorder to exploitive influence by the licensee, the prohibition on sexual contact shall extend indefinitely.

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

(e) A licensee shall not accept as a client, a current or former sexual partner.

(f) A licensee shall not conduct or engage in therapy groups, activities that promote, allow, or involve physical contact of a sexual nature between the licensee and group members or between group members themselves.

(g) A licensee shall not engage in any discussion of an intimate sexual nature with a client, unless that discussion is directly related to legitimate client needs and furthers the client's art therapy treatment. At no time shall any such discussions include disclosure by

the licensee to the client of his or her own intimate sexual relations or relationships.

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

(i) A licensee shall not seek, solicit, or engage in sexual contact with a current client's immediate family member, a former client, a former client's immediate family member, or a former student when counseling services were rendered to the client, former client, or former student within the immediately preceding 24 months, or with a current student, a current direct supervisor or supervisee, or a current research subject. A licensee shall not seek, solicit, accept, or participate in sexual contact with any person in exchange for professional services.

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

(k) Violation of any of the prohibitions or directives set forth in (b) through (j) above shall be deemed to constitute gross or repeated malpractice pursuant to N.J.S.A. 45:1-21.c and d respectively, or professional misconduct pursuant to N.J.S.A. 45:1-21.e.

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

1. The client, the client's immediate family member, former client, the former client's immediate family member, student, supervisor, supervisee, or research subject solicited or consented to sexual contact with the licensee; or

2. The licensee was in love with or had affection for the client, the client's immediate family member, former client, the former client's immediate family, student, supervisor, supervisee, or research subject.

13:34D-6.5 Real estate arrangements

(a) A licensee may be an owner, investor, or lessor in real estate utilized for the conduct of a professional practice, provided that rent, dividends, or any other forms of remuneration are received solely on the basis of the investment or fair market value, as applicable to the circumstances.

(b) A licensee may lease space to or from another licensed health care professional to which clients are referred only where rent is a

fixed fee determined by the fair market value, or less, and is for a regular term and not for sporadic use of the space.

(c) A licensee may lease professional space from a commercial entity on any arrangements consistent with standard business practice in the community, provided the arrangements do not affect the licensee's professional discretion in matters, including choice of clients, professional services offered, or fees.

(d) The establishment of any lease, investment, or other commercial relationship for the conduct of professional practice other than as set forth in this section shall require Committee approval for good cause shown.

13:34D-6.6 Reporting of violations by other licensees

(a) Except as provided in this section, a licensee shall promptly notify the Committee when he or she is in possession of information that reasonably indicates that another licensee has demonstrated an impairment, gross incompetence, or unprofessional conduct that would present an imminent danger to a client, or to the public health, safety, or welfare.

[page=1686] 1. When the information is obtained in the course of a professional or consulting relationship with a client and the client is unwilling or unable to make the report, the licensee shall report the information only with the written permission of the client.

13:34D-6.7 Prohibition on solicitation; unethical referrals and kickbacks

(a) A licensee who provides services to an agency shall not solicit, for his or her private practice, the agency's clients for the same services the agency provides. Nothing in this section prohibits a licensee from offering to the client all appropriate options upon termination of services by the client or the agency, including the continuation of services in private practice.

(b) A licensee shall not refer a client to a service in which the licensee and his or her immediate family has a financial interest as defined in the Health Care Cost Reduction Act, N.J.S.A. 45:9-22.4 et seq., including an equity or ownership interest in a practice or in a commercial entity holding itself out as offering a health care service.

(c) A licensee shall not prescribe goods or devices that the licensee sells or leases to the client in which the licensee has ownership or interest, unless the licensee advises the client of such ownership or interest.

(d) A licensee shall not pay or offer to pay any fee or other form of compensation for referral of a client for professional services or for referral of a client for the purchase of goods.

(e) A licensee shall not receive any fee or other form of compensation for referral of a client for professional services or for referral of a client for the purchase of goods.

(f) A licensee shall not permit the division of fees for professional services, unless the licensee is engaged in a bona fide partnership, professional service corporation, or employment relationship.

13:34D-6.8 Prohibition on excessive fees

(a) The licensee shall not charge an excessive fee for services. Factors that the Committee shall consider in determining whether a fee is excessive include the following:

1. The time or effort required to perform the service or treatment;
2. The skill required to properly perform the service or treatment;
3. The nature and length of the professional relationship with the client;
4. The experience, reputation, and ability of the licensee performing the services;
5. The nature and the circumstances under which services are provided; and
6. Whether the fee was set by an institution or agency.

13:34D-6.9 Misconduct defined

(a) Professional or occupational misconduct in the practice of art therapy by persons licensed by the Art Therapists Advisory Committee shall include, but not be limited to, the following:

1. Willful or grossly negligent failure to comply with Federal, State, or local laws, rules, or regulations governing the practice of the profession;
2. Failing to respond within 30 days to written communications from the Art Therapists Advisory Committee and make available any relevant records with respect to an inquiry or complaint about the licensee's unprofessional conduct.
 - i. The period of 30 days shall commence on the date when such communication was sent from the Committee by registered or certified mail, with return receipt requested, to the address of record;

3. Failing to maintain a record for each client, which accurately reflects the client contact with the practitioner.

i. Unless otherwise provided by law, all client records must be retained for at least seven years; and

ii. If a licensee ceases to engage in practice or it is anticipated that he or she will remain out of practice for more than three months, the licensee or designee shall, consistent with the requirements of N.J.A.C. 13:34D-5.7:

(1) Establish a procedure by which clients can obtain their records or acquiesce in the transfer of those records to another licensee or health care professional who is assuming the responsibilities of that practice;

(2) Publish a notice of the practice cessation and the established procedure for the retrieval of records in a newspaper of general circulation in the geographic location of the licensee's practice, at least once each month for the first three months after the cessation; and

(3) Make reasonable efforts to directly notify any client treated during the six months preceding the cessation, providing information concerning the established procedure for record retrieval;

4. Failing to exercise appropriate supervision over persons who are authorized to practice only under the supervision of the licensed professional art therapist;

5. Failing to make available to a client, the client's guardian or authorized representative, or, upon a client's request copies of reports or test records relating to the client that are in the possession or under the control of the licensee, or failing to complete forms or reports required for the reimbursement of a client by a third party.

i. Reasonable fees may be charged for such copies, forms, or reports, but prior payment for the professional services to which such records relate shall not be required as a condition for making such records available;

ii. A practitioner may withhold information from a client, if he or she believes release of such information would adversely affect the client's mental or psychological health; and

iii. This paragraph shall not require release to the parent or guardian of a minor of records or information relating to sexually transmitted disease or abortion, except with the minor's consent;

6. Ordering excessive treatment or use of treatment facilities not warranted by the condition of the client;

7. Using the word "Doctor" or otherwise misleading designation in offering to perform professional services when such title or designation has not been earned at an accredited educational institution or is not one that is recognized by the New Jersey State Board of Education;

8. Guaranteeing that satisfaction or a cure will result from the performance of professional services;

9. Claiming or using any secret or special method of treatment and/or diagnostic technique that the licensee refuses to divulge to the Committee; and

10. Failing to notify the Art Therapists Advisory Committee in writing of any change of address or name from that currently registered with the Committee and shown on the most recently issued license.

i. Such notice shall be given not later than 30 days following the change of address of record or name.

13:34D-6.10 Professional interactions with clients

(a) Prior to commencing services, a licensee shall advise the client or the client's guardian, in terms that the client can understand, of the nature and purpose of the services to be rendered and the limits and obligations associated with such services.

(b) A licensee shall obtain written informed consent from clients before videotaping, audio recording, or permitting third-party observation of professional interactions with clients.

(c) If applicable, a licensee shall obtain a release for the client's art work made in treatment, reproduction, or representation thereof.

(d) A licensee shall not provide art therapy services while under the influence of alcohol or any other drug that may impair the delivery of services.

(e) A licensee shall obtain competent professional assistance in order to determine whether to voluntarily suspend, terminate, or limit the scope of the licensee's professional practice or research activities that are foreseeably likely to lead to inadequate performance or harm to the client, colleague, student, or research participant.

(f) When interacting with a research subject, a licensee shall observe research requirements consistent with accepted standards of practice.

13:34D-6.11 Professional responsibilities

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

[page=1687] SUBCHAPTER 7. ADVERTISING

13:34D-7.1 Definitions

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

"Advertisement" means an attempt, directly or indirectly, by publication, dissemination, or circulation in print, electronic, or other media, to induce any person or entity to purchase or enter into an agreement to purchase art therapy services, treatment, or goods related thereto.

"Electronic media" includes radio, television, telephone, Internet, social media, and other electronic means of communication.

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

13:34D-7.2 Advertising; general requirements

(a) A licensee shall be able to substantiate the truthfulness of any representation set forth in an advertisement.

(b) A licensee identified in an advertisement as offering art therapy services or goods shall be responsible for the form and content of any advertisement disseminated by or on behalf of a licensee.

(c) A licensee shall ensure that an advertisement does not misrepresent, suppress, omit, or conceal a material fact. Omission, suppression, or concealment of a material fact includes directly or indirectly obscuring a material fact under circumstances where the licensee knows or should know that the omission is improper or prohibits a prospective client from making a full and informed judgment on the basis of the information set forth in the advertisement.

13:34D-7.3 Minimum content

(a) A licensee shall include the following in all advertisements and professional representations (other than an office entry sign), including advertisements in a classified directory, business cards, and professional stationery:

1. The name of the licensee;

2. The words "Licensed Professional Art Therapist" or "LPAT," "Licensed Associate Art Therapist" or "LAAT," as applicable, followed by the 12-digit license number; and

3. The street address and telephone number of the practice location, and, if applicable, website address of the practitioner's practice.

(b) In addition to the information set forth in (a) above, a licensed associate art therapist shall also include the name(s) and credentials of his or her supervisor(s).

(c) For maintenance of personal or client safety, a licensee may petition the Committee for a waiver of the requirement to list the street address of the practice location. A licensee shall submit a request for a waiver in writing that shall detail the reason for the request.

13:34D-7.4 Use of professional credentials and certifications

(a) A licensee shall accurately and objectively represent his or her competence, education, training, and experience, as of the time of the representations.

(b) An advertisement that includes information on professional credentials shall contain the highest academic degrees attained related to the practice of art therapy and shall refer only to degrees obtained from a regionally accredited academic institution.

(c) An advertisement that includes information on certification shall include the full name of the institute or agency conferring the certification or the recognized name or abbreviation of the certification.

(d) In addition to the information required to appear pursuant to N.J.A.C. 13:34D-7.3, letters or abbreviations that may appear immediately following the licensee's name shall be limited to the following:

1. The highest academic degrees earned from a regionally accredited institution relating to the practice of art therapy. A licensee shall not include any degree earned at an institution that is not regionally accredited; and

2. Other licenses or certifications issued by another state or Federal agency.

(e) Letters or abbreviations appearing immediately following the licensee's name shall appear in the following order only:

1. Highest academic degrees earned from a regionally accredited institution related to the practice of art therapy;
2. Licensure designation; and
3. Certifications.

(f) Nothing in this section shall preclude any truthful or nondeceptive statement in regard to education or experience in a particular area of art therapy.

13:34D-7.5 Prohibited types or methods of advertising

(a) A licensee shall not guarantee that satisfaction or a cure will result from the performance of art therapy.

(b) A licensee shall not communicate information that may identify a client without the written consent of the client.

(c) A licensee shall not offer a professional service that the licensee knows or should know is beyond his or her ability to perform.

(d) A licensee shall not advertise or communicate in a manner that appears to intimidate, exert undue pressure, or unduly influence a prospective client.

13:34D-7.6 Retention of advertisements

A licensee shall retain, for a period of three years from the date of initial publication or dissemination, a copy of every advertisement appearing in print or electronic media. The licensee shall indicate on all advertisements in his or her possession the date and place of publication or dissemination.

SUBCHAPTER 8. TELEHEALTH AND TELEMEDICINE

13:34D-8.1 Purpose and scope

(a) The purpose of this subchapter is to implement the provisions of P.L. 2017, c. 117 (N.J.S.A. 45:1-61 et seq.), which authorizes healthcare providers to engage in telemedicine and telehealth.

(b) This subchapter shall apply to all persons who are licensed by the Committee.

(c) Pursuant to N.J.S.A. 45:1-62, a professional art therapist or an associate art therapist must hold a license issued by the Committee if he or she:

1. Is located in New Jersey and provides health care services to any patient located in or out of New Jersey by means of telemedicine or telehealth; or
2. Is located outside of New Jersey and provides health care services to any patient located in New Jersey by means of telemedicine or telehealth.

(d) Notwithstanding N.J.S.A. 45:1-62 and (c) above, a healthcare provider located in another state who consults with a licensee in New Jersey through the use of information and communications technologies, but does not direct patient care, will not be considered as providing health care services to a patient in New Jersey consistent with N.J.S.A. 45:8B-1 et seq., and will not be required to obtain licensure in New Jersey in order to provide such consultation.

(e) For purposes of this subchapter, "telemedicine" and "telehealth" shall have the same meaning as defined at N.J.S.A. 45:1-61.

13:34D-8.2 Standard of care

(a) Prior to providing services through telemedicine or telehealth, a licensee shall determine whether providing those services through telemedicine or telehealth would be consistent with the standard of care applicable for those services when provided in-person.

(b) If a licensee determines, either before or during the provision of health care services, that services cannot be provided through telemedicine or telehealth in a manner that is consistent with in-person standards of care, the licensee shall not provide services through telemedicine or telehealth.

(c) A licensee who determines that services cannot be provided through telemedicine or telehealth pursuant to (b) above shall advise the patient to obtain services in-person.

(d) A licensee who provides a diagnosis, treatment, or consultation recommendation, including discussions regarding the risk and benefits of a patient's treatment options, through telemedicine or telehealth shall be held to the same standard of care or practice standards as are applicable to in-person settings.

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