

New Jersey Register
VOLUME 36, NUMBER 2
TUESDAY, JANUARY 20, 2004
RULE ADOPTION

LAW AND PUBLIC SAFETY

**DIVISION OF CONSUMER AFFAIRS AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY ADVISORY
COMMITTEE**

RULES OF THE AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY ADVISORY COMMITTEE

Readoption with Amendments: N.J.A.C. 13:44C

Adopted Repeals: N.J.A.C. 13:44C-3.2, 3.4, 4.1 and 8.1

Proposed: July 21, 2003 at 35 N.J.R. 3273(a).

Adopted: October 28, 2003 by Reni Erdos, Director, Division of Consumer Affairs.

Filed: December 15, 2003 as R.2004 d.23, without change.

Authority: N.J.S.A. 45:3B-24.

Effective Dates: December 15, 2003, Readoption;

January 20, 2004, Amendments and Repeals.

Expiration Date: December 15, 2008.

Federal Standards Statement

A Federal standards statement is not required because there are no Federal standards or requirements applicable to the subject matters of the rules readopted with amendments.

Full text of the readoption can be found in the New Jersey Administrative Code at N.J.A.C. 13:44C.

Full text of the adopted amendments follows:

<< NJ ADC 13:44C-1.1 >>

13:44C-1.1 Change of address or telephone; service of process

(a) Every licensed audiologist and speech-language pathologist shall notify the Audiology and Speech-Language Pathology Advisory Committee (Committee) in writing within 60 days of any change in address of record or telephone number.

(b) Service of an administrative complaint or other Committee-initiated action at a licensee's address which is currently on file with the Committee shall be deemed adequate notice for the purposes of N.J.A.C. 1:1-7.1 and the commencement of any disciplinary proceedings.

<< NJ ADC 13:44C-2.2 >>

13:44C-2.2 Fees and charges

(a) The following fees shall be charged by the Advisory Committee:

1.-9. (No change.)

10. Inactive license fee ... (to be established by the Director by rule).

<< NJ ADC 13:44C-3.2 >>

13:44C-3.2 Requirements for licensure

(a) An applicant for licensure shall submit to the Committee proof that the applicant has:

1. Graduated from:

i. A master's degree program in the area of audiology, speech-language pathology, or both, at an accredited college or university recognized by the New Jersey Commission on Higher Education which meets the educational requirements of N.J.A.C. 13:44C-3.3 or 3.4; or

ii. A bachelor's degree from an accredited college or university recognized by the New Jersey Commission on Higher Education and 42 post-baccalaureate semester hours acceptable toward a master's degree. Of these 42 hours, at least 30 shall be in the area of speech-language pathology or audiology and at least 21 shall be obtained from a single college or university. No more than six hours may be in courses that provide credit for clinical practice. The bachelor's degree and post-baccalaureate hours shall meet the educational requirements of N.J.A.C. 13:44C-3.3 or 3.4;

2. Completed a clinical internship, in accordance with the provisions of N.J.A.C. 13:44C-3.6, in either audiology, speech-language pathology, or both, as appropriate; and

3. Achieved a score of 600 on the National Teachers' Examinations in audiology or speech-language pathology, as appropriate, administered and set by the Educational Testing Service in Princeton, New Jersey.

<< NJ ADC 13:44C-3.3 >>

13:44C-3.3 Additional education requirements: education obtained prior to January 1, 1993

(a) Applicants who completed the educational requirements of N.J.A.C. 13:44C-3.2(a)1 prior to January 1, 1993, shall complete 60 hours of academic credit dealing with the normal aspects of human communication, development and disorders thereof and clinical techniques for evaluation and management of such disorders. The 60 hours of academic credit shall consist of:

1. At least 12 hours in courses that pertain to normal development and normal functions of speech, language and hearing processes;

2. At least 30 hours in courses related to communication disorders and information about, and training in, evaluation and management of speech, language and hearing disorders. At least 24 of these 30 semester hours shall be in courses in the area, either audiology or speech-language pathology, for which the license is requested, and at least six hours shall be in the area, either audiology or speech-language pathology, in which the applicant will not be licensed. No more than six semester hours may be in courses that provide credit for clinical practice obtained during academic training; and

3. Eighteen hours in any field, which may include courses that are related to the clinical practice of audiology or speech-language pathology.

(b) Thirty of the required 60 hours shall be in courses that could be credited toward a graduate degree by the college or university in which they are taken. At least 21 of these 30 hours shall be within the hours required by (a)2 above.

(c) Applicants who obtained their master's degree prior to January 1, 1993, shall also complete 300 clock hours of supervised clinical experience with individuals who present a variety of communication disorders. This clinical experience shall be obtained within the educational institution in which the applicant is receiving training, or in one of its cooperating programs.

13:44C-3.4 Additional education requirements: education obtained on or after January 1, 1993

(a) Applicants who completed the educational requirements of N.J.A.C. 13:44C-3.2(a)1 on or after January 1, 1993, shall complete 75 hours of academic credit dealing with the normal aspects of human communication, development and disorders thereof and clinical techniques for evaluation and management of such disorders. The 75 hours of academic credit shall consist of:

1. At least 27 hours in basic science courses as follows:

i. Biological/physical science: three hours;

ii. College-level mathematics: three hours;

iii. Behavioral and/or social sciences: six hours; and

iv. Basic human communication processes, including course work in the anatomic and physiological bases of speech, language and hearing; the physical and psychosocial bases of speech, language and hearing; and the linguistic and psycholinguistic aspects of speech, language and hearing: 15 hours;

2. At least 36 hours in courses that concern the nature, prevention, evaluation and treatment of speech, language and hearing disorders that primarily affect children and hearing disorders that primarily affect adults. At least 30 of the 36 hours shall be in courses for which graduate credit was received, at least 21 of which shall be in the area in which licensure is sought. In addition:

i. For a license in speech-language pathology, at least 30 hours of the 36 hours shall be in speech-language pathology, of which at least six shall be in speech disorders and at least six shall be in language disorders. At least six hours shall be in audiology, three of which shall be in hearing disorders and hearing evaluation, and three of which shall be in habilitative/rehabilitative procedures with individuals who have a hearing impairment; and

ii. For a license in audiology, at least 30 of the 36 hours shall be in audiology of which at least six hours shall be in hearing disorders and hearing evaluation, and at least six hours shall be in habilitative/ rehabilitative procedures with individuals who have a hearing impairment. At least six hours shall be in speech-language pathology, at least three hours in speech disorders and at least three hours in language disorders; and

3. Twelve hours in any field, which may include courses that are related to the clinical practice of audiology or speech-language pathology.

(b) Applicants who obtained their master's degree on or after January 1, 1993, shall also complete 25 clock hours of supervised observation of the evaluation and treatment of children and adults with disorders of speech, language or hearing.

(c) Applicants who obtained their master's degree on or after January 1, 1993, shall also complete 350 clock hours of supervised clinical experience with individuals who present a variety of communication disorders. This supervised clinical experience shall be obtained within the educational institution in which the applicant is receiving training, or in one of its cooperating programs. No more than 25 of the 350 clock hours may be obtained from participation in situations in which evaluation, treatment and/or recommendations are discussed or formulated, with or without the client present.

13:44C-3.5 Licensure without examination due to licensure in another state

(a) An applicant who is licensed in another state as an audiologist or speech- language pathologist which has

substantially equivalent requirements for licensure as those in New Jersey may obtain licensure without providing proof of achieving a passing score in the National Teachers' Examinations in audiology or speech-language pathology.

(b) An applicant for licensure qualified pursuant to (a) above shall submit to the Committee proof that the applicant has:

1. Graduated from:

i. A master's degree program in the area of audiology, speech-language pathology, or both, at an accredited college or university recognized by the New Jersey Commission on Higher Education or another state's department of education; or

ii. A bachelor's degree from an accredited college or university recognized by the New Jersey Commission on Higher Education and 42 post-baccalaureate semester hours acceptable toward a master's degree. Of these 42 post-baccalaureate hours, at least 30 shall be in the area of speech-language pathology or audiology and at least 21 shall be obtained from a single college or university. No more than six hours may be in courses that provide credit for clinical practice;

2. Met the educational requirements of N.J.A.C. 13:44C-3.3 or 3.4;

3. Completed a clinical internship, in accordance with the provisions of N.J.A.C. 13:44C-3.6, in either audiology, speech-language pathology, or both, as appropriate; and

4. Holds a current license in a state which has standards substantially equivalent to those of New Jersey.

<< NJ ADC 13:44C-3.6 >>

13:44C-3.6 (No change in text.)

SUBCHAPTER 4. RENEWAL OF LICENSURE; REINSTATEMENT; INACTIVE LICENSURE

<< NJ ADC 13:44C-4.1 >>

13:44C-4.1 Renewal of license

(a) Licensees shall be renewed biennially on a form provided by the Committee. Each applicant for renewal shall attest that the continuing education requirements of N.J.A.C. 13:44C-6.1 have been completed during the prior biennial period.

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

(c) The licensee shall submit the renewal application and pay the renewal fee pursuant to N.J.A.C. 13:44C-2.2 prior to the date of expiration of the license. If the licensee does not renew the license prior to its expiration date, the licensee may renew the license no later than 30 days after its expiration date by submitting a renewal application and paying a renewal fee and a late fee pursuant to N.J.A.C. 13:44C-2.2. A licensee who fails to renew the license within 30 days after the expiration date of the license shall be suspended without a hearing.

(d) A person who continues to practice or hold himself or herself out as a licensee of this State after the license has been suspended shall be deemed to have committed unlicensed practice, even if no notice of suspension has been provided to the person.

(e) A person seeking reinstatement within five years following the suspension of a license shall submit the following to the Committee:

1. A completed reinstatement application;
2. Payment of all past delinquent renewal fees as set forth in N.J.A.C. 13:44C-2.2;
3. Payment of a reinstatement fee as set forth in N.J.A.C. 13:44C-2.2;
4. Proof that he or she has completed the continuing education credits required pursuant to N.J.A.C. 13:44C-6.1 for each biennial period the license is suspended; and
5. An affidavit of employment listing each job held during the period of suspension which includes the names, addresses, and telephone numbers of each employer.

(f) A person seeking reinstatement after more than five years following the suspension of a license shall successfully complete the examination required for initial licensure as set forth in N.J.A.C. 13:44C-3.2(a)3 and shall submit:

1. A completed reinstatement application;
2. Payment of all past delinquent renewal fees as set forth in N.J.A.C. 13:44C-2.2;
3. Payment of a reinstatement fee as set forth in N.J.A.C. 13:44C-2.2; and
4. An affidavit of employment listing each job held during the period of suspension which includes the names, addresses, and telephone numbers of each employer.

(g) Renewal applications for all licensees shall provide the applicant with the option of either active or inactive renewal. Applicants electing to renew as inactive shall not practice or hold themselves out to the public as licensees of this State.

(h) Upon application to the Committee, the Committee may permit an applicant who has been on inactive status to return to active status provided such applicant completes the continuing education credits that are required for each biennial period that the applicant is on inactive status and the applicant pays the renewal fee as set forth in N.J.A.C. 13:44C-2.2.

<< NJ ADC 13:44C-5.2 >>

13:44C-5.2 Requirements for temporary licensure

(a) (No change.)

(b) An individual who requires a temporary license in order to commence a clinical internship shall submit to the Committee:

1. An application for temporary licensure;
2. A supervision plan signed by the applicant and supervisor;
3. Proof that the applicant has met the requirements of N.J.A.C. 13:44C- 3.2(a)1; and
4. Proof that the applicant has met the educational requirements of N.J.A.C. 13:44C-3.3 or 3.4.

<< NJ ADC 13:44C-7.4 >>

13:44C-7.4 Exemptions

(a) The following are exempt from the provisions of this chapter, pursuant to N.J.S.A. 45:3B-17:

1.-2. (No change.)

3. Persons employed by a Federal agency when services are performed as part of the person's duties with that agency. However, such person is not exempt under this section for that portion of his or her time spent as a private practitioner or providing services for which a fee may be paid by a recipient of the service.

4. (No change.)

5. Students and trainees in audiology or speech-language pathology enrolled in an accredited college or university, provided that their services constitute part of their course of study and on-site supervision by a licensee is provided in the appropriate professional field.

6. Any person who is engaged in an activity for which he or she is licensed to perform in New Jersey, as long as such person does not refer to him- or herself as an audiologist or speech language pathologist.

7. (No change.)

SUBCHAPTER 8. STANDARDS FOR PROFESSIONAL CONDUCT

<< NJ ADC 13:44C-8.1 >>

13:44C-8.1 Recordkeeping

(a) Licensees shall maintain written, contemporaneous patient records which include:

1. Findings upon initial examination including the patient's significant past history and results of appropriate tests and measures;
2. A written plan of care indicating the goals of the treatment program, the type of treatment, and the frequency and expected duration of treatment for audiology and/or speech-language pathology services;
3. Dated and signed documentation of each treatment rendered;
4. Dated and signed progress notes;
5. Documentation of any changes in the treatment program;
6. Documentation of any contact with other health professionals relative to the patient's care;
7. A discharge summary which includes the reason for discharge and the outcome of services rendered; and
8. Any pertinent legal document such as patient release forms or charge access sheets.

(b) Treatment records for patients shall be maintained for at least seven years from date of the most recent entry. Records for minors shall be kept for seven years from the date of the most recent entry or until the patient turns 20 years old, whichever is longer.

(c) All licensees shall provide copies of a patient's record of testing or treatment within 15 days of a written request by the patient or any person whom the patient has designated to receive such records. A licensed speech-language pathologist or audiologist may charge a reasonable fee to the patient for the cost of reproduction of a record.

(d) All licensees shall prepare, within 30 days of a written request from a patient or any person whom the patient has designated to receive such, a written report summarizing the information set forth in (a) above.

<< NJ ADC 13:44C-8.2 >>

13:44C-8.2 Calibration log

(a) All licensees shall document that audiometric test equipment is calibrated according to the American National Standard Specification for Audiometers (ANSI S3.6-1996, 1996), available from the Acoustical Society of America, 120 Wall Street, 32nd Floor, New York, New York 10005-3993, which is incorporated herein by reference, as amended and supplemented.

(b) Licensees shall electronically calibrate audiometric test equipment pursuant to (a) above, at least once a year.

<< NJ ADC 13:44C-8.3 >>

13:44C-8.3 Prohibited fees

(a) Licensees shall not require a patient or a third party payor to pay a separate fee for the preparation of an insurance claim form.

(b) Licensees shall not require a patient or a third party payor to pay interest on an unpaid account unless the patient has been notified of this policy in writing prior to the initiation of audiology or speech-language pathology services.

(c) Licensees shall not require a patient or a third party payor to pay a full or partial fee for unkept appointments unless the patient has been notified of this policy in writing prior to the initiation of audiology or speech-language pathology services.

(d) Licensees shall not require a patient or a third party payor to pay for any evaluation, testing, treatment or other services not documented in a patient chart.

(e) Licensees shall not charge a fee to a patient or a third party payor for audiology or speech-language pathology services which are unwarranted and unnecessary.

<< NJ ADC 13:44C-8.4 >>

13:44C-8.4 Providing fees and posting license

(a) All licensees shall provide a written fee schedule which describes charges for each service offered to any person upon request.

(b) All licensees shall post in a conspicuous place a copy of a licensee's biennial renewal certificate.

<< NJ ADC 13:44C-8.5 >>

13:44C-8.5 Advertising

(a) Licensees shall not use any form of public communication regarding professional services, via print, electronic media or in-person solicitation which contains a false, fraudulent, misleading or deceptive statement or claim. A false, fraudulent, misleading or deceptive statement includes any statement or claim which:

1. Contains a misrepresentation of fact;
2. Is likely to mislead or deceive because it fails to make full disclosure of relevant facts;
3. In the case of a testimonial containing an objective, verifiable statement of fact, cannot be verified by the advertiser;
4. Is intended or is likely to create a false or unjustified expectation of favorable results, for example, advertising percentages of success;
5. Implies educational attainments or licensing recognition not supported in fact;

6. States or implies that the licensee has received formal recognition as a specialist in any aspect of the practice of audiology or speech-language pathology if this is not the case;
7. Represents that the professional services can or will be competently performed for a stated fee when this is not the case, or makes a representation with respect to fees for professional services that does not disclose all variables affecting the fees that will in fact be charged;
8. Uses techniques of communication which in light of the setting and circumstances appear to intimidate or exert undue influence or undue pressure over a prospective patient;
9. Contains offers of discounts for services without stating the advertiser's usual and customary fee on which the discount will be taken, or the availability of a schedule of the licensee's usual and customary fees, and the period of time during which the offer can be accepted by a prospective patient. If no time limit is specified, such offer shall be deemed to apply for 30 days; or
10. Contains other representations or implications that in reasonable probability will cause an ordinarily prudent person to be misled or be deceived.

(b) All advertisements shall contain the name, address and license number of the licensee or the licensee in charge of the business.

(c) An advertisement may contain either a lay or an expert testimonial, provided that such testimonial is based upon personal knowledge or experience obtained from a provider relationship with the licensee or direct personal knowledge of the subject matter of the testimonial and:

1. A lay person's testimonial does not attest to any technical matter beyond the testimonial giver's competence to comment upon; and
2. An expert testimonial is only rendered by an individual possessing specialized expertise sufficient to allow the rendering of a bona fide statement or opinion.

(d) Copies of all printed advertisements and video or audio tapes of every advertisement communicated by electronic media shall be retained by the licensee for a period of three years. All advertisements in a licensee's records shall indicate the date and place of publication.

(e) A licensee shall make records of advertisements available for review by the Committee or its designee upon request.

<< NJ ADC 13:44C-8.6 >>

13:44C-8.6 Excessive fees

- (a) Licensees shall not charge a fee to a patient or a third party payor which is excessive.
- (b) Factors which may be considered in determining whether a price is excessive include:
 1. The novelty and difficulty of the professional treatment provided;
 2. The skill and equipment required to perform the treatment properly;
 3. Any requirements or conditions imposed by the patient or by the circumstances;
 4. The nature and length of the professional relationship with the patient;
 5. The experience, reputation and ability of the licensee performing the services; and

6. The nature and the circumstances under which the services were provided (for example, emergency; home visit).

<< NJ ADC 13:44C-8.7 >>

13:44C-8.7 Professional practices

(a) Licensees shall perform only those functions that are within the scope of their competence considering their level of education, training, and experience.

(b) The following acts or professional practices shall be deemed to be unprofessional conduct:

1. Offering, agreeing to provide or providing any payment or other form of remuneration to any person or entity authorized to direct the initiation of speech-language pathology or audiology services for a referral of any specific patient or any number of patients;
2. Accepting payment or other form of remuneration from any person or entity authorized to direct the initiation of audiology or speech-language pathology services for the referral of any patient;
3. Receiving from any person, firm, partnership or corporation a fee or other form of remuneration for prescribing, recommending, ordering or promotion of the sale of a device, appliance or other item or service, unless such interest is made known in writing to the person for whom the device or appliance is being ordered, prescribed or recommended. Nothing herein shall preclude a licensed speech-language pathologist or audiologist from accepting a product or commodity which can be used as a sample by patients, provided that the speech-language pathologist or audiologist does not charge patients for items so obtained;
4. Knowingly using audiometric test equipment that is not calibrated according to the American National Standard Specification for Audiometers (ANSI S3.6-1996, 1996), available from the Acoustical Society of America, 120 Wall Street, 32nd Floor, New York, New York 10005-3993, which is incorporated herein by reference, as amended and supplemented;
5. Conducting a test in an environment that does not meet nationally recognized standards for maximal permissible background sound from the American National Standard Maximum Permissible Ambient Noise Levels for Audiometric Test Rooms (ANSI S3.1-1991, 1991), available from the Acoustical Society of America, 120 Wall Street, 32nd Floor, New York, New York 10005- 3993, which is incorporated herein by reference, as amended and supplemented. If a patient cannot, due to health problems, be moved to a testing environment that meets these standards the licensee shall test the patient within the available environment and the testing conditions shall be documented in the patient's record;
6. Offering to render or rendering treatment or offering to conduct or conducting testing which in light of the patient's history and findings is unwarranted and unnecessary; or
7. Representing oneself as a physician rendering medical opinion or medical services.

SUBCHAPTER 9. UNLICENSED PRACTICE

<< NJ ADC 13:44C-9.1 >>

13:44C-9.1 Acts amounting to unlicensed practice

(a) The following acts or practices shall be deemed to be the unlicensed practice of audiology or speech-language pathology and may warrant the director's initiation of an action in Superior Court for such appropriate injunctive relief as may be authorized by N.J.S.A. 45:3B-15:

1. Offering of any speech-language pathology or audiology services by any person who does not hold the applicable license as a speech-language pathologist or audiologist or is not exempt from licensure pursuant to N.J.A.C. 13:44C-

7.2;

2. Using the words "speech-language therapy," "speech therapy," "audiology," "speech pathologist," "audiologist" or such similar words or their related abbreviations by any person who does not hold the appropriate license in speech-language pathology or audiology; or

3. (No change.)

<< NJ ADC 13:44C-10.1 >>

13:44C-10.1 Suspension and revocation of license

(a) The Director, in consultation with the Committee, may revoke, suspend or refuse to renew the license of any person licensed under the provisions of this chapter or assess a civil penalty or issue a reprimand, upon proof that the licensee:

1.-2. (No change.)

3. Has engaged in gross negligence, gross malpractice or gross incompetence which damaged or endangered the life, health, welfare, safety or property of any person;

4.-5. (No change.)

6. Has been convicted of, or engaged in acts constituting, any crime or offense involving moral turpitude or relating adversely to the practice of audiology or speech-language pathology. For the purpose of this subsection, a judgment of conviction or plea of guilty, non vult, nolo contendere or other such disposition of alleged criminal activity shall be deemed a conviction;

7.-8. (No change.)

9. Has violated or failed to comply with any of the provisions of N.J.S.A. 45:3B-1 et seq. or N.J.A.C. 13:44C;

10. Has violated any provision of P.L. 1983, c.320 (N.J.S.A. 17:33A-1 et seq.) or any insurance fraud prevention law or act of another jurisdiction or has been adjudicated, in civil or administrative proceedings, of a violation of P.L. 1983, c.320 (N.J.S.A. 17:33A-1 et seq.) or has been subject to a final order, entered in civil or administrative proceedings, that imposed civil penalties under that act against the applicant or holder;

11. Is presently engaged in drug or alcohol use that is likely to impair the ability to practice the profession or occupation with reasonable skill and safety. For purposes of this subsection, the term "presently" means at this time or any time within the previous 365 days;

12. Has permitted an unlicensed person or entity to perform an act for which a license or certificate of registration or certification is required by the Board, or aided and abetted an unlicensed person or entity in performing such an act; or

13. Has violated the provisions of N.J.A.C. 13:44C-8.5.

(b) In addition to the consequences listed in (a) above, the Director may impose additional or alternative penalties pursuant to N.J.S.A. 45:1-14 et seq. for violations of any provision of N.J.S.A. 45:3B-1 et seq. and this subchapter.

(c) In addition to the express consequences of (a) and (b) above, the Director may enforce consequences arising from actions taken by other statutory authorities.

(d) The denial, refusal to issue or renew, suspension or revocation of a license, and/or the issuance of a civil penalty under this section may be ordered by a decision of the Director after notice and an opportunity to be heard pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

13:44C-10.2 Reinstatement

The Director, in consultation with the Advisory Committee, may restore a license after one year from the date of its revocation.