

55 N.J.R. 2014(a)

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RULE ADOPTIONS

Reporter

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AFFAIRS*

Agency

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

Administrative Code Citation

Adopted Amendments: N.J.A.C. 13:34-2.4 and 3.3

Adopted New Rule: N.J.A.C. 13:34-3.5

Text

Marriage and Family Therapy Supervision Through Technology-Assisted Media (Telesupervision)

Proposed: November 7, 2022, at 54 N.J.R. 2068(a).

Adopted: February 9, 2023, by State Board of Marriage and Family Therapy Examiners, Michele Eichorn, Chair.

Filed: August 21, 2023, as R.2023 d.106, **without change**.

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

Effective Date: September 18, 2023.

Expiration Date: March 3, 2024.

Summary of Public Comments and Agency Responses:

The official comment period ended on January 6, 2023. The State Board of Marriage and Family Therapy Examiners (Board) received comments from:

1. Glenn Duncan, Owner, Advanced Counselor Training, LLC; and
2. Debra L. Wentz, Ph.D., President and Chief Executive Officer, New Jersey Association of Mental Health and Addiction Agencies, Inc.

1. COMMENT: One commenter wrote to ask why the proposal imposes a six-hour training requirement for telesupervision when there is no training requirement for engaging in teletherapy with a client. This commenter stated that the training requirements for telesupervision and teletherapy should be consistent. According to this commenter, either both telesupervision and teletherapy should require training or neither should.

RESPONSE: The Telemedicine and Telehealth Act, P.L. 2017, c. 117 (Act), establishes standards for providing health care services through electronic communication. The Act does not authorize the Board to establish continuing education requirements to engage in telemedicine and telehealth. Furthermore, the Board believes that the provision of telesupervision is fundamentally different than the delivery of health care services. Telesupervision entails the education, training, and oversight of licensees using electronic communication. Therefore, there is a need to ensure that a qualified supervisor is trained to provide such education, training, and oversight via technology-assisted media for the protection of licensees and their clients. For example, supervision in the virtual context raises unique privacy and confidentiality issues, such as the security of the virtual platform and the off-screen presence of others in the room with the patient or licensee.

2. COMMENT: Another commenter stated that a member had expressed concern regarding the six-hour continuing education requirement, stating it is unnecessary because "behavioral healthcare professionals are already practicing in that fashion." This commenter stated that the training requirement will take too much time away from the supervisor's core work. This commenter stated that the training requirement "is also seen as presenting a financial burden, especially in light of the high levels of turnover that provider organizations have been experiencing." This commenter stated that "this new requirement would likely lead to higher salaries that applicants for supervisory positions will expect or request if this becomes required throughout the professional boards."

RESPONSE: N.J.A.C. 13:34-5 provides the Board's rules on continuing education. Licensed marriage and family therapists who supervise licensed associate marriage and family therapists are already required to complete 40 hours of continuing education for license renewal. Supervisors of licensed associate marriage and family therapists who are licensed by other

professional boards also must complete continuing education for license renewal. For example, N.J.A.C. 13:34-2.4(a) permits a New Jersey licensed social worker to supervise licensed associate marriage and family therapists, and social workers must complete 40 credits of continuing education for biennial license renewal, pursuant to N.J.A.C. 13:44G-6.2(a).

The six hours of training in telesupervision required by the proposed new rule may count towards the supervisor's continuing education hours required by existing rules on license renewal. Moreover, unlike these biennial continuing education requirements, the new telesupervision continuing education requirement must be completed only once before engaging in telesupervision. As a result, the Board does not believe that the telesupervision training requirement will impose an additional burden, in terms of finances or time, on supervisors. Accordingly, the Board declines to amend the rules upon adoption.

Federal Standards Statement

A Federal standards analysis is not required because the adopted amendments and new rule are governed pursuant to N.J.S.A. 45:8B-1 et seq., and there are no Federal laws or standards applicable to the adopted amendments and new rule.

Full text of the adoption follows:

SUBCHAPTER 2. REQUIREMENTS FOR LICENSURE; APPLICATION PROCEDURE

13:34-2.4 Experiential requirements for licensure as a licensed marriage and family therapist

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

. . .

"Telesupervision" means the delivery by a qualified marriage and family therapy supervisor of marriage and family therapy supervision, through technology-assisted media, when the supervisor is present at one site and the intern or licensed associate marriage and family therapist is located at a separate site. "Telesupervision" does not include the use, in isolation, of audio-only telephone conversation, electronic mail, instant messaging, phone text, or facsimile transmission.

(b) An applicant for licensure as a marriage and family therapist shall submit to the Board documentation, on a form provided by the Board, establishing that the applicant has completed a minimum of two calendar years of supervised marriage and family therapy experience and one calendar year of

counseling experience, which may be in marriage and family therapy, as set forth below:

1. Supervised marriage and family therapy experience for each calendar year shall consist of:

i. A minimum of 50 hours of face-to-face supervision, at the rate of one hour per week, of which not more than one-half of the hours may be in group supervision;

(1) No more than one-half of the supervision hours may be provided through telesupervision. Telesupervision shall be provided consistent with the provisions at N.J.A.C. 13:34-3.5.

ii.-iii. (No change.)

2. (No change.)

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

SUBCHAPTER 3. SUPERVISION

13:34-3.3 Responsibilities of qualified supervisors

(a)-(j) (No change.)

(k) A qualified supervisor who engages in telesupervision shall comply with N.J.A.C. 13:34-3.5.

13:34-3.5 Telesupervision

(a) Prior to engaging in telesupervision, a qualified supervisor shall:

[page=2015] 1. Have completed at least six hours of education or training in telesupervision. The education or training shall:

i. Include, at a minimum, the following topics:

(1) Appropriateness of telesupervision;

(2) Handling clinical emergencies;

(3) Best practices and informed consent;

(4) Teletherapy theory and practice;

(5) Modes of delivery of supervision, including Health Insurance Portability and Accountability Act (HIPAA)-compliant technology; and

(6) Legal and ethical issues.

ii. Be a course or program approved by one of the entities set forth at N.J.A.C. 13:34-5.3(a)1, from a regionally accredited institution of higher education, or by the Board.

2. Have at least one in-person, face-to-face meeting with the intern or licensed associate marriage and family therapist prior to utilizing telesupervision.

3. Determine that telesupervision is appropriate for the intern or licensed associate marriage and family therapist, considering the individual's professional, intellectual, emotional, and physical needs;

4. Be competent in the use of technology-assisted media;

5. Take necessary precautions to protect the privacy and security of all client information;

6. Inform interns and licensed associate marriage and family therapists of the potential risks and benefits associated with telesupervision;

7. Consider the risks and responsibilities associated with telesupervision, and advise interns and licensed associate marriage and family therapists, in writing, of these risks, as well as the respective responsibilities for minimizing these risks; and

8. Consider the potential benefits and limitations in the supervisor's choices of technology-assisted media for a specific intern or licensed associate marriage and family therapist in a particular situation.

(b) A qualified supervisor who engages in telesupervision shall use interactive, real-time, two-way communication technologies, which shall include a video component that allows the qualified supervisor to see the intern or licensed associate marriage and family therapist.

1. Notwithstanding (b) above, a qualified supervisor shall consider that asynchronous communications may augment telesupervision.