

53 N.J.R. 1570(a)

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RULE ADOPTIONS

Reporter

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Agency

LAW AND PUBLIC SAFETY > DIVISION OF CONSUMER AFFAIRS > STATE BOARD OF PSYCHOLOGICAL EXAMINERS

Administrative Code Citation

Adopted Repeals and New Rules: N.J.A.C. 13:42-5.3 and 10.17

Adopted Amendments: N.J.A.C. 13:42-9.3, 10.4, 10.18, and 11.4

Adopted New Rule: N.J.A.C. 13:42-10.18

Text

License Renewal

Proposed: February 18, 2020, at 52 N.J.R. 193(a) (The notice of proposal would have expired on February 18, 2021, but was extended by Executive Order No. 127 (2020) and P.L. 2021, c. 103, to January 1, 2022).

Adopted: September 14, 2020, by the State Board of Psychological Examiners, Sean R. Evers, Ph.D., Chair.

Filed: August 19, 2021, as R.2021 d.102, **with non-substantial changes, and with proposed new N.J.A.C. 13:42-5.3(c)5 not adopted.**

Authority: N.J.S.A. 45:15BB-11.

Effective Date: September 20, 2021.

Expiration Date: May 18, 2023.

Summary of Public Comment and Agency Response:

The official comment period ended April 18, 2020. **No comments were received.**

Take notice that N.J.S.A. 45:1-7.5 establishes standards for licensure by reciprocity. One of the provisions in this statute defines "good [page=1571] standing" with regards to a license issued by another state. This definition states that a license is in good standing if: "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, this State, or any other state including, but not limited to: criminal homicide; aggravated assault; sexual assault, criminal sexual contact, or lewdness; or an offense involving any controlled dangerous substance or controlled dangerous substance analog."

On May 11, 2021, P.L. 2021, c. 81 was enacted. This statute revises standards for denying licensure based on conduct constituting a crime or offense. The new standards have direct implications for the interpretation and implementation of N.J.S.A. 45:1-7.5 with regards to the definition of "good standing" and pending or final actions by a criminal authority and will require changes to the proposed language. It is, thus, inappropriate to adopt the proposed amendments at N.J.A.C. 13:42-5.3 that address the definition of "good standing" with regards to pending or final actions by a criminal authority. Accordingly, the Board is not adopting proposed new N.J.A.C. 13:42-5.3(c)5 and is reserving this paragraph for later rulemaking in light of P.L. 2021, c. 81.

Federal Standards Statement

A Federal standards analysis is not required because there are no Federal laws or standards applicable to the adopted amendments, repeals, and new rules.

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

SUBCHAPTER 5. EXAMINATION

13:42-5.3 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 Board shall issue a license to any person who documents that he or she holds a valid, current corresponding license in good standing issued by another state, if:

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

2. The applicant has been practicing in the profession of psychology for a period of at least two years within the five years prior to the date of application; and

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

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

1. Documentation from any state in which the applicant is, or was ever, licensed demonstrating that the applicant's license(s) 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 do not disclose a conviction for a disqualifying crime; and

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

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

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

2. No action adversely affecting the applicant's privileges to practice psychology 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 psychology; ***and***

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 rule, 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.]* ***(Reserved)***

(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) The Board, 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.

(f) An applicant shall take a three-credit continuing education course in New Jersey laws and rules governing the practice of psychology offered by entities approved pursuant to N.J.A.C. 13:42-10.21(a).

(g) The Board 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 (a) 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 does not demonstrate a serious inability to practice psychology, adversely affect the public health, safety, or welfare, or result in economic or physical harm to a person or create a significant threat of such harm.

SUBCHAPTER 9. ADVERTISING

13:42-9.3 Minimum content of advertising

(a) All licensee advertisements and public representations, including advertisements in a classified directory, business card, website, Internet service, and professional stationery, but not including an office entry sign, shall contain the following:

1.-2. (No change.)

(b)-(c) (No change.)

SUBCHAPTER 10. GENERAL OBLIGATIONS OF A LICENSEE

13:42-10.4 Professional responsibilities to the Board, other regulatory authorities, or the public

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

(d) A licensee shall maintain competence consistent with professional responsibilities, including the following:

1.-3. (No change.)

4. A licensee shall refuse to engage in, or condone, hiring, promotion, or training practices that are inhumane or that result in illegal or otherwise unjustifiable discrimination on the basis of race, color, ancestry, marital status, civil union status, domestic partnership status, genetic information, pregnancy or breastfeeding, ethnicity, disability, age, sex or gender, affectional or sexual orientation, gender identity or expression, atypical hereditary cellular or blood trait, refusal to submit to a genetic test or make available the results of a genetic test to an employer, liability for service in the Armed Forces of the United States, nationality, religion, national origin, or any other characteristic protected by N.J.S.A. 10:5-12(a); and

5. (No change.)

13:42-10.17 License renewal

(a) The Board shall send a notice of renewal to each of its licensees 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 at least 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 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 Board, along with the renewal fee set forth at N.J.A.C. 13:42-6.1, 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 as a practitioner in inactive status shall not engage in the practice of psychology, or hold him- or herself out as eligible [page=1572] to engage in the practice of psychology, 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 at N.J.A.C. 13:42-6.1. 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 psychology with a suspended license shall be deemed to be engaging in the unlicensed practice of psychology 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.

13:42-10.18 License reactivation

(a) A licensee who holds an inactive license pursuant to N.J.A.C. 13:42-10.17(c) may apply to the Board for reactivation of an 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 of inactive license that includes the name, address, and telephone number of each employer;

3. If the renewal application is sent during the first year of the biennial renewal period, the renewal fee for the biennial period for which reactivation is sought, as set forth at N.J.A.C. 13:42-6.1. If the renewal application is sent during the second year of the biennial period, half of the renewal fee for the biennial period for which reactivation is sought, as set forth at N.J.A.C. 13:42-6.1; and

4. Evidence of having completed all continuing education credits for the current biennial registration period, consistent with the requirements set forth at N.J.A.C. 13:42-10.20.

(b) An applicant who holds a valid, current license in good standing issued by another state to engage in the practice of psychology and submits proof of having satisfied that state's continuing education requirements, 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 apply.

(c) If a Board review of an application establishes a basis for concluding that there may be practice deficiencies in need of remediation prior to reactivation, the Board 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 Board prior to reactivation of the license. If that examination or assessment identifies deficiencies or educational needs, the Board may require the applicant, as a condition of reactivation of licensure, to

take, and successfully complete, education or training, or to submit to supervision, monitoring, or limitations, as the Board determines necessary to assure that the applicant practices with reasonable skill and safety. The Board may restore the license subject to the applicant's completion of training within a period of time prescribed by the Board following the restoration of the license. In making its determination whether there are practice deficiencies requiring remediation, the Board may consider the following:

1. Length of time license was inactive;
2. Employment history;
3. Professional history;
4. Disciplinary history and any action taken against the applicant's license by any professional or occupational board;
5. Actions affecting the applicant's privileges taken by any institution, organization, or employer related to the practice of psychology 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 or occupational 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 psychology or other professional or occupational practice in New Jersey, any other state, the District of Columbia, or in any other jurisdiction.

13:42-10.19 License reinstatement

(a) A licensee who has had his or her license suspended pursuant to N.J.A.C. 13:42-10.17(e) may apply to the Board 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 that includes the name, address, and telephone number of each employer;
3. The renewal fee set forth at N.J.A.C. 13:42-6.1 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 at N.J.A.C. 13:42-6.1; and

6. Evidence of having completed all continuing education credits for the current biennial registration period, consistent with the requirements set forth at N.J.A.C. 13:42-10.20.

(b) An applicant who holds a valid, current license in good standing issued by another state to engage in the practice of psychology and submits proof of having satisfied that state's continuing education requirements, 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 apply.

(c) If a Board review of an application establishes a basis for concluding that there may be practice deficiencies in need of remediation prior to reinstatement, the Board 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 Board prior to reinstatement of the license. If that examination or assessment identifies deficiencies or educational needs, the Board may require the applicant, as a condition of reinstatement of licensure, to take and successfully complete education or training, or to submit to supervision, monitoring, or limitations, as the Board determines necessary to assure that the applicant practices with reasonable skill and safety. The Board may restore the license subject to the applicant's completion of training within a period of time prescribed by the Board following the restoration of the license. In making its determination whether there are practice deficiencies requiring remediation, the Board may consider the following:

1. Length of time license was suspended;
2. Employment history;
3. Professional history;
4. Disciplinary history and any action taken against the applicant's license by any professional or occupational board;
5. Actions affecting the applicant's privileges taken by any institution, organization, or employer related to the practice of psychology 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 or occupational 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 psychology or other professional or occupational practice in New Jersey, any other state, the District of Columbia, or in any other jurisdiction.

SUBCHAPTER 11. ACCESS TO TREATMENT INFORMATION IN DESIGNATED HEALTH INSURANCE PROGRAMS

13:42-11.4 Stage I: Information to be provided to the third-party payor

(a) (No change.)

(b) Within 10 days of receipt of the authorization required pursuant to N.J.A.C. 13:42-11.3, the treating psychologist shall provide the third-party payor with basic client information limited to the following. The information provided shall be marked "Confidential" and forwarded to the attention of the specific individual designated in the authorization, if any.

1. (No change.)

2. Diagnostic information, defined as therapeutic characterizations of the type found in the International Statistical Classification of Diseases and Related Health Problems, published by the World Health Organization, 525 Twenty-Third St. N.W., Washington, D.C. 20037, [page=1573] incorporated herein by reference, as amended and supplemented, or Diagnostic and Statistical Manual of Mental Disorders (DSM-5), published by the American Psychiatric Association, 800 Maine Avenue, S.W., Suite 900, Washington, DC 20024;

3.-5. (No change.)

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