

50 N.J.R. 2017(a)

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RULE ADOPTIONS

Reporter

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Agency

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

Administrative Code Citation

Adopted Amendments: N.J.A.C. 13:44G-1.2, 3.1, 3.2, 3.3, 4.1, 4.2, 6.2, 6.5, 8.1, 9.3, 10.2, 10.4, 10.6, 10.7, 10.8, 11.2, 11.4, 12.3, 13.6, and 14.1

Adopted Repeal: N.J.A.C. 13:44G-10.3

Adopted New Rule: N.J.A.C. 13:44G-10.7A

Text

Definitions; Practice as an LCSW; Scope; Practice as an LSW; Scope; Practice as a CSW; Scope; Eligibility Requirements; LCSW; Eligibility Requirements; LSW; Credit-Hour Requirements; Documentation of Continuing Education Credit; Clinical Supervision; Unlicensed Practice of Social Work; Financial Arrangements with Clients; LCSW; Financial Arrangements with Clients; Conflicts of Interest; Termination or Interruption of Services; Sexual Misconduct, Harassment; Discrimination; Inappropriate Behavior; Reporting of Violations by Other Licensees; Advertising; General Requirements; Use of Professional Credentials and Certifications; Confidentiality; Fees

Proposed: August 21, 2017, at 49 N.J.R. 2750(a).

Adopted: January 10, 2018, by the State Board of Social Work Examiners, Maureen Braun Scalera, MSW, LCSW, Chair.

Filed: August 20, 2018, as R.2018 d.171, **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. 45:15BB-11.

Effective Date: September 17, 2018.

Expiration Date: July 16, 2022.

Summary of Public Comments and Agency Responses:

The official comment period ended October 20, 2017. The Board of Social Work Examiners (Board) received 68 comments from the following individuals:

1. Judi Kennedy, LSW, MSW
2. Theresa Bates, LCSW
3. Laura Smith
- 4.Carolynn Feldblum, MSS, LSW
5. Joshua Cervone, LCSW, JRC Counseling, LLC
6. Nicole Purwin
7. Melissa Weisel, MSW, LCSW, MSM PH-PP
8. Simon Azavedo, MSW, LCSW, CCBT, DAPA
9. Alla Krutyansky, MSW, LSW
10. Jennifer Sadowsky, LCSW
11. Victoria E. Steele, LCSW, LLC, Psychotherapist
12. Melissa Ortiz, MSW, LSW
13. Ilana Cuttler, LSW, MSW
14. L. Scott Urmey, LCSW, TEP
15. They Faustine, CSW
16. Laura Smith, Rutgers World Trade Center Health Program
17. Brittanee Scalora, MSW, LSW

18. Barbara Bunkley, LCSW, LCADC, Clinical Program Manager, Hackensack Meridian Health
19. Marcella DiFedele, MS, LCSW, New Directions Counseling Center, LLC
20. Rev. Annmarie Agosta, LCSW
21. Susan M. Padovano, MSW, LSW
22. Mark Lamar, LCSW, MSW, MBA, Executive Director of Field Education, Rutgers University School of Social Work
23. Barbara Paulsen, LCSW, Community Medical Center
24. Debra L. Wentz, Ph.D., President and Chief Executive Officer, New Jersey Association of Mental Health and Addiction Agencies, Inc.
25. Tiernyey M. Vagts, MSW, LSW, APPI Coordinator
26. Mary Jean Weston, LCSW, Interim Executive Director, National Association of Social Workers, New Jersey Chapter
27. Lisa Haya, LCSW, Vice President, Robins' Nest
28. Nicole Stemberger, LCSW, Senior Director, Robins' Nest
29. Lori Jalkiewicz, LCSW, Director, Robins' Nest
30. John R. Griffin, LCSW, Director, Robins' Nest, FFT, LLC National Consultant
31. Leann DiBenedetto, LCSW, Director, Robins' Nest
32. Kelly Winters, LCSW, Supervisor, Robins' Nest
33. Jennifer Maderia, LSW, Supervisor, Robins' Nest
34. Melissa Bailey, LCSW, Therapist, Robins' Nest
35. Elizabeth Rhodes, LCSW, Therapist, Robins' Nest
36. Janice Turner, LCSW, Therapist, Robins' Nest
37. Dawn Bermudez, LCSW, Therapist, Robins' Nest
38. Kerry Krautwald, LSW, Therapist, Robins' Nest
39. Danielle Player, LSW, Therapist, Robins' Nest
40. Brianna Gutierrez, MSW, Intern, Robins' Nest
41. Danielle Mollure, MSW, Intern, Robins' Nest
42. Kara Burrows, MSW, Intern, Robins' Nest

43. Alexandra Goetz, MSW, Intern, Robins' Nest
44. Crystal Noboa, MSW, Intern, Robins' Nest
45. Lateefah Thompson, LSW, Therapist, Robins' Nest
46. Nohelia Diplan, LSW, Therapist, Robins' Nest
47. Mamie Mason, LSW, Therapist, Robins' Nest
48. Lannie Winston, LSW, Therapist, Robins' Nest
49. Judith Alfano, LSW, Therapist, Robins' Nest
50. Lauren Wilkinsion, MSW, Intern, Robins' Nest
51. Kathy Pearson, MSW, Intern, Robins' Nest
52. Ronald C. Collier, LCSW
53. Lisa Casler Haun, LSW, Continuing Competence Coordinator, Association of Social Work Boards
54. Joseph Masciandaro, President and CEO, Care Plus New Jersey, Inc.
55. Joelle Zabotka
56. Christine B. Lill, LCSW
57. Nora J. Martin, LSW
58. Jennifer Vazquez, LCSW
59. Bevin Nixon, LCSW
60. Patricia Hannah, LSW
61. Robert J. Barney, PhD, MSW, MSW Program Director, Associate Professor of Social Work, Stockton University
62. Jessica Brock-Pitts, MSW, LCSW, LCADC
63. Carol Kahn, Ph.D., LCSW
64. Crystal Zelman, LCSW, CCLS, RPT
65. Juli Hencoski, MSW, LSW
66. Miriam Stern, MSW, LCSW
67. Ulla Yandell, LCSW
68. Sandy Gibson, LCSW

1. COMMENT: A commenter supports the amendments and new rule.

RESPONSE: The Board thanks the commenter for his support.

2. COMMENT: A commenter asks when the amendments and new rule will be effective.

RESPONSE: The amendments and new rule will be effective upon publication in the New Jersey Register, which will occur on September 17, 2018.

3. COMMENT: A commenter recommends that the Board notify all licensees as to the amendments and new rule.

RESPONSE: The Board notes that all regulatory proposals and adoptions, and Board rules, are posted on its website. Persons who are [page=2018] interested in receiving individual notification about changes to rules proposed and promulgated by the Board may contact the Board office and request that they be included on a list of interested parties to whom proposed rules are disseminated. In addition, consumers may visit the Division of Consumer Affairs website at <http://www.njconsumeraffairs.gov/Pages/rss.aspx> to sign up to receive alerts about all regulatory proposals and adoptions promulgated by the professional and occupational licensing boards and committees located within the Division of Consumer Affairs.

4. COMMENT: A commenter contends that the Board must expedite the issuance of licenses to ensure adequate staffing for non-profits and to reduce economic impact on applicants waiting to work.

RESPONSE: The Board endeavors to issue licenses as expeditiously as possible.

5. COMMENT: A commenter recommends that the term "New Jersey" be added to the phrase "State Board of Social Work Examiners" in N.J.A.C. 13:44G-1.1(b).

RESPONSE: Pursuant to N.J.S.A. 45:15BB-3, the Social Work Practice Act, the official title for the Board is the "State Board of Social Work Examiners" and the Board will not change the term as the commenter recommends.

6. COMMENT: A commenter contends that the terms "clinical social work" and "non-clinical social work" are not adequately defined. This means that supervisors will find it difficult to allocate the hours a licensed clinical social worker (LCSW) candidate completes.

RESPONSE: The Board disagrees that the term "clinical social work" is not adequately defined. The definition for "clinical social work

services" in N.J.A.C. 13:44G-1.2 is expansive and clearly identifies the scope of clinical social work. The term "non-clinical social work" is not used in N.J.A.C. 13:44G. The Board believes that the definition of "social work services" adequately addresses those services that are non-clinical in nature. The Board believes that these definitions provide appropriate guidance for supervisors in determining hours completed to qualify for licensure as an LCSW.

7. COMMENT: Two commenters are concerned that there is no definition for the term "psychotherapy," which is used throughout N.J.A.C. 13:44G. One of the commenters points out that there is a definition for the term "psychotherapeutic counseling." The commenter recommends that the term "psychotherapy" be replaced with "psychotherapeutic counseling" throughout N.J.A.C. 13:44G for clarity.

RESPONSE: The Board agrees that the term "psychotherapy" should be "psychotherapeutic counseling" in N.J.A.C. 13:44G-4.1 and the Board has changed N.J.A.C. 13:44G-4.1 upon adoption to make this change. The Board does not agree that the term "psychotherapy group," which is used throughout N.J.A.C. 13:44G, should be amended to "psychotherapeutic counseling group." A psychotherapy group is a commonly used term and is understood by social workers without the need for regulatory definition.

8. COMMENT: A commenter recommends that the phrase "a LSW may not, however, provide clinical supervision" in N.J.A.C. 13:44G-3.2(a)2 be amended to read: "a LSW may not, however, provide clinical supervision to students or other social workers."

RESPONSE: The Board does not believe it is appropriate to change N.J.A.C. 13:44G-3.2 as the commenter recommends. The rule accurately identifies that licensed social workers (LSWs) are not permitted to provide clinical supervision. The commenter's recommended change would confuse this prohibition by indicating that there are individuals for whom an LSW may provide clinical supervision. The Board points out that standards for clinical supervision are set forth in N.J.A.C. 13:44G-8.1.

9. COMMENT: Three commenters support increasing the required hours of supervised clinical work.

RESPONSE: The Board thanks the commenters for their support.

10. COMMENT: A commenter believes that increasing the required clinical hours to 3,000 makes sense if an LSW will be allowed to work in an LCSW's private practice.

RESPONSE: The Board points out that an LSW is permitted to work under supervision in an LCSW's private practice.

11. COMMENT: Many commenters oppose increasing the number of clinical hours required to obtain a license as an LCSW from 1,920 to 3,000 hours. The commenters contend that increasing hours will impose a financial burden on those seeking licensure as LCSWs. One of the commenters contends that increasing hours will discourage social workers from becoming LCSWs. Another contends that such an increase would devalue existing LCSWs as clients will prefer LCSWs who have completed the additional supervised clinical hours. One commenter contends that the increase is unnecessary as a master's degree in social work, a licensing examination, and continuing education are already required for licensure as an LCSW and that there are no complaints regarding under-qualified LCSWs.

RESPONSE: The Board has not increased the number of face-to-face direct contact hours required for licensure; that requirement remains 1,920 hours. However, the Board has determined that a total number of practice hours should be recorded, which will make New Jersey's total required hours similar to the requirements of other states. The 3,000 total hours required will permit LSWs to record other clinical and non-clinical social work services provided and tasks performed, such as supervision sessions, case management, and recordkeeping. The Board believes that these tasks are already being performed by LSWs, and that, therefore, the requirements will not impose a significant financial burden to complete for licensure. The Board also does not believe that this requirement will discourage individuals from pursuing licensure, or that clients will show a preference for those that obtained their LCSW license pursuant to the new requirements. The Board has received comments from social workers who have had difficulty obtaining licenses in other states based upon the lack of total hour calculations. In addition, contrary to the commenter's contention, the Board regularly receives complaints regarding under-qualified LCSWs.

12. COMMENT: Many commenters are concerned that increasing the number of supervised clinical hours will reduce the number of LCSWs. They are particularly concerned that it will be difficult for social workers in non-profit programs that do not fit the traditional, outpatient, medical model of psychotherapy to complete clinical hours.

RESPONSE: The Board is not increasing the number of supervised clinical hours. As noted in the Response to Comment 11, the increase is a recognition of the expansive scope of practice for LCSWs and the hours that candidates currently complete that are not face-to-face client contact. As the Board believes that candidates are already completing

these other hours, the amendments will not impose difficulties as the commenter contends.

13. COMMENT: Many commenters contend that Pennsylvania, Delaware, and New York require fewer supervised hours for licensure than the Board. One of the commenters points out that Massachusetts requires the same number of hours, but questions if this means that clients in Massachusetts receive better care.

RESPONSE: The Board has looked at the requirements from Pennsylvania, Delaware, and New York. The Board found that Pennsylvania requires 3,000 supervised clinical hours and Delaware requires 3,200 hours. New York requires 2,000; however, all of these hours have to be in diagnosis, psychotherapy, and assessment-based planning. Massachusetts requires 3,500 hours. The Board has changed N.J.A.C. 13:44G-4.1 in recognition that the scope of practice of LCSWs covers more than just face-to-face client contact.

14. COMMENT: One commenter asks how the new requirement will affect fee-for-service social workers.

RESPONSE: Such social workers will be required to comply with the requirements of N.J.A.C. 13:44G-4.1. The amended requirements reflect the expansive scope of practice for LCSWs, and provide the basis to document all hours, including those when direct services are not provided.

15. COMMENT: A commenter contends the Economic Impact statement in the notice of proposal did not recognize costs imposed by new education and training requirements and the delay in social workers beginning professional practice due to new licensure requirements.

RESPONSE: The Board points out that there are no new education requirements for licensure as an LCSW. As stated in the Response to Comment 11, the Board believes that the amendments reflect current practices that candidates for licensure are completing hours that are not face-to-face client contact and, therefore, these amendments will have no economic impact and will not delay the issuance of licenses.

[page=2019] 16. COMMENT: A commenter recommends that N.J.A.C. 13:44G-4.1(a) be rewritten to read: "The eligibility requirement for an LCSW is 3,000 hours under direct supervision pursuant to the standards set forth in N.J.A.C. 13:44G-8.1, subsequent to earning a master's degree in social work. The 3,000 hours shall be completed in no less than two years and no more than four years. At least 1,920 hours of these 3,000 hours shall be in face-to-face client contact. At least half the 1,920 hours must be in psychotherapy. The other 1,080 hours can include time spent in contact with collaterals, record-keeping, report writing,

progress notes, consultation, research specific to the clinical work, etc."

RESPONSE: The Board agrees that N.J.A.C. 13:44G-4.1(a) could be reworded for clarity and has incorporated some of the commenter's recommended language in the changes to the rule upon adoption.

17. COMMENT: A commenter calculates that an individual completing 3,000 hours over two years would average 29 clients per week over a year. The commenter contends that this is the upper limit that an individual could appropriately see in one week and believes that the Board should not be allowing this to become the norm. The commenter contends that seeing so many clients a week will lead to social workers burning out. The commenter recommends lowering the required hours to either 2,000 or 2,500.

RESPONSE: Only 1,920 hours of the required 3,000 hours need to be in face-to-face client contact. In order to complete the 1,920 hours of face-to-face client contact in two years, a candidate for licensure would need to see 19 clients a week. A candidate who completes the required hours of face-to-face client contact in the four years permitted by the rule would need to see fewer than 10 clients a week. The Board does not believe that this client load will lead to burn out and will not reduce the required hours as the commenter suggests.

18. COMMENT: Two commenters recommend that the Board amend N.J.A.C. 13:44G-4.1 to require 2,500 hours of supervised clinical hours of which 70 percent would be in face-to-face psychotherapy completed within two-to-three years. The commenters contend that 3,000 hours is unnecessary and that clinical experience is the most valuable part of supervision hours. The commenters contend that allowing hours to be completed in four years would allow for multiple employment, lapses in training, and insufficient supervision.

RESPONSE: The commenters' recommendations would impose a significant increase in the number of face-to-face client contact hours in psychotherapeutic counseling. The Board agrees that clinical experience is vital, but it is not the only aspect of the LCSW's scope of practice. The Board allows candidates to complete the required hours in four years in recognition that it is not always easy to obtain supervised hours, especially for those who are not employed full-time.

19. COMMENT: A commenter asks if clinical practice requirements must be completed within two-to-four years.

RESPONSE: Yes, N.J.A.C. 13:44G-4.1(a) requires supervised hours to be completed within two-to-four years.

20. COMMENT: A commenter points out that the amendments do not set forth the maximum number of hours a person may provide services while completing clinical hours.

RESPONSE: The commenter is correct that the rules do not set forth a maximum number of hours. The Board does not believe it is necessary to do so and will rely on the professionalism of candidates and supervising LCSWs to ensure that candidates are completing clinical hours in a responsible manner.

21. COMMENT: A commenter suggests that the Board amend N.J.A.C. 13:44G-4.1 to require LSWs completing clinical hours and their clinical supervisors to submit written plans of supervision at the beginning of clinical experiences. The commenter contends that other licensing boards require filing of such plans. The commenter believes that filing of supervision plans will help to ensure that LSWs and clinical supervisors are following Board requirements.

RESPONSE: The Board agrees that requiring submission of written plans could be beneficial. There is concern that requiring such submission, and reviewing submitted plans, could result in delays in the commencement of clinical hours, therefore, the Board is not imposing such a requirement at this time. However, the Board will review this matter at a future date to determine if it can impose such a requirement by rule without unduly burdening candidates and supervising LCSWs. The Board notes that, even if submission of a plan to the Board is not required, candidates and LCSWs benefit from written supervision plans prior to the commencement of clinical hours.

22. COMMENT: A commenter asks whether 1,500 hours of the required 3,000 of clinical experience must be in face-to-face therapy.

RESPONSE: N.J.A.C. 13:44G-4.1 requires that 1,920 of the required 3,000 hours be in face-to-face client contact. Of these 1,920 hours, 960 must be in psychotherapeutic counseling.

23. COMMENT: Amendments to N.J.A.C. 13:44G-4.1 require 3,000 hours of clinical experience, of which 1,920 have to be in face-to-face client interaction. Three commenters ask the Board to clarify of what the remaining 1,080 hours should consist. One commenter asks if these remaining hours could involve methods of client contact that are not face-to-face.

RESPONSE: The Board has clarified the rule upon adoption to indicate that the remaining 1,080 hours of experience could be in any other aspect of the scope of practice of an LCSW.

24. COMMENT: A commenter recommends that the phrase "of face-to-face contact" be added after the term "3,000 hours" in N.J.A.C. 13:44G-4.1(a).

RESPONSE: The commenter's recommendation would require all of the 3,000 hours be in face-to-face client contact. The Board does not believe that this would be appropriate and will not change N.J.A.C. 13:44G-4.1 as the commenter recommends.

25. COMMENT: A commenter believes that amendments to N.J.A.C. 13:44G-4.1 increase the number of face-to-face client hours from 1,920 to 3,000. The commenter believes it would be a burden to complete the additional hours and contends that health insurance does not reimburse an LSW for clinical hours, which imposes a financial burden.

RESPONSE: The commenter is incorrect that the amendments require 3,000 hours of face-to-face client contact. A candidate for licensure will be required to complete 1,920 hours of face-to-face client contact.

26. COMMENT: A commenter contends that it will be difficult for in-home therapists to obtain the required hours of face-to-face clinical hours required by N.J.A.C. 13:44G-4.1.

RESPONSE: The number of hours required in face-to-face client contact has not been increased and it should not be more difficult for in-home therapists to complete client contact hours under N.J.A.C. 13:44G-4.1, as amended.

27. COMMENT: A commenter asks if supervision hours will count towards the 3,000 hours of required supervised clinical hours. The commenter contends that they should count towards the 1,080 hours that are not face-to-face contact with clients.

RESPONSE: The Board has changed N.J.A.C. 13:44G-4.1 upon adoption to clarify that supervision hours will count towards the 1,080 hours that are not face-to-face client contact.

28. COMMENT: Two commenters are not clear what must be included in the 3,000 hours of supervised clinical practice beside psychotherapy. Another asks if those hours may include clinical social work services.

RESPONSE: A total of 960 hours of the required 1,920 hours must be in face-to-face client contact in psychotherapeutic counseling. The remaining 1,080 hours can be in any aspect of social work services. Such services are set forth in N.J.A.C. 13:44G-1.2.

29. COMMENT: A few commenters were concerned with the requirement that half of the required 1,920 hours of face-to-face client contact be in psychotherapy. The commenters were concerned that this would omit other

clinical settings. One commenter contends that clinical social work is more than just psychotherapy and that interviewing, assessment, diagnosing, and treatment planning are all part of clinical social work. Another commenter asks what constitutes the term "psychotherapy."

RESPONSE: The term "psychotherapy" has been replaced with "psychotherapeutic counseling," which is defined in N.J.A.C. 13:44G-1.2. The Board recognizes that psychotherapeutic counseling is not the only aspect of LCSW practice. This is why the Board requires only half of face-to-face client contact be in psychotherapeutic counseling. The remaining hours of client contact can be in the other areas of clinical practice. The Board agrees that clinical social work services, include [page=2020] interviewing, assessment, diagnosing, and treatment planning, and all of these aspects of practice could count towards the required 3,000 hours.

30. COMMENT: A commenter contends that only one major health insurance payer credentials LSWs. The commenter contends that requiring psychotherapy hours will force LSWs to work in self-pay psychotherapy practices for reduced pay and that such practices offer little opportunity for LSWs to complete clinical hours. The commenter recommends that the Board negotiate with insurance companies so that the insurance companies will credential LSWs. The commenter also recommends that the Board allow tele-video and phone contact to count towards a portion of clinical hours.

RESPONSE: The Board does not dispute the commenters' contentions as to health insurance credentialing, but has no authority over insurance companies or their credentialing processes. The Board does not agree that LSWs will need to work in self-pay psychotherapy practices to obtain psychotherapeutic counseling hours. These hours can be completed in many different clinical settings. The Board is currently engaged in discussions as to the use of telemedicine and telehealth by licensed social workers in order to implement recent statutory changes. These discussions will address the inclusion of communication technology to provide clinical services and obtain clinical hours.

31. COMMENT: A commenter contends that crisis screeners provide assessments that are part of clinical social work service and that working as a crisis screener provides experience in diagnosis and the skills necessary to provide psychotherapy.

RESPONSE: The Board agrees that providing clinical assessments is part of clinical social work services. The completion of such hours could count towards the portion of required hours that are not in psychotherapeutic counseling.

32. COMMENT: One commenter contends that there are settings in which social workers can obtain clinical experience outside of the psychotherapy setting, such as health care settings, schools, and emergency rooms. The commenter recommends that, if psychotherapy hours are required, they should be only a quarter of the required hours.

RESPONSE: The Board agrees that clinical experience obtained outside of the psychotherapy setting is valuable, which is why it only requires 960 hours of psychotherapeutic counseling. The Board believes that psychotherapeutic counseling is an important aspect of practice of LCSWs and that candidates for licensure must complete the required hours in psychotherapeutic counseling in order to be prepared to practice in a safe and effective manner.

33. COMMENT: A commenter contends that LSWs who work in group settings will be harmed by the amendments to N.J.A.C. 13:44G-4.1, as it will not be possible to complete 1,500 hours of face-to-face psychotherapy in two-to-four years. The commenter contends that this will discourage LSWs from working in group settings and that such settings provide a valuable clinical experience.

RESPONSE: N.J.A.C. 13:44G-4.1 does not require candidates for LCSW licensure to complete 1,500 hours of face-to-face psychotherapeutic counseling. Of the total 3,000 required hours, only 960 need to be in psychotherapeutic counseling. The Board agrees that group settings are a valuable clinical experience and points out that candidates can obtain hours through such settings.

34. COMMENT: A commenter is concerned that the amendments establish that the only clinical hours that will count are those completed in psychotherapy. The commenter contends that this was done to mirror requirements for professional counselors and that this is inappropriate for LCSWs who must perform crisis de-escalation, psycho-education, advocacy, case management, psychotherapy, and supportive counseling. These treatment modalities cannot be obtained solely through clinical psychotherapy training and requiring only psychotherapy clinical hours is not in line with societal equality based culture or clientele needs.

RESPONSE: The commenter is incorrect. As stated in the Response to Comment 11, only 960 hours need to be in psychotherapeutic counseling. The Board did not impose this requirement to align with the requirements for other mental health professions. The Board imposed this requirement to reflect the importance of psychotherapeutic counseling in the practice of LCSWs.

35. COMMENT: A commenter opposes the requirement that 960 of the supervised clinical hours be in psychotherapy as Department of Health-certified mental health screeners do not provide psychotherapy as part

of their practice. The commenter is concerned that certified mental health screeners will have to work elsewhere in order to obtain the required hours of psychotherapy. The commenter believes this will increase costs for non-profit agencies, law enforcement, and consumers, as it would result in increased emergency room visits as mobile outreach services would be less available. The commenter recommends that N.J.A.C. 13:44G-4.1 be amended to allow certified mental health screeners to obtain all of the supervised clinical hours by working for screening centers.

RESPONSE: The Board believes that psychotherapeutic counseling is a major component of LCSW scope of practice and that all candidates for licensure as LCSWs must complete the required clinical hours in psychotherapeutic counseling, no matter where they are employed.

36. COMMENT: Many commenters requested that LSWs currently completing supervised clinical hours be "grandfathered" and not required to complete the additional hours required by the amendments to N.J.A.C. 13:44G-4.1. A good number of these commenters are LSWs who are working towards licensure as LCSWs. Some commenters are concerned that the increase in clinical hours will impose costs on licensees. Others contend that it is difficult to find positions that allow applicants to complete clinical hours.

RESPONSE: As discussed in the Response to Comment 11, the Board believes that candidates for licensure as LCSWs are already completing tasks that would satisfy the additional hours that will be required upon the effective date of the rule. The current requirement of 1,920 direct face-to-face client contact hours will continue to be a requirement for licensure as an LCSW. However, the Board recognizes that candidates for licensure may not have adequately documented the additional hours that were not previously required. In order to ensure that candidates who are properly completing the requirements for LCSW licensure are not adversely affected by the amendment to the rule, the Board has changed N.J.A.C. 13:44G-4.1 upon adoption so that candidates who began their supervised clinical social work experience prior to the effective date of these amendments and new rules will satisfy the clinical hour requirements by completing 1,920 hours of face-to-face client contact.

37. COMMENT: Several commenters are concerned that human behavior and the social environment has been taken out of the areas of study in N.J.A.C. 13:44G-4.1(b). The commenters contend that a social worker must understand the impact of the environment upon clients and that this is what sets social workers apart from other mental health professionals. One of the commenters fears that the removal will result in social workers who are less prepared to understand cultural biases.

Other commenters contend that, without this course, licensees will not be able to make connections between theory and practice.

RESPONSE: The Board agrees that human behavior and the social environment is an important aspect of social work practice, but such course work is not in clinical social work, which is the subject of the 12 semester hours of graduate level course work required by N.J.A.C. 13:44G-4.1(b)3ii. The Board points out that candidates for licensure as LCSWs are required to receive a master's degree in social work from a program accredited by the Council on Social Work Education (CSWE), which establishes curriculum requirements.

38. COMMENT: A commenter contends that the National Association of Social Workers (NASW) Standards for Clinical Social Work in Social Work Practice recognizes the importance of course work in human behavior and the social environment.

RESPONSE: The Board recognizes the importance in course work in human behavior and the social environment, but does not believe that such courses are clinical, which is the focus of the required 12 semester hours of graduate level course work required by N.J.A.C. 13:44G-4.1(b)3ii.

39. COMMENT: Several commenters contend that there are students in master's of social work programs who have no prior experience in psychology or social work and would not be familiar with human behavior and the social environment. Students who do have prior knowledge would benefit from a refresher on this topic.

RESPONSE: The Board points out that the CSWE establishes curriculum requirements for master's of social work programs.

[page=2021] 40. COMMENT: A commenter contends that removing topics in human behavior and the social environment is not consistent with requirements in other states.

RESPONSE: As stated in the responses to comments 38 and 39, human behavior and the social environment is not clinical course work, which is the focus of the required 12 semester hours of graduate level course work required by N.J.A.C. 13:44G-4.1(b)3ii.

41. COMMENT: A commenter believes that the list in N.J.A.C. 13:44G-4.1(b) is too limited and contends that it should include human behavior and the social environment, as well as other areas such as ethics, diversity, and cultural competency.

RESPONSE: The Board agrees that the areas identified by the commenter are important aspects of LCSW practice, but they are not clinical course work, which is the focus of N.J.A.C. 13:44G-4.1(b)3ii.

42. COMMENT: A commenter supports requiring LCSW applicants to take course work in advanced clinical theory. The commenter does not believe that human behavior and the social environment is advanced clinical course work.

RESPONSE: The Board thanks the commenter for her support.

43. COMMENT: The amendments to N.J.A.C. 13:44G-4.1 require an applicant to complete two years of clinical social work experience after the completion of a master's degree. This experience has to be completed no more than five years prior to applying for licensure. A commenter asks if this requirement means that an applicant has to complete clinical experience within five years of obtaining a master's degree or that an application has to be submitted to the Board within five years of completing the clinical experience.

RESPONSE: N.J.A.C. 13:44G-4.1 requires an applicant to submit an application to the Board no more than five years after completing the required two years of full-time clinical social work experience.

44. COMMENT: A commenter recommends that the phrase "two years of satisfactory full-time clinical social work experience" in N.J.A.C. 13:44G-4.1(b)4 be rewritten as: "3,000 hours of clinical social work experience as outlined in (a) above." The commenter contends that the existing language is confusing for those who do not work full-time or will take more than two years to complete supervised clinical hours.

RESPONSE: N.J.S.A. 45:15BB-6 establishes that an applicant for licensure as an LCSW must complete two years of full-time experience in the practice of clinical social work. The Board does not believe it is appropriate or necessary to reword N.J.A.C. 13:44G-4.1 to deviate from this statutory language.

45. COMMENT: A commenter recommends that the phrase "such work experience shall have been completed no more than five years prior to the submission of the application" in N.J.A.C. 13:44G-4.1(b)4 be rewritten to read: "such work experience shall have been completed no more than five years prior to the submission of the application, unless the applicant has an active LCSW or equivalent in another state."

RESPONSE: The commenter's recommendation would establish a new licensure through endorsement procedure. This procedure is already established under N.J.S.A. 45:1-7.5 and N.J.A.C. 13:44G-4.5 and it would be inappropriate to amend N.J.A.C. 13:44G-4.1 as the commenter recommends.

46. COMMENT: A commenter recommends that certified social workers (CSWs) who have years of experience be given the opportunity to take

the licensing test without having to complete additional classes or training.

RESPONSE: N.J.S.A. 45:15BB-6 establishes the requirements to obtain licensure as an LSW or LCSW. This statute does not authorize a CSW to take a licensing examination without completing additional classes or training.

47. COMMENT: A commenter notes that the amendments to N.J.A.C. 13:44G-6.2 do not recognize National Association of Social Workers (NASW) continuing education credits. The commenter contends that every other state recognizes NASW credits and asks why the Board refuses to do so.

RESPONSE: Existing N.J.A.C. 13:44G-6.4 recognizes continuing education programs and courses offered by NASW. Continuing education courses that have not been approved by NASW but that are offered by NASW approved providers are not recognized by the Board.

48. COMMENT: A commenter recommends that the Board amend N.J.A.C. 13:44G-6.4, so that workshops approved by the National Board of Social Work Examiners will qualify for continuing education credits.

RESPONSE: The Board is not familiar with the National Board of Social Work Examiners. It is possible that the commenter is referring to either the NASW or the Association of Social Work Boards (ASWB). If this is the case, the Board points out that N.J.A.C. 13:44G-6.4 recognizes that program or courses offered by the NASW or the ASWB will qualify for continuing education hours.

49. COMMENT: A commenter recommends that N.J.A.C. 13:44G-6.2(b) be amended to indicate that biennial license periods begin on September 1.

RESPONSE: The Board does not deem it necessary to indicate the starting date of biennial license periods in the rules. Licensees are sufficiently aware as to the starting date of license periods as it appears on licenses.

50. COMMENT: A commenter contends that there was a typographical error in the summary of N.J.A.C. 13:44G-6.2, which states that licensees must complete three credits of continuing education in ethics. The commenter contends that five credits are required.

RESPONSE: The commenter is correct, there was a typographical error in the Summary statement of the notice of proposal. Licensees are required to complete five credits in ethics.

51. COMMENT: N.J.A.C. 13:44G-6.2(d) prohibits a licensee from allocating continuing education credits to more than one category. A commenter contends that, if a continuing education credit meets the

criteria for more than one category, such as both ethics and social/cultural competency, a licensee should be allowed to allocate that credit to both requirements. The commenter points out that licensees will complete the required number of continuing education credits regardless of whether they are allowed to allocate some credits to more than one of the required categories. The commenter contends that allowing licensees to allocate credits to more than one category will allow them to spend their time and money on continuing education credits that are most relevant to their practices.

RESPONSE: The Board does not believe it is appropriate to count continuing education credits to more than one topic. The Board requires specific topics due to the importance of these topics in social work practice. Allowing licensees to allocate credits to more than one topic would undermine the value of completing credits in the required topics.

52. COMMENT: A commenter points out that amendments to N.J.A.C. 13:44G-6.2 prohibit continuing education credits being counted towards two requirements. The commenter asks if a course could have one part count towards some continuing education credits and another part count towards another. The commenter posits a day long course on end-of-life care in which part of the course counted towards ethics and another counted towards clinical hours. The commenter request that, if such allocation is appropriate, this be made clear in regulations.

RESPONSE: In the situation posited by the commenter, a course would constitute multiple continuing education credits. A licensee could allocate some of those credits to one required topic and other credits to another required topic. N.J.A.C. 13:44G-6.2 prohibits a licensee from allocating the same credits to different topics.

53. COMMENT: A commenter recommends that the phrase "clinical practice" in N.J.A.C. 13:44G-6.2(d) be amended to read: "general social work, clinical practice."

RESPONSE: The Board has changed N.J.A.C. 13:44G-6.2(d) upon adoption as the commenter recommends.

54. COMMENT: A commenter recommends that N.J.A.C. 13:44G-6.4 be amended to allow licensees to earn continuing education credits through sources other than in-person workshops. The commenter contends that many licensees question if they can earn credits online or through webinars and booklets.

RESPONSE: N.J.A.C. 13:44G-6.4 does not require the continuing education credits be completed solely through in-person workshops. As long as a program or course is recognized in N.J.A.C. 13:44G-6.4, a licensee may obtain continuing education credits through such programs or courses.

55. COMMENT: A commenter is concerned that changes to clinical supervision requirements will impose costs and make it harder for [page=2022] LCSWs to become qualified to supervise clinical hours. This would increase costs of supervision for individuals completing clinical hours. The commenter is concerned that some LCSWs will choose to not become clinical supervisors due to these costs.

RESPONSE: There have been no changes to clinical supervision in N.J.A.C. 13:44G-8.1 that would impose costs or make it harder for LCSWs to become qualified to supervise clinical hours.

56. COMMENT: Amendments to N.J.A.C. 13:44G-8.1 prohibit an LSW from completing supervised clinical hours in a private practice that he or she owns. A commenter opposes this provision and questions why this would be any different than an LSW hiring an LCSW to provide supervision in a mental health clinic.

RESPONSE: The Board believes that it is not possible for an LCSW to supervise his or her employer. An employee would not have the authority to supervise in an adequate or effective manner.

57. COMMENT: A commenter contends that many organizations contract with LSWs to provide services and that these licensees often create limited liability companies to provide such services. The commenter asks if such limited liability companies would constitute "private practices" as the term is used in N.J.A.C. 13:44G-8.1.

RESPONSE: As the Board understands the situation posited by the commenter, it would constitute a private practice as the term is used in N.J.A.C. 13:44G-8.1.

58. COMMENT: A commenter contends that many healthcare providers contract with licensees to provide service for vulnerable clients. The commenter contends that the amendments to N.J.A.C. 13:44G-8.1 will discourage health care providers from contracting directly with LCSWs because it will be cost prohibitive.

RESPONSE: The Board does not understand why amendments to N.J.A.C. 13:44G-8.1 would discourage contracts with LCSWs. The amendments will not change the cost of contracting with LCSWs.

59. COMMENT: A commenter contends that the amendments to N.J.A.C. 13:44G-8.1 will restrict competition because they will result in all clinical social work being performed by higher cost LCSWs in private practice and in large social work organizations.

RESPONSE: The amendments to N.J.A.C. 13:44G-8.1 will not restrict competition. It is possible that the commenter is concerned with the deletion of references to supervision provided by psychiatrists and

psychologists, but these provisions were ineffective as of July 7, 2004.

60. COMMENT: A commenter recommends that N.J.A.C. 13:44G-8.1(a) be rewritten, so that the second sentence, which addresses employment, comes before the first sentence, which addresses provision of clinical services.

RESPONSE: The Board sees no benefit to revising N.J.A.C. 13:44G-8.1 as the commenter recommends.

61. COMMENT: A commenter asks if the phrase "pursuant to supervision" in N.J.A.C. 13:44G-8.1(a) is correct and suggests that the phrase be rewritten to read: "An LSW providing clinical services who is receiving supervision pursuant to (b)."

RESPONSE: The term "pursuant to supervision" does not appear in N.J.A.C. 13:44G-8.1(a). The Board believes that N.J.A.C. 13:44G-8.1(a) is clear as written.

62. COMMENT: A commenter recommends that N.J.A.C. 13:44G-8.1(b)1v be amended, so that New Jersey certified screeners will be eligible to obtain clinical hours. The commenter contends that such screeners provide clinical assessments, diagnoses, and clinical treatment recommendations. The commenter is concerned that, without amendment, N.J.A.C. 13:44G-8.1(b)1v would not allow screeners or mobile response workers to obtain clinical hours because they are not supervised in individual or group psychotherapy and cannot be supervised through synchronous video conferencing. If the rule is not amended as recommended, the commenter requests that currently certified screeners and mobile response workers be grandfathered.

RESPONSE: N.J.A.C. 13:44G-8.1(b)1v requires supervisors to provide at least one hour of face-to-face individual or group clinical supervision. This is necessary to ensure that candidates for licensure as LCSWs are provided the guidance they need to provide clinical services in a safe and effective manner. The Board will not amend N.J.A.C. 13:44G-8.1(b)1v as the commenter recommends.

63. COMMENT: A commenter supports amendments to N.J.A.C. 13:44G-8.1, which permit up to half of the required hours of face-to-face individual or psychotherapy group clinical supervision to be provided through synchronous video conferencing. The commenter recommends that this rule be amended to allow for more supervision through video conferencing on a case-by-case basis for people with physical challenges.

RESPONSE: The Board thanks the commenter for her support. The Board believes that the personal interaction that is a component of in person supervision is important to the efficacy of supervision and will not amend the rule as the commenter recommends. The Board points out that individuals who cannot meet the requirements of N.J.A.C. 13:44G-8.1 may apply for a regulatory waiver of these requirements, which may be granted by the Board on a case-by-case basis.

64. COMMENT: A commenter believes that the phrase "psychotherapy group clinical supervision" in N.J.A.C. 13:44G-8.1(b)1v is incorrect and recommends removing the term "psychotherapy."

RESPONSE: The inclusion of "psychotherapy" in N.J.A.C. 13:44G-8.1(b)1v was an error and the Board has changed the rule upon adoption to delete the term.

65. COMMENT: A commenter asks why N.J.A.C. 13:44G-8.1(b)2 states that an LCSW must be licensed in this State and recommends that this be removed from the rule as it is repeated in other places. The commenter also asks how the Board addresses applicants from other states who are supervised by non-LCSWs or LCSWs licensed in other states.

RESPONSE: N.J.A.C. 13:44G-8.1 refers to the supervision of LSWs in New Jersey. The rule requires an LCSW to be licensed in New Jersey as an LCSW licensed in another state is not authorized to work in New Jersey and could not supervise the clinical practices of an LSW in New Jersey. Applicants who complete LCSW licensure requirements in another state are required to apply pursuant to N.J.A.C. 13:44G-4.1, which does not require an applicant to complete clinical experience in New Jersey or have a supervisor who is licensed in New Jersey.

66. COMMENT: A commenter asks if the clinical practice requirements of N.J.A.C. 13:44G-8.1 require that supervision be provided by a New Jersey LCSW and that this supervision consist of at least one hour a week.

RESPONSE: Yes, the commenter has accurately summarized the requirements of N.J.A.C. 13:44G-8.1.

67. COMMENT: Two commenters ask how amendments to N.J.A.C. 13:44G-8.1 will affect LCSWs who are already certified to provide supervision. The commenters ask if such licensees will be grandfathered or if they will have to complete additional coursework.

RESPONSE: LCSWs who have already been approved to provide supervision will not need to take additional coursework and may continue to supervise LSWs.

68. COMMENT: A commenter is concerned with amendments to N.J.A.C. 13:44G-8.1, which require that the 20 credits of continuing education a clinical supervisor completes be approved by the Board. The commenter asks if currently approved clinical supervisors will need to take a new course approved by the Board. The commenter asks when the amendments to N.J.A.C. 13:44G-8.1 will be effective.

RESPONSE: The amendments to N.J.A.C. 13:44G-8.1 will be effective upon publication of the notice of adoption. As stated in the response to prior comments, currently approved clinical supervisors will not need to complete additional coursework in order to continue supervising LSWs.

69. COMMENT: A commenter is concerned that the prohibition in N.J.A.C. 13:44G-8.1(b)3ii against counting a Seminar in Field Instruction (SIFI) course towards the required 20 hours of continuing education credits will reduce the number of available clinical supervisors.

RESPONSE: An SIFI course does not adequately prepare an LCSW to provide supervision and the Board will not recognize such courses as qualifying an LCSW to provide supervision. The Board has never recognized such courses and the amendment to N.J.A.C. 13:44G-8.1(b) clarifies this.

[page=2023] 70. COMMENT: A commenter recommends that N.J.A.C. 13:44G-8.1(c)1 be amended to clarify that supervision requirements are set forth in N.J.A.C. 13:44G-8.1(b)3.

RESPONSE: The rule adequately identifies that supervision requirements are set forth in N.J.A.C. 13:44G-8.1(b) and it is not necessary to amend the rule as the commenter recommends.

71. COMMENT: A commenter recommends that N.J.A.C. 13:44G-8.1(c)4iii be rewritten to read: "Legal and ethical issues in clinical practice and supervision including boundaries, boundary crossings, and boundary violations."

RESPONSE: N.J.A.C. 13:44G-8.1(c)4iii as written requires post-graduate course work to include topics on legal and ethical issues of supervision. The Board believes that the commenter's recommended language is redundant and overly restrictive and the Board will not change N.J.A.C. 13:44G-8.1(c) as the commenter recommends.

72. COMMENT: A commenter is concerned that N.J.A.C. 13:44G-9.3(a)5 will require employees of nonprofit organizations to obtain a license from the Board. The commenter contends that N.J.S.A. 45:15BB-5 exempts from licensing requirements, employees of nonprofit organizations who hold master's degrees in a mental health discipline other than social work when they perform psychotherapeutic counseling under supervision. The

commenter contends that N.J.A.C. 13:44G-1.3 includes this nonprofit exemption. The commenter contends that there is a conflict between N.J.A.C. 13:44G-9.3(a)5 and N.J.S.A. 45:15BB-5. The commenter contends that ending this exemption would harm the mental health system and new social work school graduates who can work under this exemption while waiting to take the licensing examination or for the Board to issue a license.

RESPONSE: The amendments to N.J.A.C. 13:44G-9.3 accurately reflect the exemption in N.J.S.A. 45:15BB-5 and will not require employees of non-profit organizations to obtain a license unless they do not qualify for the statutory exemption to licensure requirements.

73. COMMENT: A commenter is concerned with amendments to N.J.A.C. 13:44G-10.2, which prohibit a licensee from accepting goods or services as payment from clients. The commenter contends that this limits the ability of licensees to provide services to those who cannot pay. The commenter recognizes that accepting goods or services as payment would create a dual relationship between the licensee and client, but contends that requiring clients to pay for services creates a separate set of conflicts.

RESPONSE: The Board believes that the danger of dual relationships to the well-being of a client outweigh any possible benefits of allowing payments in goods or services.

74. COMMENT: A commenter recommends that N.J.A.C. 13:44G-10.2(d) be amended to require licensees to provide a signed copy of financial arrangements to clients.

RESPONSE: N.J.A.C. 13:44G-10.2(d) requires licensees to provide written, dated, and signed financial arrangements to clients.

75. COMMENT: A commenter recommends that the phrase "the client's right to terminate the financial arrangement" in N.J.A.C. 13:44G-10.2(d)8 be amended to read "the client's right to request a discussion of the financial arrangement."

RESPONSE: The Board believes that the commenter's recommended amendments would be less protective of the rights of clients and will not change the rule as suggested.

76. COMMENT: A commenter asks why the information required under N.J.A.C. 13:44G-10.2(g)1 and 2, which address Medicaid, Medicare, other third-party payors, and insurance, is not included in N.J.A.C. 13:44G-10.2(d). The commenter contends that clients should not have to ask for this information.

RESPONSE: The Board agrees that the information required by N.J.A.C. 13:44G-10.2(g) should be provided to clients and has removed the phrase "upon request" from the rule upon adoption.

77. COMMENT: Two commenters contend that amendments to N.J.A.C. 13:44G-10.4 are unduly restrictive. The commenters are concerned that the amendments would prohibit a student from receiving clinical services from a former teacher. The commenters also contend that dual relationships may be unavoidable in areas with limited access to care. The commenters recommend that N.J.A.C. 13:44G-10.4 be amended to allow a professional to enter into a new relationship with a former or existing client if a consent form regarding the new relationship is signed by the client and at least two years have passed since the end of the professional relationship. The commenters believe that social relationships between licensees and clients should be prohibited as they would violate ethical standards.

RESPONSE: The Board disagrees that N.J.A.C. 13:44G-10.4 is unduly restrictive. The restrictions that concern the commenters are in N.J.A.C. 13:44G-10.4(c), which prohibits dual relationship "in which there are risks of potential harm to the client or the perception of conflicts of interest and partiality." This language permits licensees to enter into dual relationships, such as between a licensee and his or her former student, as long as there is no risk of harm to the client.

78. COMMENT: A commenter contends that N.J.A.C. 13:44G-10.4(d) is confusing and asks the Board to rewrite the regulation for clarity. The commenter also suggests that the phrase "separated or divorced parents" be included in the list of examples.

RESPONSE: The Board does not believe that N.J.A.C. 13:44G-10.4(d) is confusing. The rule clearly requires licensees to clarify their professional responsibilities when two or more clients have a relationship to each other. The Board agrees that separated or divorced parents is a good example of such relationships and has changed N.J.A.C. 13:44G-10.4(d) upon adoption to include such relationships in the list of examples.

79. COMMENT: Two commenters contend that it is not necessary to publish a notice of closing of a practice in a newspaper as other medical professions do not require this. The commenters recommend that such notices be e-mailed and mailed to clients.

RESPONSE: The Board points out that almost all of the healthcare boards that have rules on closing of practices include provisions requiring publication of notices of closing in newspapers. The Board believes that e-mailing or mailing a notice to clients would be unduly

restrictive and will not change N.J.A.C. 13:44G-10.6 as the commenter recommends.

80. COMMENT: A commenter recommends that N.J.A.C. 13:44G-10.6(d) be reorganized so that paragraph (d)4 would be (d)2. The commenter also recommends that the phrase "notify clients treated during the six months preceding the cessation of the practice" be rewritten to read: "notify current clients and clients treated during the six months preceding the cessation of the practice."

RESPONSE: The Board does not understand why the reorganization recommended by the commenter would make N.J.A.C. 13:44G-10.6 any clearer. The Board points out that any current client will have been treated during the six months preceding the cessation of the practice. It is not necessary to change N.J.A.C. 13:44G-10.6 as the commenter recommends.

81. COMMENT: A commenter asks if, under N.J.A.C. 13:44G-10.6(d), licensees must still maintain records for seven years.

RESPONSE: The amendments to N.J.A.C. 13:44G-10.6 do not alter the recordkeeping requirements of N.J.A.C. 13:44G-12.1, which require that records be maintained for seven years from the date of the last entry.

82. COMMENT: A commenter believes that the amendments to N.J.A.C. 13:44-10.7 dictate that a licensee cannot enter into a professional relationship with an individual with whom the licensee had a prior non-professional relationship. The commenter recommends that the Board adopt regulations that would impose harsh consequences on licensees who violate boundaries with current or former clients, such as entering into platonic or sexual relationships.

RESPONSE: The Board takes appropriate disciplinary actions based on the facts of situations and will continue to do so.

83. COMMENT: A commenter recommends that the word "of" in N.J.A.C. 13:44G-10.7A(a)2 be changed to "toward," so that the rule would read: "demonstrating preferential treatment or the perception of preferential treatment toward a client."

RESPONSE: The Board has changed N.J.A.C. 13:44G-10.7A upon adoption as the commenter recommended.

84. COMMENT: A commenter contends that there are situations where a licensee receiving gifts would support a professional relationship and recommends amending N.J.A.C. 13:44G-10.7A(a)4 to read: "granting favors or rewards to clients to endear clients, gain or promote feelings of acceptance, or receive substantial gifts."

[page=2024] RESPONSE: The Board believes that it is inappropriate for a licensee to grant a favor or reward to a client in order to receive a gift, no matter the kind or size of the gift.

85. COMMENT: A commenter contends that N.J.A.C. 13:44G-11.2(d) is unclear and recommends that it be rewritten to read: "An LSW who advertises social work services must include the name of his or her employer in any promotional material."

RESPONSE: The Board agrees that N.J.A.C. 13:44G-11.2(d) is unclear and has changed the regulation upon adoption for clarity.

86. COMMENT: Two commenters oppose provisions in N.J.A.C. 13:44G-12.3 that prohibit licensees from referring to the individuals who receive services as "patients." The commenters contend that this undermines the values of the services provided. The commenters contend that no other profession requires its licensees to refer to those who receive services as "clients."

RESPONSE: The term "client" is used throughout N.J.A.C. 13:44G to refer to the individuals who receive social work services.

Federal Standards Statement

A Federal standards analysis is not required because the adopted amendments, repeal, and new rule are not being adopted in order to implement, comply with, or participate in any program established under Federal law or under State law that incorporates or refers to Federal law, standards, or requirements.

Regulations

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

SUBCHAPTER 1. PURPOSE AND SCOPE; DEFINITIONS

13:44G-1.2 Definitions

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

. . . .

"Board" means the State Board for Social Work Examiners.

"Clinical social work" means the professional application of social work methods and values in the assessment and psychotherapeutic counseling of individuals, families, or psychotherapy groups.

"Clinical social work services" means social work services that may be performed only by an LCSW or an LSW under supervision pursuant to N.J.A.C. 13:44G-8. Clinical social work services include, but are not limited to, the following:

1. Clinical assessment, defined as the process of evaluation in which an LCSW or an LSW conducts a differential, individualized, and accurate identification of the psychosocial/behavioral problems existing in the life of the individual client, the family, or psychotherapy group for the purpose of establishing a plan to implement a course of psychotherapeutic counseling. A clinical social work assessment includes, but is not limited to, a mental status examination and a psychosocial history. The clinical social worker may utilize currently accepted diagnostic classifications including, but not limited to, the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders, as amended and supplemented.

2. Clinical consultation, defined as ongoing case discussion and evaluation focusing on, but not limited to, client-centered advocacy provided as part of the psychotherapeutic process, clinical social work data, clinical goals, and treatment plans for the implementation of psychotherapeutic counseling with individuals, psychotherapy groups, and families. Clinical consultation may also include intervention with appropriate individuals and entities;

3. Psychotherapeutic counseling, defined as ongoing interaction between a social worker and an individual, family, or psychotherapy group for the purpose of helping to resolve symptoms of mental disorder, psychosocial stress, relationship problems, or difficulties in coping with the social environment; and

4. (No change in text.)

"CSW" means a New Jersey certified social worker.

"LCSW" means a New Jersey licensed clinical social worker.

"LSW" means a New Jersey licensed social worker.

. . .

"Social work services" means concrete, non-clinical services, which may be performed only by a Board licensee or certificate holder. Social work services include, but are not limited to, the following:

1. (No change.)

2. "Social work counseling," defined as the professional application of social work methods and values in advising and providing guidance to individuals, families, or support/psycho-educational groups for the purpose of enhancing, protecting, or restoring the capacity for coping with the social environment, exclusive of the practice of psychotherapy and includes giving advice, delineating alternatives, providing supportive counseling, helping to articulate goals and providing needed information.

3.-8. (No change.)

9. "Social work client-centered advocacy," defined as the service in which the social worker functions on behalf of individual clients, support/psycho-educational groups, or other entities including, but not limited to, social work and governmental agencies, and specific issues related to those organizations. The purpose of client-centered advocacy is to bring about or influence change to improve the quality of life, enhance empowerment, and assure the basic rights of the entity or individual being served by the social worker.

SUBCHAPTER 3. AUTHORIZED PRACTICE

13:44G-3.1 Practice as an LCSW; scope

(a) The scope of practice of an LCSW includes, but is not limited to:

1. Clinical social work services. Clinical social work services include, but are not limited to, clinical assessment, clinical consultation, psychotherapeutic counseling, client-centered advocacy, and clinical supervision of individuals pursuant to the standards set forth in N.J.A.C. 13:44G-8.1;

2. Social work services. Social work services include, but are not limited to, social work assessment, social work consultation, social work counseling, social work planning, social work community organization, social work policy, social work administration, social work research, and social work client-centered advocacy;

3. Custody/parenting time evaluations as set forth in Subchapter 13; and

4. Supervising, pursuant to Council on Social Work Education standards, students who are completing undergraduate or graduate social work coursework.

13:44G-3.2 Practice as an LSW; scope

(a) The scope of practice of an LSW includes, but is not limited to:

1. Social work services. Social work services include, but are not limited to, social work assessment, social work counseling, social work consultation, social work planning, social work community organization, social work policy, social work administration, social work research, and social work client-centered advocacy;

2. Clinical social work services, under the supervision of an LCSW. Clinical social work services include, but are not limited to, clinical assessment, clinical consultation, psychotherapeutic counseling, and client-centered advocacy. An LSW may not, however, provide clinical supervision; and

3. Supervising, pursuant to Council on Social Work Education standards, students who are completing undergraduate or graduate social work coursework.

(b) (No change.)

13:44G-3.3 Practice as a CSW; scope

(a) The scope of practice of a CSW includes, but is not limited to, social work services. Social work services include, but are not limited to, social work assessment, social work consultation, social work counseling, social work planning, social work community organization, social work policy, social work administration, social work research, and social work client-centered advocacy.

(b) The scope of practice of a CSW also includes supervising, pursuant to Council on Social Work Education standards, students who are completing undergraduate social work coursework.

(c) (No change in text.)

[page=2025] SUBCHAPTER 4. APPLICANT QUALIFICATIONS; BOARD-APPROVED EXAMINATION; ENDORSEMENT

13:44G-4.1 Eligibility requirements; LCSW

(a) For purposes of this section, "two years of full-time clinical social work" means 3,000 hours ***under direct supervision pursuant to the standards set forth in N.J.A.C. 13:44G-8.1, subsequent to earning a master's degree in social work. The 3,000 hours shall be*** completed in no ***less than two years and no*** more than four years ***[and in no less than two years, of which at]**. At*** least 1,920 hours ***of the 3,000 hours*** shall be in face-to-face client contact ***[at least half of which are]**, and half of these 1,920 hours shall be*** in ***[psychotherapy, subsequent to earning a master's degree in social work under direct supervision pursuant to the standards set forth in N.J.A.C. 13:44G-**

8.1.]* ***psychotherapeutic counseling. The other 1,080 hours can include time spent in supervision or other social work services.***

(b) An applicant for licensure as an LCSW shall submit the following, on forms provided by the Board:

1.-2. (No change.)

3. An official transcript indicating that the applicant:

i. (No change.)

ii. Completed 12 semester hours of graduate level course work in methods of clinical social work practice, exclusive of field placement, from an educational program accredited, or in candidacy for accreditation, by the Council on Social Work Education. The applicant shall obtain 12 credits in any of the following areas of study:

(1) Diagnosis and assessment in clinical social work practice;

Recodify existing (3)-(5) as (2)-(4) (No change in text.)

4. A supervisor's certification indicating that the applicant has acquired two years of full-time clinical social work experience after the completion of the master's degree required by (b)3 above. Such work experience shall have been completed no more than five years prior to the submission of the application. In the event that the applicant is unable to provide a supervisor's certification, the applicant shall submit to the Board an affidavit explaining the reason(s) why the applicant is not able to obtain the supervisor's certification;

5.-7. (No change.)

(c) Notwithstanding (a) above, an applicant who began clinical social work experience under supervision prior to September 17, 2018, will be deemed to have completed two years of full-time clinical social work if he or she has completed 1,920 hours of face-to-face client contact.

13:44G-4.2 Eligibility requirements; LSW

(a) An applicant for licensure as an LSW shall submit the following, on forms provided by the Board:

1.-3. (No change.)

4. An official transcript or letter from the dean or registrar of the school indicating that the applicant has received a master's degree in social work from an educational program accredited, or in candidacy for accreditation, by the Council on Social Work Education or a doctorate in social work from an accredited institution of higher education; and

5. (No change.)

SUBCHAPTER 6. CONTINUING EDUCATION

13:44G-6.2 Credit-hour requirements

(a) An applicant for a biennial license or certification renewal shall complete the applicable continuing education credits as follows:

1. An LCSW shall complete a minimum of 40 credits of continuing education, of which at least 20 of the 40 credits shall be in courses or programs directly related to clinical practice; of the remaining 20 credits, five credits shall be related to ethics, and three credits shall be in the subject area of social and cultural competence. If the LCSW earns more than 40 credits during a biennial period, the LCSW may carry a maximum of eight surplus credits into a succeeding biennial period;

2. An LSW shall complete a minimum of 30 credits of continuing education, five of which must be related to ethics and three of which shall be in the subject area of social and cultural competence. If the LSW earns more than 30 credits during a biennial period, the LSW may carry a maximum of six surplus credits into a succeeding biennial period; and

3. A CSW shall complete a minimum of 20 credits of continuing education, five of which must be related to ethics and three of which shall be in the subject area of social and cultural competence. If the CSW earns more than 20 credits during a biennial period, the CSW may carry a maximum of four surplus credits into a succeeding biennial period.

(b) If an applicant initially obtains a license or certificate within the second year of a biennial license period, the applicant shall complete not fewer than one-half of the minimum required credits of continuing education. A CSW or LSW shall complete three credits in ethics-related courses and two credits in the subject area of social and cultural competence. An LCSW shall complete a least 10 of the 20 credits in programs which directly relate to clinical practice and, of the remaining 10 credits, three shall be in ethics-related courses and two shall be in the subject area of social and cultural competence.

(c) (No change.)

(d) Continuing education credits that could be allocated to ***general social work,*** clinical practice, ethics, or social and cultural competence shall only be counted once and shall not be allocated for more than one category. For instance, a course that could be allocated

towards clinical practice or ethics shall count towards either clinical practice or ethics, but not both.

13:44G-6.5 Documentation of continuing education credit

(a) (No change.)

(b) The licensee or certificate holder shall verify attendance at approved continuing education programs by a certificate of attendance or by a statement from the instructor of the offering. The verification shall include:

1. (No change.)

2. Name of the attendee;

3.-5. (No change.)

(c)-(e) (No change.)

SUBCHAPTER 8. CLINICAL SUPERVISION

13:44G-8.1 Clinical supervision

(a) An LSW providing clinical services under supervision as set forth in (b) below shall not provide clinical services through a private practice that the LSW owns either wholly or in part. An LSW may be employed by, or volunteer at, a private practice owned by a healthcare professional licensed to provide clinical mental health services.

(b) LSWs engaged in clinical social work practice shall have clinical supervision in accordance with the following standards:

1. Clinical supervision shall consist of contact between a social worker and a supervisor during which at least the following occurs:

i.-iv. (No change.)

v. The supervisor provides at least one hour of face-to-face individual or *[psychotherapy]* group clinical supervision per week or one hour of individual clinical supervision through synchronous video conferencing, which complies with the confidentiality requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), for no more than half of the total supervision hours;

2. Clinical supervision shall be rendered by a clinical social worker licensed by this State.

3. Clinical supervision shall be rendered by an LCSW who:

i. Has been licensed as an LCSW for a minimum of three years; and

ii. Has completed at least 20 continuing education credits of post-graduate course-work related to clinical supervision approved by the Board pursuant to (c) below. A Seminar in Field Instruction (SIFI) course shall not satisfy this requirement either in whole or in part.

Recodify 6.-9. as 4.-7. (No change in text.)

(c) An entity that wishes to obtain Board approval of a continuing education course of post-graduate course work related to clinical supervision shall apply to the Board for such approval in writing, indicating that the course:

1. Is taught by an LCSW who is qualified to supervise LSWs pursuant to (b) above;

2. Is taught in person by the LCSW;

3. Meets the requirements of N.J.A.C. 13:44G-6.4; and

4. Contains the following topics:

[page=2026] i. Development models of supervision;

ii. The role of supervision in the practice environment;

iii. Legal and ethical issues in supervision;

iv. Cultural competency and supervision; and

v. Transference and countertransference in clinical practice and supervision.

(d) Board approval granted pursuant to (c) above shall be valid until a continuing education course changes instructor, course sponsor, or content. A course that changes instructor, course sponsor, or content shall reapply to the Board for approval pursuant to (c) above.

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

Recodify existing (e)-(f) as (g)-(h) (No change in text.)

(i) Upon written consent of the employer, the social worker shall arrange for off-premises supervision, where no supervision is available onsite.

1. In the case of such supervision, the social worker shall obtain the client's written consent to share records or other documents with the supervisor.

SUBCHAPTER 9. GENERAL OBLIGATIONS OF LICENSEES AND CERTIFICATE HOLDERS; UNLICENSED PRACTICE

13:44G-9.3 Unlicensed practice of social work

(a) The following acts or practices shall be deemed to be the unlicensed practice of social work:

1.-4. (No change.)

5. Offering or rendering clinical social work services as an employee of a nonprofit organization if the employee holds a master's degree in social work but does not possess a license issued by the Board.

6. (No change.)

SUBCHAPTER 10. BUSINESS PRACTICES; PROFESSIONAL CONDUCT

13:44G-10.2 Financial arrangements with clients

(a)-(b) (No change.)

(c) A licensee or certificate holder shall not accept goods or services from clients as payment for professional services.

(d) Before providing social work services or clinical social work services, a licensee or certificate holder shall assist the client to understand financial arrangements.

Financial arrangements shall use clear and understandable language and be in writing, dated, and signed by the licensee or certificate holder, maintained as part of the licensee's or certificate holder's records, and provided to the client. Financial arrangements shall inform clients of:

1. The purpose of services;
2. Risks related to services;
3. Limitations of services imposed by third party payors;
4. The fee for services or the basis for determining the fee to be charged;
5. The identity of the person or entity responsible for payment of the fee for services;
6. Whether the licensee or certificate holder will accept installment payments;
7. The financial consequences, if any, of missed appointments; and
8. The client's right to terminate the financial arrangement.

(e) A licensee or certificate holder shall review the contract with a client at least once a year.

(f) A licensee or certificate holder may terminate services with a client who has not paid an overdue balance as long as:

1. The contract for services made clear to the client that services could be so terminated;
2. The consequences for nonpayment were discussed with the client; and
3. The termination of services will not pose an imminent danger to the client or to others.

(g) An LCSW providing clinical social work services shall prepare and maintain a written list of current fees for standard services and*[, upon request,]* shall provide the list to clients. The list shall include:

1. Whether Medicaid, Medicare, or other third party payor plans are accepted;
2. Whether insurance payments (excluding deductible and copay) are accepted as payment in full; and
3. Whether special fee categories are available, such as senior citizens or members of designated groups (for example, preferred provider plan members).

(h) (No change in text.)

13:44G-10.3 (Reserved)

13:44G-10.4 Conflicts of interest

(a) Licensees and certificate holders shall avoid conflicts of interest that interfere with the exercise of professional discretion and impartial judgment. Licensees or certificate holders shall inform clients when a real or potential conflict of interest arises and take steps to resolve the issue, which could be the termination of the professional relationship with the client.

(b) Licensees and certificate holders shall not take advantage of any professional relationship or exploit clients to further their personal, religious, political, or business interests or unduly influence clients based on their personal, religious, political, or business interests.

(c) Licensees and certificate holders shall not engage in dual or multiple relationships with clients or former clients in which there are risks of potential harm to the client or the perception of

conflicts of interest and partiality. Licensees and certificate holders shall take steps to protect clients and are responsible for setting clear, appropriate, and culturally sensitive boundaries. Dual or multiple relationships occur when licensees or certificate holders have more than one existing or past relationship with clients, whether professional, social, or business.

(d) When a licensee or certificate holder provides services to two or more people who have a relationship with each other (for example, couples*,* *[or]* family members*, **or separated or divorced parents***), the licensee or certificate holder shall identify to all parties the individual who is the client and the nature of licensee's or certificate holder's professional obligations to the individuals receiving services. A licensee or certificate holder who anticipates a conflict of interest among the individuals receiving services or who anticipates having to perform in potentially conflicting roles shall notify the parties as to the licensee's or certificate holder's role and take action to minimize any conflict of interest.

13:44G-10.6 Termination or interruption of services

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

(d) Whenever a social work practice is to be closed due to the retirement or death of a licensee or certificate holder, or the practice will be closed for more than 90 days, the licensee, certificate holder, or the executor or administrator of the licensee's or certificate holder's estate shall:

1. Establish a procedure by which clients may obtain records or agree to the transfer of those records to another licensee or certificate holder who is assuming the responsibilities of that practice;
2. If the practice will not be attended by another licensee or certificate holder, 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 or certificate holder's practice or on the licensee's or certificate holder's website, at least once each month for the first three months after the cessation;
3. Notify the Board, in writing, of the impending closure and the established procedure for the retrieval of records;
4. Make reasonable efforts to directly notify clients treated during the six months preceding the cessation of the practice to provide information concerning the established procedure for retrieval of records;

5. Conspicuously post a notice on the premises of the procedure for the retrieval of records for at least one month prior to the cessation of the practice, if closure is due to retirement; and

6. Arrange for the storage of any records that have not been retrieved by clients for one year from the date the practice closes.

13:44G-10.7 Sexual misconduct, harassment; discrimination

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

[page=2027] 1.-4. (No change.)

5. "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 social worker's activities or role as a provider of social work services, and that is unwelcome, offensive to a reasonable person, or creates a hostile workplace 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 include conduct of a non-sexual nature if it is based upon the gender of an individual. "Sexual harassment" may consist of a single extreme or severe act or of multiple acts and may include, but is not limited to conduct of a licensee with a client, co-worker, employee, student, or supervisee whether or not such individual is in a subordinate position to the licensee.

(b) A social worker shall not accept as a client an individual who was the social worker's sexual partner.

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

(e) A social worker shall not condone or engage in any form of discrimination on the basis of an individual's race, age, religion, color, national origin, marital status, gender, sexual orientation, gender identity, physical or mental disability, or any other preference or personal characteristic, condition or status.

(f)-(k) (No change.)

13:44G-10.7A Inappropriate behavior

(a) Licensees and certificate holders shall not engage in actions that do not support the therapeutic or professional relationship. Such actions include, but are not limited to:

1. Initiating, encouraging, or participating in communication with the client or the client's support system that is not professional in nature;

2. Demonstrating preferential treatment or the perception of preferential treatment *[of]* ***toward*** a client;
3. Failing to maintain impartiality such as demonstrating aggressiveness or being overly protective of a client without a clinical reason;
4. Granting favors or rewards to clients to endear clients, gain or promote feelings of acceptance, or receive gifts; and
5. Sharing private information that does not have a therapeutic benefit.

13:44G-10.8 Reporting of violations by other licensees

(a) A social worker shall promptly notify the Board when in possession of information that reasonably indicates that another licensee or certificate holder 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.

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 social worker shall report the information and advise the client of the report.

2. (No change.)

SUBCHAPTER 11. ADVERTISING

13:44G-11.2 Advertising; general requirements

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

(d) An LSW who advertises must include the name of his or her employer *[in any information about his or her employer]* in any promotional material.

(e) Advertisements using social work license or certification credentials shall only be used when promoting social work services.

13:44G-11.4 Use of professional credentials and certifications

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

(d) In addition to the information required to appear pursuant to N.J.A.C. 13:44G-11.3, letters or abbreviations that may appear immediately adjacent to the social worker's name shall be limited to those representing the following:

1. (No change.)

2. Current social work certifications or diplomate status as defined in N.J.A.C. 13:44G-11.1;

3. Other licenses or certifications issued by another state or Federal agency; and

4. Any academic degree earned in a field other than social work, as long as the field in which the degree has been earned is clearly identified.

(e) (No change.)

(f) Nothing in this section shall preclude any truthful and non-deceptive statement in regard to education or experience.

SUBCHAPTER 12. CLIENT RECORDS; CONFIDENTIALITY

13:44G-12.3 Confidentiality

(a) A social worker shall preserve the confidentiality of information obtained from a client in the course of performing social work services for the client, including after the death of a client, except in the following circumstances.

1.-6. (No change.)

7. The client agrees in writing to waive the privilege accorded by this section. The client shall sign and date the written waiver and the social worker shall maintain the waiver in the client's record. In circumstances when more than one person in a family is receiving social work services, each family member who is at least 14 years of age or older must agree to the waiver. Absent a waiver of each family member, a social worker shall not disclose any information received from any family member.

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

SUBCHAPTER 13. CUSTODY/PARENTING TIME EVALUATIONS

13:44G-13.6 Fees

(a) An LCSW who performs custody/parenting time evaluations shall comply with the requirements of N.J.A.C. 13:44G-10.2 with regard to financial arrangements for evaluations.

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

SUBCHAPTER 14. FEES

13:44G-14.1 Fees

(a) Charges for licensure, certification, and other services:

1.-11. (No change.)

Recodify existing 13.-16. as 12.-15. (No change in text.)

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