
NEW JERSEY ADMINISTRATIVE CODE
TITLE 13
LAW AND PUBLIC SAFETY
CHAPTER 44C
AUDIOLOGY AND SPEECH-LANGUAGE
PATHOLOGY ADVISORY COMMITTEE

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**SUBCHAPTER 1.
GENERAL REQUIREMENTS**

13:44C-1.1 CHANGE OF ADDRESS OR TELEPHONE; SERVICE OF PROCESS

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

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

**SUBCHAPTER 2.
ADMINISTRATION; FEES**

13:44C-2.1 ELECTION OF OFFICERS

The membership of the New Jersey Audiology and Speech-Language-Pathology Advisory Committee shall once each year elect a chairman, and a secretary-treasurer. The chairman shall have the responsibility to conduct all meetings unless, in his or her discretion, a delegation of that responsibility is made. In the absence of the chairman or an express delegation of responsibility, the secretary-treasurer shall assume all duties of the chairman.

13:44C-2.2 FEES AND CHARGES

- a) The following fees shall be charged by the Advisory Committee:
 - 1) Application fee \$75.00

 - 2) Initial license fee
 - i) If paid during the first year of a biennial license renewal period \$170.00

 - ii) If paid during the second year of a biennial license renewal period \$85.00

 - 3) License renewal fee, biennial..... \$170.00

 - 4) Temporary license (one year) \$50.00

- 5) Late renewal fee (up to 30 days):..... \$50.00
- 6) Reinstatement fee (after 30 days)..... \$50.00
- 7) Certification of licensure to other states \$50.00
- 8) Duplicate license fee..... \$10.00
- 9) Duplicate wall certificate \$25.00
- 10) Inactive license fee (to be established by the Director by rule).

**SUBCHAPTER 3.
REQUIREMENTS FOR LICENSURE AS AUDIOLOGIST OR SPEECH-
LANGUAGE PATHOLOGIST**

13:44C-3.1 APPLICATION FORMS

- a) Applications for licensure may be obtained at the office of the Advisory Committee, 124 Halsey Street, Newark, New Jersey 07101. The Committee's mailing address is Audiology and Speech-Language Pathology Advisory Committee, Post Office Box 45002, Newark, New Jersey 07101. The Committee's website is <http://www.nj.gov/oag/ca/medical/audiology.htm>.
- b) All applications for licensure shall be accompanied by the fee as set forth in N.J.A.C. 13:44C-2.2.

13:44C-3.2 REQUIREMENTS FOR LICENSURE

- a) An applicant for licensure shall submit to the Committee proof that the applicant has:
 - 1) Graduated from:
 - i) A doctoral degree program in the area of audiology, speech-language pathology, or both, accredited by either the Council on Academic Accreditation in Audiology and Speech-Language Pathology of the American Speech-Language-Hearing Association or the Accreditation Council for Audiology Education of the American Academy of Audiology. The college or university awarding the degree shall be recognized by either the New Jersey Commission on Higher Education or another state's department of education; or

- ii) A master's degree program in the area of audiology, speech-language pathology, or both, accredited by either the Council on Academic Accreditation in Audiology and Speech-Language Pathology of the American Speech-Language-Hearing Association or the Accreditation Council for Audiology Education of the American Academy of Audiology. The college or university awarding the degree shall be recognized by either the New Jersey Commission on Higher Education or another state's department of education; and
- 2) Passed the Praxis Examination in audiology or speech-language pathology, as appropriate, administered and set by Educational Testing Service.
- b) An applicant shall also complete a clinical internship, in accordance with the provisions of N.J.A.C. 13:44C-3.5, in either audiology, speech-language pathology, or both, as appropriate.
 - c) In addition to the requirements of (a) and (b) above, an applicant shall complete the jurisprudence on-line orientation.

13:44C-3.3 (RESERVED)

13:44C-3.4 LICENSURE WITHOUT EXAMINATION DUE TO LICENSURE IN ANOTHER STATE

- a) An applicant who is currently licensed in another state as an audiologist or speech-language pathologist which has substantially equivalent requirements for licensure as those in New Jersey may obtain licensure without providing proof of achieving a passing score on the Praxis Examination in audiology or speech-language pathology.
- b) An applicant for licensure qualified pursuant to (a) above shall submit to the Committee proof that the applicant has:
 - 1) Graduated from:
 - i) A doctoral degree program in the area of audiology, speech-language pathology, or both, accredited by either the Council on Academic Accreditation in Audiology and Speech-Language Pathology of the American Speech-Language-Hearing Association or the Accreditation Council for Audiology Education of the American Academy of Audiology. The college or university awarding the degree shall be recognized by either the New Jersey Commission on Higher Education or another state's department of education; or

- ii) A master's degree program in the area of audiology, speech-language pathology, or both, accredited by either the Council on Academic Accreditation in Audiology and Speech-Language Pathology of the American Speech-Language-Hearing Association or the Accreditation Council for Audiology Education of the American Academy of Audiology. The college or university awarding the degree shall be recognized by the New Jersey Commission on Higher Education or another state's department of education; and
- 2) Holds a current license in a state, which has standards substantially equivalent to those of New Jersey.
- c) An applicant shall also complete a clinical internship, in accordance with the provisions of N.J.A.C. 13:44C-3.5, in either audiology, speech-language pathology, or both, as appropriate.
 - d) In addition to the requirements of (b) and (c) above, an applicant shall complete the jurisprudence on-line orientation.

13:44C-3.5 REQUIREMENTS FOR CLINICAL INTERNSHIP

- a) An applicant who completed a doctoral degree shall have completed a clinical internship that met the requirements of (b) through (f) below during or after the doctoral degree program. An applicant who completed a master's degree shall have completed a clinical internship that met the requirements of (b) through (f) below after he or she completed the master's degree program.
- b) An applicant who seeks to complete a clinical internship in New Jersey after he or she has completed his or her doctoral or master's degree program, including an applicant completing a clinical internship in an exempt setting, shall not begin the clinical internship until he or she obtains a temporary license pursuant to N.J.A.C. 13:44C-5.2.
- c) A clinical internship shall consist of at least 1,200 hours completed in no less than nine months and no more than 18 months.
- d) Clinical internship shall be under the direct supervision of a person licensed to practice audiology or speech-language pathology, as appropriate, by this State or another state which has standards substantially equivalent to those of this State. If the clinical internship takes place in an exempt setting or in a state without licensure or comparable requirements, the supervisor shall be a person who holds a Certificate of Clinical Competence (C.C.C.) by the American Speech-Language-Hearing Association (ASHA), or its equivalent.
- e) The supervisor shall be responsible for the professional practices of the temporary licensee.

- f) The supervisor shall provide a minimum of one hour of on-site direct supervision for each 20 hours of direct, face-to-face evaluation or therapeutic services rendered by the supervisee. Supervision shall take place not less than once a month.

13:44C-3.6 (RESERVED)

**SUBCHAPTER 4.
RENEWAL OF LICENSURE; REINSTATEMENT; INACTIVE LICENSURE**

13:44C-4.1 RENEWAL OF LICENSE

- a) Licenses shall be renewed biennially on a form provided by the Committee. Each applicant for renewal shall attest that the continuing education requirements of N.J.A.C. 13:44C-6.1 have been completed during the prior biennial period.
- b) The Committee shall send a notice of renewal to each licensee, at least 60 days prior to the expiration of the license. If the notice to renew is not sent at least 60 days prior to the expiration date, no monetary penalties or fines shall apply to the holder for failure to renew.
- c) The licensee shall submit the renewal application and pay the renewal fee pursuant to N.J.A.C. 13:44C-2.2 prior to the date of expiration of the license. If the licensee does not renew the license prior to its expiration date, the licensee may renew the license no later than 30 days after its expiration date by submitting a renewal application and paying a renewal fee and a late fee pursuant to N.J.A.C. 13:44C-2.2. A licensee who fails to renew the license within 30 days after the expiration date of the license shall be suspended without a hearing.
- d) A person who continues to practice or hold himself or herself out as a licensee of this State after the license has been suspended shall be deemed to have committed unlicensed practice, even if no notice of suspension has been provided to the person.
- e) A person seeking reinstatement within five years following the suspension of a license shall submit the following to the Committee:
- 1) A completed reinstatement application;
 - 2) Payment of all past delinquent renewal fees as set forth in N.J.A.C. 13:44C-2.2;
 - 3) Payment of a reinstatement fee as set forth in N.J.A.C. 13:44C-2.2;

- 4) Proof that he or she has completed the continuing education credits required pursuant to N.J.A.C. 13:44C-6.1 for each biennial period the license is suspended; and
 - 5) An affidavit of employment listing each job held during the period of suspension which includes the names, addresses, and telephone numbers of each employer.
- f) A person seeking reinstatement after more than five years following the suspension of a license shall successfully complete the examination required for initial licensure as set forth in N.J.A.C. 13:44C-3.2(a)2 and shall submit:
- 1) A completed reinstatement application;
 - 2) Payment of all past delinquent renewal fees as set forth in N.J.A.C. 13:44C-2.2;
 - 3) Payment of a reinstatement fee as set forth in N.J.A.C. 13:44C-2.2; and
 - 4) An affidavit of employment listing each job held during the period of suspension which includes the names, addresses, and telephone numbers of each employer.
- g) Renewal applications for all licensees shall provide the applicant with the option of either active or inactive renewal. Applicants electing to renew as inactive shall not practice or hold themselves out to the public as licensees of this State.
- h) Upon application to the Committee, the Committee may permit an applicant who has been on inactive status to return to active status provided such applicant completes the continuing education credits that are required for each biennial period that the applicant is on inactive status and the applicant pays the renewal fee as set forth in N.J.A.C. 13:44C-2.2.
- i) As part of the biennial license renewal, licensees shall complete the jurisprudence online orientation.

**SUBCHAPTER 5.
APPLICANTS FOR TEMPORARY LICENSURE AS AUDIOLOGIST OR
SPEECH-LANGUAGE PATHOLOGIST**

13:44C-5.1 APPLICATIONS

- a) Applications for temporary licensure may be obtained at the Office of the Advisory Committee, 124 Halsey Street, Newark, New Jersey 07101. The mailing address is Audiology and Speech-Language Pathology Committee, Post Office Box 45002, Newark,

New Jersey 07101. The Committee's website is
<http://www.nj.gov/oag/ca/medical/audiology.htm>.

- b) All applications for temporary licensure shall be accompanied by the fee set forth in N.J.A.C. 13:44C-2.2.

13:44C-5.2 REQUIREMENTS FOR TEMPORARY LICENSURE

- a) An applicant for temporary licensure as a recent resident shall submit the following to the Advisory Committee:
- 1) A notarized statement by the applicant that the applicant has become a resident of New Jersey within the preceding six months; and
 - 2) Proof that the applicant holds a current and valid license to practice audiology and/or speech-language pathology in another state.
- b) An individual who requires a temporary license in order to commence a clinical internship shall submit to the Committee:
- 1) An application for temporary licensure;
 - 2) A supervision plan signed by the applicant and supervisor licensed in New Jersey;
 - 3) Proof that the applicant has met the requirements of N.J.A.C. 13:44C-3.2(a)1; and
 - 4) Proof that the applicant has met the educational requirements of N.J.A.C. 13:44C-3.3.
- c) In addition to the requirements of (a) and (b) above, an applicant shall complete the jurisprudence on-line orientation.

13:44C-5.3 LIMITS ON TEMPORARY LICENSURE

- a) A temporary license for a recent resident is valid for one year and cannot be renewed.
- b) A temporary license for individuals participating in a clinical internship is valid for 18 months or until such time as the holder completes his or her clinical internship, whichever comes first. The temporary license cannot be renewed.

SUBCHAPTER 6. CONTINUING PROFESSIONAL EDUCATION REQUIREMENTS

13:44C-6.1 LICENSE RENEWAL

No license renewal shall be issued by the Director until the applicant confirms on the renewal application that the applicant has completed continuing education pursuant to N.J.A.C. 13:44C-6.2 during the preceding biennial renewal period.

13:44C-6.2 ALLOCATION OF CREDIT

- a) Except as set forth in (b) below, applicants for biennial license renewal shall complete 20 credit hours of continuing education related to the practice of audiology or speech-language pathology in the preceding biennial renewal period.

- b) Licensees applying for their first biennial renewal are exempt from the continuing education requirements in (a) above.

- c) A licensee may obtain continuing education credit hours from the following sources:
 - 1) Giving a new seminar, webinar, teleconference, lecture, or in-service workshop related to the practice of audiology or speech-language pathology: one credit hour per each hour of actual presentation of the seminar, lecture, or workshop, up to a maximum of 10 credit hours.
 - i) " As used in (c)1 above, "new" means that the licensee has never presented the seminar, lecture, or in-service workshop before in any setting;

 - 2) Teaching a new undergraduate course related to the practice of audiology or speech-language pathology at a college or university accredited by a regional accrediting body recognized by the United States Department of Education, Office of Postsecondary Education, or new graduate course in a college or university accredited by the American Speech-Language-Hearing Association or the Accreditation Commission for Audiology Education: six credit hours for each new course up to a maximum of 12 credit hours.
 - i) " As used in (c)2 above, "new" means that the licensee has never taught the course before in any educational setting;

 - 3) Publication in a refereed national journal of an article in audiology or speech-language pathology: three credit hours per publication up to a maximum of six credit hours;

- 4) Attendance at seminars, webinars, teleconferences, or lectures related to the practice of audiology or speech-language pathology accredited by the New Jersey Commission on Higher Education, or accredited or sponsored by a local, state, or national audiology and speech-language pathology professional organization, local, state, or Federal education or health agency, or a local, state or national medical, psychological, dental, or similar professional organization: one credit hour per hour of attendance;
- 5) Attendance at an in-service workshop related to the practice of audiology or speech-language pathology provided by an organization licensed by the New Jersey Department of Health, the New Jersey Department of Education, or an agency of another state that substantially meets the requirements of the New Jersey Department of Health or New Jersey Department of Education: one credit hour per each hour of attendance up to a maximum of 10 credit hours;
- 6) Successful completion of self-assessment home study courses accompanied by examination and sponsored by a nationally-recognized professional organization in audiology or speech-language pathology: one credit hour per course credit up to a maximum of 10 credit hours;
- 7) Successful completion of either undergraduate course work at a college or university accredited by a regional accrediting body recognized by the United States Department of Education, Office of Postsecondary Education or graduate course work in a college or university accredited by the American Speech-Language-Hearing Association or the Accreditation Commission for Audiology Education, related to audiology and speech-language pathology taken beyond that required for professional license that the licensee has never taken before: five credit hours per course credit, up to a maximum of 15 credit hours;
- 8) Reading articles for which the American Speech-Language-Hearing Association or the American Academy of Audiology issues verification of completion: one credit hour per article, up to a maximum of six credit hours; and
- 9) Successful completion of continuing education courses approved by, or offered by providers approved by, the American Speech-Language-Hearing Association or the American Academy of Audiology; one credit hour for each course hour.

13:44C-6.3 DOCUMENTATION OF CONTINUING EDUCATION CREDITS

- a) Except as set forth in (b) below, a licensee shall maintain the following documentation for a period of five years after completion of credit hours:
 - 1) For attendance at programs, courses, seminars, webinars, teleconference, lectures, or in-services workshops, a certificate of completion from the sponsor, which includes:

- i) The name of the licensee;
 - ii) The name of the sponsor;
 - iii) The title, location, and date of the program, course, seminar, lecture, or in-service workshop; and
 - iv) The number of continuing education credit hours;
- 2) For publication of a refereed article, a copy of the article;
 - 3) For presentation of a new seminar, webinar, teleconference, or lecture, copies of the program, syllabus, course outlines, course objectives, and bibliographies;
 - 4) For teaching a new undergraduate or graduate course, copies of the syllabus, bibliography, course outline, and verification from the academic institution that the course was not previously taught by the licensee;
 - 5) For reading articles, certificates of completion from the American Speech-Language-Hearing Association or the American Academy of Audiology;
 - 6) For completion of undergraduate or graduate course work, an official transcript from the education institution; and
 - 7) For completion of a self-assessment home study course, verification of completion from the audiology or speech-language pathology professional organization that sponsored the course.
- b) A licensee who is a member of the American Speech-Language-Hearing Association continuing education registry or the American Academy of Audiology continuing education registry shall not be required to maintain the documentation required by (a) above.
 - c) A licensee shall submit the documentation required by (a) above or a transcript from the American Speech-Language-Hearing Association continuing education registry or the American Academy of Audiology continuing education registry to the Committee upon request.
 - d) Certificates of completion maintained pursuant to (a)1 above shall not be hand-written and shall indicate whether the program, course, seminar, webinar, teleconference, lecture, or in-services workshop was presented at the licensee's place of employment.

13:44C-6.4 EXCESS HOURS CREDITED TO SUBSEQUENT RENEWAL PERIOD

- a) In the event that a candidate for license renewal completes a number of credit hours in excess of the number required in N.J.A.C. 13:44C-6.2, up to five of those excess credit hours shall be credited toward license renewal requirements for the succeeding biennial renewal period; provided, however, that the excess credit hours were completed within the six months immediately prior to license renewal.
- b) A licensee who wishes to apply excess credit hours to a succeeding biennial renewal period must maintain records indicating that he or she completed more than the required 20 credit hours for the current biennial renewal period.

13:44C-6.5 WAIVER OF REQUIREMENTS; APPEARANCE

- a) The Committee may waive the continuing education requirements of N.J.A.C. 13:44C-6.1 on an individual basis for reasons of hardship, such as, but not limited to, severe illness, disability, or military service.
 - 1) A licensee seeking a waiver of the continuing education requirements shall apply to the Committee in writing at least 90 days prior to license renewal and set forth in specific detail the reasons for requesting the waiver. The licensee shall provide the Committee with such supplemental materials as will support the request for waiver and the licensee may be requested to appear before the Committee; and
 - 2) A waiver of continuing education requirements granted pursuant to this section shall be effective only for the biennial period in which such waiver is granted. If the condition(s) which necessitated the waiver persist(s) into the next biennial period, a licensee shall apply to the Committee for approval of such waiver for the new biennial period.
- b) The Committee may direct or order a licensee to complete continuing education credit hours:
 - 1) As part of a disciplinary or remedial measure in addition to the required 20 credit hours of continuing education; or
 - 2) To correct a deficiency in the licensee's continuing education requirements.
- c) Any continuing education credit hours completed by the licensee in compliance with an order or directive from the Committee as set forth in (b)1 above shall not be used to satisfy the minimum continuing education requirements.

13:44C-6.6 (RESERVED)

**SUBCHAPTER 7.
AUTHORIZED PRACTICE**

13:44C-7.1 SCOPE OF PRACTICE—AUDIOLOGY

- a) The practice of audiology includes the following functions related to hearing, its disorders and related communication impairments:
- 1) Providing screening, identification, assessment, diagnosis, treatment, intervention (that is, prevention, restoration, amelioration, compensation), consultation, counseling, and follow-up services for disorders of the peripheral, vestibular and central auditory systems, and other neural systems;
 - 2) Supervision and conduct of newborn hearing screening programs;
 - 3) Measurement and interpretation of sensory and motor evoked potentials, electronystagmography, and other electrodiagnostic tests for purposes of neurophysiologic intraoperative monitoring and cranial nerve assessment;
 - 4) Provision of hearing care by selecting, evaluating, fitting, facilitating, dispensing and adjusting prosthetic devices for hearing loss (that is, FM assistive listening devices), except for the fitting and dispensing of hearing aids unless licensed by the Hearing Aid Dispensers Examining Committee;
 - 5) Assessment of candidacy of persons with hearing loss for cochlear implants and provision of fitting, programming, and audiological rehabilitation to optimize device use;
 - 6) Provision of audiological rehabilitation including speech-reading, communication management, language development, auditory skill development, and counseling for psychosocial adjustment to hearing loss for persons with hearing loss and their families and caregivers; case management and service as a liaison between the consumer, family, and agencies in order to monitor audiologic status and management and to make recommendations about educational and vocational programming;
 - 7) Consultation with educators as members of interdisciplinary teams about communication management, educational implications of communication disorders, educational programming, classroom acoustics, and large-area amplification systems for children

with hearing loss; consultation about accessibility for persons with hearing loss in public and private buildings, programs, and services;

- 8) Prevention of hearing loss and conservation of hearing function by designing, implementing and coordinating occupational, school, and community hearing conservation and identification programs;
- 9) Screening of speech-language, use of sign language, and other factors affecting communication function for the purposes of an audiological evaluation and/or initial identification of individuals with other communication disorders;
- 10) Assessment and nonmedical management of tinnitus using biofeedback, masking, education, and counseling; and
- 11) Dispensing and fitting of hearing aids.

13:44C-7.1A SCOPE OF PRACTICE—CERUMEN MANAGEMENT

- a) The purpose of this section is to set forth standards for the performance of cerumen management by a licensed audiologist. Cerumen management is within the scope of practice of an audiologist who meets the requirements of this section.
- b) "Cerumen management," as used in this section, shall mean the removal of wax like secretions from the cartilaginous portion of the external ear in otherwise healthy ears.
- c) A licensed audiologist may perform cerumen management only if he or she;
 - 1) Completed initial education pursuant to N.J.A.C. 13:44C-3.2, 3.3 or 3.4, which included instruction in the topics required by (d) below; or
 - 2) Has successfully completed a 12-hour seminar or workshop in cerumen management, which qualifies for American Speech-Language Hearing Association (ASHA), American Academy of Audiology (AAA) or Academy of Doctors of Audiology (ADA) continuing education credit and which includes instruction in the topics required by (d) below.
- d) Initial education or a course in cerumen management shall include:
 - 1) Recognizing the presence of medical preexisting contraindications that warrant referral to a physician, such as:

- i) A patient who has hearing in only one ear;
 - ii) A perforated tympanic membrane;
 - iii) Inflammation, tenderness, open wounds or traces of blood in the external ear canal;
 - iv) Drainage from the external ear canal or middle ear;
 - v) Ear surgery within the last six months;
 - vi) A patient who has tympanostomy tubes;
 - vii) Diabetes mellitus, HIV infection or bleeding disorders;
 - viii) Actual or suspected foreign body in the ear;
 - ix) Stenosis or bony exostosis of the ear canal;
 - x) Cerumen impaction that totally occludes the ear canal;
 - xi) Cerumen located beyond the isthmus; or
 - xii) Inability to see the tympanic membrane;
- 2) Recognizing patient distress and appropriate action to take if complications are encountered;
 - 3) Infection control practices, including:
 - i) Universal health precautions;
 - ii) Decontamination;
 - iii) Cleaning, disinfection and sterilization of multiple use equipment; and
 - iv) Universal precautions for prevention of the transmission of human immunodeficiency virus, hepatitis B virus and other blood borne pathogens; and

- 4) Methods for removal of cerumen, for example, cerumen loop, gentle water irrigation, suction and use of material for softening.
- e) In addition to the education requirements of (c) above, a licensed audiologist shall complete the following prior to performing cerumen management:
- 1) Observe a minimum of 2 cerumen management procedures using a cerumen loop, 2 cerumen management procedures using gentle water irrigation and 2 cerumen management procedures using suction performed by either a licensed audiologist who has met the requirements of this section, an audiologist authorized to perform cerumen management in another state or a physician; and
 - 2) Successfully perform, under the supervision of a licensed audiologist who has met the requirements of this section, an audiologist authorized to perform cerumen management in another state or a physician, a minimum of 2 cerumen management procedures using a cerumen loop, 2 cerumen management procedures using gentle water irrigation and 2 cerumen management procedures using suction.
- f) A licensed audiologist shall perform cerumen management only in a healthcare facility licensed by the Department of Health and Senior Services or in his or her office.
- g) A licensed audiologist shall not perform cerumen management and shall refer a patient to a physician if any of the pre-existing contraindications listed in (d)1 above occur.
- h) A licensed audiologist shall not perform cerumen management on a patient who is six years old or younger.
- i) A licensed audiologist shall not perform, or shall cease performing, cerumen management if patient reports:
- 1) Tenderness during manipulation of the pinna or at any time during the cerumen removal procedure; or
 - 2) Dizziness occurring during cerumen removal.
- j) A licensed audiologist shall refer a patient for immediate treatment from a physician if a complication arises during the performance of cerumen management.
- k) A licensed audiologist who performs cerumen management shall maintain a case history for every patient and informed consent signed by the patient as part of his or her records.

13:44C-7.2 SCOPE OF PRACTICE—SPEECH-LANGUAGE PATHOLOGY

- a) The practice of speech-language pathology includes, but is not restricted to, the following functions:
- 1) Providing screening, identification, assessment, diagnosis, treatment, intervention (that is, prevention, restoration, amelioration, compensation), consultation, counseling, and follow-up services for disorders of:
 - i) Speech which includes articulation, fluency, and voice (including respiration, phonation, and resonance);
 - ii) Language which includes disorders of receptive and expressive communication in oral, written, graphic, and manual modalities;
 - iii) Oropharyngeal and related functions (that is, dysphagia, orofacial myofunctional disorders);
 - iv) Cognitive aspects of communication which includes communication disability and other functional disabilities associated with cognitive impairment; and
 - v) Pragmatic aspects of communication;
 - 2) Training and supporting family members and other communication partners of individuals with speech, voice, language, other communication, and swallowing disabilities;
 - 3) Developing and establishing effective augmentative and alternative communication techniques and strategies, including selecting, prescribing, and dispensing of aids and devices and training individuals, their families, and other communication partners in their use;
 - 4) Selecting, fitting, and establishing effective use of appropriate prosthetic/adaptive devices for speaking and swallowing (that is, tracheoesophageal valves, electrolarynges, speaking valves);
 - 5) Providing aural rehabilitation and related counseling services to individuals with hearing loss and central auditory processing dysfunction and to their families;
 - 6) Conducting pure-tone air conduction hearing screening and noninvasive screening tympanometry for the purpose of initial identification and/or referral of individuals with other communication disorders or possible middle ear pathology;

- 7) Enhancing speech and language proficiency and communication effectiveness, including, but not limited to, accent reduction, collaboration with teachers of English as a second language, and improvement of voice, performance, and singing; and
- 8) Consulting with educators as members of interdisciplinary team about communication management, educational implications of communication disorders, educational programming, and classroom accommodations for children with communication disorders.

13:44C-7.2A SCOPE OF PRACTICE: FIBER OPTIC ENDOSCOPIC EXAMINATION OF SWALLOWING (FEES)

- a) The purpose of this section is to set forth standards for the performance of Fiber Optic Endoscopic Examination of Swallowing (FEES) by a licensed speech-language pathologist. FEES is within the scope of practice of a speech-language pathologist who meets the requirements of this section.
- b) The following words and terms, when used in this section, shall have the following meaning, unless the context clearly indicates otherwise:

"FEES" means a fiber optic endoscopic examination of swallowing.

- c) FEES shall only be performed by a licensed speech-language pathologist who is certified in Basic Life Support (BLS) and who has:
 - 1) Completed a 12-hour seminar or workshop in fiber optic endoscopy as a technique for investigating swallowing which qualifies for American Speech-Language-Hearing Association (ASHA) continuing education credit and which includes instruction in:
 - i) Medical contraindications and possible adverse reactions to FEES, including the use of topical anesthesia to the nares; and
 - ii) Recognizing patient distress and appropriate actions to take if complications are encountered;
 - 2) Observed 10 FEES procedures performed by either a speech pathologist who has met the requirements of this section or a physician, at a licensed healthcare facility that requires that healthcare professionals have privileges to perform the FEES procedure; and

- 3) Successfully performed 25 FEES procedures under the supervision of a speech pathologist who has met the requirements of this section or a physician, at a licensed healthcare facility that requires that a healthcare professional have privileges to perform the FEES procedure.
- d) A licensed speech-language pathologist shall only perform FEES in a healthcare facility licensed by the Department of Health or in the office of a physician who received training during residency or post-residency in endoscopic examination.
- e) FEES shall only be performed when a physician who received training during residency or post-residency in endoscopic examination is present.
- f) FEES shall only be performed upon the written request of a physician.

13:44C-7.2B REPORTING TO DEPARTMENT OF HEALTH AND SENIOR SERVICES

- a) Pursuant to N.J.A.C. 8:19-1.10, a licensee who conducts outpatient screening or audiologic testing required by N.J.A.C. 8:19-1.9 on a child shall complete the New Jersey Department of Health and Senior Services' Newborn Hearing Follow-up Report form, submit the report to the Department of Health and Senior Services and report the results of the testing to the child's primary care provider within 10 days of the test being performed.
- b) Pursuant to N.J.A.C. 8:19-1.11, when a licensee confirms a permanent hearing loss, he or she shall complete and submit to the New Jersey Department of Health and Senior Services:
 - 1) A Newborn Hearing Follow-up Report form (form number SCH-2), for children up to 36 months old; and
 - 2) A Special Child Health Services Registration form (form number SCH-0), for children up through 21 years of age.

13:44C-7.3 BUSINESS INTEREST OF UNLICENSED PERSONS

- a) An unlicensed individual may have a business interest in a corporation, partnership, trust, association or other like organization that provides audiology or speech-language pathology services or both, if the provision of direct clinical services is done by licensed audiologists or speech-language pathologists, as appropriate. Nothing in this section shall be construed to mean that such unlicensed person may provide direct clinical services.
- b) Such unlicensed person shall file a statement with the director on a form approved by the director.

13:44C-7.4 EXEMPTIONS

- a) The following are exempt from the provisions of this chapter, pursuant to N.J.S.A. 45:3B-17:
- 1) Any person currently licensed to practice medicine and surgery by this State, provided such a person is not referred to as an audiologist or speech-language pathologist or other similar title.
 - 2) Persons employed by and under the direct supervision of a physician, provided such person is not referred to as an audiologist or speech-language pathologist or other similar title.
 - 3) Persons employed by a Federal agency when services are performed as part of the person's duties with that agency. However, such person is not exempt under this section for that portion of his or her time spent as a private practitioner or providing services for which a fee may be paid by a recipient of the service.
 - 4) Any person certified as a speech correctionist or its successor title, speech-language specialist, by the State Department of Education. However, such person is not exempt under this section for that portion of his or her time spent as a private practitioner or providing services for which a fee may be paid by a recipient of the service.
 - 5) Students and trainees in audiology or speech-language pathology enrolled in an accredited college or university, provided that their services constitute part of their course of study and on-site supervision by a licensee is provided in the appropriate professional field.
 - 6) Any person who is engaged in an activity for which he or she is licensed to perform in New Jersey, as long as such person does not refer to him-or herself as an audiologist or speech language pathologist.
 - 7) Persons licensed by this State as a hearing aid dispenser pursuant to P.L. 1973, c. 19 (N.J.S.A. 45:9A-1 et seq.) who are engaged in activities and services within the scope of practice of a hearing aid dispenser, provided that such person does not refer to himself or herself as an audiologist or speech-language pathologist.

SUBCHAPTER 8. STANDARDS FOR PROFESSIONAL CONDUCT

13:44C-8.1 RECORDKEEPING

- a) Licensees shall maintain written, contemporaneous patient records, which include:
- 1) Findings upon initial examination including the patient's significant past history and results of appropriate tests and measures;
 - 2) A written plan of care indicating the goals of the treatment program, the type of treatment, and the frequency and expected duration of treatment for audiology and/or speech-language pathology services;
 - 3) Dated documentation of each treatment rendered, which contains the licensee's full name and license number;
 - 4) Dated and signed progress notes;
 - 5) Documentation of any changes in the treatment program;
 - 6) Documentation of any contact with other health professionals relative to the patient's care;
 - 7) A discharge summary which includes the reason for discharge and the outcome of services rendered; and
 - 8) Any pertinent legal document such as patient release forms or charge access sheets.
- b) Treatment records for patients shall be maintained for at least seven years from date of the most recent entry. Records for minors shall be kept for seven years from the date of the most recent entry or until the patient turns 20 years old, whichever is longer.
- c) Licensees shall provide access to patient treatment records to a patient or person whom the patient has designated to receive records in accordance with the following:
- 1) No later than 30 days from receipt of a request from a patient or a person whom the patient has designated to receive records, the licensee shall provide a copy of the professional treatment record and/or billing records as may be requested. The record

shall include all pertinent objective data including test results, as applicable, and subjective information;

- 2) The licensee may require that a record request be in writing and may charge a fee for the reproduction of records, which shall be no greater than \$1.00 per page or \$100.00 for the entire record, whichever is less. If the record requested is less than 10 pages, the licensee may charge up to \$10.00 to cover postage and the costs associated with retrieval of the record;
 - 3) If the patient or a subsequent treating health care professional is unable to read the patient record, either because it is illegible or prepared in a language other than English, the licensee shall, upon request, provide an English transcription at no cost to the patient; and
 - 4) The licensee shall not refuse to provide a patient record on the grounds that the patient owes the licensee an unpaid balance.
- d) All licensees shall prepare, within 30 days of a written request from a patient or any person whom the patient has designated to receive such, a written report summarizing the information set forth in (a) above.

13:44C-8.2 CALIBRATION LOG

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

13:44C-8.3 PROHIBITED FEES

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

- c) Licensees shall not require a patient or a third party payor to pay a full or partial fee for unkept appointments unless the patient has been notified of this policy in writing prior to the initiation of audiology or speech-language pathology services.
- d) Licensees shall not require a patient or a third party payor to pay for any evaluation, testing, treatment or other services not documented in a patient chart.
- e) Licensees shall not charge a fee to a patient or a third party payor for audiology or speech-language pathology services which are unwarranted and unnecessary.

13:44C-8.4 PROVIDING FEES AND POSTING LICENSE

- a) All licensees shall provide a written fee schedule which describes charges for each service offered to any person upon request.
- b) All licensees shall post in a conspicuous place a copy of a licensee's biennial renewal certificate.

13:44C-8.5 ADVERTISING

- a) Licensees shall not use any form of public communication regarding professional services, via print, electronic media or in-person solicitation which contains a false, fraudulent, misleading or deceptive statement or claim. A false, fraudulent, misleading or deceptive statement includes any statement or claim which:
 - 1) Contains a misrepresentation of fact;
 - 2) Is likely to mislead or deceive because it fails to make full disclosure of relevant facts;
 - 3) In the case of a testimonial containing an objective, verifiable statement of fact, cannot be verified by the advertiser;
 - 4) Is intended or is likely to create a false or unjustified expectation of favorable results, for example, advertising percentages of success;
 - 5) Implies educational attainments or licensing recognition not supported in fact;
 - 6) States or implies that the licensee has received formal recognition as a specialist in any aspect of the practice of audiology or speech-language pathology if this is not the case;

- 7) Represents that the professional services can or will be competently performed for a stated fee when this is not the case, or makes a representation with respect to fees for professional services that does not disclose all variables affecting the fees that will in fact be charged;
 - 8) Uses techniques of communication which in light of the setting and circumstances appear to intimidate or exert undue influence or undue pressure over a prospective patient;
 - 9) Contains offers of discounts for services without stating the advertiser's usual and customary fee on which the discount will be taken, or the availability of a schedule of the licensee's usual and customary fees, and the period of time during which the offer can be accepted by a prospective patient. If no time limit is specified, such offer shall be deemed to apply for 30 days; or
 - 10) Contains other representations or implications that in reasonable probability will cause an ordinarily prudent person to be misled or be deceived.
- b) All advertisements shall contain the name, address and license number of the licensee or the licensee in charge of the business.
- c) An advertisement may contain either a lay or an expert testimonial, provided that such testimonial is based upon personal knowledge or experience obtained from a provider relationship with the licensee or direct personal knowledge of the subject matter of the testimonial and:
- 1) A lay person's testimonial does not attest to any technical matter beyond the testimonial giver's competence to comment upon; and
 - 2) An expert testimonial is only rendered by an individual possessing specialized expertise sufficient to allow the rendering of a bona fide statement or opinion.
- d) Copies of all printed advertisements and video or audio tapes of every advertisement communicated by electronic media shall be retained by the licensee for a period of three years. All advertisements in a licensee's records shall indicate the date and place of publication.
- e) A licensee shall make records of advertisements available for review by the Committee or its designee upon request.

13:44C-8.6 EXCESSIVE FEES

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

13:44C-8.7 PROFESSIONAL PRACTICES

- a) Licensees shall perform only those functions that are within the scope of their competence considering their level of education, training, and experience.
- b) The following acts or professional practices shall be deemed to be unprofessional conduct:
 - 1) Offering, agreeing to provide or providing any payment or other form of remuneration to any person or entity authorized to direct the initiation of speech-language pathology or audiology services for a referral of any specific patient or any number of patients;
 - 2) Accepting payment or other form of remuneration from any person or entity authorized to direct the initiation of audiology or speech-language pathology services for the referral of any patient;
 - 3) Receiving from any person, firm, partnership or corporation a fee or other form of remuneration for prescribing, recommending, ordering or promotion of the sale of a device, appliance or other item or service, unless such interest is made known in writing to the person for whom the device or appliance is being ordered, prescribed or recommended. Nothing herein shall preclude a licensed speech-language pathologist or audiologist from accepting a product or commodity which can be used as a sample by

patients, provided that the speech-language pathologist or audiologist does not charge patients for items so obtained;

- 4) Knowingly using audiometric test equipment that is not calibrated according to the American National Standard Specification for Audiometers (ANSI S3.6-1996, 1996), available from the Acoustical Society of America, 120 Wall Street, 32nd Floor, New York, New York 10005-3993, which is incorporated herein by reference, as amended and supplemented;
- 5) Conducting a test in an environment that does not meet nationally recognized standards for maximal permissible background sound from the American National Standard Maximum Permissible Ambient Noise Levels for Audiometric Test Rooms (ANSI S3.1-1991, 1991), available from the Acoustical Society of America, 120 Wall Street, 32nd Floor, New York, New York 10005-3993, which is incorporated herein by reference, as amended and supplemented. If a patient cannot, due to health problems, be moved to a testing environment that meets these standards the licensee shall test the patient within the available environment and the testing conditions shall be documented in the patient's record;
- 6) Offering to render or rendering treatment or offering to conduct or conducting testing which in light of the patient's history and findings is unwarranted and unnecessary; or
- 7) Representing oneself as a physician rendering medical opinion or medical services.

SUBCHAPTER 9. UNLICENSED PRACTICE

13:44C-9.1 ACTS AMOUNTING TO UNLICENSED PRACTICE

- a) The following acts or practices shall be deemed to be the unlicensed practice of audiology or speech-language pathology and may warrant the director's initiation of an action in Superior Court for such appropriate injunctive relief as may be authorized by N.J.S.A. 45:3B-15:
 - 1) Offering of any speech-language pathology or audiology services by any person who does not hold the applicable license as a speech-language pathologist or audiologist or is not exempt from licensure pursuant to N.J.A.C. 13:44C-7.2;
 - 2) Using the words "speech-language therapy," "speech therapy," "audiology," "speech pathologist," "audiologist" or such similar words or their related abbreviations by any person who does not hold the appropriate license in speech-language pathology or audiology; or

- 3) Billing any patient or third party payor for "speech-language pathology evaluation" or "speech-language pathology therapy" or "audiologic evaluation" or "audiologic services" or services described by similar words if the individual providing the service does not hold the appropriate license to practice audiology or speech-language pathology or is not a licensed physician.

13:44C-9.2 AIDING AND ABETTING UNLICENSED PRACTICE

It shall be unlawful for a licensee to aid or assist any person in engaging in any of the acts identified in N.J.A.C. 13:44C-9.1.

SUBCHAPTER 10. DISCIPLINARY ACTIONS

13:44C-10.1 SUSPENSION AND REVOCATION OF LICENSE

- a) The Director, in consultation with the Committee, may revoke, suspend or refuse to renew the license of any person licensed under the provisions of this chapter or assess a civil penalty or issue a reprimand, upon proof that the licensee:
 - 1) Has obtained a certificate, registration, license or authorization to sit for an examination, as the case may be, through fraud, deception, or misrepresentation;
 - 2) Has engaged in the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense;
 - 3) Has engaged in gross negligence, gross malpractice or gross incompetence which damaged or endangered the life, health, welfare, safety or property of any person;
 - 4) Has engaged in repeated acts of negligence, malpractice or incompetence;
 - 5) Has engaged in professional or occupational misconduct as may be determined by the director;
 - 6) Has been convicted of, or engaged in acts constituting, any crime or offense involving moral turpitude or relating adversely to the practice of audiology or speech-language pathology. For the purpose of this subsection, a judgment of conviction or plea of guilty, non vult, nolo contendere or other such disposition of alleged criminal activity shall be deemed a conviction;

- 7) Has had his authority to engage in the practice of audiology or speech-language pathology revoked or suspended by any other state, agency or authority for reasons consistent with this section;
 - 8) Is incapable, for medical or any other good cause, of discharging the functions of a licensee in a manner consistent with the public's health, safety and welfare;
 - 9) Has violated or failed to comply with any of the provisions of N.J.S.A. 45:3B-1 et seq. or N.J.A.C. 13.44C;
 - 10) Has violated any provision of P.L. 1983, c.320 (N.J.S.A. 17:33A-1 et seq.) or any insurance fraud prevention law or act of another jurisdiction or has been adjudicated, in civil or administrative proceedings, of a violation of P.L. 1983, c.320 (N.J.S.A. 17:33A-1 et seq.) or has been subject to a final order, entered in civil or administrative proceedings, that imposed civil penalties under that act against the applicant or holder;
 - 11) Is presently engaged in drug or alcohol use that is likely to impair the ability to practice the profession or occupation with reasonable skill and safety. For purposes of this subsection, the term "presently" means at this time or any time within the previous 365 days;
 - 12) Has permitted an unlicensed person or entity to perform an act for which a license or certificate of registration or certification is required by the Board, or aided and abetted an unlicensed person or entity in performing such an act; or
 - 13) Has violated the provisions of N.J.A.C. 13:44C-8.5.
- b) In addition to the consequences listed in (a) above, the Director may impose additional or alternative penalties pursuant to N.J.S.A. 45:1-14 et seq. for violations of any provision of N.J.S.A. 45:3B-1 et seq. and this subchapter.
 - c) In addition to the express consequences of (a) and (b) above, the Director may enforce consequences arising from actions taken by other statutory authorities.
 - d) The denial, refusal to issue or renew, suspension or revocation of a license, and/or the issuance of a civil penalty under this section may be ordered by a decision of the Director after notice and an opportunity to be heard pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

13:44C-10.2 REINSTATEMENT

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

SUBCHAPTER 11. TELEMEDICINE

13:44C-11.1 PURPOSE AND SCOPE

- a) The purpose of this subchapter is to implement the provisions of P.L. 2017, c. 117 (N.J.S.A. 45:1-61 et seq.), which authorizes healthcare providers to engage in telemedicine and telehealth.
- b) This subchapter shall apply to all persons who are licensed by the Committee as audiologists and/or speech language pathologists.
- c) Pursuant to N.J.S.A. 45:1-62, an audiologist and/or speech language pathologist must hold a license issued by the Committee if he or she:
 - 1) Is located in New Jersey and provides health care services to any patient located in, or out of, New Jersey by means of telemedicine or telehealth; or
 - 2) Is located outside of New Jersey and provides health care services to any patient located in New Jersey by means of telemedicine or telehealth.
- d) Notwithstanding N.J.S.A. 45:1-62 and (c) above, a healthcare provider located in another state who consults with a licensee in New Jersey through the use of information and communications technologies, but does not direct patient care, will not be considered as providing health care services to a patient in New Jersey consistent with N.J.S.A. 45:3B-1 et seq., and will not be required to obtain licensure in New Jersey in order to provide such consultation.

13:44C-11.2 DEFINITIONS

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

"Asynchronous store-and-forward" means the acquisition and transmission of images, diagnostics, data, and medical information either to or from an originating site or to or from the licensee at a distant site, which allows for the patient to be evaluated without being physically present.

"Committee" means the Audiology and Speech-Language Pathology Advisory Committee.

"Cross-coverage service" means a licensee engages in a remote medical evaluation of a patient, without in-person contact, at the request of another licensee who has established a proper licensee-patient relationship with the patient.

"Distant site" means a site at which a licensee is located while providing health care services by means of telemedicine or telehealth.

"Licensee" means an individual licensed by the Committee as an audiologist and/or speech language pathologist.

"On-call" means a licensee is available, where necessary, to physically attend to the urgent and follow-up needs of a patient for whom the licensee has temporarily assumed responsibility, as designated by the patient's primary care licensee or other health care provider of record.

"Originating site" means a site at which a patient is located at the time that health care services are provided to the patient by means of telemedicine or telehealth.

"Telehealth" means the use of information and communications technologies, including telephones, remote patient monitoring devices, or other electronic means, to support clinical health care, provider consultation, patient and professional health-related education, public health, health administration, and other services in accordance with the provisions of P.L. 2017, c. 117 (N.J.S.A. 45:1-61 et seq.).

"Telemedicine" means the delivery of a health care service using electronic communications, information technology, or other electronic or technological means to bridge the gap between a health care licensee who is located at a distant site and a patient who is located at an originating site, either with or without the assistance of an intervening licensee, and in accordance with the provisions of P.L. 2017, c. 117 (N.J.S.A. 45:1-61 et seq.). "Telemedicine" does not include the use, in isolation, of audio-only telephone conversation, electronic mail, instant messaging, phone text, or facsimile transmission.

13:44C-11.3 STANDARD OF CARE

- a) Prior to providing services through telemedicine or telehealth, a licensee shall determine whether providing those services through telemedicine or telehealth would be consistent with the standard of care applicable for those services when provided in-person.
- b) If a licensee determines, either before or during the provision of services, that services cannot be provided through telemedicine or telehealth in a manner that is consistent with in-person standards of care, the licensee shall not provide services through telemedicine or telehealth.
- c) A licensee who determines that services cannot be provided through telemedicine or telehealth, pursuant to (b) above, shall advise the patient to obtain services in-person.
- d) A licensee who provides a diagnosis, treatment, or consultation recommendation, including discussions regarding the risk and benefits of a patient's treatment options, through telemedicine or telehealth shall be held to the same standard of care or practice standards as are applicable to in-person settings.

13:44C-11.4 LICENSEE-PATIENT RELATIONSHIP

- a) Prior to providing services through telemedicine or telehealth, a licensee shall establish a licensee-patient relationship by:
 - 1) Identifying the patient with, at a minimum, the patient's name, date of birth, phone number, and address. A licensee may also use a patient's assigned identification number, Social Security number, photo, health insurance policy number, or other identifier associated directly with the patient; and
 - 2) Disclosing and validating the licensee's identity, license, title, and, if applicable, specialty and board certifications.
- b) Prior to an initial contact with a patient for the purpose of providing services to the patient using telemedicine or telehealth, a licensee shall review the patient's history and any available records.
- c) Prior to initiating contact with a patient for the purpose of providing services through telemedicine or telehealth, a licensee shall determine whether he or she will be able to provide the same standard of care using telemedicine or telehealth as would be provided if

the services were provided in person. The licensee shall make this determination prior to each unique patient encounter.

- d) Prior to initiating contact with a patient, a licensee shall provide the patient the opportunity to sign a consent form that authorizes the licensee to release records of the encounter to the patient's primary care licensee or other health care provider identified by the patient.
- e) Notwithstanding (a), (b), and (c) above, services may be provided through telemedicine or telehealth without a proper licensee-patient relationship if:
 - 1) The provision of services is for informal consultations with another healthcare provider performed by a licensee outside the context of a contractual relationship, or on an irregular or infrequent basis, without the expectation or exchange of direct or indirect compensation;
 - 2) The provision of services is during episodic consultations by a specialist located in another jurisdiction who provides consultation services, upon request, to a licensee in this State;
 - 3) A licensee furnishes assistance in response to an emergency or disaster, provided that there is no charge for the assistance; or
 - 4) A substitute licensee, who is acting on behalf of an absent licensee in the same specialty, provides health care services on an on-call or cross-coverage basis, provided that the absent licensee has designated the substitute licensee as an on-call licensee or cross-coverage service provider.

13:44C-11.5 PROVISION OF SERVICES THROUGH TELEMEDICINE OR TELEHEALTH

- a) As long as a licensee has satisfied the requirements of N.J.A.C. 13:44C-11.4, a licensee may provide health care services to a patient through the use of telemedicine and may engage in telehealth to support and facilitate the provision of health care services to patients.
- b) Prior to providing services through telemedicine or telehealth, a licensee shall determine the patient's originating site and record this information in the patient's record.
- c) A licensee providing healthcare services through telemedicine shall use interactive, real-time, two-way communication technologies, which shall include, except as provided in (e)

below, a video component that allows a licensee to see a patient and the patient to see the licensee during the provision of services.

- d) A licensee providing services through telemedicine or telehealth may use asynchronous store-and-forward technology to allow for the electronic transmission of:
 - 1) Images;
 - 2) Diagnostics;
 - 3) Data; and
 - 4) Medical information.
- e) If, after accessing and reviewing the patient's records, a licensee determines that he or she is able to meet the standard of care for such services if they were being provided in-person without using the video component described in (c) above, the licensee may use interactive, real-time, two-way audio in combination with asynchronous store-and-forward technology, without a video component.
- f) During the provision of services through telemedicine or telehealth, and after the provision of services, a licensee, or another designated licensee, shall provide his or her name, professional credentials, and contact information to the patient. Such contact information shall enable the patient to contact the licensee for at least 72 hours following the provision of services, or for a longer period if warranted by the patient's circumstances and accepted standards of care.
- g) Prior to providing services through telemedicine or telehealth, a licensee shall review any history or records provided by a patient as follows:
 - 1) For an initial encounter with a patient, history and records shall be reviewed prior to the provision of services through telemedicine or telehealth; and
 - 2) For any subsequent interactions with a patient, history and records shall be reviewed either prior to the provision of services through telemedicine or telehealth, or contemporaneously with the encounter with the patient.
- h) After the provision of services through telemedicine or telehealth, a licensee shall provide the patient, upon request, with his or her records created due to the services provided.

- i) A licensee shall provide, upon a patient's written request, the patient's information to the patient's primary care provider or to other health care providers.
- j) A licensee engaging in telemedicine or telehealth shall refer a patient for follow-up care when necessary.

13:44C-11.6 RECORDS

A licensee who provides services through telemedicine or telehealth shall maintain a record of the care provided to a patient. Such records shall comply with the requirements of N.J.A.C. 13:44C-8.1, and all other applicable State and Federal statutes, rules, and regulations for recordkeeping, confidentiality, and disclosure of a patient's record.

13:44C-11.7 PREVENTION OF FRAUD AND ABUSE

- a) In order to establish that a licensee has made a good faith effort to prevent fraud and abuse when providing services through telemedicine or telehealth, a licensee must establish written protocols that address:
 - 1) Authentication and authorization of users;
 - 2) Authentication of the patient during the initial intake, pursuant to N.J.A.C. 13:44C-11.4(a)1;
 - 3) Authentication of the origin of information;
 - 4) The prevention of unauthorized access to the system or information;
 - 5) System security, including the integrity of information that is collected, program integrity, and system integrity;
 - 6) Maintenance of documentation about system and information usage;
 - 7) Information storage, maintenance, and transmission; and
 - 8) Synchronization and verification of patient profile data.

13:44C-11.8 PRIVACY AND NOTICE TO PATIENTS

- a) Licensees who communicate with patients by electronic communications other than telephone or facsimile shall establish written privacy practices that are consistent with Federal standards under 45 CFR 160 and 164, which are incorporated herein by reference, as amended and supplemented, relating to privacy of individually identifiable health information.
- b) Written privacy practices required pursuant to (a) above shall include privacy and security measures that assure confidentiality and integrity of patient-identifiable information. Transmissions, including patient email and laboratory results, must be password protected or protected through substantially equivalent authentication techniques.
- c) A licensee who becomes aware of a breach in confidentiality of patient information, as defined at 45 CFR 164.402, shall comply with the reporting requirements of 45 CFR 164.
- d) Licensees, or their authorized representatives, shall provide a patient, prior to evaluation or treatment, with copies of written privacy practices and shall obtain the patient's written acknowledgement of receipt of the notice.
- e) Licensees who provide services through telemedicine or telehealth, or their authorized representatives, shall, prior to providing services, give patients notice regarding telemedicine and telehealth, including the risks and benefits of being treated through telemedicine or telehealth and how to receive follow-up care or assistance in the event of an adverse reaction to the treatment or in the event of an inability to communicate as a result of a technological or equipment failure. A licensee shall obtain a signed and dated statement indicating that the patient received this notice.
- f) When telemedicine or telehealth is unable to provide all pertinent clinical information that a licensee exercising ordinary skill and care would deem reasonably necessary to provide care to a patient, the licensee shall inform the patient of this prior to the conclusion of the provision of care through telemedicine or telehealth and shall advise the patient regarding the need for the patient to obtain an additional in-person evaluation reasonably able to meet the patient's needs.

