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NEW JERSEY ADMINISTRATIVE CODE  
TITLE 13  
LAW AND PUBLIC SAFETY  
CHAPTER 42  
BOARD OF PSYCHOLOGICAL EXAMINERS

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**SUBCHAPTER 1.**  
**SCOPE OF PRACTICE; PERSONS REQUIRING LICENSURE;**  
**EXEMPTIONS FROM LICENSURE; UNLICENSED PRACTICE**

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**13:42-1.1 SCOPE OF PRACTICE**

- a) The scope of practice of a licensed psychologist includes, but is not limited to, the use or advertisement of the use of theories, principles, procedures, techniques or devices of psychology, whether or not for a fee or other recompense. Psychological services include, but are not limited to:
- 1) Psychological assessment of a person or group including, but not limited to: administration or interpretation of psychological tests and devices for the purpose of educational placement, job placement, job suitability, personality evaluation, intelligence, psychodiagnosis, treatment planning and disposition; career and vocational planning and development; personal development; management development; institutional placements; and assessments in connection with legal proceedings and the actions of governmental agencies including, but not limited to, cases involving education, divorce, child custody, disability issues and criminal matters;
  - 2) Psychological intervention or consultation in the form of verbal, behavioral or written interaction to promote optimal development or growth or to ameliorate personality disturbances or maladjustments of an individual or group. Psychological intervention includes, but is not limited to, individual, couples, group and family psychotherapy, and psychological consultation includes consultation to or for private individuals, groups and organizations and to or for governmental agencies, police and any level of the judicial system;
  - 3) Use of psychological principles, which are operating assumptions derived from the theories of psychology that include, but are not limited to: personality, motivation, learning and behavior systems, psychophysiological psychology including biofeedback, neuropsychology, cognitive psychology and psychological measurement; and
  - 4) Use of psychological procedures, which are applications employing the principles of psychology and associated techniques, instruments and devices. These procedures include, but are not limited to, psychological interviews, counseling, psychotherapy, hypnotherapy, biofeedback, and psychological assessments.

**13:42-1.2 PERSONS REQUIRING LICENSURE; PERSONS NOT REQUIRING LICENSURE**

- a) Persons requiring licensure include all those whose conduct is within the scope of practice set forth in N.J.A.C. 13:42-1.1 and whose practice is not otherwise exempt pursuant to N.J.S.A. 45:14B-6, and 45:14B-8, N.J.A.C. 13:42-1.4 and 1.5 and (b) below, including the following:
- 1) Persons offering services to the public in private practice, in partnership with other licensed health care professionals, in professional service corporations as shareholders or employees, and in or affiliated with all forms of managed health care organizations (for example, HMO, PPO, IPA, etc.); and
  - 2) Employees of general business corporations to the extent such practice is permitted pursuant to N.J.A.C. 13:42-7.5.
- b) Persons not requiring licensure are limited to persons engaged in the practice of hypnotherapy as well as those whose conduct and practice is exempt from licensure pursuant to this subchapter.
- 1) For purposes of this subsection, hypnotherapy means the induction of a hypnotic state by applying individualized techniques to induce hypnosis in order to assist clients with stress management not related to a medical or mental health disorder, altering habits such as smoking and weight management, increasing client motivation in employment, the workplace and in sports activities and enhancing creative, artistic and scholastic endeavors.
  - 2) The services of a hypnotherapist shall be limited to:
    - i) Interviewing a client to determine the nature of the client's problem;
    - ii) Assessing the client's suitability for hypnotherapy;
    - iii) Testing a prospective client to determine the client's level of suggestibility;
    - iv) Preparing clients for hypnosis through an explanation of the process and procedures used as well as a description of the resulting hypnotic state to be experienced by the client;
    - v) Teaching self-hypnosis to clients;

- vi) Inducing the hypnotic state; and
- vii) Applying hypnotic techniques.

### **13:42-1.3 EMPLOYMENT BY A NONPROFIT BONA FIDE COMMUNITY ORGANIZATION; EXEMPTION FROM LICENSURE**

- a) Pursuant to N.J.S.A. 45:14B-6(a)3, an employee of a nonprofit organization which is a bona fide community agency supported wholly or in major part by public funds who, as part of his or her duties as an employee, does or performs psychological services is exempted from licensure provided the employee is under the direct supervision of a licensed practicing psychologist. For purposes of this section, "direct supervision" shall mean acts performed at a nonprofit bona fide community organization wherein he or she is constantly accessible, either on-site or through electronic communication, and available to render assistance when required and that the licensee shall retain full professional responsibility for client care and treatment.
- b) For purposes of this section, the term "public funds" shall not mean payments by Medicare or Medicaid or other public or private insurance fund on behalf of an individual client to an individual provider (directly or through a professional service corporation) licensed by the Board.
- c) For purposes of this section, the term "non-profit bona fide community organization" shall mean:
  - 1) An entity which is exempt from taxation pursuant to section 501 of the United States Internal Revenue Code and which meets one of the following definitions. The organization shall be:
    - i) A corporate entity or any community chest, fund or foundation organized and operated exclusively for religious or charitable purposes;
    - ii) A civic league or organization not organized for profit but operated exclusively for the promotion of social welfare; or
    - iii) A religious society devoted exclusively to charitable or religious purposes; or
  - 2) An entity which has as its commitment the delivery of mental health services to clients who are amenable to those forms of psychological services customarily provided by the organization and which meets one of the following definitions:

- i) The organization receives 50 percent or more of its funding in the form of public monies from a budget line or grant appropriated on a quarterly, twice-yearly, annual or other regular basis; or
  - ii) The organization has publicly and permanently committed itself to accepting, without numerical restriction, clients whose treatment shall be reimbursed either by Medicaid or Medicare or other public insurance program funding.
- d) Examples of organizations which may be considered bona fide non-profit community organizations under the definition set forth in (c)2 above include private or public non-psychiatric hospitals which are licensed by the New Jersey State Department of Health to provide health and medical care to the general public and which have a designated psychiatric unit.
- e) At the time employment of the employee, who as part of his or her duties as an employee does or performs psychological services, commences, the exempt entity or exempt practitioner shall submit to the Board a notice specifying the following information:
- 1) The public commitment of the organization and the basis for exemption under this section;
  - 2) The name of the New Jersey licensed psychologist(s) or psychiatrist(s) or other licensed mental health care practitioner authorized by law to render professional mental health services at the organization's facility; and
  - 3) The name of each employee who as part of his or her duties as an employee does or performs psychological services. The employee shall not be an independent contractor.
- f) The exempt entity may submit notice on behalf of the employee(s), and a single annual notice in January of each year shall suffice to retain the exemption for that year. The exempt entity shall update the notice as necessary, and the Board will acknowledge receipt of each notice.
- g) Exemption shall be conditioned upon the employing organization continuing to meet the criteria of this section and N.J.S.A. 45:14B-6 as it may be affected by other applicable law.
- h) An unlicensed employee who as part of his or her duties as an employee does or performs psychological services shall not identify him- or herself, or be identified by others, as a psychologist.

**13:42-1.4 STUDENT OF PSYCHOLOGY; EXEMPTION FROM LICENSURE**

- a) For purposes of this section, "student of psychology" means a person who is presently registered at a regionally accredited institution and there matriculated into a graduate program of study leading toward a doctoral degree in psychology or an allied field.
- b) A student of psychology may be exempt from licensure under the Act provided that the student is under the supervision of an authorized supervisor as set forth in N.J.A.C. 13:42-4.2.
- c) The student's authorized supervisor shall be responsible for ensuring that:
  - 1) The student's participation in the training program is a requirement of the graduate psychology program;
  - 2) The student's transcript (or previous transcripts accepted by the degree-granting college or university as specifically supportive of the present graduate program leading toward the graduate degree) reflects prior academic training specific to the duties assigned to the student; and
  - 3) The student is clearly identified as a student intern or extern prior to engaging in psychological practice.

**13:42-1.5 MEMBER OF OTHER PROFESSIONAL GROUP DOING WORK OF PSYCHOLOGICAL NATURE; EXEMPTION FROM LICENSURE**

- a) The following individuals, who do work of a psychological nature consistent with the accepted standards of their respective professions, are exempt from licensure under the Practicing Psychology Licensing Act provided they do not hold themselves out to the public by any title or description stating or implying that such person is a psychologist or is licensed to practice psychology:
  - 1) A licensed allopathic or osteopathic physician;
  - 2) A licensed optometrist;
  - 3) A licensed chiropractor;
  - 4) A member of the clergy or pastoral counselor directly affiliated with a recognized ministry and employed by that ministry to provide psychological services;

- 5) A licensed attorney at law;
- 6) A licensed social worker under the supervision of a duly licensed mental health professional;
- 7) A licensed clinical social worker;
- 8) A licensed registered nurse certified by the Society of Clinical Specialists in Psychiatric Nursing of the American Nurses Association;
- 9) A person employed by the Federal government and solely in a Federal installation;
- 10) An authorized practitioner as designated by a New Jersey court of competent jurisdiction to perform services which may be psychological in nature pursuant to Rule of Court 5:3-3;
- 11) A school psychologist or guidance counselor who is certified by the New Jersey State Department of Education and who is employed by, and whose services are rendered in or for, a public or private school. No exemption shall be permitted to any school psychologist/counselor not certified by a governmental department of the State of New Jersey and not employed in an exempt setting as set forth in N.J.A.C. 13:42-1.3 and N.J.S.A. 45:14B-6(a)1 and (b) unless otherwise authorized by law;
- 12) A professional counselor or associate counselor licensed pursuant to N.J.S.A. 45:8B-1 et seq., as amended by P.L. 1993, c.340;
- 13) A licensed marriage and family therapist;
- 14) A licensed occupational therapist;
- 15) A licensed physical therapist;
- 16) A career counselor registered pursuant to N.J.S.A. 34:8-65 et seq.; and
- 17) Any other category of practitioners specifically authorized by law to perform work of a psychological nature consistent with the accepted standards of their respective professions/occupations.

**13:42-1.6 INELIGIBILITY FOR EXEMPTION**

A person denied a permit or license for reasons other than clear educational deficiency, or whose permit or license has been suspended, revoked or limited by the Board, shall be deemed ineligible to be employed in an exempt setting as defined in or to qualify for practice under N.J.S.A. 45:14B-6 except by order of the Board.

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**SUBCHAPTER 2.  
INITIAL QUALIFICATIONS**

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**13:42-2.1 APPLICATION; QUALIFICATIONS TO SIT FOR EXAMINATION**

- a) An applicant for licensure shall file with the Board an application together with all supporting material. The application form requests a brief summary of educational and employment experience. Supporting material required to be submitted with the application includes official transcripts; an abstract of the applicant's doctoral dissertation as published in Dissertation Abstracts International; and two certificates of good moral character. Documentation of two years of full time or full time equivalent supervised experience in the practice of psychology is required upon the applicant's completion of such experience.
- b) In order to be eligible to sit for the examination, an applicant shall have two years of full-time or full-time-equivalent supervised experience in accordance with N.J.A.C. 13:42-4 and:
  - 1) An earned doctorate, which meets the criteria set forth in (d) through (j) below, in the field of psychology from an educational institution recognized by the Board;
  - 2) An earned doctorate, which meets the criteria set forth in (d) through (j) below, in a field allied to psychology; or
  - 3) Equivalent training as set forth in N.J.A.C. 13:42-2.3.
- c) The institution at which the applicant earned his or her doctorate shall have been fully accredited during the entirety of the applicant's attendance by a regional accrediting body recognized by the United States Department of Education, Office of Postsecondary Education. Alternatively, an educational institutional program shall have been granted continuous provisional accreditation by a regional accrediting body recognized by the United States Department of Education, Office of Postsecondary Education during the entirety of the applicant's attendance, with full accreditation having been awarded within five years of the candidate's graduation.

- d) No more than one-third of the doctoral credits shall have been transferred from other regionally/nationally accredited graduate schools.
- e) The doctoral degree must be based upon at least 40 doctoral credit hours earned specifically within the field of psychology and within a doctoral program requiring personal attendance at the degree-granting institution that meets the requirements of (f) below. Thirty-six of the required 40 credit hours shall be distributed across the following areas of graduate study:
- 1) Personality Theory and Human Development Theory: six credits;
  - 2) Learning Theory and/or Physiological Psychology: six credits;
  - 3) Psychological Measurement and Psychological Assessment: six credits;
  - 4) Psychopathology: six credits;
  - 5) Psychological therapy/counseling or Industrial/Organizational Psychology: six credits;  
and
  - 6) Research and Statistical Design: six credits.
- f) In order to qualify as a doctoral program for the purposes of (e) above, a doctoral program shall:
- 1) Be accredited by the American Psychological Association or the Canadian Psychological Association, or listed by the Association of State and Provincial Psychology Boards/National Register Joint Designation; or
  - 2) Meet the following:
    - i) Have full-time faculty who are doctorally prepared in psychology;
    - ii) Require full-time students to physically attend classes on campus for at least one academic year; and
    - iii) Require part-time students to physically attend classes on campus for at least two academic years.

- g) An applicant for licensure who was enrolled in a doctoral program prior to September 19, 2011 shall not be required to show that the doctoral program met the requirements of (f) above.
- h) The applicant shall submit evidence of an additional 20 credit hours, also specifically in the field of psychology, but which were not necessarily obtained as part of the doctoral program. The additional 20 credits can have been granted at a pre-doctoral or post-doctoral graduate level and must have been obtained as part of an educational program in a regionally accredited institution.
- i) The Board may, in its discretion, recognize up to six credits for a dissertation which is psychological in nature. The six credits may be used either to satisfy the requirement of having at least 40 doctoral credit hours specifically within the field of psychology and earned within a doctoral program, or to satisfy a credit deficiency in one or more of the required distribution areas of doctoral study.
- j) The Board may, in its discretion, accept up to nine credits, taken at a regionally accredited school or university, to remediate a deficiency in the requirements of (e) and (h) above.

### **13:42-2.2 ACADEMIC DEGREE IN A FIELD ALLIED TO PSYCHOLOGY**

- a) An applicant for licensure based on receipt of an earned doctoral degree in a field allied to psychology shall arrange for transmittal to the Board of an official copy of all undergraduate and graduate transcripts from a regionally and/or nationally accredited educational institution or one which is recognized by the New Jersey State Department of Higher Education and by the Board.
- b) The doctorate degree must meet the criteria set forth in N.J.A.C. 13:42-2.1(d) through (f), and the doctoral dissertation must be psychological in nature.

### **13:42-2.3 EQUIVALENT TRAINING**

- a) An applicant for licensure based on equivalent training shall submit evidence to the Board that the applicant has all of the following equivalent training:
  - 1) An earned doctorate based upon a dissertation which is clearly psychological in nature from a regionally and/or nationally accredited educational institution or one which is recognized by the New Jersey State Department of Higher Education and by the Board; or, if the dissertation is not clearly psychological in nature, authorship of work in a refereed scholarly publication which work the Board deems to be clearly psychological in nature and equivalent to a dissertation; and

- 2) Extensive experience, subsequent to receipt of the earned doctorate and for at least the five years immediately preceding application, in the field of applied psychology. The applicant's work in the field of applied psychology must be generally accepted by the local and/or regional psychological community as meeting the standards of professional psychological practice and contributing substantially to that community; and
- 3) Substantial formal post-doctoral study in a training program accredited by a bona fide accrediting body acceptable to the Board.

### **13:42-2.4 DEGREES EARNED OUTSIDE THE UNITED STATES**

- a) An applicant for licensure trained in an educational institution outside the United States shall demonstrate to the satisfaction of the Board that he or she possesses a doctorate degree in psychology that is equivalent to a degree earned from a regionally accredited university in the United States.
- b) Individuals who apply pursuant to (a) above shall provide the Board with a comprehensive evaluation of their degree performed by the National Register of Health Service Psychologists or a foreign credential evaluation service that is member of the National Association of Credential Evaluation Services (NACES) and acceptable to the Board, and any other documentation the Board deems necessary.

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## **SUBCHAPTER 3. ONE-YEAR UNSUPERVISED AND THREE-YEAR SUPERVISED TEMPORARY PERMITS FOR TRAINING PENDING JURISPRUDENCE ONLINE EXAMINATIONS**

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### **13:42-3.1 ONE-YEAR UNSUPERVISED PERMIT**

- a) The Board shall issue a numbered temporary permit for the unsupervised practice of psychology for a period not to exceed one year to a psychologist who:
  - 1) Holds a license in good standing as a psychologist in another state with licensure requirements substantially similar to those of this State;
  - 2) Otherwise qualifies for licensure pursuant to the Practicing Psychology Licensing Act, N.J.S.A. 45:14B-1 et seq.;
  - 3) Has not engaged in any act or practice which would be the basis for denying a permit under the Uniform Enforcement Act, N.J.S.A. 45:1-14 et seq.;

- 4) Meets all requirements of New Jersey law other than completing the jurisprudence online examination in this State;
  - 5) Has had at least two years of active post-doctoral experience in the practice of applied psychology within the four years immediately preceding application;
  - 6) Has had no disciplinary action taken against a license to practice psychology held in any other state;
  - 7) Provides the Board with a specific written plan for the practice of psychology in this State during the one-year term of unsupervised practice including, but not limited to, the number and kind of cases to be assumed, any affiliation or association with another mental health care provider in this State, and a statement in regard to whether the permit holder will be billing clients for psychological services directly or through another entity such as an employer; and
  - 8) Has filed an application for licensure with the Board.
- b) The holder of an unsupervised temporary permit pursuant to (a) above shall, within 90 days of issuance of the permit, complete the jurisprudence online examination. Failure to meet this deadline may, upon notice to the permit holder, result in revocation of the permit.
- c) The permit holder shall complete the examination process before the expiration of the permit.
- d) The permit holder shall assume only the number and kind of cases that can be readily transferred to a licensed psychologist in the event the permit holder fails the examination or has his or her permit suspended or revoked prior to the expiration of the one-year period.

### **13:42-3.2 THREE-YEAR SUPERVISED PERMIT**

- a) The Board shall issue a numbered temporary permit for the supervised practice of psychology for a period not to exceed three years to a qualified individual who meets all the requirements of New Jersey law, including the Practicing Psychology Licensing Act, N.J.S.A. 45:14B-1 et seq., other than the requisite number of hours of post-doctoral supervised experience and/or passing the written examination and completing the jurisprudence online examination and has not engaged in any act or practice which would be the basis for denying a permit under the Uniform Enforcement Act, N.J.S.A. 45:1-14 et seq. An applicant for licensure who has not completed the requirement for post-doctoral supervised experience shall be required to obtain a three-year supervised permit and comply with all of the provisions of this subchapter, including those applicants who intend to obtain the supervised

experience in a practice or facility that is otherwise exempt pursuant to N.J.S.A. 45:14B-6 or 45:14B-8 or N.J.A.C. 13:42-1.2, 1.3, 1.4, or 1.5.

- b) The permit holder shall practice only in accordance with the standards of supervised practice set forth in N.J.A.C. 13:42-4.
- c) The permit holder shall obtain the required supervised experience and successfully complete the written examination and jurisprudence online examination prior to the expiration of the permit.
- d) The permit holder shall undertake only the number and kind of cases that may be readily transferred to a licensed psychologist should the permit holder fail to obtain the required supervised experience, have his or her permit suspended or revoked, or fail to successfully complete the examination process prior to the expiration of the three-year period.

#### **13:42-3.3 LIMITATION, SUSPENSION, OR REVOCATION OF PERMIT BY BOARD**

- a) The Board may, upon notice to the permit holder limit, suspend, or revoke the permit of an individual who fails the written or jurisprudence examination.
- b) The Board may, upon notice to the permit holder and the opportunity for a hearing in accordance with 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, limit, suspend or revoke the permit of an individual who fails to properly discharge his or her responsibilities.

#### **13:42-3.4 EXTENSION OF PERMIT UPON REQUEST OF PERMIT HOLDER**

- a) Upon the written request of a permit holder, the Board may, in its discretion, extend the temporary permit for good cause shown.
- b) The permit holder shall submit the request for extension, together with the required fee, no later than 30 days before expiration of the permit. The request shall include the reason for the extension.
- c) Extension of a permit may be conditioned upon the individual meeting the following requirements:
  - 1) Immediate appearance by the permit holder, upon notice, before a committee of the Board to review the current caseload;

- 2) Acceptance of such limitations and conditions (for example, reduction of caseload, alterations in the supervisory arrangement, personal therapy, etc.) as the Board may deem necessary to promote competent psychological practice; and/or
- 3) Demonstration to the satisfaction of the Board that the welfare of the public is protected by extension of the permit, with appropriate limitations and conditions.

### **13:42-3.5 RETURN OF PERMIT**

All temporary permits are the property of the Board. The holder of a temporary permit shall return the permit to the Board no later than 10 days after its expiration or within 10 days of notice of suspension or revocation of the permit.

### **13:42-3.6 RESPONSIBILITIES OF APPLICANT FOR ONE-YEAR UNSUPERVISED AND THREE-YEAR SUPERVISED TEMPORARY PERMITS**

- a) An applicant for a one-year unsupervised or three-year supervised temporary permit shall have on file with the Board an application for licensure together with all supporting material as required by N.J.A.C. 13:42-2.1(a), with the exception of the two year supervised experience requirement.
- b) The applicant shall request, in writing, the issuance of a one-year unsupervised or three-year supervised temporary permit to practice psychology until passing the written examination and completing the jurisprudence online examination and/or for the purpose of meeting the supervised experience requirement.
- c) An applicant for a one-year unsupervised or three-year supervised temporary permit shall not provide psychological services until a permit has been issued by the Board.
- d) A supervised permit holder shall see only those clients assigned to the permit holder by the supervisor.
- e) A supervised permit holder shall not set a professional fee or receive a professional fee from a client. A supervised permit holder may be compensated only through the supervisor or employing entity as provided in N.J.A.C. 13:42-4.6. An unsupervised permit holder may set and receive professional fees.
- f) A one-year unsupervised and three-year supervised permit holder shall limit client contact to no more than 20 client or group contact hours in any one week.
- g) A supervised permit holder shall not engage in unsupervised or independent practice.

- h) A supervised permit holder shall be responsible for the supervisor's compliance with the requirements of N.J.A.C. 13:42-4.4(a) through (c).
- i) A permit holder shall include his or her permit number on any printed representations of practice.
- j) A permit holder shall not advertise, except a one-year unsupervised permit holder may identify the location of his or her practice solely by name and address. A permit holder may indicate the degree held such as Ph.D., but any use of the words "psychology," "psychologist," or any of its derivatives shall be prohibited for any permit holder prior to licensure.
- k) Prior to commencement of client treatment, a one-year unsupervised permit holder shall obtain a written disclosure form, which shall be signed by the client and retained as part of the client record, acknowledging that the client has been informed that:
  - 1) Services are to be rendered by a permit holder who is not a licensed psychologist; and
  - 2) Third party payors may not necessarily reimburse services rendered by a person not licensed by the Board.
- l) A one-year unsupervised and three-year supervised temporary permit holder shall be prohibited from performing custody/parenting time evaluations and termination of parental rights evaluations.

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## **SUBCHAPTER 4. SUPERVISION OF CANDIDATES FOR LICENSURE**

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### **13:42-4.1 AMOUNT OF SUPERVISION REQUIRED**

- a) An applicant for licensure shall be required to document the competent performance of at least two years of full time or full time equivalent supervised experience in the practice of psychology, at least one year of which shall have been completed subsequent to the applicant's receipt of his or her doctoral degree.
- b) The equivalent of one year of full-time supervised experience shall be a minimum of 1,750 hours. The 1,750 hours shall include:
  - 1) One thousand client contact hours completed in accordance with the limitations provided in N.J.A.C. 13:42-3.6(f);

- 2) Two hundred hours of supervision. At least 100 hours shall be individual face-to-face supervision; the remaining 100 hours may be individual or group supervision. The ratio shall be one hour of supervision for each five hours of client contact per week; and
  - 3) Five hundred fifty hours in other work-related activities such as recordkeeping, consultations, report writing, etc.
- c) Pursuant to P.L. 2020, c. 134, an individual who applies for a license after October 1, 2020 may complete the two years of full-time or full-time equivalent supervised experience in the practice of psychology prior to the individual's receiving a doctoral degree.
- d) Pursuant to P.L. 2020, c. 134, an applicant who has submitted an application to the Board, but who has not obtained a license prior to December 14, 2020, may update the application to apply professional experience earned prior to the applicant receiving a doctoral degree towards the required two years of full-time or full-time equivalent supervised experience in the practice of psychology.

#### **13:42-4.2 AUTHORIZED SUPERVISORS**

- a) Supervision of experience for licensure purposes, including experience in exempt settings, shall be rendered by:
- 1) A psychologist licensed in New Jersey for at least two years; or
  - 2) For supervised experience obtained in another state, a psychologist licensed in that state for at least two years and who is eligible for licensure in New Jersey.

#### **13:42-4.3 (RESERVED)**

#### **13:42-4.4 RESPONSIBILITIES OF SUPERVISOR**

- a) A supervisor shall obtain prior Board approval and shall provide the Board with a letter stating that the supervisor has agreed to enter into a supervisory arrangement with the permit holder.
- b) A supervisor shall supervise no more than three permit holders at any one time, except for good cause shown and at the discretion of the Board.
- c) Every six months and at the completion of the supervision, the supervisor shall document the supervised experience on a form provided by the Board. The information to be supplied on the form includes the dates during which the permit holder was under supervision, the nature of the cases assigned, and the proficiency rating earned by the permit holder.

- d) A supervisor shall ensure that the permit holder has, at all times, a current and valid Board permit or other required authorization.
- e) A supervisor shall provide adequate and timely evaluations, as required by the work setting, to employees, permit holders, students and others whose work is being supervised.
- f) Prior to a permit holder's commencement of client treatment, the supervisor shall obtain a written disclosure form, which shall be signed by the client and retained as part of the client record, acknowledging that the client has been informed that:
  - 1) Services are to be rendered by a permit holder who is not a licensed psychologist; and
  - 2) Third party payors may not necessarily reimburse services rendered by a person not licensed by this Board, notwithstanding supervision by a licensed psychologist.
- g) A supervisor shall retain full professional responsibility for setting fees, billing clients and collecting fees from clients consistent with the provisions of N.J.A.C. 13:42-10.10 and 10.11.
- h) A supervisor shall provide professional working conditions, constructive consultation and experience opportunities.
- i) A supervisor shall not condone or knowingly permit an applicant for a three-year supervised temporary permit to provide psychological services prior to the Board issuing a permit to the applicant.
- j) A supervisor shall not condone or knowingly permit the permit holder to practice without supervision or independently.
- k) A supervisor shall not enter into supervisory arrangements involving a potential conflict of interest such as, but not limited to, arrangements with:
  - 1) Family members;
  - 2) Those with whom the supervisor has close personal associations;
  - 3) Those with whom the supervisor has financial relationships (such as creditor-debtor), other than as specifically permitted by N.J.A.C. 13:42-4.6; or
  - 4) Those with whom the licensee has a therapist/client relationship.

- l) A supervisor shall be responsible for ensuring that a permit holder maintains client records consistent with the requirements of N.J.A.C. 13:42-8.1.

#### **13:42-4.5 SUPERVISION OF INDIVIDUALS EXEMPT FROM LICENSURE**

- a) A psychologist may supervise services of a psychological nature rendered in:
  - 1) A private practice setting by a health care professional exempt from licensure pursuant to N.J.S.A. 45:14B-8; and
  - 2) An exempt non-profit bona fide community organization as defined in N.J.A.C. 13:42-1.3.
- b) The supervisor shall ensure that the exempt supervisee complies with all Board regulatory requirements (including preparation of client records) and with accepted standards of professional and ethical practice of the exempt agency or exempt health care professional.

#### **13:42-4.6 FINANCIAL ARRANGEMENTS BETWEEN SUPERVISOR AND SUPERVISEE**

- a) Financial arrangements between the supervisor and supervisee shall be reasonable and may take into account the special teaching arrangement that forms the context of the relationship. For example, the supervisor may designate the supervisee as a part-time employee.
- b) The supervisor shall charge the supervisee separately, if at all, for the supervision itself or for ancillary costs such as rent for use of premises, equipment, malpractice insurance, etc.

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### **SUBCHAPTER 5. EXAMINATION**

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#### **13:42-5.1 BOARD-APPROVED WRITTEN EXAMINATION; JURISPRUDENCE ONLINE EXAMINATION**

- a) A candidate who has been admitted to sit for examination shall take the Examination for Professional Practice in Psychology sponsored by the Association of State and Provincial Psychology Boards (ASPPB). A passing score shall be that as established by the ASPPB at the time of the examination.
- b) A candidate who passes the written Examination for Professional Practice in Psychology shall then take the Board's jurisprudence online examination within 90 days of notification of passing the Examination for Professional Practice in Psychology.

**13:42-5.2 EXAMINATION REVIEW PROCEDURES**

- a) A candidate who fails the written examination may request a handscoring of answer sheets, copy of individual answer sheet or role-feedback as available from the Professional Examination Service (PES). The candidate shall be responsible for payment of any fees required by the PES. The candidate's written request for review must reach the Board's Executive Director within 45 days of the date of the letter of notification of examination results.
  
- b) A candidate who fails the jurisprudence examination may request a review of the jurisprudence examination. The candidate's written request for review must reach the Board's Executive Director within 45 days of the date of the letter of notification of examination results. The Executive Director will make the jurisprudence examination available to the candidate at the Board office on a mutually convenient date. Neither the candidate nor an agent of the candidate may copy the jurisprudence examination during this or any review of the jurisprudence examination.

**13:42-5.3 LICENSURE BY RECIPROCITY**

- a) Upon receipt of a completed application, application fee, consent to a criminal history record background check, and requisite fee for such a check, the Board shall issue a license to any person who documents that he or she holds a valid, current corresponding license in good standing issued by another state, if:
  - 1) The Board determines that the state that issued the license has, or had, at the time of issuance, education, training, and examination requirements for licensure substantially equivalent to the current Board standards;
  - 2) The applicant has been practicing in the profession of psychology for a period of at least two years within the five years prior to the date of application; and
  - 3) The requirements of (b) below are satisfied.
  
- b) Prior to the issuance of the license, the Board shall have received:
  - 1) Documentation from any state in which the applicant is, or was ever, licensed demonstrating that the applicant's license(s) is in good standing;
  - 2) The results of a criminal history record background check of the files of the Criminal Justice Information Services Division in the Federal Bureau of Investigation and the State Bureau of Identification in the Division of State Police that do not disclose a conviction for a disqualifying crime; and

- 3) Designation of an agent in New Jersey for service of process if the applicant is not a New Jersey resident and does not have an office in New Jersey.
- c) For purposes of this section, "good standing" means that:
- 1) No action has been taken against the applicant's license by any licensing board;
  - 2) No action adversely affecting the applicant's privileges to practice psychology has been taken by any out-of-State institution, organization, or employer
  - 3) No disciplinary proceeding is pending that could affect the applicant's privileges to practice psychology; and
  - 4) All fines levied by any out-of-State board have been paid.
  - 5) (Reserved)
- d) For purposes of this section, a "substantially equivalent" examination need not be identical to the current examination requirements of this State, but such examination shall be nationally recognized and of comparable scope and rigor.
- e) The Board, after the licensee has been given notice and an opportunity to be heard, may revoke any license based on a license issued by another state obtained through fraud, deception, or misrepresentation
- f) An applicant shall complete the jurisprudence online examination.
- g) The Board may grant a license without examination to an applicant seeking reciprocity who holds a corresponding license from another state who does not meet the good standing requirement of (a) above due to a pending action by a licensing board, a pending action by an out-of-State institution, organization, or employer affecting the applicant's privileges to practice, a pending disciplinary proceeding, or a pending criminal charge or arrest for a crime, provided the alleged conduct of the applicant that is the subject of the action, proceeding, charge, or arrest does not demonstrate a serious inability to practice psychology, adversely affect the public health, safety, or welfare, or result in economic or physical harm to a person or create a significant threat of such harm.

### **13:42-5.4 LICENSE WITHOUT EXAMINATION**

- a) A psychologist who holds a diploma from the American Board of Professional Psychology awarded by examination, and who meets all other requirements of New Jersey law, shall be licensed following completion of the jurisprudence online examination.

- b) A psychologist shall be licensed following completion of the jurisprudence online examination without having to take the Examination for Professional Practice in Psychology sponsored by the Association of State and Provincial Psychology Boards (ASPPB), if he or she:
  - 1) Holds the ASPPB Certificate of Professional Qualification (CPQ) in psychology or is credentialed by the National Register of Health Service Psychologists; and
  - 2) Meets all other requirements of New Jersey law.

### **13:42-5.5 SUBVERSION OF THE LICENSING EXAMINATION PROCESS**

- a) Any individual found by the Board to have engaged in conduct which subverts or attempts to subvert the licensing examination process may, at the discretion of the Board, have his or her scores on the licensing examination withheld or declared invalid, be found ineligible for licensure, be disqualified from the practice of the pertinent profession, and/or be subject to the imposition of other appropriate sanctions pursuant to N.J.S.A. 45:1-22.
- b) Conduct which subverts or attempts to subvert the licensing examination process includes:
  - 1) Conduct which violates the security of the examination materials, such as removing from the examination room any of the examination materials; taping, reproducing or reconstructing any portion of the licensing examination; aiding by any means in the reproduction or reconstruction of any portion of the licensing examination; or selling, distributing, buying, receiving or having unauthorized possession of any portion of a current or future licensing examination;
  - 2) Conduct which violates the standard of test administration, such as communicating with any other examinee during the administration of the licensing examination; copying answers from another examinee or permitting one's answers to be copied by another examinee during the administration of the licensing examination; or having in one's possession during the administration of the licensing examination any copying or taping equipment, or any books, notes, written or printed materials or data of any kind, other than the examination materials distributed; or
  - 3) Conduct which violates the credentialing process, such as falsifying or misrepresenting educational credentials or other information required for admission to the licensing examination, impersonating an examinee, or having an impersonator take the licensing examination on one's behalf.

**13:42-5.6 FAILURE OF EXAMINATION; WHEN RETAKING PERMITTED**

The written examination may be retaken in accordance with the rules established by the Association of State and Provincial Psychology Boards (ASPPB) provided that all applicable requirements have been satisfied.

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**SUBCHAPTER 6.  
BOARD FEES**

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**13:42-6.1 BOARD FEES**

a) Charges for examinations, licensure, and other services are:

- 1) Application fee: ..... \$125.00.
- 2) Examination fee: ..... \$100.00 jurisprudence.
- 3) Initial license fee:
  - i) During the first year of a biennial license renewal period: .....\$300.00.
  - ii) During the second year of a biennial license renewal period: ..... \$150.00.
- 4) License renewal fee, biennial: \$300.00.
- 5) Late renewal fee in addition to biennial renewal:
  - i) Up to 30 days late: ..... \$75.00.
- 6) Reinstatement fee in addition to biennial renewal fee: .....\$ 300.00.
- 7) Temporary permit:
  - i) \$110.00 plus \$50.00 for each additional supervisor.
- 8) Review of extension request for one-year and three-year permits, each: ... \$25.00.
- 9) Replacement wall certificate:..... \$50.00.
- 10) Certification of licensure: .....\$35.00.

- 11) Duplicate renewal certificate: .....\$25.00.
- b) It is the candidate's responsibility to see that all mandated fees reach the Board office as follows:
- 1) Application, examination, reexamination and reinstatement fees are required to initiate Board action on one's behalf;
  - 2) An initial license fee is required upon notice of successful completion of candidacy and before issuance of a license; and
  - 3) A license renewal fee must reach the Board office by June 30 of the renewal year in order to avoid a late renewal fee.

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## SUBCHAPTER 7. ACCEPTABLE PROFESSIONAL PRACTICE

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### 13:42-7.1 INDEPENDENT PRACTICE

- a) A licensee practicing independently may employ or otherwise remunerate the following individuals to render professional services only in circumstances where quality control of the employed practitioner's professional practice can be and is lawfully supervised and evaluated by the licensee:
- 1) Other licensed practitioners to render services within the scope of practice of each employee's license; and
  - 2) Practitioners who are authorized to practice psychology under an exemption from licensure pursuant to N.J.A.C. 13:42-1.3.
- b) A licensee with a restricted or limited license to practice psychology as a result of a disciplinary action shall not employ a licensee or hire an independent contractor with an unrestricted or unlimited license to practice psychology.
- c) A licensee may employ ancillary non-licensed staff, limited to:
- 1) Clerical staff;
  - 2) Permit holders;

- 3) Biofeedback technicians, as defined in N.J.A.C. 13:42-7.3;
  - 4) Neuropsychometric technicians, as defined in N.J.A.C. 13:42-7.4; and
  - 5) A person engaged in the practice of alcohol, drug abuse or gambling intervention, prevention or treatment who is certified and providing such services in a private setting supervised by the licensee.
- d) Any additional types of employees or other remunerated licensed or certified mental health or health professionals other than those in (c) above may be employed within the professional practice only with the advance review and approval of the Board.

### **13:42-7.2 PARTNERSHIP, PROFESSIONAL SERVICE CORPORATION, OR LIMITED LIABILITY ENTITY**

- a) A licensee shall not practice psychology in a general business corporation except as provided in N.J.A.C. 13:42-7.5. A licensee may practice in any of the following business entities:
- 1) Partnership;
  - 2) Professional service corporation;
  - 3) Limited liability company; or
  - 4) Limited liability partnership, as long as the owners (partners, shareholders, members) of the entity consist solely of New Jersey licensed health care professionals.
- b) A licensee may practice in a business entity described in this section which itself is owned by one or more of the entities described, so long as all of the owners of such entities are New Jersey licensed health care professionals and as allowed by law pursuant to N.J.S.A. 42:2B-1 et seq.
- c) In all business entities described in this section, each licensee who is an owner shall retain authority to exercise his or her own professional judgment within accepted standards of practice regarding care, skill and diligence in examinations, diagnosis and treatment of the licensee's individual clients.
- d) The professional services offered by each practitioner, whether a partner, shareholder, or member, shall be the same or shall be in a closely allied professional health care field.

- e) If the scope of practice authorized by law for each such person differs, any document used in connection with professional practice, including, but not limited to, professional stationery, business cards, advertisements of listings and bills, shall designate the field to which such person's practice is limited.
- f) The term "Associates" in the name of a professional office connotes an actual group enterprise such as a professional association or partnership. The term "Associates" shall not be utilized to refer to individuals sharing office expenses or rental space but practicing independently of each other or having the relationship of independent contractor.

### **13:42-7.3 BIOFEEDBACK; EMPLOYER OF BIOFEEDBACK TECHNICIAN**

- a) A licensed psychologist may perform or directly supervise the performance of appropriate biofeedback services in a clinical setting as a component of psychological services. Prior medical evaluation and supervision are not required for this psychological service.
- b) A licensed psychologist shall not diagnose, or offer to provide independent biofeedback treatment for a medical condition, a complaint of pain, or other significant physical symptom or condition that has not been medically evaluated. Following such evaluation, psychological biofeedback treatment may be offered in accordance with (a) above or (c) below.
- c) A licensed psychologist may, in a clinical setting, offer therapeutic or palliative biofeedback services in consultation with a licensed physician, as a component of an integrated psychological treatment program for a medically diagnosed condition reasonably believed to be amenable to such treatment.
- d) For purposes of this section, "biofeedback" means the application of bio-regulation procedures to the management of cognitive and physiological status. The feedback may encompass smooth muscle, striated muscle, cardiac muscle, brain wave, blood pressure, skin conduction and other physiological measures.
- e) For purposes of this section, "direct supervision" means that the licensee shall be constantly accessible, either on-site or through electronic communication, and available to render assistance when required and that the licensee shall retain full professional responsibility for client care and treatment.
- f) A licensee with specialized training in biofeedback may employ a biofeedback technician on the office premises, as appropriate to the primary practice of the employer, only under the following circumstances:
  - 1) The licensee shall provide instruction to the technician; ascertain that the technician has received education and training appropriate for the work assigned; ensure that the

technician obtains continuing education credits consistent with standards in the field; and regularly direct, supervise and monitor the technician's work;

- 2) The licensee shall provide direct supervision to the technician, as defined in (e) above; and
- 3) The activities of the technician shall be limited to:
  - i) Operating machinery for monitoring feedback, including positioning of the monitoring equipment; and
  - ii) Providing instruction in the use of the machinery to the client.

### **13:42-7.4 EMPLOYER OF NEUROPSYCHOMETRIC TECHNICIAN**

- a) For purposes of this section, "direct supervision" means that the licensee shall be constantly accessible, either on-site or through electronic communication, and available to render assistance when required and that the licensee shall retain full professional responsibility for client care and treatment.
- b) A licensee may employ a neuropsychometric technician as an assistant, for the purpose of administering certain classes of sensory, motor and other measures, only under the following circumstances:
  - 1) The licensee shall provide instruction to the technician; ascertain that the technician has received education and training appropriate for the work assigned; ensure that the technician obtains continuing education credits consistent with standards in the field; and regularly direct, supervise and monitor the technician's work;
  - 2) The licensee shall provide direct supervision to the technician, as defined in (a) above; and
  - 3) The activities of the technician shall be limited to the administration of neuropsychological tests which have specific mechanical administration procedures and which do not require interpretation, querying of the examinees about individual items, or other judgments.
- c) The role of the technician is that of a paraprofessional assistant in test administration, and any deviation from that role shall be deemed the unauthorized practice of psychology.

- d) Specifically excluded from the scope of activities of the technician are administration of individual intelligence tests and projective techniques, which may be given only by a licensed practicing psychologist, a permit holder under supervision, or a person doing work of a psychological nature in an exempt setting.

### **13:42-7.5 SHAREHOLDER OR EMPLOYEE OF A GENERAL BUSINESS CORPORATION**

- a) A licensee may offer health care services as an employee of a general business corporation in this State only in one or more of the following settings. Any such setting shall have a designated director of psychological services or a medical director licensed in this State who is regularly on the premises and who (alone or with other persons authorized by the Department of Health, if applicable) is responsible for licensure verification, credentialing and quality control of the provision of psychological services.
- 1) The corporation is licensed by the New Jersey Department of Health as a health maintenance organization, hospital, long or short term care facility, or ambulatory care facility. Alternatively, the corporation may be another type of health care facility or corporate health care provider accredited by the Joint Commission on Accreditation of Health Care Organizations. The above accredited corporate employers may include a facility which is a component part of a for-profit corporation employing or otherwise remunerating licensed psychologists, provided that the health care facility/provider has a formal credentialing process and quality control procedures, and service providers are supervised by a psychologist or physician licensed in this State and regularly on the premises.
  - 2) The corporation is not in the business of offering treatment services to the public but maintains a clinic for the purpose of providing psychological services to employees and/or for monitoring the health environment of employees. The licensee rendering care or evaluation in this setting shall comply with the provisions of N.J.A.C. 13:42-8 regarding preparation, maintenance and release of treatment and health monitoring records;
  - 3) The corporation is a non-profit corporation sponsored by a union, social, religious or fraternal organization providing health care services to members only; and/or
  - 4) The corporation is an accredited educational institution which maintains a medical or psychological service clinic for health care service to students and faculty.
- b) A licensee may also have an equity or employment interest in a general business corporation which offers to contract with a licensed practitioner or professional service corporation to provide services exclusively of a non-professional nature such as routine office management, hiring of non-professional staff, provision of office space and/or equipment and

servicing thereof, and billing services. The general business corporation shall make no determination regarding establishment of client fees or modification or waiver thereof in an individual case and shall make no representations to the public of offering, under its corporate name, health care services which require licensure.

- c) A licensee employed or having an equity interest in any of the practice forms listed in (a) and (b) above shall terminate such employment or sever professional affiliation upon acquiring personal knowledge that the entity regularly fails to provide or observe the quality assurance mechanisms listed in N.J.A.C. 13:42-7.7 and refuses, upon request, to implement such mechanisms. A licensee terminating employment or affiliation with a general business corporation for reasons required by this section shall so notify the Board.

### **13:42-7.6 MANAGED HEALTH CARE PLANS**

- a) For purposes of this section, "managed health care plans" include, but are not limited to, plans involving wholly or partially pre-paid medical/psychological services. By way of example, these include plans commonly described as health maintenance organizations, preferred provider organizations, competitive medical/psychological plans, individual practice associations, or other similar designations.
- b) A licensee may enter into a plan agreement which provides interim remuneration to licensees by making provisional allocation of percentages of plan-member fees, whether denominated as reserves, pools, withholds, holdbacks, etc., for the purpose of funding all portions of the health services plan.
- c) A licensee may participate in a plan which requires a purchase of shares for the purpose of providing start-up funds, provided that any profits of the plan are paid solely in accordance with the principles listed in this section and the licensee complies with the following professional requirements:
  - 1) The licensee retains authority at all times to exercise professional judgment within accepted standards of practice regarding care, skill and diligence in examinations, diagnosis and treatment of each client;
  - 2) The licensee retains authority at all times to inform the client of appropriate referrals to any other health care providers:
    - i) Whether or not those persons are provider members of the plan; and
    - ii) Whether or not the plan covers the cost of the non-member provider's services to the client;

- 3) Plan clients are informed that they may be personally responsible for the cost of treatment by a provider who is not a member of the plan or for treatment which the plan administration does not approve; and
  - 4) Plan clients are informed of the financial arrangements between the licensee and the plan, including financial incentives and disincentives established by the plan affecting availability or provision of treatment or other psychological services to plan members.
- d) A licensee who is not a full or regular member of a managed health care plan may contract with a plan to render services to an insured person referred by the plan, provided that the licensee retains the authorities listed in (c)1 through 4 above.
- e) The licensee shall submit the bill for services rendered in one of the following ways:
- 1) To the client-insured;
  - 2) To the managed health care plan, but only if billing is on a per-task or time unit basis and the plan is a professional organization established consistent with N.J.A.C. 13:42-7.1 or 7.2 or a licensed health care corporation as defined in N.J.A.C. 13:42-7.5(a)1.
  - 3) To the employer/administrative entity of the client-insured if the employer is a wholly or partially self-insured health insurance plan or a multiple employer welfare arrangement (MEWA).

### **13:42-7.7 CONDUCT OF PROFESSIONAL PRACTICE; QUALITY CONTROL**

- a) A licensee shall establish policies and procedures with respect to licensed or exempt personnel who are employed by or under the supervision of the licensee. The policies and procedures shall include, but need not be limited, to the following:
- 1) Designation of a licensed practitioner responsible for:
    - i) Hiring professional staff and verifying current licensing credentials, permits or other educational/ training credentials required by law or pertinent agency rule (for example, recertifications, continuing professional education, current biennial registration or permits, etc.); and/or
    - ii) The professional propriety of billing and of advertising or other representations;
  - 2) Identification of the nature of the psychological services which shall be offered at the practice location;

- 3) Policies for maintenance, registration and inspection of professional equipment;
- 4) Standards for recordkeeping as to client records, billing records, and such other records as may be required by law or rule;
- 5) Policies for security, including confidentiality of client records; and
- 6) Procedures for periodic audit of client records and of professional services to assure quality professional care on the premises.

### **13:42-7.8 REAL ESTATE ARRANGEMENTS**

- a) A licensee may be an owner, investor or lessor in real estate utilized for the conduct of a professional practice, provided that rent, dividends or any other forms of remuneration are received solely on the basis of the investment or fair market value, as applicable to the circumstances.
- b) A licensee may lease space to or from another licensed health care professional to whom clients are referred only where rent is a fixed fee determined by the fair market value, or less, and is for a regular term and not for sporadic use of the space.
- c) A licensee may lease professional space from a commercial entity on any arrangements consistent with standard business practice in the community, provided the arrangements do not affect the licensee's professional discretion in matters including choice of clients, professional services offered, or fees.
- d) The establishment of any lease, investment or other commercial relationship for the conduct of professional practice other than as set forth in this section shall require Board approval for good cause shown.

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## **SUBCHAPTER 8. CLIENT RECORDS: CONFIDENTIALITY**

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### **13:42-8.1 PREPARATION AND MAINTENANCE OF CLIENT RECORDS**

- a) A licensee shall prepare and maintain separately for each client a permanent client record which accurately reflects the client contact with the licensee whether in an office, hospital or other treatment, evaluation or consultation setting.
- b) A licensee shall make entries in the client record contemporaneously with the services provided. A licensee may dictate an entry for later transcription, provided the transcription is

dated and identified as "preliminary" until the licensee reviews the transcription and finalizes the entry in the client record.

- c) The licensee shall include in the client record material pertinent to the nature and extent of the professional interaction, for example:
- 1) The location of treatment, evaluation or consultation;
  - 2) The client name, address and telephone number;
  - 3) The client complaint on intake;
  - 4) Medical history recognized as of potential significance;
  - 5) Past and current medications;
  - 6) Significant social history;
  - 7) Findings on appropriate examination;
  - 8) Raw data and interpretation of tests administered;
  - 9) Current functional impairments and rating levels thereof;
  - 10) A diagnostic impression;
  - 11) Contemporaneous and dated progress or session notes including specific components of treatment, evaluation or consultation;
  - 12) Dates of all treatment, evaluation or consultation sessions;
  - 13) An evaluation of progress (if applicable);
  - 14) A prognosis;
  - 15) The client identity on each page;
  - 16) Fees charged and paid;

- 17) The identity of each provider of treatment, evaluation or consultation (and supervisor, if any); and
  - 18) If services are rendered by a permit holder, the written disclosure form signed by the client as required by N.J.A.C. 13:42-4.4(f).
- d) The client record shall contain information regarding referrals to other professionals together with reports and records provided by other professionals and integrated into the client's treatment, evaluation or consultation report.
  - e) A licensee may make corrections or additions to an existing record provided that each change is clearly identified as such, dated and initialed by the licensee. Any other alteration of records shall be deemed professional misconduct.
  - f) When records are to be maintained as confidential, the licensee shall establish and maintain a procedure to protect such records from access by unauthorized persons.
  - g) The licensee shall retain the permanent client record for at least seven years from the date of last entry, unless otherwise provided by law. Records for minors shall be kept for seven years from the date of the last entry or until the client turns 25 years old, whichever is longer, unless otherwise provided by law.
  - h) The licensee shall establish procedures for maintaining the confidentiality of client records in the event of the licensee's relocation, retirement, death, or separation from a group practice, and shall establish reasonable procedures to assure the preservation of client records which shall include at a minimum:
    - 1) Establishment of a procedure by which patients can obtain treatment records or acquiesce in the transfer of those records to another licensee or health care professional who is assuming the responsibilities of that practice;
    - 2) Publication of 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 practice, at least once each month for the first three months after the cessation; and
    - 3) Making reasonable efforts to directly notify any patient treated during the six months preceding the cessation, providing information concerning the established procedure for retrieval of records.

**13:42-8.2 USE OF PERSONAL OR OTHER COMPUTER TO PREPARE CLIENT RECORDS**

- a) A licensee who prepares a client record maintained solely on a personal or other computer shall use a write-protected program which:
  - 1) Contains an internal permanently activated date and time recordation for all entries;
  - 2) Automatically prepares a back-up copy of the file; and
  - 3) Is designed in such manner that, after the licensee "signs" by means of a confidential personal code ("CPC"), the entry cannot be changed in any manner.
- b) Notwithstanding the permanent status of a prior entry, the licensee may make a new entry at any time and may indicate correction to a prior entry.
- c) The licensee shall include in the client record at least two forms of identification; for example, name and record number or any other specific identifying information.
- d) The licensee shall finalize or "sign" the entry by means of a CPC. Where more than one individual is authorized to make entries into the computer file of any client record, the licensee responsible for the practice shall assure that each such person obtains a CPC and uses the program in the same manner.

**13:42-8.3 ACCESS TO COPY OF CLIENT RECORD**

- a) For purposes of this section, "authorized representative" means, but is not necessarily limited to, a person designated by the client or a court to exercise rights under this section. An authorized representative may be client's attorney or an agent of a third party payor with whom the client has a contract which provides that the third party payor be given access to records to assess a claim for monetary damages or reimbursement.
- b) A licensee may require the record request to be in writing. No later than 30 days from receipt of a request from a client or duly authorized representative, the licensee shall provide a copy of the client record and/or billing records, including reports relating to the client. Limitations on this requirement are set forth in (e) below and N.J.A.C. 13:42-8.6(b) and in N.J.A.C. 13:42-11.
- c) The licensee may elect to provide a summary of the record, as long as the summary adequately reflects the client's history and treatment, unless otherwise required by law.

- d) A licensee may charge a reasonable fee for the preparation of a summary and reproduction of records, which shall be no greater than an amount reasonably calculated to recoup the costs of transcription or copying.
- e) A licensee may withhold information contained in the client record from a client or the client's guardian if, in the reasonable exercise of his or her professional judgment, the licensee believes release of such information would adversely affect the client's health or welfare.
  - 1) That record or the summary, with an accompanying explanation of the reasons for the original refusal, shall nevertheless be provided upon request of and directly to:
    - i) The client's attorney;
    - ii) Another licensed health care professional; or
    - iii) The client's health insurance carrier (except as maybe limited by N.J.A.C. 13:42-11).
- f) Records maintained as confidential pursuant to N.J.A.C. 13:42-8.1(c) shall be released:
  - 1) If requested or subpoenaed by the Board or the Office of the Attorney General in the course of any Board investigation;
  - 2) Pursuant to an order of a court of competent jurisdiction;
  - 3) Except as limited by N.J.A.C. 13:42-8.4, upon a waiver of the client or an authorized representative to release the client record to any person or entity, including to the Violent Crimes Compensation Board; or
  - 4) In order to contribute appropriate client information to the client record maintained by a hospital, nursing home or similar licensed institution which is providing or has been asked to provide treatment to the client.
- g) The licensee's obligation hereunder to release information shall include the obligation to complete forms or reports required for third party reimbursement of client treatment expenses. The licensee may charge reasonable fees for completion of reports other than health insurance claim forms, for which no fee may be charged pursuant to N.J.S.A. 45:1-12.
- h) When a request is made for release of already completed reports to enable the client to receive ongoing care by another practitioner, the licensee shall not require prior payment for the professional services to which such reports relate as a condition for making such reports

available. A licensee may, however, require advance payment for a report prepared for services as an expert witness.

#### **13:42-8.4 ACCESS BY A MANAGED HEALTH CARE PLAN TO INFORMATION IN CLIENT RECORD**

- a) With regard to a client whose treatment cost is covered by a wholly insured health insurance plan, or a multiple employer welfare arrangement (MEWA), including a managed health care plan, a licensee shall make available, on request of the client or duly authorized representative with the client's consent, all information required, but only pursuant to N.J.A.C. 13:42-11.4.
- b) A psychologist whose client has explicitly waived the psychologist-client privilege established by N.J.S.A. 45:14B-28 may release requested information deemed professionally appropriate, not limited by the constraints of the Peer Review Law, N.J.S.A. 45:14B-31 et seq., to a third-party payor whose benefit plan is qualified under the Federal Employee Retirement Income Security Act (FERISA); that is:
  - 1) The plan of a self-insured employer or an entity providing administrative services to that employer for the purposes of determining entitlement to benefits; or
  - 2) An employer's "stop-loss" plan (i.e., a plan in which an employer self-insures up to a certain amount and then purchases excess insurance beyond that amount from an insurance company).

#### **13:42-8.5 CONFIDENTIALITY**

- a) A licensee shall preserve the confidentiality of information obtained from a client in the course of the licensee's teaching, practice or investigation. However, the licensee shall reveal the information to appropriate professional workers, public authorities and the threatened individual(s) or their representatives only, if in the licensee's judgment, exercised in accordance with the standards of the profession, any one of the following circumstances occur:
  - 1) There is a clear and imminent danger to the individual or the public;
  - 2) There is probable cause to believe that an identifiable potential victim of a client is likely to be in danger; or
  - 3) Release of such information is otherwise mandated by law, such as, but not limited to, N.J.S.A. 2A:62A-17.

- b) In the case of a client's death:
- 1) Confidentiality survives the client's death and a licensee shall preserve the confidentiality of information obtained from the client in the course of the licensee's teaching, practice or investigation;
  - 2) The disclosure of information in a deceased client's records is governed by the same provisions for living patients set forth in N.J.A.C. 13:42-8.3, 8.4 and 8.5; and
  - 3) A licensee shall retain a deceased client's record for at least seven years from the date of last entry, unless otherwise provided by law.
- c) A licensee may discuss the information obtained in clinical or consulting relationships, or in evaluating data concerning children, students, employees and others, only for professional purposes and only with persons clearly connected with the case.
- d) A licensee may reveal, in writing, lectures or other public forums, personal information obtained during the course of professional work only as follows:
- 1) With prior consent of the clients or persons involved; or
  - 2) Where the identity of the client or person involved is adequately disguised.
- e) A licensee may share confidential communications with other parties interested therein, in a non-public forum, only where the original source and other persons involved have given their express permission to do so.
- f) A licensee may reveal the identity of research subjects only if the subjects have granted explicit permission.
- g) A licensee may release confidential documents, testimony or other information contained in the client record only in accordance with the provisions of N.J.A.C. 13:42-8.3 and this section.

### **13:42-8.6 MINORS**

- a) Unless otherwise ordered by a court, if the client is a minor, a parent or legal guardian will be deemed to be an authorized representative, as defined at N.J.A.C. 13:42-8.3(a). When the patient is more than 14 years of age, but has not yet reached the age of majority, the authorization shall be signed by the patient and by the patient's parent or legal guardian, pursuant to N.J.S.A. 45:14B-36(e).

- b) This section shall not require a licensee to release to a minor's parent or guardian records or information relating to the minor's sexually transmitted disease, termination of pregnancy or substance abuse or any other information that in the reasonable exercise of the licensee's professional judgment may adversely affect the minor's health or welfare.
- c) Unless otherwise ordered by a court, at least one parent or guardian shall consent to the treatment of a minor. If one parent consents, a licensee may treat a minor even over the objection of the other parent.
- d) The provisions at N.J.A.C. 13:42-8.3, 8.4 and 8.5 shall apply to access to client records, access by a managed health care plan to information in client record and confidentiality of minors.

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## **SUBCHAPTER 9. ADVERTISING**

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### **13:42-9.1 DEFINITIONS**

For the purposes of this subchapter, the following terms shall have the indicated meanings unless the context clearly indicates otherwise:

"Advertisement" means an attempt directly or indirectly by publication, dissemination or circulation in print, electronic or other media which directly or indirectly induces or attempts to induce any person or entity to purchase from a Board licensee, or enter into an agreement to purchase, services, treatment or goods related thereto.

"Board licensee" means any professional licensee of the State Board of Psychological Examiners.

"Electronic media" include, but are not limited to, radio, television, telephone, Internet and other electronic means of communication.

"Professional service" means a service which a Board licensee or professional association performs or lawfully authorizes a person under supervision to perform.

"Print media" includes newspapers, magazines, periodicals, professional journals, telephone directories, circulars, handbills, flyers, billboards, signs, direct mail, matchcovers, business cards, stationery and other items disseminated by means of the printed word.

"Range of fees" means a statement of fees containing an upper and lower limit on the fees charged for services or goods offered by a Board licensee.

### **13:42-9.2 ADVERTISING; GENERAL REQUIREMENTS**

- a) A Board licensee (but not a permit holder) may provide information to the public by advertising in print or electronic media.
- b) A licensee shall be able to substantiate the truthfulness of any material, objective assertion or representation set forth in an advertisement, when requested by the Board to do so.
- c) A licensee who is a principal, partner or officer of a firm or entity identified in an advertisement which offers psychological services or goods shall be responsible for the form and content of any advertisement disseminated by or on behalf of a licensee affiliated with the firm.
- d) A licensee shall assure that an advertisement does not misrepresent, suppress, omit or conceal a material fact. Omission, suppression or concealment of a material fact includes use of any print, language or format which directly or indirectly obscures a material fact under circumstances where the licensee knows or should know that the omission is improper or prohibits a prospective client from making a full and informed judgment on the basis of the information set forth in the advertisement.

### **13:42-9.3 MINIMUM CONTENT OF ADVERTISING**

- a) All licensee advertisements and public representations, including advertisements in a classified directory, business card, website, Internet service, and professional stationery, but not including an office entry sign, shall contain the following:
  - 1) The licensee's name and license number; and
  - 2) The address and telephone number of the licensee's practice location.
- b) If the advertisement utilizes a business name, then the name and license number of at least one licensee responsible for the psychological service practice in the facility shall appear in the advertisement.

- c) A licensee may petition the Board for waiver of the requirement to list street address for good cause. A licensee shall submit a request for a waiver in writing which shall detail the reason(s) for the request which may include, but is not limited to, the maintenance of personal or family safety.

#### **13:42-9.4 USE OF PROFESSIONAL CREDENTIALS AND CERTIFICATIONS**

- a) A licensee shall accurately and objectively represent his or her competence, education, training and experience in all advertisements and professional representations.
- b) Advertisements which include information on professional credentials shall contain the highest academic degrees attained relating to the practice of psychology and shall refer only to degrees obtained from an accredited academic institution or an academic institution acceptable under the rules of the New Jersey State Department of Higher Education.
- c) A licensee may include in an advertisement degrees earned from bona fide accredited educational institutions. A licensee also may include in an advertisement, certifications obtained from bona fide accrediting bodies so long as the name of the accrediting body is identified and the discipline in which the certification was obtained is specified in the advertisement.
- d) Nothing in this section shall preclude any truthful and non-deceptive statement in regard to education or experience in a particular area of psychology.

#### **13:42-9.5 ADVERTISING MAKING REFERENCE TO OR SETTING FORTH A FEE; REQUIRED DISCLOSURES**

- a) Advertising making reference to or setting forth a fee shall be limited to that which contains a fixed or a stated range of fees for specifically described professional services.
- b) Advertising making reference to or setting forth a fee shall include the following disclosures:
  - 1) All relevant and material variables and considerations which are ordinarily included in the advertised services so that the fee will be clearly understood by prospective clients. In the absence of such disclosures, the stated fees shall be presumed to include everything ordinarily required for the advertised services;
  - 2) A specific delineation of additional services contemplated and the fee to be charged therefor. In the absence of such disclosures, the licensee shall be prohibited from charging an additional fee for the advertised service; and

- 3) The time period during which the advertised fee will remain in effect. In the absence of such disclosure, the advertisement shall be deemed to be effective for 30 days from the date of the advertisement's initial publication.
- c) The advertisement of a fee shall not preclude downward adjustment or waiver of a fee between the professional and the client in individual circumstances.

### **13:42-9.6 USE OF TESTIMONIALS**

- a) A licensee may use an advertisement containing either a lay or an expert testimonial provided that:
  - 1) The testimonial is based upon the testimonial giver's personal knowledge or experience obtained from a past, completed provider relationship with the licensee or upon the testimonial giver's direct personal knowledge of the subject matter of the testimonial; and
  - 2) The licensee obtains, prior to the use of the testimonial, a signed, notarized statement and release indicating the testimonial giver's willingness to have his or her testimonial used in the advertisement.
- b) A layperson's testimonial shall not attest to any technical matter beyond the testimonial giver's competence to comment upon.
- c) An expert testimonial shall be rendered only by an individual possessing specialized expertise sufficient to allow the rendering of a bona fide statement or opinion.
- d) A licensee shall be able to substantiate any objective, verifiable statement of fact appearing in a testimonial. The failure to do so, if required by the Board, may be deemed professional misconduct.

### **13:42-9.7 PROHIBITED TYPES OR METHODS OF ADVERTISING**

- a) A licensee shall not make any statement or claim or make use of any professional format which is false, fraudulent, misleading or deceptive with regard to the performance of professional services or accepted standards of professional practice.
- b) A licensee shall not use the word "doctor" or an otherwise incomplete and misleading designation when offering to perform professional services without also indicating that the licensee is a psychologist.
- c) A licensee shall not guarantee that satisfaction or a cure will result from the performance of professional services.

- d) A licensee shall not claim or use any secret or special method of treatment and/or diagnostic technique which the licensee refuses to divulge to the Board.
- e) A licensee shall not make claims of professional superiority with regard to services or goods offered or with regard to apparatus, equipment or technology utilized unless the licensee can substantiate such claims.
- f) A licensee shall not communicate any fact, data or information which may identify a client without the client's written consent.
- g) A licensee shall not offer or promote a professional service which the licensee knows or should know is beyond the licensee's ability to perform.
- h) A licensee shall not permit an advertisement to contain any technique or communication which appears to intimidate, exert undue pressure or unduly influence a prospective client.
- i) A licensee shall not engage, either directly or indirectly through an agent, employee or representative, in any in-person solicitation with a prospective client, except that a licensee may offer to a business entity, or its representative, psychological services to be provided to a class of persons.

### **13:42-9.8 RETENTION OF ADVERTISEMENTS**

- a) The licensee shall retain, for a period of three years from the date of initial publication or dissemination, a copy of every advertisement appearing in print media as well as a video or audio tape of every advertisement communicated by electronic media. All advertisements in the licensee's possession shall indicate the accurate date and place of publication.
- b) A licensee who advertises through the use of testimonials shall maintain documentation relating to the testimonial for a period of three years from the date of the last use of the testimonial. Documentation shall include, but not be limited to:
  - 1) The name, address and telephone number of the testimonial giver identified in the advertisement;
  - 2) The type and amount or value of compensation; and
  - 3) The notarized statement and release required pursuant to N.J.A.C. 13:42-9.6(a)2.
- c) The licensee shall make copies of all advertisements and documentation concerning testimonials available for review upon request by the Board or its designee.

**13:42-9.9 MISLEADING IMPLICATIONS OF LICENSURE**

- a) A person not licensed under the Practicing Psychology Licensing Act is prohibited from implying licensure under the Act by using a title or description which, when used in combination with other circumstances, would lead a reasonable person to think that the individual is a licensed psychologist or is authorized to perform professional services which only a licensed psychologist can offer. Examples of such conduct, whether for recompense or not, include:
- 1) Representing that he or she has:
    - i) A graduate degree or is a candidate therefor in psychology or an allied field;
    - ii) Membership in psychological organizations;
    - iii) Training or certification in applied psychological methods; or
    - iv) Professional association and identification with a licensed psychologist, unless the individual is the holder of a duly authorized and valid Board permit or is otherwise duly authorized to engage in a health care profession with a psychologist; or
  - 2) Using names or professional or occupational titles including "counselor," "psychotherapist," "therapist," "analyst," and related terms or forms unless clearly qualified by reference to another profession or group exempt from licensure under the Act pursuant to N.J.S.A. 45:14B-8 and N.J.A.C. 13:42-1.5 or other applicable law.

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**SUBCHAPTER 10.  
GENERAL OBLIGATIONS OF A LICENSEE**

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**13:42-10.1 POSTING OF PRACTICE AUTHORIZATION**

Every licensee shall prominently display in every place of conducting independent practice his or her current renewal certificate, or current duplicate renewal certificate, and the following notice:

(Name of Individual) is licensed by the Board of Psychological Examiners, an agency of the Division of Consumer Affairs. Any member of the consuming public may notify the Board of any complaint relative to the practice conducted under this license at the Division of Consumer Affairs, Board of Psychological

Examiners, Post Office Box 45017, 124 Halsey Street, Newark, New Jersey  
07101.

### **13:42-10.2 NOTIFICATION OF CHANGE OF ADDRESS; SERVICE OF PROCESS**

- a) Each licensee and permit holder shall notify the Board, in writing, within 30 days of any change in the address on file with the Board and shall specify whether the address is a residence or employment address.
- b) Service of an administrative complaint or other process initiated by the Board, the Attorney General or the Division of Consumer Affairs at the address on file with the Board shall be deemed adequate notice for the commencement of any inquiry or disciplinary proceeding.

### **13:42-10.3 (RESERVED)**

### **13:42-10.4 PROFESSIONAL RESPONSIBILITIES TO THE BOARD, OTHER REGULATORY AUTHORITIES, OR THE PUBLIC**

- a) Where not otherwise specified in this section, the term "licensee" includes holders of licenses and holders of temporary permits issued by the Board.
- b) A licensee shall meet professional responsibilities to the Board, to other regulatory authorities, and to the public as determined by accepted standards of practice, law or rules.
- c) A licensee shall respond within 30 days or sooner, as specified, to written communication from the Board, the Attorney General or the Director of the Division of Consumer Affairs and shall make available all records required with respect to a complaint from a client or as otherwise deemed necessary regarding the licensee's conduct. The response period commences on the date of the communication to the licensee's last reported address.
- d) A licensee shall maintain competence consistent with professional responsibilities, including the following:
  - 1) A licensee shall remain abreast of standards of practice in the profession by means of securing continuing education such as training, experience or counsel and through professional journals;
  - 2) A licensee-teacher shall base academic instruction primarily upon material the licensee reasonably believes to be accurate, current and scholarly;
  - 3) A licensee shall obtain competent professional assistance in order to determine whether to voluntarily suspend, terminate or limit the scope of the licensee's professional and/or

scientific activities which are foreseeably likely to lead to inadequate performance or harm to a client, colleague, student or research participant;

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

### **13:42-10.5 MAINTAINING COMPETENCE IN TESTING SITUATIONS**

- a) A licensee who utilizes psychometric instruments in assessment shall be required to have completed foundational course work in psychometric theory/tests and measurement and graduate level course work in individual assessment. Completion of a workshop or continuing education in the use of a specific test shall not be substituted for the required foundational course work.
- b) A licensee responsible for development and standardization of psychological tests and other assessment techniques shall utilize established scientific procedures and observe relevant professional standards.
- c) Psychometric instruments shall be administered in the manner prescribed in the technical manual which accompanies the psychometric instrument, unless an extenuating circumstance exists, such as an unforeseen or unusual circumstance pertaining to a particular client, in which case psychometric instruments may be administered by alternative procedures. If a test is administered by alternative procedures, then the impact of such deviations on reliability, validity, or fairness shall be addressed in the report. While it is recognized that there are differing schools of thought in the psychological literature regarding issues of test fairness, use of appropriate norms, and appropriate item content for various subgroups, licensees shall be responsible for employing psychometric instruments in a nondiscriminatory manner and with sensitivity to cultural differences. Licensees shall present the results of assessments and their interpretations in such a way as to minimize the potential for misuse by others.

- d) A licensee shall make reasonable efforts to avoid use of obsolete testing measures. This subsection shall not be construed, however, to require the use of a more recent edition of an instrument if, in the licensee's professional judgment, a previous version is more appropriate for the particular assessment.
- e) Licensees who employ computerized narrative reports shall have the knowledge, skill and ability to interpret the scales of the instrument independently. Licensees shall not rely on the interpretations contained in a computerized narrative report as though the report were individually tailored specifically for that examinee. Statements in the narrative shall be evaluated in the context of the facts of the case and the licensee's own impressions of the test subject. Licensees shall be responsible for conclusions and recommendations based on computerized narrative reports and shall not be relieved of such responsibility by the use of a computerized narrative report.
- f) A licensee shall not sponsor or supervise the use of psychological assessment techniques by persons who are not in an appropriate psychological or closely-related field or who are otherwise unqualified.
- g) A licensee shall administer or supervise the administration of all testing materials on premises and consistent with accepted standards of practice.

### **13:42-10.6 RESEARCH**

- a) A licensee shall observe research requirements consistent with accepted standards of practice including, but not limited to, the following:
  - 1) A licensee shall minimize the possibility that research findings will be misleading and shall not knowingly publish misleading or false findings;
  - 2) A licensee shall provide thorough discussion of the limitations of the published data and alternative hypotheses, especially where the work touches on social policy or might reasonably be construed to the detriment of persons in specific age, sex, ethnic, socio-economic or other identifiable social groups;
  - 3) In reporting research results, a licensee shall reveal contrary or disconfirming data or acknowledge the existence of alternative hypotheses and explanations of the findings;
  - 4) A licensee shall acknowledge the authors of work in proportion to their professional contribution; and

- 5) A licensee shall treat research participants ethically and ensure ethical treatment of them by collaborators, assistants, students and employees.

### **13:42-10.7 REPORTING OF VIOLATIONS OF OTHER LICENSEES**

- a) A licensee shall promptly notify the Board when in possession of information which reasonably indicates that another licensee has demonstrated an impairment, gross incompetence, repeated acts of incompetence or professional misconduct which would present an imminent danger to a client or to the public health, safety or welfare.
- b) Notwithstanding the provisions of (a) above, when a licensee in the course of a professional relationship with a client who is not a licensee of the Board obtains information from the client about another licensee's suspected unlawful conduct, the licensee shall report the information only with the written permission of the client or authorized representative.
- c) Notwithstanding the requirements of (a) above, a licensee who acquires knowledge of impairment, gross incompetence, repeated acts of incompetence or professional misconduct in the course of treating a client-psychologist or an individual exempt from licensure pursuant to N.J.A.C. 13:42-1.3 and N.J.S.A. 45:14B-8 shall not be obligated to notify the Board if:
  - 1) The treating psychologist reasonably believes that the improper conduct has ceased and that the treatment is preventing a recurrence of the impairment, incompetence or professional misconduct; or
  - 2) The treating psychologist has reasonable cause to believe that the incompetent psychologist or exempt professional is currently receiving professional supervisory and educational measures which are reasonably likely to protect clients against gross incompetence.
- d) A licensee acquiring privileged information of drug or alcohol abuse in the course of treating a client-psychologist or exempt professional in a substance abuse treatment program governed by Federal law shall, as required by Federal law, first obtain authorization for release of such information from a court of competent jurisdiction or shall obtain the client's written consent to release the information.
- e) A licensee is not exempt from reporting any information otherwise mandated by law, such as, but not limited to, P.L.1974, c.119, reporting of an abused child as defined in N.J.S.A. 9:6-8.8 et seq.

**13:42-10.8 PROFESSIONAL INTERACTIONS WITH CLIENTS**

- a) A licensee shall not abandon or neglect a client in need of professional care without making reasonable arrangements for the continuation of such care or offering to help the client find alternative sources of assistance.
- b) A licensee shall not abandon or neglect professional employment by a group practice, hospital clinic or other health care facility without reasonable notice or under circumstances which would be expected to seriously impair the delivery of professional care to clients.
- c) A licensee shall not willfully harass, abuse or intimidate a client regarding delivery of client services, either physically or verbally.
- d) A licensee shall not order or perform excessive tests, treatment or use of treatment facilities not warranted by the condition of the client.
- e) A licensee shall terminate a clinical or consulting relationship when it is reasonably clear that the client is not benefiting from it. In such instances, the licensee shall offer to help the client find alternative sources of assistance.
- f) A licensee, whether practicing privately or within an institution or agency utilizing psychological services, shall not distort, misuse or suppress the psychological findings by the licensee or others.
- g) A licensee shall not misuse his or her influence in a manner that exploits the client's trust and dependency.

**13:42-10.9 SEXUAL MISCONDUCT**

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

"Client" means any person who is the recipient of a professional psychological service rendered by a licensee. "Client" for purposes of this section also means a person who is the subject of professional examination even if the purpose of that examination is unrelated to treatment.

"Sexual contact" means the knowing touching of a person's body directly or through clothing, where the circumstances surrounding the touching would be construed by a reasonable person to be motivated by the licensee's own prurient interest or for sexual arousal or gratification. "Sexual contact" includes, but is not limited to, the imposition of a part of the licensee's body upon a part of the client's body, sexual penetration, or the

insertion or imposition of any object or any part of a licensee or client's body into or near the genital, anal, or other opening of the other person's body.

"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 licensee's activities or role as a provider of psychological services, and that is either unwelcomed, offensive to a reasonable person, or creates a hostile work place 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 consist of a single extreme or severe act, or 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 licensee shall not engage in sexual contact with a current client, a former client to whom psychological services were rendered within the immediately preceding 24 months, a current student, a direct supervisee or supervisor, or a research subject.
- c) In circumstances where any of the persons listed in (b) above are, or should be recognized by the licensee as, clearly vulnerable by reason of emotional or cognitive disorder to exploitive influence by the licensee, the prohibition on sexual contact shall extend indefinitely.
- d) A licensee shall not engage in sexual harassment in a professional setting (including, but not limited to, an office, hospital or health care facility) or outside of the professional setting.
- e) A licensee shall not accept as a client a former sexual partner.
- f) In the treatment of sexual dysfunction as well as in other areas of the practice of psychology, a licensee shall not engage in the following conduct, which is hereby defined as professional misconduct:
  - 1) Sexual contact or deliberately hurtful contact between licensee and client;
  - 2) In therapy groups, activities which promote, allow, or involve physical contact of a sexual or deliberately hurtful nature between the licensee and group members, or between group members themselves; and
  - 3) Discussion of an intimate sexual nature with a client, unless that discussion is directly related to legitimate client needs and furthers the client's psychological treatment. At no time shall any such discussions include disclosure by the licensee to the client of his or her own intimate sexual relations or relationships.

- g) A licensee shall not engage in any other activity which would lead a reasonable person to believe that the activity serves the licensee's personal prurient interests or is for the sexual arousal, sexual gratification, or sexual abuse of the licensee or client.
- h) A licensee shall not seek or solicit sexual contact with a client and shall not seek, solicit, accept, or participate in sexual contact with any person in exchange for professional services.
- i) Violation of any of the prohibitions or directives set forth at (b) through (h) above shall be deemed to constitute professional misconduct pursuant to N.J.S.A. 45:1-21(e).
- j) It shall not be a defense to any action under this section that:
  - 1) The client solicited or consented to sexual contact with the licensee; or
  - 2) The licensee was in love with or had affection for the client.

### **13:42-10.10 FINANCIAL ARRANGEMENTS WITH CLIENTS AND OTHERS**

- a) A licensee shall inform clients of the financial arrangements for psychological services. Such financial arrangement(s) should be in writing. If the licensee elects not to provide the financial arrangement(s) in writing, the burden of demonstrating compliance with the regulations in this subchapter shall be on the licensee. The information provided to the client shall include, but not be limited to:
  - 1) The fee for services or the basis for determining the fee to be charged, unless services are provided during an emergency or in other circumstances where disclosure of such information would adversely affect the client's health or welfare;
  - 2) Whether the licensee will accept installment payments or assignment of benefits from a third party payor;
  - 3) Whether Medicaid clients are accepted;
  - 4) Whether Medicare clients are accepted and, if so, if the licensee shall bill the client for any balance remaining after assignment;
  - 5) Any other information, to the extent known to the licensee, concerning insurance coverage, including whether other third party payor plans are accepted; and

- 6) The financial consequences, if any, of missed sessions.
- b) A supervisor may segregate fees received from clients being treated by the supervisee in recognition of the fact that fees charged to such clients shall be less than the usual, reasonable and customary fees charged by the supervisor to his or her own clients.
- c) Where payment of the usual fee would be a hardship, a licensee may adjust the fee, or shall assist clients to find other sources or make appropriate referrals for provision of the needed services.
- d) All permit holders and licensees shall provide to their clients or their clients' designated insurance carriers, a receipt, when applicable, for services rendered.

### **13:42-10.11 PROHIBITION ON EXCESSIVE FEES**

- a) The Board may review information and complaints alleging excessive fees charged by Board licensees. This regulation is not intended to impinge upon the strong public policy in favor of a competitive, free enterprise economy embodied in the antitrust laws of the United States and of this State.
- b) A licensee shall not charge an excessive fee for services. A fee is excessive when, after a review of the facts, a licensee of ordinary prudence would be left with a definite and firm conviction that the fee is so high as to be manifestly unconscionable or overreaching in the circumstances.
- c) Factors which the Board may consider in determining whether a fee is excessive include, but are not limited to, the following:
  - 1) The novelty and difficulty of the service or treatment;
  - 2) The time and effort required;
  - 3) The skill required to properly perform the procedure or treatment;
  - 4) Any requirements or conditions imposed by the client or by the circumstances;
  - 5) The nature and length of the professional relationship with the client;
  - 6) The experience, reputation and ability of the licensee performing the services;

- 7) The nature and circumstances under which services are provided; and
  - 8) Comparable fees charged by licensees not under inquiry.
- d) Charging an excessive fee in violation of the provisions of this section shall constitute professional misconduct subjecting the licensee to disciplinary sanction by the Board.

### **13:42-10.12 BILLING**

- a) The licensee's bill shall include at least the following information:
- 1) The licensee's name, license number, tax identification number and original signature, except in the case of electronic billing, where an original signature is not required;
  - 2) The street address and telephone number of the practice location;
  - 3) The dates and nature of professional services including, in connection with treatment, whether individual or group;
  - 4) Diagnosis and insurance codes, if required or requested;
  - 5) In a practice setting where services are provided by more than one practitioner, the name and license number of the licensee who provided the services being billed; and
  - 6) Fees. The licensee shall identify which part, if any, of the services billed were provided by a technician at the direction of and under the supervision of the licensee pursuant to N.J.A.C. 13:42-7.3 and 7.4 and shall adjust the fee downward accordingly.
- b) A licensee billing for services rendered by a permit holder or an exempt professional practicing under supervision shall include all of the following information on the bill in addition to the information required pursuant to (a) above:
- 1) The name and permit number of the supervisee.
  - 2) The dates, if any, when the client was seen personally by the supervisor; and
  - 3) A statement that treatment was rendered by the supervisee under the supervision of the supervisor.

**13:42-10.13 CONFLICTS OF INTEREST; DUAL RELATIONSHIPS**

- a) A licensee shall not refer a client to a health care service in which the licensee has any financial or significant beneficial interest unless the licensee has:
- 1) Disclosed that he or she has a financial interest; and
  - 2) Provided an alternative referral source.
- b) A licensee shall not prescribe goods or devices which the licensee sells or leases to the client, unless as follows:
- 1) The goods or devices are an integral part of the professional treatment for that client;
  - 2) The item and its fee (if any) are specified on the billing statement under the licensee's professional office name; and
  - 3) Any fee is set at a level which does not exceed a recoupment of the reasonable actual expense to the licensee for provision of the goods or devices. The burden of justifying the fee shall be on the licensee.
- c) A licensee shall not enter into or continue any treating relationship, or supervisory relationship of another person offering clinical services, in which he or she has any family, personal, financial or beneficial interest other than that arising from the therapist-client relationship. Examples of such relationships include, but are not limited to, spousal-spousal supervision, parent-child supervision, child-parent supervision, intimate partner supervision.
- d) A licensee shall not enter into any dual relationship. Examples of such dual relationships include, but are not limited to, professional treatment of employees, tenants, students, supervisees, close friends or relatives. Entering into any business relationships or paying or bartering for any services provided by any current client shall also be prohibited.
- e) A licensee who recognizes the existence of a conflict of interest or dual relationship shall take action to terminate the conflict or the dual relationship.
- f) A licensee shall not enter into financial arrangements with clients which are likely to impair professional judgment. Improper financial arrangements shall include, but are not limited to, loans (whether borrower or lender) or assumption of liabilities for debt.

- g) A licensee shall not enter into a financial arrangement or any other potentially exploitive relationship with a former client which is likely to be the product of judgment impaired by the former relationship.

### **13:42-10.14 PROHIBITION ON REFERRAL FEES AND FEE SPLITTING**

- a) A licensee shall not pay, offer to pay or receive any fee or other form of compensation for referral of a client for professional services or for the purchase of goods. This subsection shall not prohibit a licensee from:
- 1) Paying a flat fee for regular advertising services;
  - 2) Paying a flat fee for the licensee's placement on a commercially sponsored "referral list" of licensed health care providers; or
  - 3) Contributing a fee to a professionally sponsored referral service.
- b) A licensee shall not permit the division of fees for professional services other than among licensed health care professionals in the same or in a closely allied professional health care field engaged in a bona fide partnership, professional service corporation, limited liability company, limited liability partnership, employment relationship, or between a licensee and an applicant for licensure who is working under the supervision of the licensee pursuant to a Board issued temporary permit. A licensee shall not divide fees for professional services rendered to a client with a psychologist practicing as an independent contractor. This subsection shall not prohibit a licensee from charging a flat fee to an independent contractor on a per hour or per service basis to cover expenses.
- c) This section shall be construed broadly to effectuate its remedial intent.

### **13:42-10.15 (RESERVED)**

### **13:42-10.16 CLIENT ACCESSIBILITY TO THERAPIST OF CHOICE**

A licensee shall not enter into any business agreement that interferes with or restricts the ability of a client to see or continue to see his or her therapist of choice.

### **13:42-10.17 LICENSE RENEWAL**

- a) The Board shall send a notice of renewal to each of its licensees at least 60 days prior to the expiration of the license. The notice of renewal shall explain inactive renewal and advise the licensee of the option to renew as inactive. If the notice to renew is not sent at least 60 days prior to the expiration date, no monetary penalties or fines shall apply to the holder for failure

to renew, provided that the license is renewed within 60 days from the date the notice is sent or within 30 days following the date of license expiration, whichever is later.

- b) A licensee shall renew his or her license for a period of two years from the last expiration date. The licensee shall submit a renewal application to the Board, along with the renewal fee set forth at N.J.A.C. 13:42-6.1, prior to the date of license expiration.
- c) A licensee may renew his or her license by choosing inactive status. A licensee electing to renew as a practitioner in inactive status shall not engage in the practice of psychology, or hold him- or herself out as eligible to engage in the practice of psychology, in New Jersey until such time as the license is returned to active status.
- d) If a licensee does not renew the license prior to its expiration date, the licensee may renew the license within 30 days of its expiration by submitting a renewal application, a renewal fee, and a late fee as set forth at N.J.A.C. 13:42-6.1. During this 30-day period, the license shall be valid and the licensee shall not be deemed practicing without a license.
- e) A licensee who fails to submit a renewal application within 30 days of license expiration shall have his or her license suspended without a hearing.
- f) A licensee who continues to engage in the practice of psychology with a suspended license shall be deemed to be engaging in the unlicensed practice of psychology and shall be subject to action consistent with N.J.S.A. 45:1-14 et seq., even if no notice of suspension has been provided to the individual.

### **13:42-10.18 LICENSE REACTIVATION**

- a) A licensee who holds an inactive license pursuant to N.J.A.C. 13:42-10.17(c) may apply to the Board for reactivation of an inactive license. A licensee seeking reactivation of an inactive license shall submit:
  - 1) A renewal application;
  - 2) Payment of the past delinquent renewal fees as set forth in N.J.A.C. 13:42-6. A certification of employment listing each job held during the period of inactive license that includes the name, address, and telephone number of each employer;
  - 3) If the renewal application is sent during the first year of the biennial renewal period, the renewal fee for the biennial period for which reactivation is sought, as set forth at N.J.A.C. 13:42-6.1. If the renewal application is sent during the second year of the biennial period, half of the renewal fee for the biennial period for which reactivation is sought, as set forth at N.J.A.C. 13:42-6.1; and

- 4) Evidence of having completed all continuing education credits for the current biennial registration period, consistent with the requirements set forth at N.J.A.C. 13:42-10.20.
  
- b) An applicant who holds a valid, current license in good standing issued by another state to engage in the practice of psychology and submits proof of having satisfied that state's continuing education requirements, shall be deemed to have satisfied the requirements of (a)4 above. If the other state does not have any continuing education requirements, the requirements of (a)4 above apply.
  
- c) If a Board review of an application establishes a basis for concluding that there may be practice deficiencies in need of remediation prior to reactivation, the Board may require the applicant to submit to and successfully pass an examination or an assessment of skills, a refresher course, or other requirements as determined by the Board prior to reactivation of the license. If that examination or assessment identifies deficiencies or educational needs, the Board may require the applicant, as a condition of reactivation of licensure, to take, and successfully complete, education or training, or to submit to supervision, monitoring, or limitations, as the Board determines necessary to assure that the applicant practices with reasonable skill and safety. The Board may restore the license subject to the applicant's completion of training within a period of time prescribed by the Board following the restoration of the license. In making its determination whether there are practice deficiencies requiring remediation, the Board may consider the following:
  - 1) Length of time license was inactive;
  - 2) Employment history;
  - 3) Professional history
  - 4) Disciplinary history and any action taken against the applicant's license by any professional or occupational board
  - 5) Actions affecting the applicant's privileges taken by any institution, organization, or employer related to the practice of psychology or other professional or occupational practice in New Jersey, any other state, the District of Columbia, or in any other jurisdiction;
  - 6) Pending proceedings against a professional or occupational license issued to the licensee by a professional or occupational board in New Jersey, any other state, the District of Columbia, or in any other jurisdiction; and

- 7) Civil litigation related to the practice of psychology or other professional or occupational practice in New Jersey, any other state, the District of Columbia, or in any other jurisdiction.

### **13:42-10.19 LICENSE REINSTATEMENT**

- a) A licensee who has had his or her license suspended pursuant to N.J.A.C 13:42-10.17(e) may apply to the Board for reinstatement. A licensee applying for reinstatement shall submit:
  - 1) A reinstatement application;
  - 2) A certification of employment listing each job held during the period of suspended license that includes the name, address, and telephone number of each employer;
  - 3) The renewal fee set forth at N.J.A.C. 13:42-6.1 for the biennial period for which reinstatement is sought;
  - 4) The past due renewal fee for the biennial period immediately preceding the renewal period for which reinstatement is sought;
  - 5) The reinstatement fee set forth at N.J.A.C. 13:42-6.1; and
  - 6) Evidence of having completed all continuing education credits for the current biennial registration period, consistent with the requirements set forth at N.J.A.C. 13:42-10.20.
- b) An applicant who holds a valid, current license in good standing issued by another state to engage in the practice of psychology and submits proof of having satisfied that state's continuing education requirements, shall be deemed to have satisfied the requirements of (a)6 above. If the other state does not have any continuing education requirements, the requirements of (a)6 above apply.
- c) If a Board review of an application establishes a basis for concluding that there may be practice deficiencies in need of remediation prior to reinstatement, the Board may require the applicant to submit to and successfully pass an examination or an assessment of skills, a refresher course, or other requirements as determined by the Board prior to reinstatement of the license. If that examination or assessment identifies deficiencies or educational needs, the Board may require the applicant, as a condition of reinstatement of licensure, to take and successfully complete education or training, or to submit to supervision, monitoring, or limitations, as the Board determines necessary to assure that the applicant practices with reasonable skill and safety. The Board may restore the license subject to the applicant's completion of training within a period of time prescribed by the Board following the

restoration of the license. In making its determination whether there are practice deficiencies requiring remediation, the Board may consider the following:

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

### **13:42-10.20 CONTINUING EDUCATION**

- a) Upon the first biennial license renewal after June 19, 2018, and upon every biennial license renewal thereafter, licensees shall attest that they have completed courses of continuing education of the types and number of credits specified in (b) and (c) below and in N.J.A.C. 13:42-10.21. Falsification of any information submitted on the renewal application may require an appearance before the Board and may subject a licensee to penalties and/or suspension or revocation of the license pursuant to N.J.S.A. 45:1-21 through 45:1-25.
- b) Each applicant for biennial license renewal shall be required to complete during the preceding biennial period 40 credits of continuing education related to the practice of psychology, except as provided in (c) below. These 40 credits shall include at least four credits in topics related to domestic violence and, commencing with the biennial renewal period beginning on July 1, 2019, one credit in topics concerning prescription opioid drugs, including the risks and signs of opioid abuse, addiction, and diversion.

- c) Licensees applying for their first biennial renewal shall not be required to indicate that they completed continuing education requirements.
- d) A licensee who completes more than the minimum continuing education credit hours set forth in (b) above in any biennial registration period may carry no more than 10 of the additional credit hours into a succeeding biennial period.

### **13:42-10.21 CONTINUING EDUCATION PROGRAMS**

- a) A licensee shall successfully complete at least 20 of the required 40 continuing education credits through continuing education courses or programs related to the practice of psychology, one credit for each hour of instruction. Courses or programs shall either be presented by the following or be presented by providers approved by the following:
  - 1) American Psychological Association;
  - 2) National Register of Health Service Psychologists;
  - 3) Association of State and Provincial Psychology Board; or
  - 4) American Medical Association.
- b) A licensee may complete up to 19 of the required 40 continuing education credits from the following:
  - 1) Completing a graduate course, related to the practice of psychology, given by a school, college, or university accredited by a regional accrediting body recognized by the United States Department of Education or the Council on Postsecondary Accreditation, one credit for each hour of instruction up to 20 credits;
  - 2) Authorship of a textbook or a chapter of a textbook directly related to the practice of psychology published in the biennial renewal period for which the licensee is allocating the credits, five credits for each chapter up to five credits;
  - 3) Authorship of an article, which has been refereed through peer review, related to the practice of psychology in a psychological, medical, or health related journal published in the biennial renewal period for which the licensee is allocating the credits, five credits per article up to five credits;
  - 4) Presenting a new lecture or seminar to professional peers, or teaching or developing the curriculum for a new continuing education course or program related to psychology. The lecture, seminar, course, or program shall be approved pursuant to (a) above. "New"

means that the licensee has never presented the seminar or lecture before, or taught or developed curriculum for that course or program in any educational setting; one credit for each 50 minutes of the lecture, seminar, course, or program, up to five credits; or

- 5) Teaching or developing the curriculum for a new course related to psychology in a school, college, or university accredited by a regional accrediting body recognized by the United States Department of Education or the Council on Postsecondary Accreditation. "New" means that the licensee has never taught or developed curriculum for that course in any educational setting, five credits of continuing education for each academic credit taught up to five credits.
- c) A licensee shall successfully complete one of the required 40 continuing education credits through completion of the Board's jurisprudence online review.
  - d) At least 10 credits of the 20 required under (a) above shall be in courses or programs in which there is the opportunity for live interaction with the continuing education instructor.

### **13:42-10.22 CONTINUING EDUCATION AUDITS; RECORDS OF CONTINUING EDUCATION**

- a) The Board shall perform audits on randomly selected licensees to determine compliance with continuing education requirements.
- b) A licensee shall maintain the following documentation for a period of four years after completion of the credits and shall submit such documentation to the Board upon request:
  - 1) For attendance at courses or programs presented by a provider approved pursuant to N.J.A.C. 13:42-10.21(a): a certificate of completion from the provider which includes:
    - i) The title, date, and location of course offering;
    - ii) Name of the licensee; and
    - iii) Number of credits awarded;
  - 2) For successful completion of a graduate course: a transcript from the school, college, or university;

- 3) For publication of textbook or article: the published item, including the date of publication;
- 4) For teaching a course or program or developing curriculum: documentation, including a copy of the curriculum, location, date, and time of course, duration of course by hour, and a letter from the continuing education provider, or from the school, college, or university, confirming that the licensee developed or taught the course or program; and
- 5) For presenting a lecture or seminar: documentation including the location, date, and duration of the lecture or seminar, a copy of the presentation, and documentation from the sponsor of the lecture or seminar indicating that the licensee presented the lecture or seminar.

### **13:42-10.23 WAIVER OF CONTINUING EDUCATION REQUIREMENTS**

- a) The Board may waive the continuing education requirements of N.J.A.C. 13:42-10.20 on an individual basis for reasons of hardship, such as severe illness, disability, or military service.
  - 1) A licensee seeking a waiver of the continuing education requirements shall apply to the Board 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 Board with supplemental materials that support the request for waiver.
  - 2) A waiver of continuing education requirements granted pursuant to this section shall be effective only for the biennial period for which such waiver is granted. If the condition(s) that necessitated the waiver continue(s) into the next biennial period, a licensee shall apply to the Board for the renewal of such waiver for the new biennial period.

### **13:42-10.24 ADDITIONAL CONTINUING EDUCATION REQUIREMENTS**

- a) The Board may direct or order a licensee to complete continuing education credits:
  - 1) As part of a disciplinary or remedial measure in addition to the required 40 hours of continuing education; or
  - 2) To correct a deficiency in the licensee's continuing education requirements.

- b) Any continuing education credits completed by the licensee in compliance with an order or directive from the Board as set forth in (a) above shall not be used to satisfy the minimum continuing education requirements as set forth in N.J.A.C. 13:42-10.20.

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

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**13:42-11.1 PURPOSE AND SCOPE**

- a) This subchapter implements the provisions of P.L. 1985, c.256 (N.J.S.A. 45:14B-31 et seq.), which limits the scope of and establishes procedures by which clients may authorize licensees to disclose confidential information upon the request of an insurer or other third-party payor. The following provisions of (b) through (d) below apply, unless the third-party payor is:
- 1) A self-insured employer or an entity providing administrative services to such an employer for the purpose of determining entitlement to benefits; or
  - 2) The payor is a "stop-loss" plan (i.e., a plan in which an employer self-insures up to a certain amount and then purchases excess insurance beyond that amount from an insurance company. (See also 13:42-8.4.)
- b) Any consent or agreement purporting to waive the provisions of P.L. 1985, c.256 or this subchapter shall be against public policy and void.
- c) The provisions of this subchapter shall not apply when access to client treatment records may be had by otherwise lawful methods, as set forth in N.J.A.C. 13:42-11.11.
- d) Nothing in this subchapter shall preclude an interested party, including a licensee, from:
- 1) Filing a complaint with the Board regarding the conduct of a licensee or of an independent professional review committee (IPRC) member;
  - 2) Notifying the Board of an apparently improper demand for confidential information made upon a licensee by an insurance carrier or other third party; or
  - 3) Notifying the Board of an apparently improper termination or threat to terminate third party benefits without compliance with P.L. 1985, c.256 and this subchapter.

**13:42-11.2 DEFINITIONS**

As used in this subchapter, the following words shall have the following meanings unless the context clearly indicates otherwise and except as otherwise expressly provided:

"Customary" means that range of usual practices provided by psychologists of similar education, experience and orientation within a similar geographic or socioeconomic area.

"Education" means completion of any of the educational programs and attainment of the attendant degrees that have qualified a person for licensure under the Act; that is, Ph.D., Ed.D., Psy.D. For the purposes of assigning reviewers of similar education to a given claim under review, the holders of any of these degrees shall be deemed equivalent.

"Experience" means one of the following areas of specialized practice: psychotherapy with adults and adolescents; psychotherapy with children; marital/family therapy; testing assessment.

"Orientation" means one of the following five theoretical positions: behavioral, humanistic/existential, psychoanalytic, systems, or eclectic.

"Psychological services" means the provision of professional services which are founded upon psychological principles derived from a base of scientific knowledge and a recognized and accepted theory of clinical application; and used to promote the optimal development of an individual's potential or to ameliorate an individual's emotional disturbances and maladjustment as manifested in personal and interpersonal situations. Psychological services shall be selected and rendered to clients based upon the client's need, the treating psychologist's professional experience, knowledge of empirical and theoretical literature and professional guidelines and standards. Psychological services shall be necessary and appropriate in light of the client's circumstances, the diagnosis, the reasonableness of goals, and the adequacy of progress.

"Reasonable" means that there is a professionally acceptable probability that the client will realize a significant benefit from continuation of the psychological treatment.

"Stage I (Preliminary Disclosure)" means a request from a third party payor to obtain certain limited information about a client from the treating psychologist for the purpose of permitting the client to obtain or continue benefits from the third party payor for psychological services.

"Stage II Review" means a review conducted by an independent professional review committee (IPRC), established pursuant to N.J.S.A. 45:14B-44, for the purposes of determining whether the treatment is usual, customary or reasonable.

"Stage III Review" means a review conducted by the IPRC when the reviewers are unable to determine, based upon the information provided in Stage II, whether the treatment is usual, customary or reasonable.

"Stage IV Review" means a comprehensive review conducted by the IPRC when the reviewers are unable to determine, based upon the information provided in Stage III, whether the treatment is usual, customary or reasonable.

"Usual" means a practice in keeping with the licensee's general mode of operation.

### **13:42-11.3 STAGE I (PRELIMINARY DISCLOSURE); REQUIRED AUTHORIZATION**

- a) When a licensee receives a request from a third party payor for information about psychological services rendered by the licensee, the licensee shall request a valid authorization from the client or other designated person.
- b) The licensee shall secure the authorization within 14 days of receiving the request from the third party payor, unless precluded from doing so by the circumstances of the case.
- c) The authorization shall be in writing and shall specify at least the following:
  - 1) The nature of the information to be disclosed, the person authorized to disclose the information, to whom the information may be disclosed, the specific purposes for which the information may be used at the time of disclosure and at any future time;
  - 2) That the client is aware of the statutory privilege for confidential communication between a client and a licensed psychologist; and
  - 3) That the consent may be revoked in writing by the client at any time, if such notice is given to both the treating psychologist and the recipient named in the authorization.
- d) The authorization shall be signed and dated by the client or the person authorizing the disclosure. If the client is adjudicated incompetent or is deceased, the authorization shall be signed by the client's legally authorized representative. When the client is more than 14 years of age but has not yet reached age 18, the authorization shall be signed by the client

and by the client's parent or legal guardian. When the client is less than 14 years of age, the authorization shall be signed only by the client's parent or legal guardian.

- e) The authorization shall apply only to information existing as of the date signed and is effective for one year only from the date signed.
- f) The licensee shall provide a copy of the authorization to the client or the person authorizing the disclosure.

### **13:42-11.4 STAGE I: INFORMATION TO BE PROVIDED TO THE THIRD PARTY PAYOR**

- a) A Stage I inquiry does not involve the Independent Professional Review Committee (IPRC). The licensee shall provide the information set forth below directly to the third party payor.
- b) Within 10 days of receipt of the authorization required pursuant to N.J.A.C. 13:42-11.3, the treating psychologist shall provide the third-party payor with basic client information limited to the following. The information provided shall be marked "Confidential" and forwarded to the attention of the specific individual designated in the authorization, if any.
  - 1) Administrative information, defined as the client's name, age, sex, address, educational status, identifying number within the insurance program, date of onset of difficulty, date of initial consultation, dates and character of sessions (individual or group) and fees;
  - 2) Diagnostic information, defined as therapeutic characterizations of the type found in the International Statistical Classification of Diseases and Related Health Problems, published by the World Health Organization, 525 Twenty-Third St. N.W., Washington, D.C. 20037, incorporated herein by reference, as amended and supplemented, or Diagnostic and Statistical Manual of Mental Disorders (DSM-5), published by the American Psychiatric Association, 800 Maine Avenue, S.W., Suite 900, Washington, DC 20024;
  - 3) Status of the client (voluntary or involuntary; inpatient or outpatient);
  - 4) The reason for continuing psychological services, limited to an assessment of the client's current level of functional impairment and level of distress. Each aspect shall be described as "none," or by the term mild, moderate, severe or extreme; and
  - 5) Prognosis, limited to an estimate of the minimal time during which treatment might continue.

**13:42-11.5 STAGES II, III AND IV; INFORMATION TO BE PROVIDED TO INDEPENDENT PROFESSIONAL REVIEW COMMITTEE**

- a) The licensee shall notify the Board within 10 days of a request by a third party payor for a Stage II, III or IV review by the IPRC, established pursuant to N.J.S.A. 45:14B-44 and N.J.A.C. 13:42-11.6. The notification shall include the following information:
- 1) The licensee's major theoretical orientation; that is, behavioral, humanistic/existential, psychoanalytic, systems, or eclectic; and
  - 2) The licensee's area of practice specialization; for example, psychotherapy with adults and adolescents, psychotherapy with children, marital/family therapy or testing/assessment.
- b) Within 10 days of the Board's receipt of the licensee's notification, the Board shall designate two or more members of the IPRC to serve as reviewers of the case and shall inform the licensee of their names and addresses.
- c) The licensee shall immediately provide, directly to the IPRC and not to the Board, the client's written authorization and shall disclose to the IPRC, in writing, confidential information concerning the client's treatment limited to the following:
- 1) For a Stage II review: The case identification number; status of the client; duration and frequency of treatment; diagnosis including all five Axes; prognosis (including minimal length of future treatment expressed in terms of identified goal(s)); the reason for continuing psychological services stated in terms of the various functions assessed; and professional judgment as to level of impairment and level of distress (each rated as none, mild, moderate, severe or extreme).
  - 2) For a Stage III review: All of the information set forth in (c)1 above plus a written statement describing the licensee's customary mode of treatment for the particular diagnosis and for the client in question, within the context of the licensee's theoretical orientation.
  - 3) For a Stage IV review: All of the information set forth in (c)1 and 2 above, details and circumstances concerning the case under review, and the entire client record for inspection by the reviewers.
- d) In the event a client declines to provide the authorizations required pursuant to P.L. 1985, c.256 and N.J.A.C. 13:42-11.3, the review process shall not be undertaken pursuant to the IPRC process. The licensee shall so notify the third party payor and any assigned reviewers.

- e) Absent good cause shown, failure of the licensee to comply with any of the provisions of P.L. 1985, c.256 or this subchapter shall subject the licensee to any of the disciplinary sanctions authorized by law. Good cause shall include, but not be limited to, taking vacations of reasonable length, illness, serious family problems, or not receiving daily mail deliveries if there is more than one practice location.

### **13:42-11.6 INDEPENDENT PROFESSIONAL REVIEW COMMITTEE; RESPONSIBILITIES OF THE BOARD**

- a) The Board shall appoint IPRC members from a pool of volunteer licensed psychologists who are screened and trained by the Board. The Board shall appoint to the IPRC, for a three-year term, licensees who demonstrate that they are:
  - 1) Licensed in New Jersey for the five years immediately preceding appointment;
  - 2) Active practitioners with a current minimum average of 10 hours per week of direct service in the areas of service they are authorized to review; for example, psychotherapy with adults and adolescents; psychotherapy with children; marital/family therapy; testing/assessment; and
  - 3) Respected and known by their professional colleagues for the quality of their clinical work and exemplary professional conduct.
- b) The IPRC Administrator shall, within 10 days of receipt of notification from a licensee or a request by a third party payor for a Stage II review, designate two members of the IPRC to conduct the review and notify the treating psychologist of the assignment of reviewers.
- c) To the extent practicable, reviewers designated for case review shall be knowledgeable in the orientation used by the treating psychologist and the customary practices of that orientation.

### **13:42-11.7 STAGE II REVIEW BY INDEPENDENT PROFESSIONAL REVIEW COMMITTEE**

- a) The reviewers shall examine the material submitted by the treating psychologist as specified in N.J.A.C. 13:42-11.5 (c), as well as any material made available by the third party payor, including, but not limited to, billing statements, treating doctor reports and claim forms, and the report of an independent examining practitioner, if any.
- b) Each reviewer shall make an independent assessment of the material provided to determine, on the basis of the limited information provided, whether the psychological services for which payment is claimed are usual, customary or reasonable.

- c) Each reviewer shall confer with the other designated reviewer to ascertain whether there is agreement on the finding.
- d) If, on the basis of the information provided, the reviewers can certify that the treatment is usual, customary or reasonable, the reviewers shall so notify the third party payor and the Board, and no further review shall be undertaken by the IPRC.
- e) If the two reviewers are unable to agree that services are usual, customary or reasonable, or if they both agree that the services are not; or if both reviewers find the information provided to be insufficient to reach a conclusion, the reviewers shall proceed to Stage III and shall so notify the Board and the treating psychologist.

### **13:42-11.8 STAGE III REVIEW BY INDEPENDENT PROFESSIONAL REVIEW COMMITTEE**

- a) The two designated reviewers shall request the treating psychologist to provide a written statement describing his or her customary mode of treatment for the particular diagnosis and for the client in question, within the context of the psychologist's theoretical orientation.
- b) If, on the basis of the information provided, the reviewers can certify that the treatment is usual, customary or reasonable, the reviewers shall so notify the third party payor and the Board, and no further review shall be undertaken by the IPRC.
- c) If the two reviewers are unable to agree that the treatment is usual, customary or reasonable, or if they both agree that the services are not usual, customary or reasonable, or if one or both reviewers find the information provided to be insufficient to reach such a conclusion, the reviewers shall proceed to Stage IV and shall so notify the Board and the treating psychologist.

### **13:42-11.9 STAGE IV REVIEW BY INDEPENDENT PROFESSIONAL REVIEW COMMITTEE**

- a) In a Stage IV review, the Board shall appoint a third reviewer.
- b) The reviewers shall request the treating psychologist to provide details and circumstances concerning the case under review. The reviewers shall request production of the original client record including session notes, test data and results, etc.
- c) On the basis of the information provided, the reviewers shall then certify to the third party payor and the Board their conclusion as to whether the treatment is usual, customary or reasonable. The conclusion of a majority of the three-person IPRC shall be reported as the conclusion of the Committee.

- d) The reviewers shall certify to the third party payor the date and length of time of their consultation in reviewing the case.

### **13:42-11.10 INDEPENDENT PROFESSIONAL REVIEW COMMITTEE; RESPONSIBILITIES OF REVIEWERS**

- a) IPRC reviewers shall complete the entire review process, that is, Stages II, III (if necessary) and IV (if necessary), within 20 days of their receipt of the review request by the Board. The Board shall interpret the timeframe to be exclusive of days lost as a result of injury or extenuating personal circumstances. The reviewers shall inform the Board or arrange for another to do so when such unforeseen event prevents the timely completion of a review assignment. The Board shall, in that event, attempt to appoint a substitute reviewer to complete the assignment.
- b) A reviewer shall treat all information provided by the treating psychologist as confidential and shall not disclose the information to the third party payor or to any private person.
- c) Upon termination of a reviewer's practice, the reviewer or his or her designee shall transfer all IPRC records to the IPRC office.
- d) A reviewer who believes that the information disclosed in the review raises a substantial possibility that a psychologist has engaged in any act or practice declared unlawful by a statute, regulation or accepted standard of practice of the Board shall make a report to the Board, which may conduct its own inquiry.

### **13:42-11.11 INDEPENDENT BOARD INVESTIGATION**

- a) The Board may conduct its own inquiry into a matter pursuant to N.J.S.A. 45:1-18, notwithstanding prior consideration by the IPRC, in the following circumstances:
  - 1) The Board is requested by the third party payor, acting in good faith, to conduct an independent investigation of a matter; and
  - 2) The third party payor's request sets forth specific grounds for questioning the IPRC results.
- b) The Board, at its discretion, may require the IPRC to provide to the Board the complete file of the review team for investigative purposes.
- c) Independent investigation by the Board shall not preclude any available right of the reviewer to judicial review pursuant to N.J.S.A. 45:14B-34(d).

**13:42-11.12 CIRCUMSTANCES IN WHICH IPRC PROCESS IS NOT REQUIRED**

- a) The IPRC process is not required for otherwise lawful methods of access to client treatment records in the following circumstances:
- 1) The client, vis-a-vis another person or a third party payor, has placed his or her mental condition in issue in a litigation context, and the client has consented to release of records of the treating psychologist;
  - 2) The treating psychologist has been requested to provide information regarding underlying claims for damages or for reimbursement of professional fees, as authorized or directed by the Rules of Court or by order of a court of competent jurisdiction (not the mere service of an attorney's subpoena for discovery in litigation);
  - 3) The third party payor has requested, pursuant to applicable laws, inspection of the client record and/or preparation by the licensee of a written report; that is, the Personal Injury Protection Program established by P.L. 1972, c.70, N.J.S.A. 39:6A-13(b) and (e), as amended or superseded, with regard to injuries resulting from motor vehicle accidents;
  - 4) A third party payor has directed the client-insured to submit to mental or physical examination by an appropriate practitioner who prepares and submits findings and conclusions, pursuant to N.J.S.A. 39:6A- 13(d), (e), (f);
  - 5) A hospital, nursing home or other similar licensed health care institution has requested the licensee to provide existing client records of an inpatient for the purpose of ongoing evaluation;
  - 6) A third party payor has requested access to hospital records, to the extent permitted by hospital rules governing the release of client records and/or mental health records in particular; or
  - 7) The Board or the Attorney General has subpoenaed a complete copy of treatment records for the purpose of determining whether the conduct of a Board licensee conforms to accepted standards of practice.

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**SUBCHAPTER 12.  
CUSTODY/PARENTING TIME EVALUATIONS AND/OR TERMINATION OF  
PARENTAL RIGHTS EVALUATIONS**

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**13:42-12.1 PURPOSE AND SCOPE**

The rules in this subchapter set forth the minimum requirements for licensed psychologists who perform custody/parenting time evaluations and termination of parental rights evaluations.

**13:42-12.2 QUALIFICATIONS**

- a) A licensee shall be qualified to perform custody/parenting time evaluations and/or termination of parental rights evaluations through education, training and/or supervision in all of the following categories:
- 1) Child growth and development;
  - 2) Psychological testing;
  - 3) Parent-child bonding;
  - 4) Scope of parenting;
  - 5) Adult development and psychopathology;
  - 6) Family functioning;
  - 7) Child and family development;
  - 8) Child and family psychopathology;
  - 9) The impact of divorce or family dissolution on children; and
  - 10) The impact of age, gender, race, ethnicity, national origin, language, culture, religion, sexual orientation/identity, disability and socioeconomic status on custody/parenting time evaluations.

- b) When the following topics are involved, a licensee shall have education, training and/or supervision in the specific topic or the licensee shall refer to a licensed health care provider who has education, experience, training and/or supervision in the following topics:
- 1) Physical, sexual or psychological abuse of spouse or children;
  - 2) Neglect of children;
  - 3) Alcohol or substance abuse that impairs the ability to parent;
  - 4) Medical/physical/neurological impairment that affects the ability to parent; or
  - 5) Other areas beyond the licensee's expertise that are relevant to the custody/parenting time evaluation.
- c) Any licensee using psychometric instruments in the course of performing custody/parenting time evaluations and/or termination of parental rights evaluations shall comply with the requirements set forth at N.J.A.C. 13:42-10.5.
- d) Applicants for licensure who hold a temporary permit pursuant to N.J.A.C. 13:42-3.1 and 3.2 shall not perform custody/parenting time evaluations and termination of parental rights evaluations.
- e) A licensee shall maintain documentation that demonstrates the licensee's education, training, supervision or self-study in the topics from (a) and (b) above.
- f) If a licensee consults with an expert pursuant to (b) above, the licensee shall document the consultation.

### **13:42-12.3 DUAL RELATIONSHIPS**

- a) If a licensee is or has been a treating therapist for any person who is part of the custody/parenting time evaluation and/or termination of parental rights evaluation, the treating therapist shall not assume either the role of an evaluator in the custody/parenting time evaluation and/or termination of parental rights evaluation, or the role of a parenting coordinator and shall advise any party or court of this prohibition.
- b) A licensee who is a treating therapist may report on a patient's mental health status and treatment issues but shall not make any recommendations regarding custody or termination of parental rights.

- c) After the evaluation process is completed, a licensee whose initial involvement with a case has been as an evaluator may agree to function subsequently as a treating therapist or parent coordinator, but shall no longer function as an evaluator in the case.

### **13:42-12.4 COMMUNICATIONS**

- a) If a licensee is court-appointed, the licensee shall communicate any information only to the court and both parties or their attorneys simultaneously, either in writing or through a conference call.
- b) If a licensee is selected by both parties without a court appointment, the licensee shall communicate any information only to both parties or their attorneys simultaneously, either in writing or through a conference call.
- c) If a licensee is selected by only one party, the licensee shall communicate any information only to that party or the party's attorney.

### **13:42-12.5 REQUIRED DISCLOSURES**

- a) A licensee shall provide information, in writing, to the parties to assist them in understanding the nature of the custody/parenting time evaluation and/or termination of parental rights evaluation and the implications of their agreement to participate. This information shall include the following:
  - 1) Purpose, procedures and methods;
  - 2) Fees;
  - 3) Responsibility of parties for payment of the fees and whether payment will be required prior to the delivery of any report;
  - 4) Limits of confidentiality;
  - 5) Special policies pertaining to issues, such as canceled and/or missed appointments; and
  - 6) Limitation on communications, as set forth in N.J.A.C. 13:42-12.4.
- b) A licensee shall inform the parties about the purpose of any assessment instruments, interview techniques and the use of any information collected. The licensee shall provide this information, as appropriate, to children, to the extent that they are able to understand.

**13:42-12.6 FEES**

- a) Before commencing the custody/parenting time evaluation and/or termination of parental rights evaluation, a licensee shall inform the party or parties responsible for paying the fees, in writing, of the estimated fees for all anticipated services and any additional fees should the licensee be required, requested or mandated to perform additional services.
- b) A licensee shall provide the party or parties responsible for paying the fees with complete documentation of all fees, itemizing time, charges and services as appropriate.
- c) A licensee may accept payment of fees by retainer or by a pre-arranged fee schedule.
  - 1) If a partial retainer is accepted, a licensee shall inform the court, attorneys and/or parties of the schedule for payment of the remainder and of any contingent relationship between complete payment and final delivery of services. A licensee shall inform the court, attorneys and/or parties that payment in excess of the reasonable estimate is expected if delivery of services unforeseeably exceeds that anticipated. A licensee shall inform the court, attorneys and/or parties that unused fees will be refunded as soon as possible, upon completion of the professional services.
  - 2) If payment by a fee schedule is accepted, a licensee shall provide a complete explanation of the expected per-visit payment or other scheduled costs.
- d) A licensee may require payment for a report prior to its delivery provided that prior notification has been given to the parties under (a) above.

**13:42-12.7 REPORTS AND RECOMMENDATIONS**

- a) A licensee shall complete written reports in a timely manner. Delays of more than two months from when all data has been collected relevant to the custody/parenting time evaluation and/or termination of parental rights evaluation are considered excessive. In the event of extenuating circumstances, such as inability to collect final documents from collateral contacts, the licensee shall provide, in writing, the reasons for the delay in accordance with (c), (d) and (e) below.
- b) A licensee shall not provide any opinion regarding the psychological functioning of any individual who has not been personally evaluated. A licensee may report what an evaluated individual has stated or address theoretical issues or hypothetical questions, as long as the limited basis of the information is explained.
- c) A licensee who is court-appointed shall submit the report only to the court and to both parties or their attorneys, unless otherwise specified in a court order.

- d) A licensee who is selected by both parties shall submit the report only to both parties or their attorneys, unless otherwise specified in a consent order.
- e) A licensee who is selected by only one party shall submit the report only to that party or that party's attorney unless the party notifies the licensee in writing that the party does not want to receive the report.

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## **SUBCHAPTER 13. TELEMEDICINE**

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### **13:42-13.1 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 Board as practicing psychologists.
- c) Pursuant to N.J.S.A. 45:1-62, a practicing psychologist must hold a license issued by the Board if he or she:
  - 1) Is located in New Jersey and provides psychological services to any client located in or out of New Jersey by means of telemedicine or telehealth; or
  - 2) Is located outside of New Jersey and provides psychological services to any client 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 licensed practicing psychologist in New Jersey through the use of information and communications technologies, but does not direct client care, will not be considered as providing psychological services to a client in New Jersey consistent with N.J.S.A. 45:14B-1 et seq., and will not be required to obtain licensure in New Jersey in order to provide such consultation.

**13:42-13.2 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 and/or mental health information either to or from an originating site or to or from the licensee at a distant site, which allows for the client to be evaluated without being physically present.

"Board" means the Board of Psychological Examiners.

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

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

"Licensee" means an individual licensed by the Board as a practicing psychologist.

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

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

"Telehealth" means the use of information and communications technologies, including telephones, remote client monitoring devices, or other electronic means, to support clinical health care, provider consultation, client and professional health-related education, public health, health administration, and other psychological 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 psychological service using electronic communications, information technology, or other electronic or technological means to bridge the gap between a licensee who is located at a distant site and a client 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.

### **13:42-13.3 STANDARD OF CARE**

- a) Prior to providing psychological services through telemedicine or telehealth, a licensee shall determine whether providing those psychological services through telemedicine or telehealth would be consistent with the standard of care applicable for those psychological services when provided in-person.
- b) If a licensee determines, either before or during the provision of psychological services, that psychological 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 psychological services through telemedicine or telehealth.
- c) A licensee who determines that psychological services cannot be provided through telemedicine or telehealth pursuant to (b) above shall advise the client to obtain psychological services in-person.
- d) A licensee who provides a diagnosis, treatment, or consultation recommendation, including discussions regarding the risk and benefits of a client'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.

### **13:42-13.4 LICENSEE-CLIENT RELATIONSHIP**

- a) Prior to providing psychological services through telemedicine or telehealth, a licensee shall establish a licensee-client relationship by:
  - 1) Identifying the client with, at a minimum, the client's name, date of birth, phone number, and address. A licensee may also use a client's assigned identification number, Social Security number, photo, health insurance policy number, or other identifier associated directly with the client; 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 client for the purpose of providing psychological services to the client using telemedicine or telehealth, a licensee shall review the client's history and any available records.
- c) Prior to initiating contact with a client for the purpose of providing psychological 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 psychological services were provided in person. The licensee shall make this determination prior to each unique client encounter.
- d) Notwithstanding (a), (b), and (c) above, psychological service may be provided through telemedicine or telehealth without a proper provider-client relationship if:
  - 1) The provision of psychological 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 psychological services is during episodic consultations by a medical and/or psychological specialist located in another jurisdiction who provides consultation psychological 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 psychological 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 psychological service provider.

### **13:42-13.5 PROVISION OF PSYCHOLOGICAL SERVICES THROUGH TELEMEDICINE OR TELEHEALTH**

- a) As long as a licensee has satisfied the requirements of N.J.A.C. 13:42-13.4, a licensee may provide psychological services to a client through the use of telemedicine and may engage in telehealth to support and facilitate the provision of psychological services to clients.
- b) Prior to providing psychological services through telemedicine or telehealth, a licensee shall determine the client's originating site and record this information in the client's record.

- c) A licensee providing psychological 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 client and the client to see the licensee during the provision of psychological services.
- d) A licensee providing psychological services through telemedicine or telehealth may use asynchronous store-and-forward technology to allow for the electronic transmission of:
  - 1) Images;
  - 2) Diagnostics, including test results and interpretation;
  - 3) Data; and
  - 4) Medical and psychological information.
- e) If, after accessing and reviewing the client's records, a licensee determines that he or she is able to meet the standard of care for such psychological 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 psychological services through telemedicine or telehealth, and after the provision of psychological services, a licensee, or another designated licensee, shall provide his or her name, professional credentials, and contact information to the client. Such contact information shall enable the client to contact the licensee for at least 72 hours following the provision of psychological services, or for a longer period if warranted by the client's circumstances and accepted standards of care.
- g) Prior to providing psychological services through telemedicine or telehealth, a licensee shall review any history or records provided by a client as follows:
  - 1) For an initial encounter with a client, history and records provided by the client shall be reviewed prior to the provision of psychological services through telemedicine or telehealth; and
  - 2) For any subsequent interactions with a client, history and records provided by the client shall be reviewed either prior to the provision of psychological services through telemedicine or telehealth or contemporaneously with the encounter with the client.

- h) After the provision of psychological services through telemedicine or telehealth, a licensee shall provide the client, upon request, with his or her records created due to the psychological services provided, unless, pursuant to N.J.A.C. 13:42-8.3(e), the licensee determines that releasing the records would adversely affect the client's health or welfare.
- i) A licensee shall provide, upon a client's written request, the client's information to the client's primary care provider or to other health care and/or mental health care providers.
- j) A licensee engaging in telemedicine or telehealth shall refer a client for follow-up care when necessary.

### **13:42-13.6 RECORDS**

A licensee who provides psychological services through telemedicine or telehealth shall maintain a record of the care provide to a client. Such records shall comply with the requirements of N.J.A.C. 13:42-8, and all other applicable State and Federal statutes, rules, and regulations for recordkeeping, confidentiality, and disclosure of a client's record.

### **13:42-13.7 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 psychological services through telemedicine or telehealth, a licensee must establish written protocols that address:
  - 1) Identification of users;
  - 2) Identification of the client during the initial intake pursuant to N.J.A.C. 13:42-13.4(a)1;
  - 3) Identification 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) Verification of client profile data.

### **13:42-13.8 PRIVACY AND NOTICE TO CLIENTS**

- a) Licensees that communicate with clients by electronic communications other than telephone or facsimile shall establish written privacy practices that are consistent with Federal standards under 45 CFR Parts 160 and 164, as amended and supplemented, which are incorporated herein by reference, relating to privacy of individually identifiable health information.
- b) A licensee who becomes aware of a breach in confidentiality of patient information, as defined in 45 CFR 164.402, shall comply with the reporting requirements of 45 CFR Part 164.
- c) Licensees, or their authorized representatives, shall provide a client, prior to evaluation or treatment, with copies of written privacy practices and shall obtain the client's written acknowledgement of receipt of the notice.
- d) Licensees who provide psychological services through telemedicine or telehealth, or their authorized representatives, shall, prior to providing psychological services, give clients notice regarding telemedicine and telehealth, including the risks and benefits of using technology to provide psychological services and how to receive follow-up care or assistance 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 client received this notice.
- e) 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 client, the licensee shall inform the client of this prior to the conclusion of the provision of care through telemedicine or telehealth and shall advise the client regarding the need for the client to obtain an additional in-person medical or psychological evaluation reasonably able to meet the client's needs.