

1. The 24-month rule shall not apply and the prohibition shall extend indefinitely in circumstances where the former client is or should be recognized by the licensee or certificate holder as clearly vulnerable by reason of emotional or cognitive disorder or exploitative influence by the licensee or certificate holder.

(d) A licensee or certificate holder shall not seek or solicit sexual contact with any person in exchange for professional services.

(e) A licensee or certificate holder shall not accept as a client an individual who, within the immediately preceding 24 months, was the licensee's or certificate holder's sexual partner.

(f) A licensee or certificate holder shall not engage in any discussion of an intimate sexual nature with a client that serves the licensee's or certificate holder's prurient interests or is for the sexual arousal or the sexual gratification of the licensee or certificate holder or client, or constitutes sexual abuse of the client.

(g) A licensee or certificate holder shall not condone or engage in any form of harassment in a professional setting including, but not limited to, an office, hospital or health care facility or outside the professional setting.

(h) A licensee or certificate holder shall not engage in any other activity such as, but not limited to, voyeurism or exposure of the genitalia of the licensee or certificate holder which would lead a reasonable person to believe that the activity serves the licensee's or certificate holder's personal prurient interests or is for the sexual arousal or the sexual gratification of the licensee or certificate holder or client, or constitutes sexual abuse of the client.

(i) Violation of any of the prohibitions or directives set forth at (b) through (h) above shall be deemed to constitute gross malpractice pursuant to N.J.S.A. 45:1-21(c) or professional misconduct pursuant to N.J.S.A. 45:1-21(e) or both.

(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 certificate holder; or
2. The licensee or certificate holder was in love with or had affection for the client.

(k) The prohibitions of this section shall also apply to any relationship between a licensee or certificate holder and the client of any other individual within the same professional setting, facility or location.

13:34C-3.4 Duty to report

(a) A licensee or certificate holder shall notify the Committee of misconduct of another alcohol or drug counselor which the licensee or certificate holder has reason to believe

has not been disclosed to the Committee. Such misconduct includes specific acts or omissions or the fact that a counselor has:

1. Had any license, certificate, permit, registration or other certificate granted by any jurisdiction limited, conditioned, qualified, restricted, suspended, revoked or not issued or renewed or voluntarily surrendered;
2. Been subject to any other disciplinary action by a licensing or certifying authority or professional association;
3. Been demoted, terminated or suspended from the person's employment for some form of misfeasance, malfeasance or nonfeasance;
4. Practiced or taught alcohol or drug counseling in violation of the laws or regulations regulating that profession; or
5. Engaged in any prohibited act listed in N.J.A.C. 13:34C-1.8(c) and 3.2.

(b) A licensee or certificate holder shall notify the Committee of one's own misconduct which the licensee or certificate holder has reason to believe has not been disclosed to the Committee. Such misconduct includes specific acts or omissions or the fact that a counselor has:

1. Had any license, certificate, permit, registration or other certificate granted by any jurisdiction limited, conditioned, qualified, restricted, suspended, revoked or not issued or renewed or voluntarily surrendered;
2. Been subject to any other disciplinary action by a licensing or certifying authority or professional association;
3. Been demoted, terminated or suspended from the person's employment for some form of misfeasance, malfeasance or nonfeasance;
4. Practiced or taught alcohol or drug counseling in violation of the laws or regulations regulating that profession; or
5. Engaged in any prohibited act listed in N.J.A.C. 13:34C-1.8(c) and 3.2.

(c) A licensee or certificate holder shall, within 30 days of receiving a notice of disciplinary action taken against the licensee or the certificate holder in any other state, territory or jurisdiction, report to the Committee in writing receipt of such notification and provide a copy of the notification and the underlying documentation of the disciplinary action.

SUBCHAPTER 4. CLIENT RECORDS; CONFIDENTIALITY

13:34C-4.1 Preparation and maintenance of client records

(a) A licensee or certificate holder shall prepare a permanent client record for each client which accurately reflects

the client contact with the licensee whether in an office, hospital, agency or other treatment, evaluation or consultation setting.

(b) A licensee or certificate holder shall make and sign entries in the client record contemporaneously with the services provided. A licensee or certificate holder may dictate an entry for later transcription, provided that the transcription is dated and identified as "preliminary" until the licensee or certificate holder reviews the transcription and finalizes the entry in the client record.

(c) The licensee or certificate holder shall include in the client record material pertinent to the nature and extent of the professional interaction, as applicable:

1. The client name, address and telephone number;
2. The client complaint on intake;
3. Medical history recognized as of potential significance;
4. Substance abuse history;
5. Past and current medications;
6. Bio/psycho/social history;
7. Any finding or interpretation of standardized tests and/or instruments administered;
8. Current functional impairments and rating levels thereof;
9. A diagnostic impression;
10. A treatment plan focused on the specific needs of the individual client;
11. Contemporaneous and dated progress or session notes specific to the client's participation, including ongoing assessment, specific components of treatment, evaluation or consultation;
12. Dates of all treatment, evaluation or consultation sessions;
13. The location of treatment, evaluation or consultation;
14. A prognosis;
15. The client identity on each page;
16. Fees charged and paid unless a separate financial record is kept;
17. The identity of each provider of treatment, evaluation or consultation (and supervisor, if any);
18. If services are rendered by a counselor intern or a certified alcohol and drug counselor, a written disclosure form signed by the client;
19. Records and reports provided by other professionals;

20. Information regarding referrals to other professionals or health care providers;

21. Appropriate consent and disclosure forms required by law;

22. Any other form required by regulation, accreditation or funding agency;

23. Discharge summary and after care plan focused on the specific needs of the individual client; and

24. A record of any treatment, drug, or service offered by the licensee and refused by the patient.

(d) A licensee or certificate holder may make corrections or additions to an existing record provided that each change is clearly identified as such, dated and initialed by the licensee or certificate holder.

(e) The licensee or certificate holder shall establish and maintain a reasonable procedure to protect such records from access by unauthorized persons.

(f) The licensee or certificate holder shall retain the permanent client record for at least seven years from the date of last entry, unless otherwise provided by law.

(g) The licensee or certificate holder shall establish reasonable procedures for maintaining the confidentiality of client records in the event of the licensee's or certificate holder's relocation, retirement, termination from practice, 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 or certificate holder'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.

(h) Subsections (e) and (g) above shall not apply to a licensee or certificate holder employed in an agency setting who does not, by agency policy, have control over client records.