

CHAPTER 44C

**AUDIOLOGY AND SPEECH-LANGUAGE
PATHOLOGY ADVISORY
COMMITTEE**

Authority

N.J.S.A. 45:3B-24.

Source and Effective Date

R.2004 d.23, effective December 15, 2003.
See: 35 N.J.R. 3273(a), 36 N.J.R. 527(a).

Chapter Expiration Date

Chapter 44C, Audiology and Speech-Language Pathology Advisory Committee, expires on December 15, 2008.

Chapter Historical Note

Chapter 44C was adopted as R.1986 d.192, effective June 2, 1986. See: 17 N.J.R. 1062(a), 18 N.J.R. 1201(c).

Chapter 44C was repealed and a new Chapter 44C, Audiology and Speech-Language Pathology Advisory Committee, was adopted as R.1988 d.344, effective July 18, 1988. See: 20 N.J.R. 244(b), 20 N.J.R. 1723(b).

Subchapter 4, Provisional Licensure as Audiologist or Speech-Language Pathologist, was repealed by R.1990 d.111, effective February 5, 1990. See: 21 N.J.R. 3433, 22 N.J.R. 358(a).

Pursuant to Executive Order No. 66(1978), Chapter 44C, Audiology and Speech-Language Pathology Advisory Committee, was readopted as R.1993 d.383, effective July 8, 1993. See: 25 N.J.R. 1668(a), 25 N.J.R. 3504(b).

Pursuant to Executive Order No. 66(1978), Chapter 44C, Audiology and Speech-Language Pathology Advisory Committee, was readopted as R.1998 d.374, effective June 29, 1998, and Subchapter 4, Lapsed License, was adopted by R.1998 d.374, effective July 20, 1998. See: 30 N.J.R. 1195(a), 30 N.J.R. 2634(a).

Chapter 44C, Audiology and Speech-Language Pathology Advisory Committee, was readopted as R.2004 d.23, effective December 15, 2003. See: Source and Effective Date. See, also, section annotations.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. GENERAL REQUIREMENTS

13:44C-1.1 Change of address or telephone; service of process

SUBCHAPTER 2. ADMINISTRATION; FEES

13:44C-2.1 Election of officers
13:44C-2.2 Fees and charges

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

13:44C-3.1 Application forms
13:44C-3.2 Requirements for licensure
13:44C-3.3 Additional education requirements: education obtained prior to January 1, 1993
13:44C-3.4 Additional education requirements: education obtained on or after January 1, 1993
13:44C-3.5 Licensure without examination due to licensure in another state

13:44C-3.6 Requirement for clinical internships

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

13:44C-4.1 Renewal of license

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

13:44C-5.1 Applications
13:44C-5.2 Requirements for temporary licensure
13:44C-5.3 Limits on temporary licensure

**SUBCHAPTER 6. CONTINUING PROFESSIONAL
EDUCATION REQUIREMENTS**

13:44C-6.1 License renewal
13:44C-6.2 Allocation of credit
13:44C-6.3 Documentation of continuing education credits
13:44C-6.4 Excess hours credited to subsequent renewal period
13:44C-6.5 Waiver of requirements; appearance
13:44C-6.6 Subjects; sponsors

SUBCHAPTER 7. AUTHORIZED PRACTICE

13:44C-7.1 Scope of practice—audiology
13:44C-7.2 Scope of practice—speech-language pathology
13:44C-7.2A Scope of practice: Fiber Optic Endoscopic Examination of Swallowing (FEES)
13:44C-7.3 Business interest of unlicensed persons
13:44C-7.4 Exemptions

**SUBCHAPTER 8. STANDARDS FOR PROFESSIONAL
CONDUCT**

13:44C-8.1 Recordkeeping
13:44C-8.2 Calibration log
13:44C-8.3 Prohibited fees
13:44C-8.4 Providing fees and posting license
13:44C-8.5 Advertising
13:44C-8.6 Excessive fees
13:44C-8.7 Professional practices

SUBCHAPTER 9. UNLICENSED PRACTICE

13:44C-9.1 Acts amounting to unlicensed practice
13:44C-9.2 Aiding and abetting unlicensed practice

SUBCHAPTER 10. DISCIPLINARY ACTIONS

13:44C-10.1 Suspension and revocation of license
13:44C-10.2 Reinstatement

SUBCHAPTER 1. GENERAL REQUIREMENTS

13:44C-1.1 Change of address or telephone; service of process

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

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

Amended by R.2004 d.23, effective January 20, 2004.
See: 35 N.J.R. 3273(a), 36 N.J.R. 527(a).
Rewrote the section.

SUBCHAPTER 2. ADMINISTRATION; FEES

13:44C-2.1 Election of officers

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

13:44C-2.2 Fees and charges

(a) The following fees shall be charged by the Advisory Committee:

1. Application fee	\$75.00
2. Initial license fee	
i. If paid during the first year of a biennial license renewal period	\$100.00
ii. If paid during the second year of a biennial license renewal period	\$50.00
3. License renewal fee, biennial	\$100.00
4. Temporary license (one year)	\$50.00
5. Late renewal fee (up to 30 days)	\$50.00
6. Reinstatement fee (after 30 days)	\$50.00
7. Certification of licensure to other states	\$50.00
8. Duplicate license fee	\$10.00
9. Duplicate wall certificate	\$25.00
10. Inactive license fee . . .	(to be established by the Director by rule).

Amended by R.1994 d.89, effective February 22, 1994.
See: 25 N.J.R. 5448(a), 26 N.J.R. 1106(a).
Amended by R.2004 d.23, effective January 20, 2004.
See: 35 N.J.R. 3273(a), 36 N.J.R. 527(a).
Added (a)10.

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

13:44C-3.1 Application forms

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

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

Administrative change to (a).
See: 25 N.J.R. 1516(b).

13:44C-3.2 Requirements for licensure

(a) An applicant for licensure shall submit to the Committee proof that the applicant has:

1. Graduated from:
 - i. A master's degree program in the area of audiology, speech-language pathology, or both, at an accredited college or university recognized by the New Jersey Commission on Higher Education which meets the educational requirements of N.J.A.C. 13:44C-3.3 or 3.4; or
 - ii. A bachelor's degree from an accredited college or university recognized by the New Jersey Commission on Higher Education and 42 post-baccalaureate semester hours acceptable toward a master's degree. Of these 42 hours, at least 30 shall be in the area of speech-language pathology or audiology and at least 21 shall be obtained from a single college or university. No more than six hours may be in courses that provide credit for clinical practice. The bachelor's degree and post-baccalaureate hours shall meet the educational requirements of N.J.A.C. 13:44C-3.3 or 3.4;
2. Completed a clinical internship, in accordance with the provisions of N.J.A.C. 13:44C-3.6, in either audiology, speech-language pathology, or both, as appropriate; and
3. Achieved a score of 600 on the National Teachers' Examinations in audiology or speech-language pathology, as appropriate, administered and set by the Educational Testing Service in Princeton, New Jersey.

Amended by R.1989 d.579, effective November 20, 1989.
See: 21 N.J.R. 2702(a), 21 N.J.R. 3670(b).
In (a), deleted text on score levels related to percentiles.
Amended by R.1993 d.383, effective August 2, 1993.
See: 25 N.J.R. 1668(a), 25 N.J.R. 3504(b).
Amended by R.1998 d.374, effective July 20, 1998.
See: 30 N.J.R. 1195(a), 30 N.J.R. 2634(a).
Substituted "Commission on" for "Department of" preceding "Higher Education".
Repeal and New Rule, R.2004 d.23, effective January 20, 2004.
See: 35 N.J.R. 3273(a), 36 N.J.R. 527(a).

13:44C-3.3 Additional education requirements: education obtained prior to January 1, 1993

(a) Applicants who completed the educational requirements of N.J.A.C. 13:44C-3.2(a)1 prior to January 1, 1993, shall complete 60 hours of academic credit dealing with the normal aspects of human communication, development and disorders thereof and clinical techniques for evaluation and management of such disorders. The 60 hours of academic credit shall consist of:

See: 25 N.J.R. 1668(a), 25 N.J.R. 3504(b).
 Recodified from N.J.A.C. 13:44C-6.3 by R.1998 d.374, effective July 20, 1998.
 See: 30 N.J.R. 1195(a), 30 N.J.R. 2634(a).
 Former N.J.A.C. 13:44C-6.4, Waiver of requirements; appearance, was recodified to N.J.A.C. 13:44C-6.5.

13:44C-6.5 Waiver of requirements; appearance

The director may, at his or her discretion, or upon the recommendation of the Advisory Committee, waive any of the requirements of this subchapter for due cause. An appearance before the Advisory Committee may be required.

Recodified from N.J.A.C. 13:44C-6.4 by R.1998 d.374, effective July 20, 1998.
 See: 30 N.J.R. 1195(a), 30 N.J.R. 2634(a).
 Former N.J.A.C. 13:44C-6.5, Subjects; sponsors, was recodified to N.J.A.C. 13:44C-6.6.

13:44C-6.6 Subjects; sponsors

(a) Acceptable Continuing Professional Education shall be in any of the following areas: anatomy and physiology relative to communication; human development; human communication; identification, prevention, diagnosis and treatment of communication disorders; acoustical or electrical science relative to communication disorders; health administration relative to communication disorders.

(b) The Continuing Professional Education hours must be accredited by the New Jersey Commission on Higher Education, or accredited or sponsored by a local, state or national audiology and speech-language pathology professional organization, local, state, or Federal education or health agency, or a local, state or national medical, psychological, dental or similar professional organization. Courses accepted for credit by the National Registry on Continuing Education or by the American Speech-Language-Hearing Association will be given credit by the Committee as set forth in N.J.A.C. 13:44C-6.2.

Recodified from N.J.A.C. 13:44C-6.5 and amended by R.1998 d.374, effective July 20, 1998.
 See: 30 N.J.R. 1195(a), 30 N.J.R. 2634(a).
 In (a), substituted "anatomy and physiology relative to communication" for "human physiology; human anatomy"; and in (b), substituted "Commission on" for "Department of" preceding "Higher Education".

SUBCHAPTER 7. AUTHORIZED PRACTICE

Petition for Rulemaking.
 See: 25 N.J.R. 1287(b).

13:44C-7.1 Scope of practice—audiology

(a) The practice of audiology includes, but is not restricted to, the following functions:

1. Providing screening, identification, assessment, diagnosis, treatment, intervention (that is, prevention, res-

toration, amelioration, compensation), consultation, counseling, and follow-up services for disorders of the peripheral, vestibular and central auditory systems, and other neural systems;

2. Supervision and conduct of newborn hearing screening programs;
3. Measurement and interpretation of sensory and motor evoked potentials, electronystagmography, and other electrodiagnostic tests for purposes of neurophysiologic intraoperative monitoring and cranial nerve assessment;
4. Provision of hearing care by selecting, evaluating, fitting, facilitating, dispensing and adjusting prosthetic devices for hearing loss (that is, FM assistive listening devices), except for the fitting and dispensing of hearing aids unless licensed by the Hearing Aid Dispensers Examining Committee;
5. Assessment of candidacy of persons with hearing loss for cochlear implants and provision of fitting, programming, and audiological rehabilitation to optimize device use;
6. Provision of audiological rehabilitation including speech-reading, communication management, language development, auditory skill development, and counseling for psychosocial adjustment to hearing loss for persons with hearing loss and their families and caregivers; case management and service as a liaison between the consumer, family, and agencies in order to monitor audiologic status and management and to make recommendations about educational and vocational programming;
7. Consultation with educators as members of interdisciplinary teams about communication management, educational implications of communication disorders, educational programming, classroom acoustics, and large-area amplification systems for children with hearing loss; consultation about accessibility for persons with hearing loss in public and private buildings, programs, and services;
8. Prevention of hearing loss and conservation of hearing function by designing, implementing and coordinating occupational, school, and community hearing conservation and identification programs;
9. Screening of speech-language, use of sign language, and other factors affecting communication function for the purposes of an audiological evaluation and/or initial identification of individuals with other communication disorders; and
10. Assessment and nonmedical management of tinnitus using biofeedback, masking, education, and counseling.

New Rule, R.1998 d.374, effective July 20, 1998.
 See: 30 N.J.R. 1195(a), 30 N.J.R. 2634(a).
 Former N.J.A.C. 13:44C-7.1, Business interest of unlicensed persons, was recodified to N.J.A.C. 13:44C-7.3.

13:44C-7.2 Scope of practice—speech-language pathology

(a) The practice of speech-language pathology includes, but is not restricted to, the following functions:

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

Amended by R.1990 d.272, effective May 21, 1990.

See: 21 N.J.R. 2702(a), 22 N.J.R. 327(a), 22 N.J.R. 1615(a).

In (a)4: added phrase "or its successor title, speech-language specialist" to first sentence regarding certified individuals.

Amended by R.1993 d.383, effective August 2, 1993.

See: 25 N.J.R. 1668(a), 25 N.J.R. 3504(b).

New Rule, R.1998 d.374, effective July 20, 1998.

See: 30 N.J.R. 1195(a), 30 N.J.R. 2634(a).

Former N.J.A.C. 13:44C-7.2, Exemptions, was recodified to N.J.A.C. 13:44C-7.4.

13:44C-7.2A Scope of practice: Fiber Optic Endoscopic Examination of Swallowing (FEES)

(a) The purpose of this section is to set forth standards for the performance of Fiber Optic Endoscopic Examination of Swallowing (FEES) by a licensed speech-language pathologist. FEES is within the scope of practice of a speech-language pathologist who meets the requirements of this section.

(b) The following words and terms, when used in this section, shall have the following meaning, unless the context clearly indicates otherwise:

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

(c) FEES shall only be performed by a licensed speech-language pathologist who is certified in Basic Life Support (BLS) and who has:

1. Completed a 12-hour seminar or workshop in fiber optic endoscopy as a technique for investigating swallowing which qualifies for American Speech-Language-Hearing Association (ASHA) continuing education credit and which includes instruction in:
 - i. Medical contraindications and possible adverse reactions to FEES, including the use of topical anesthesia to the nares; and
 - ii. Recognizing patient distress and appropriate actions to take if complications are encountered;
2. Observed 10 FEES procedures performed by either a speech pathologist who has met the requirements of this section or a physician, at a licensed healthcare facility that requires that healthcare professionals have privileges to perform the FEES procedure; and
3. Performed 25 FEES procedures under the supervision of a speech-language pathologist who has met the requirements of this section or a physician, at a licensed healthcare facility that requires a healthcare professional have privileges to perform the FEES procedure.

(d) A licensed speech-language pathologist shall only perform FEES in a healthcare facility licensed by the Department of Health and Senior Services or in the office of a physician who received training during residency in endoscopic examination.

(e) FEES shall only be performed when a physician who received training during residency in endoscopic examination is present.

(f) FEES shall only be performed upon the written request of a physician.

New Rule, R.2005 d.6, effective January 3, 2005.
See: 36 N.J.R. 2156(a), 37 N.J.R. 81(a).

13:44C-7.3 Business interest of unlicensed persons

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

(b) Such unlicensed person shall file a statement with the director on a form approved by the director.

Recodified from N.J.A.C. 13:44C-7.1 by R.1998 d.374, effective July 20, 1998.
See: 30 N.J.R. 1195(a), 30 N.J.R. 2634(a).

13:44C-7.4 Exemptions

(a) The following are exempt from the provisions of this chapter, pursuant to N.J.S.A. 45:3B-17:

1. Any person currently licensed to practice medicine and surgery by this State, provided such a person is not referred to as an audiologist or speech-language pathologist or other similar title.
2. Persons employed by and under the direct supervision of a physician, provided such person is not referred to as an audiologist or speech-language pathologist or other similar title.
3. Persons employed by a Federal agency when services are performed as part of the person's duties with that agency. However, such person is not exempt under this section for that portion of his or her time spent as a private practitioner or providing services for which a fee may be paid by a recipient of the service.
4. Any person certified as a speech correctionist or its successor title, speech-language specialist, by the State Department of Education. However, such person is not exempt under this section for that portion of his or her time spent as a private practitioner or providing services for which a fee may be paid by a recipient of the service.
5. Students and trainees in audiology or speech-language pathology enrolled in an accredited college or university, provided that their services constitute part of their course of study and on-site supervision by a licensee is provided in the appropriate professional field.

6. Any person who is engaged in an activity for which he or she is licensed to perform in New Jersey, as long as such person does not refer to him- or herself as an audiologist or speech language pathologist.

7. Persons licensed by this State as a hearing aid dispenser pursuant to P.L. 1973, c. 19 (N.J.S.A. 45:9A-1 et seq.) who are engaged in activities and services within the scope of practice of a hearing aid dispenser, provided that such person does not refer to himself or herself as an audiologist or speech-language pathologist.

Amended by R.1990 d.272, effective May 21, 1990.
See: 21 N.J.R. 2702(a), 22 N.J.R. 327(a), 22 N.J.R. 1615(a).
In (a)4: added phrase "or its successor title, speech-language specialist" to first sentence regarding certified individuals.
Amended by R.1993 d.383, effective August 2, 1993.
See: 25 N.J.R. 1668(a), 25 N.J.R. 3504(b).
Recodified from N.J.A.C. 13:44C-7.2 by R.1998 d.374, effective July 20, 1998.
See: 30 N.J.R. 1195(a), 30 N.J.R. 2634(a).
Amended by R.2004 d.23, effective January 20, 2004.
See: 35 N.J.R. 3273(a), 36 N.J.R. 527(a).
In (a), rewrote 3 and 6 and substituted "enrolled" for "matriculated" preceding "in an accredited college" in 5.

SUBCHAPTER 8. STANDARDS FOR PROFESSIONAL CONDUCT

13:44C-8.1 Recordkeeping

(a) Licensees shall maintain written, contemporaneous patient records which include:

1. Findings upon initial examination including the patient's significant past history and results of appropriate tests and measures;
2. A written plan of care indicating the goals of the treatment program, the type of treatment, and the frequency and expected duration of treatment for audiology and/or speech-language pathology services;
3. Dated and signed documentation of each treatment rendered;
4. Dated and signed progress notes;
5. Documentation of any changes in the treatment program;
6. Documentation of any contact with other health professionals relative to the patient's care;
7. A discharge summary which includes the reason for discharge and the outcome of services rendered; and
8. Any pertinent legal document such as patient release forms or charge access sheets.

(b) Treatment records for patients shall be maintained for at least seven years from date of the most recent entry. Records for minors shall be kept for seven years from the

date of the most recent entry or until the patient turns 20 years old, whichever is longer.

(c) Licensees shall provide access to patient treatment records to a patient or person whom the patient has designated to receive records in accordance with the following:

1. No later than 30 days from receipt of a request from a patient or a person whom the patient has designated to receive records, the licensee shall provide a copy of the professional treatment record and/or billing records as may be requested. The record shall include all pertinent objective data including test results, as applicable, and subjective information;

2. The licensee may require that a record request be in writing and may charge a fee for the reproduction of records, which shall be no greater than \$1.00 per page or \$100.00 for the entire record, whichever is less;

3. If the patient or a subsequent treating health care professional is unable to read the patient record, either because it is illegible or prepared in a language other than English, the licensee shall, upon request, provide an English transcription at no cost to the patient; and

4. The licensee shall not refuse to provide a patient record on the grounds that the patient owes the licensee an unpaid balance if the record is needed by another health care professional for the purpose of rendering care.

(d) All licensees shall prepare, within 30 days of a written request from a patient or any person whom the patient has designated to receive such, a written report summarizing the information set forth in (a) above.

Correction: Deleted audiological from (a)2.

See: 20 N.J.R. 2069(b).

Amended by R.1993 d.383, effective August 2, 1993.

See: 25 N.J.R. 1668(a), 25 N.J.R. 3504(b).

Repeal and New Rule, R.2004 d.23, effective January 20, 2004.

See: 35 N.J.R. 3273(a), 36 N.J.R. 527(a).

Section was "Unprofessional conduct".

Amended by R.2005 d.7, effective January 3, 2005.

See: 36 N.J.R. 1727(a), 37 N.J.R. 82(a).

Rewrote (c).

13:44C-8.2 Calibration log

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

(b) Licensees shall electronically calibrate audiometric test equipment pursuant to (a) above, at least once a year.

Amended by R.1993 d.383, effective August 2, 1993.

See: 25 N.J.R. 1668(a), 25 N.J.R. 3504(b).

Subsection (b) was codified as 13:44C-8.3, Scope of practice.

Petition for Rulemaking.

See: 30 N.J.R. 2091(b), 31 N.J.R. 1826(a).

Amended by R.1998 d.374, effective July 20, 1998.

See: 30 N.J.R. 1195(a), 30 N.J.R. 2634(a).

Inserted a new (a); and recodified former (a) and (b) as (b) and (c).

Amended by R.2001 d.380, effective October 15, 2001.

See: 33 N.J.R. 1863(b), 33 N.J.R. 3650(a).

In (b), added a new 5 and recodified former 5 as 6.

New Rule, R.2004 d.23, effective January 20, 2004.

See: 35 N.J.R. 3273(a), 36 N.J.R. 527(a).

Former N.J.A.C. 13:44C-8.2, Professional practices, recodified to N.J.A.C. 13:44C-8.7.

13:44C-8.3 Prohibited fees

(a) Licensees shall not require a patient or a third party payor to pay a separate fee for the preparation of an insurance claim form.

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

(c) Licensees shall not require a patient or a third party payor to pay a full or partial fee for unkept appointments unless the patient has been notified of this policy in writing prior to the initiation of audiology or speech-language pathology services.

(d) Licensees shall not require a patient or a third party payor to pay for any evaluation, testing, treatment or other services not documented in a patient chart.

(e) Licensees shall not charge a fee to a patient or a third party payor for audiology or speech-language pathology services which are unwarranted and unnecessary.

New Rule, R.2004 d.23, effective January 20, 2004.

See: 35 N.J.R. 3273(a), 36 N.J.R. 527(a).

13:44C-8.4 Providing fees and posting license

(a) All licensees shall provide a written fee schedule which describes charges for each service offered to any person upon request.

(b) All licensees shall post in a conspicuous place a copy of a licensee's biennial renewal certificate.

New Rule, R.2004 d.23, effective January 20, 2004.

See: 35 N.J.R. 3273(a), 36 N.J.R. 527(a).

13:44C-8.5 Advertising

(a) Licensees shall not use any form of public communication regarding professional services, via print, electronic media or in-person solicitation which contains a false, fraudulent, misleading or deceptive statement or claim. A false, fraudulent, misleading or deceptive statement includes any statement or claim which:

1. Contains a misrepresentation of fact;

- 2. Is likely to mislead or deceive because it fails to make full disclosure of relevant facts;
- 3. In the case of a testimonial containing an objective, verifiable statement of fact, cannot be verified by the advertiser;
- 4. Is intended or is likely to create a false or unjustified expectation of favorable results, for example, advertising percentages of success;
- 5. Implies educational attainments or licensing recognition not supported in fact;
- 6. States or implies that the licensee has received formal recognition as a specialist in any aspect of the practice of audiology or speech-language pathology if this is not the case;
- 7. Represents that the professional services can or will be competently performed for a stated fee when this is not the case, or makes a representation with respect to fees for professional services that does not disclose all variables affecting the fees that will in fact be charged;
- 8. Uses techniques of communication which in light of the setting and circumstances appear to intimidate or exert undue influence or undue pressure over a prospective patient;
- 9. Contains offers of discounts for services without stating the advertiser's usual and customary fee on which the discount will be taken, or the availability of a schedule of the licensee's usual and customary fees, and the period of time during which the offer can be accepted by a prospective patient. If no time limit is specified, such offer shall be deemed to apply for 30 days; or
- 10. Contains other representations or implications that in reasonable probability will cause an ordinarily prudent person to be misled or be deceived.

(b) All advertisements shall contain the name, address and license number of the licensee or the licensee in charge of the business.

(c) An advertisement may contain either a lay or an expert testimonial, provided that such testimonial is based upon personal knowledge or experience obtained from a provider relationship with the licensee or direct personal knowledge of the subject matter of the testimonial and:

- 1. A lay person's testimonial does not attest to any technical matter beyond the testimonial giver's competence to comment upon; and
- 2. An expert testimonial is only rendered by an individual possessing specialized expertise sufficient to allow the rendering of a bona fide statement or opinion.

(d) Copies of all printed advertisements and video or audio tapes of every advertisement communicated by electronic media shall be retained by the licensee for a period of three years. All advertisements in a licensee's records shall indicate the date and place of publication.

(e) A licensee shall make records of advertisements available for review by the Committee or its designee upon request.

New Rule, R.2004 d.23, effective January 20, 2004.
See: 35 N.J.R. 3273(a), 36 N.J.R. 527(a).

13:44C-8.6 Excessive fees

(a) Licensees shall not charge a fee to a patient or a third party payor which is excessive.

(b) Factors which may be considered in determining whether a price is excessive include:

- 1. The novelty and difficulty of the professional treatment provided;
- 2. The skill and equipment required to perform the treatment properly;

3. Any requirements or conditions imposed by the patient or by the circumstances;
4. The nature and length of the professional relationship with the patient;
5. The experience, reputation and ability of the licensee performing the services; and
6. The nature and the circumstances under which the services were provided (for example, emergency; home visit).

New Rule, R.2004 d.23, effective January 20, 2004.
 See: 35 N.J.R. 3273(a), 36 N.J.R. 527(a).

13:44C-8.7 Professional practices

(a) Licensees shall perform only those functions that are within the scope of their competence considering their level of education, training, and experience.

(b) The following acts or professional practices shall be deemed to be unprofessional conduct:

1. Offering, agreeing to provide or providing any payment or other form of remuneration to any person or entity authorized to direct the initiation of speech-language pathology or audiology services for a referral of any specific patient or any number of patients;
2. Accepting payment or other form of remuneration from any person or entity authorized to direct the initiation of audiology or speech-language pathology services for the referral of any patient;
3. Receiving from any person, firm, partnership or corporation a fee or other form of remuneration for prescribing, recommending, ordering or promotion of the sale of a device, appliance or other item or service, unless such interest is made known in writing to the person for whom the device or appliance is being ordered, prescribed or recommended. Nothing herein shall preclude a licensed speech-language pathologist or audiologist from accepting a product or commodity which can be used as a sample by patients, provided that the speech-language pathologist or audiologist does not charge patients for items so obtained;
4. Knowingly using audiometric test equipment that is not calibrated according to the American National Standard Specification for Audiometers (ANSI S3.6-1996, 1996), available from the Acoustical Society of America, 120 Wall Street, 32nd Floor, New York, New York 10005-3993, which is incorporated herein by reference, as amended and supplemented;
5. Conducting a test in an environment that does not meet nationally recognized standards for maximal permissible background sound from the American National Standard Maximum Permissible Ambient Noise Levels for Audiometric Test Rooms (ANSI S3.1-1991, 1991), available from the Acoustical Society of America, 120 Wall

Street, 32nd Floor, New York, New York 10005-3993, which is incorporated herein by reference, as amended and supplemented. If a patient cannot, due to health problems, be moved to a testing environment that meets these standards the licensee shall test the patient within the available environment and the testing conditions shall be documented in the patient's record;

6. Offering to render or rendering treatment or offering to conduct or conducting testing which in light of the patient's history and findings is unwarranted and unnecessary; or

7. Representing oneself as a physician rendering medical opinion or medical services.

Amended by R.1993 d.383, effective August 2, 1993.
 See: 25 N.J.R. 1668(a), 25 N.J.R. 3504(b).

Subsection (b) was codified as 13:44C-8.3, Scope of practice. Petition for Rulemaking.

See: 30 N.J.R. 2091(b), 31 N.J.R. 1826(a).
 Amended by R.1998 d.374, effective July 20, 1998.
 See: 30 N.J.R. 1195(a), 30 N.J.R. 2634(a).

Inserted a new (a); and recodified former (a) and (b) as (b) and (c).
 Amended by R.2001 d.380, effective October 15, 2001.
 See: 33 N.J.R. 1863(b), 33 N.J.R. 3650(a).

In (b), added a new 5 and recodified former 5 as 6.
 Recodified from N.J.A.C. 13:44C-8.2 and amended by R.2004 d.23, effective January 20, 2004.
 See: 35 N.J.R. 3273(a), 36 N.J.R. 527(a).

Rewrote the section.

SUBCHAPTER 9. UNLICENSED PRACTICE

13:44C-9.1 Acts amounting to unlicensed practice

(a) The following acts or practices shall be deemed to be the unlicensed practice of audiology or speech-language pathology and may warrant the director's initiation of an action in Superior Court for such appropriate injunctive relief as may be authorized by N.J.S.A. 45:3B-15:

1. Offering of any speech-language pathology or audiology services by any person who does not hold the applicable license as a speech-language pathologist or audiologist or is not exempt from licensure pursuant to N.J.A.C. 13:44C-7.2;
2. Using the words "speech-language therapy," "speech therapy," "audiology," "speech pathologist," "audiologist" or such similar words or their related abbreviations by any person who does not hold the appropriate license in speech-language pathology or audiology; or
3. Billing any patient or third party payor for "speech-language pathology evaluation" or "speech-language pathology therapy" or "audiologic evaluation" or "audiologic services" or services described by similar words if the individual providing the service does not hold the appropriate license to practice audiology or speech-language pathology or is not a licensed physician.

Amended by R.2004 d.23, effective January 20, 2004.

See: 35 N.J.R. 3273(a), 36 N.J.R. 527(a).

In (a), substituted "pursuant to" for "as defined in" preceding the N.J.A.C. reference in 1 and rewrote 2.

13:44C-9.2 Aiding and abetting unlicensed practice

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

SUBCHAPTER 10. DISCIPLINARY ACTIONS

13:44C-10.1 Suspension and revocation of license

(a) The Director, in consultation with the Committee, may revoke, suspend or refuse to renew the license of any person licensed under the provisions of this chapter or assess a civil penalty or issue a reprimand, upon proof that the licensee:

1. Has obtained a certificate, registration, license or authorization to sit for an examination, as the case may be, through fraud, deception, or misrepresentation;
2. Has engaged in the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense;
3. Has engaged in gross negligence, gross malpractice or gross incompetence which damaged or endangered the life, health, welfare, safety or property of any person;
4. Has engaged in repeated acts of negligence, malpractice or incompetence;
5. Has engaged in professional or occupational misconduct as may be determined by the director;
6. Has been convicted of, or engaged in acts constituting, any crime or offense involving moral turpitude or relating adversely to the practice of audiology or speech-language pathology. For the purpose of this subsection, a judgment of conviction or plea of guilty, non vult, nolo contendere or other such disposition of alleged criminal activity shall be deemed a conviction;
7. Has had his authority to engage in the practice of audiology or speech-language pathology revoked or suspended by any other state, agency or authority for reasons consistent with this section;
8. Is incapable, for medical or any other good cause, of discharging the functions of a licensee in a manner consistent with the public's health, safety and welfare;
9. Has violated or failed to comply with any of the provisions of N.J.S.A. 45:3B-1 et seq. or N.J.A.C. 13:44C;

10. Has violated any provision of P.L. 1983, c.320 (N.J.S.A. 17:33A-1 et seq.) or any insurance fraud prevention law or act of another jurisdiction or has been adjudicated, in civil or administrative proceedings, of a violation of P.L. 1983, c.320 (N.J.S.A. 17:33A-1 et seq.) or has been subject to a final order, entered in civil or administrative proceedings, that imposed civil penalties under that act against the applicant or holder;

11. Is presently engaged in drug or alcohol use that is likely to impair the ability to practice the profession or occupation with reasonable skill and safety. For purposes of this subsection, the term "presently" means at this time or any time within the previous 365 days;

12. Has permitted an unlicensed person or entity to perform an act for which a license or certificate of registration or certification is required by the Board, or aided and abetted an unlicensed person or entity in performing such an act; or

13. Has violated the provisions of N.J.A.C. 13:44C-8.5.

(b) In addition to the consequences listed in (a) above, the Director may impose additional or alternative penalties pursuant to N.J.S.A. 45:1-14 et seq. for violations of any provision of N.J.S.A. 45:3B-1 et seq. and this subchapter.

(c) In addition to the express consequences of (a) and (b) above, the Director may enforce consequences arising from actions taken by other statutory authorities.

(d) The denial, refusal to issue or renew, suspension or revocation of a license, and/or the issuance of a civil penalty under this section may be ordered by a decision of the Director after notice and an opportunity to be heard pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

Notice of correction: (b) should read "The hearing shall" instead of "The shall".

See: 20 N.J.R. 3140(a).

Amended by R.2004 d.23, effective January 20, 2004.

See: 35 N.J.R. 3273(a), 36 N.J.R. 527(a).

Rewrote the section.

13:44C-10.2 Reinstatement

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

Amended by R.2004 d.23, effective January 20, 2004.

See: 35 N.J.R. 3273(a), 36 N.J.R. 527(a).

Rewrote the section.