

CHAPTER 42

BOARD OF PSYCHOLOGICAL EXAMINERS

Authority

N.J.S.A. 45:14B-13.

Source and Effective Date

Effective: May 18, 2016.
See: 48 N.J.R. 1305(a).

Chapter Expiration Date

Chapter 42, Board of Psychological Examiners, expires on May 18, 2023.

Chapter Historical Note

Chapter 42, Board of Psychological Examiners, Subchapter 1, General Provisions, was adopted as R.1975 d.310, effective October 20, 1975. See: 7 N.J.R. 510(a). Subchapters 2 through 5 regarding licensure requirements, examinations, misconduct, and advertising, were adopted as R.1979 d.24, effective January 17, 1979. See: 10 N.J.R. 505(a), 11 N.J.R. 78(d).

Pursuant to Executive Order No. 66(1978), Chapter 42, Board of Psychological Examiners, was readopted as R.1983 d.543, effective November 3, 1983. See: 15 N.J.R. 1497(a), 15 N.J.R. 1947(b).

Pursuant to Executive Order No. 66(1978), Chapter 42, Board of Psychological Examiners, was readopted as R.1988 d.557, effective October 31, 1988. See: 20 N.J.R. 2244(a), 20 N.J.R. 3023(a).

Chapter 42, Board of Psychological Examiners, was repealed and new Board rules were adopted as R.1993 d.547, effective November 1, 1993. See: 25 N.J.R. 3062(a), 25 N.J.R. 4937(a).

Pursuant to Executive Order No. 66(1978), Chapter 42, Board of Psychological Examiners, was readopted as R.1998 d.532, effective October 13, 1998.

Chapter 42, Board of Psychological Examiners, was readopted as R.2004 d.140, effective March 12, 2004. See: 35 N.J.R. 5039(a), 36 N.J.R. 1815(a).

Chapter 42, Board of Psychological Examiners, was readopted as R.2009 d.241, effective July 2, 2009. See: 41 N.J.R. 712(a), 41 N.J.R. 2975(a).

Subchapter 12, Custody/Parenting Time Evaluations and/or Termination of Parental Rights Evaluations, was adopted as new rules by R.2010 d.192, effective September 7, 2010. See: 41 N.J.R. 3024(a), 42 N.J.R. 2135(a).

Subchapter 3, One-Year Unsupervised and Three-Year Supervised Temporary Permits for Training Pending Oral Examinations, was renamed One-Year Unsupervised and Three-Year Supervised Temporary Permits for Training Pending Jurisprudence Examinations by R.2013 d.016, effective February 4, 2013 (operative August 4, 2013). See: 44 N.J.R. 214(a), 45 N.J.R. 220(a).

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 42, Board of Psychological Examiners, was scheduled to expire on July 2, 2016. See: 43 N.J.R. 1203(a).

Chapter 42, Board of Psychological Examiners, was readopted, effective May 18, 2016. See: Source and Effective Date.

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

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:

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.

Amended by R.2000 d.476, effective December 4, 2000.
See: 31 N.J.R. 3218(a), 32 N.J.R. 4260(a).

In (a)1, added " , except in the case of electronic billing, where an original signature is not required".

Amended by R.2009 d.241, effective August 3, 2009.

See: 41 N.J.R. 712(a), 41 N.J.R. 2975(a).

In (b)1, deleted the former second sentence.

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.

Amended by R.2000 d.476, effective December 4, 2000.

See: 31 N.J.R. 3218(a), 32 N.J.R. 4260(a).

Rewrote (a).

Amended by R.2004 d.140, effective April 5, 2004.

See: 35 N.J.R. 5039(a), 36 N.J.R. 1815(a).

Rewrote the section.

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, lim-

ited 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.

Petition for Rulemaking.

See: 26 N.J.R. 263(a).

Amended by R.2000 d.476, effective December 4, 2000.

See: 31 N.J.R. 3218(a), 32 N.J.R. 4260(a).

Rewrote (b).

Amended by R.2004 d.140, effective April 5, 2004.

See: 35 N.J.R. 5039(a), 36 N.J.R. 1815(a).

In (a)3, deleted "for provision of low-cost psychotherapy to screened clients" following "referral service"; in (b), added the third sentence.

Amended by R.2009 d.241, effective August 3, 2009.

See: 41 N.J.R. 712(a), 41 N.J.R. 2975(a).

In (b), substituted "cover" for "coverage".

13:42-10.15 (Reserved)

Repealed by R.2009 d.241, effective August 3, 2009.

See: 41 N.J.R. 712(a), 41 N.J.R. 2975(a).

Section was "Supervision of individuals exempt from licensure".

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.

New Rule, R.1995 d.332, effective June 19, 1995.

See: 26 N.J.R. 4738(a), 27 N.J.R. 2422(a).

Amended by R.2004 d.140, effective April 5, 2004.

See: 35 N.J.R. 5039(a), 36 N.J.R. 1815(a).

Rewrote the section.

13:42-10.17 License renewal; active/inactive

(a) Licenses shall be renewed biennially upon a form provided by the Board.

(b) The Board shall send a notice of renewal to each of its licensees at least 60 days prior to the expiration of the license. If the notice to renew is not sent at least 60 days prior to the expiration date, no monetary penalties or fines shall apply to the holder for failure to renew.

(c) Every holder of a license issued or renewed by the Board who seeks renewal shall submit a renewal application and pay a renewal fee prior to the date of expiration of the license. If the holder does not renew the license prior to its expiration date, the holder may renew the license within 30 days of its expiration date by submitting a renewal application and paying a renewal fee and a late fee. Any license not renewed within 30 days of its expiration date shall be suspended without a hearing.

(d) Any individual who continues to practice with an expired license after 30 days following its expiration date shall be deemed to be engaged in the unlicensed practice of psychology, even if no notice of suspension has been provided to the individual.

(e) Renewal applications for all licenses shall provide the applicant with the option of either active or inactive renewal. A renewal applicant electing to renew as inactive shall not engage in the provision of psychology services within the State.

(f) An applicant who selects the inactive renewal option shall remain on inactive status for the entire renewal period unless, upon application to the Board, the Board permits the inactive applicant to return to active status.

New Rule, R.2004 d.140, effective April 5, 2004.

See: 35 N.J.R. 5039(a), 36 N.J.R. 1815(a).

13:42-10.18 Reinstatement

(a) A person seeking reinstatement within five years following the suspension of a license pursuant to N.J.A.C. 13:42-10.17(c) shall submit the following to the Board:

1. A completed reinstatement application;
2. Payment of the past delinquent renewal fees as set forth in N.J.A.C. 13:42-6.1;
3. Payment of a reinstatement fee as set forth in N.J.A.C. 13:42-6.1; and
4. An affidavit of employment listing each job held during the period of suspension, which includes the names, addresses, and telephone numbers of each employer.

(b) A person seeking reinstatement after more than five years following the suspension of a license shall satisfy the requirements of (a) above and shall successfully complete the examination required for initial licensure pursuant to N.J.A.C. 13:42-5.1.

New Rule, R.2004 d.140, effective April 5, 2004.

See: 35 N.J.R. 5039(a), 36 N.J.R. 1815(a).

Repeal and New Rule, R.2013 d.011, effective January 22, 2013.

See: 44 N.J.R. 554(a), 45 N.J.R. 130(a).

Section was "Reinstatement".

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

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 princi-

ples 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.

Amended by R.2004 d.140, effective April 5, 2004.

See: 35 N.J.R. 5039(a), 36 N.J.R. 1815(a).

In “Psychological services”, substituted “individual’s emotional disturbances” for “individual’s personality disturbances” in the first sentence.

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 (including all five Axes) of the type found in DSM III-R or the current version of the DSM or in another professionally recognized diagnostic manual;

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.

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

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.