

**CHAPTER 34C****ALCOHOL AND DRUG COUNSELOR COMMITTEE****Authority**

N.J.S.A. 45:2D-1 through 45:2D-18.

**Source and Effective Date**

R.2009 d.302, effective September 10, 2009.  
See: 41 N.J.R. 1653(a), 41 N.J.R. 3832(a).

**Chapter Expiration Date**

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 34C, Alcohol and Drug Counselor Committee, expires on September 10, 2016. See: 43 N.J.R. 1203(a).

**Chapter Historical Note**

Chapter 34C, Alcohol and Drug Counselor Committee, was adopted as R.2004 d.113, effective March 15, 2004. See: 35 N.J.R. 3441(a), 36 N.J.R. 1394(a).

Chapter 34C, Alcohol and Drug Counselor Committee, was readopted as R.2009 d.302, effective September 10, 2009. See: Source and Effective Date. See, also, section annotations.

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**SUBCHAPTER 1. GENERAL PROVISIONS****13:34C-1.1 Purpose and scope**

(a) The rules in this chapter implement the provisions of P.L. 1997, c.331, N.J.S.A. 45:2D-1 et seq., The Alcohol and Drug Counselor Licensing and Certification Act.

(b) This chapter shall apply to all persons presently practicing, those seeking to practice and those seeking licensure or certification to engage in alcohol and drug counseling services in the State of New Jersey.

**13:34C-1.2 Definitions**

(a) The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

“Accredited institution of higher education” means an educational institution that has been awarded accreditation by at least one of the following: the Middle States Association of Colleges and Schools, New England Association of Schools and Colleges, North Central Association of Schools and Colleges, Northwest Association of Schools and Colleges, Southern Association of Schools and Colleges, Western Association of Schools and Colleges or the World Education Service for a degree earned through an institution that is not in the United States.

“Act” means the Alcohol and Drug Counselor Licensing and Certification Act, P.L. 1997, c.331 (N.J.S.A. 45:2D-1 et seq.)

“Addiction Professionals Certification Board of New Jersey, Inc., (APCBNJ)” previously known as the Alcohol and Drug Counselor Certification Board of New Jersey, means the member of the International Certification Reciprocity Consortium (ICRC) of Alcohol and Other Drug Abuse, Inc. which certified alcohol and drug counselors in the State of New Jersey up to the effective date of these regulations.

“Address of record” means an address designated by a licensee or certificate holder which is part of the licensee’s or certificate holder’s record and which will be disclosed to the public. “Address of record” may be a licensee’s or certificate holder’s home, business or mailing address, but shall not be a post office box.

“Assessment” means those procedures which identify and evaluate a client’s strengths, weaknesses, problems and needs for the development of a treatment plan to address the extent to which alcohol or drug use has interfered with the client’s ability to function in the major life areas including, but not limited to, physical health, vocational development, social adaptations, legal involvement and psychological functioning.

“Board” means the State Board of Marriage and Family Therapy Examiners established pursuant to N.J.S.A. 45:8B-1 et seq.

“Case management” means activities which bring services, agencies, resources, or people together within a planned framework of action toward the achievement of established goals.

“Certificate holder” means an individual who is certified by the State Board of Marriage and Family Therapy Examiners as a Certified Alcohol and Drug Counselor.

“Certified alcohol and drug counselor (CADC)” means a person who holds a current, valid certificate issued by the State Board of Marriage and Family Therapy Examiners, as recommended by the Alcohol and Drug Committee, pursuant to N.J.S.A. 45:2D-5 and N.J.A.C. 13:34C-2.3. Under the grandfathering provision set forth at N.J.S.A. 45:2D-16, “certified alcohol and drug counselor” also means a person who held a certificate granted by the Addiction Professionals Certification Board of New Jersey, Inc. prior to the effective date of these regulations.

“Client education” means the provision of information to individuals and groups concerning alcohol and other drug abuse and the available treatment and prevention services.

“Committee” means the Alcohol and Drug Counselor Committee of the State Board of Marriage and Family Therapy Examiners established as a Committee pursuant to N.J.S.A. 45:2D-12.

“Consultation” means conferring with in-house staff or outside professionals to assure comprehensive, quality care for a client.

“Counseling” means the utilization of special skills to assist individuals, families, significant others or groups in achieving an objective through exploration of a problem and its ramifications; examination of attitudes and feelings; consideration of alternative solutions; and decision making.

“Counseling related areas” include educational psychology, guidance and counseling, human development, marriage and

family therapy, psychiatric nursing, pastoral counseling, psychology, social work or educational specialist or post master’s degree.

“Crisis intervention” means the provision of services which respond to an alcohol and/or other drug abuser’s needs during acute emotional and/or physical distress.

“Department” means the Department of Law and Public Safety.

“Director” means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

“Effective date” for purposes of N.J.S.A. 45:2D-16 means March 15, 2004.

“Enactment date” means January 9, 1998.

“Health care provider” includes, a New Jersey licensed individual who is permitted, without supervision, to diagnose and/or treat within the licensee’s scope of practice, such as a licensed clinical alcohol and drug counselor, a licensed physician, a certified advanced practice nurse, a licensed psychologist, a licensed clinical social worker, a licensed marriage and family therapist or a licensed professional counselor.

“ICRC member board” means a certification authority that is a member of the International Certification Reciprocity Consortium (ICRC) of Alcohol and Other Drug Abuse, Inc.

“Intake” means the administrative and initial assessment procedures for entry into treatment.

“Licensed clinical alcohol and drug counselor (LCADC)” means a person who holds a current, valid license issued pursuant to N.J.S.A. 45:2D-4 and 45:2D-16 and N.J.A.C. 13:34C-2.2 and 2.1(c).

“Licensee” means an individual who is licensed by the New Jersey State Board of Marriage and Family Therapy Examiners, as recommended by the Alcohol and Drug Committee, as a licensed clinical alcohol and drug counselor.

“Orientation” means describing to a client the general nature and goals of the drug and alcohol treatment services offered.

“Recordkeeping” means charting the results of an assessment and treatment plan, writing reports, progress notes, discharge summaries and other client-related data.

“Referral” means identifying the needs of a client that cannot be met by the drug and alcohol counselor or agency and/or assisting the client to utilize the support systems and community resources available.

“Screening” means the process by which a client is determined to be both appropriate and eligible for drug and alcohol treatment services.

“Self-help group” means a voluntary group of persons who offer peer support to each other in recovering from an alcohol and drug addiction, including, but not limited to, groups such as Alcoholics Anonymous (AA), Narcotics Anonymous (NA), Adult Children of Alcoholics (ACOA), Alanon and Naranon.

“Significant other” means an individual who is not related by blood or marriage, who can influence the client in a way that can impact the therapeutic intervention, success of recovery or treatment of the client. Examples include, but are not limited to, civil union partners, employers, teachers, friends, co-workers or probation/parole officers.

“Sponsor” means a mentor in a 12-step, self-help group, who is in a non-clinical, unpaid relationship with other 12-step members.

“Treatment planning” means the process by which a counselor and a client identify and rank problems which require resolution; establish agreed upon immediate and long-term goals, including time frames; and decide upon a treatment process and the resources to be utilized.

(b) Definitions of words and terms related to clinical supervision are set forth in N.J.A.C. 13:34C-6.1.

Amended by R.2009 d.302, effective October 5, 2009.  
See: 41 N.J.R. 1653(a), 41 N.J.R. 3832(a).

In the introductory paragraph, inserted designation (a); in definition “Health care provider”, substituted “a New Jersey licensed individual who is permitted, without supervision, to diagnose and/or treat within the licensee’s scope of practice, such as a licensed clinical alcohol and drug counselor” for “but is not limited to,” and “certified advanced practice” for “licensed” preceding “nurse”; added definition “ICRC member board”; in definition “Significant other”, inserted a comma following “marriage”, inserted “civil union partners,” and deleted a comma following “co-workers”; and added (b).

### 13:34C-1.3 Office of the Alcohol and Drug Counselor Committee

The office of the Committee shall be maintained at 124 Halsey Street, Newark, New Jersey. The mailing address of the Committee is PO Box 45040, Newark, New Jersey 07101. The website of the Committee is [www.state.nj.us/lps/ca/medical/alcdrug.htm](http://www.state.nj.us/lps/ca/medical/alcdrug.htm).

Amended by R.2009 d.302, effective October 5, 2009.  
See: 41 N.J.R. 1653(a), 41 N.J.R. 3832(a).

Deleted “Alcohol and Drug Counselor” preceding the second occurrence of “Committee” and inserted the last sentence.

### 13:34C-1.4 Notification of address; service of process

(a) A licensee or certificate holder shall file and maintain with the Committee an address of record, as defined in N.J.A.C. 13:34C-1.2. A licensee or certificate holder shall notify the Committee in writing of any change from the address registered with the Committee and shown on the most recently issued renewal certificate. Such notice shall be sent to the Committee by certified mail, return receipt requested, no later than 30 days following the change of address. Failure

to notify the Committee of any change of address may result in disciplinary action in accordance with N.J.S.A. 45:1-21(h).

(b) Service, by mail or any other delivery, of an administrative complaint or other process initiated by the Board, Committee, the Attorney General, or the Division of Consumer Affairs at the address of the licensee or certificate holder which is 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 proceeding.

### 13:34C-1.5 License or certification renewal; active/inactive

(a) Licenses and certifications shall be renewed biennially upon a form provided by the Committee. Each applicant shall attest that the continuing education requirements have been completed during the prior 24 month renewal period.

(b) The Committee shall send a notice of renewal to each of its licensees or certificate holders, as applicable, at least 60 days prior to the expiration of the license or certificate. 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 any unlicensed practice during the period following licensure expiration, not to exceed the number of days short of 60 before the renewals were issued.

(c) Every holder of a license or certificate, 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 or certificate. If the holder does not renew the license or certificate prior to its expiration date, the holder may renew it within 30 days of its expiration date by submitting a renewal application and paying a renewal fee and a late fee. Any license or certification 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 or certification after 30 days following its expiration date shall be deemed to be engaged in the unlicensed practice of alcohol and drug counseling, even if no notice of suspension has been provided to the individual.

(e) Renewal applications for all licenses or certificates shall provide the licensee or certificate holder with the option of either active or inactive renewal. A renewal applicant electing to renew as inactive shall not engage in alcohol and drug counseling within the State.

(f) A licensee or certificate holder 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. A licensee or certificate holder who seeks to return to active status shall submit the following:

1. A completed renewal application;

2. The renewal fee for the current biennial period set forth in N.J.A.C. 13:34C-1.10;

3. An affidavit of employment listing each job held during the period the licensee or certificate holder was inactive, including the name, address and telephone number of each employer; and

4. Evidence that the licensee or certificate holder has maintained proficiency by completing the 40 or 60 contact hours of continuing education, as applicable, required for the renewal of an active license. The continuing education hours shall be completed by the applicant within three years prior to the date of application for the return to active status.

(g) A licensee or certificate holder who returns to active status shall not use any continuing education credits completed pursuant to (f)4 above toward satisfaction of the 40 or 60 contact hours of continuing education required for the renewal of the license or certificate at the end of the current biennial period.

Amended by R.2009 d.302, effective October 5, 2009.  
See: 41 N.J.R. 1653(a), 41 N.J.R. 3832(a).

In (b), substituted "any unlicensed practice during the period following licensure expiration, not to exceed the number of days short of 60 before the renewals were issued" for "failure to renew"; in (e), substituted "licensee or certificate holder" for "applicant"; in the introductory paragraph of (f), substituted "A licensee or certificate holder" for "An applicant" and "A licensee or certificate holder who seeks to return to active status shall submit the following:" for "provided such applicant presents satisfactory proof that the applicant has maintained proficiency by completing the continuing education hours required for the renewal of an active license or certification. Applicants shall complete the number of continuing education hours required for each renewal period he or she was in inactive status.;" and added (f)1 through (f)4 and (g).

### 13:34C-1.6 Reinstatement

(a) An individual whose license or certificate has been suspended for failure to renew pursuant to N.J.A.C. 13:34C-1.5(c) for a period of five years or less shall be reinstated by the Committee upon submission of the following:

1. A completed reinstatement application;
2. A reinstatement fee and all past delinquent biennial renewal fees set forth in N.J.A.C. 13:34C-1.10;
3. An affidavit of employment listing each job held during the period the individual was suspended, including the name, address and telephone number of each employer;
4. Any outstanding penalties imposed by the Committee; and
5. Evidence that the individual has maintained proficiency by completing the 40 or 60 contact hours of continuing education, as applicable, required for the renewal of an active license or certificate. The continuing education hours shall be completed by the applicant within three years prior to the date of application for reinstatement.

(b) An individual whose license or certificate has been suspended for failure to renew pursuant to N.J.A.C. 13:34C-1.5(c) for a period of more than five years shall be reinstated by the Board upon successful completion of the licensing examination set forth at N.J.A.C. 13:34C-2.2(b)2 or 2.3(b)6 and 7 within one year of the date of application and upon submission of the following:

1. A completed reinstatement application;
2. Payment of the reinstatement fee and all past delinquent biennial renewal fees set forth in N.J.A.C. 13:34-1.1;
3. An affidavit of employment listing each job held during the period the individual was suspended, including the name, address and telephone number of each employer; and
4. Any outstanding penalties imposed by the Committee.

(c) A licensee or certificate holder who is reinstated shall not use any continuing education credits completed pursuant to (a)5 above toward satisfaction of the 40 or 60 contact hours of continuing education required for the renewal of the license or certificate at the end of the current biennial period.

Repeal and New Rule, R.2009 d.302, effective October 5, 2009.  
See: 41 N.J.R. 1653(a), 41 N.J.R. 3832(a).

Section was "Reinstatement".

### 13:34C-1.7 Licensee to display notice or give notice; licensee to display license

(a) All licensees, conducting independent practice, shall ensure that the following notice is either prominently displayed in a waiting room or other area where it will be visible to the licensee's clients or provided to the licensee's clients in writing:

"Alcohol and drug counselors are licensed by the Board of Marriage and Family Therapy Examiners, Alcohol and Drug Counselor Committee, an agency of the Division of Consumer Affairs. Any member of the consuming public having a complaint concerning the manner in which the alcohol and drug counseling practice is conducted or services are provided should notify the Alcohol and Drug Counselors Committee, PO Box 45040, 124 Halsey Street, Newark, New Jersey 07101, [www.state.nj.us/lps/ca/medical/alcdrug.htm](http://www.state.nj.us/lps/ca/medical/alcdrug.htm), or the New Jersey Division of Consumer Affairs, Post Office Box 45027, 124 Halsey Street, Newark, New Jersey 07101, [www.state.nj.us/lps/ca/comp.htm](http://www.state.nj.us/lps/ca/comp.htm)."

(b) All licensees, conducting independent practice, shall conspicuously display their license issued by the Board in their primary office.

Amended by R.2009 d.302, effective October 5, 2009.  
See: 41 N.J.R. 1653(a), 41 N.J.R. 3832(a).

In (a), deleted a comma following the first occurrence of "clients", substituted "having a complaint concerning the manner in which the alcohol and drug counseling practice is conducted or services are

- (2) Psychological client education;
- (3) Biochemical/medical client education;
- (4) Sociocultural client education;
- (5) Addiction recovery and psychological family education;
- (6) Biomedical and sociocultural family education; and
- (7) Community and professional education; and

v. Fifty-four course hours of professional responsibility, with a minimum of six hours in each of the topics and distributed among all of the following:

- (1) Ethical standards;
- (2) Legal aspects;
- (3) Cultural competency;
- (4) Professional growth;
- (5) Personal growth;
- (6) Dimensions of recovery;
- (7) Supervision;
- (8) Consultation; and
- (9) Community involvement;

5. Attended 30 alcohol and drug abuse self-help group meetings of which a minimum of five meetings shall be in Alcoholics Anonymous; a minimum of five meetings shall be in Narcotics Anonymous; and a minimum of five meetings shall be in Alanon;

6. Successfully completed a written examination developed and prepared by the ICRC, or its successor; and

7. Successfully completed an oral examination developed and prepared by the ICRC, or its successor, on the applicant's written case presentation.

(c) An application shall be deemed abandoned and closed if:

1. The application has not been completed by the applicant within 12 months after it was received by the Committee; or

2. The applicant fails to sit for or pass the written and/or oral sections of the examination within 12 months or any 12-month period thereafter upon written notification of eligibility to take the examination.

(d) An application submitted subsequent to the abandonment of a prior application shall be treated as a new application and shall comply with the requirements of (a) and (b) above.

(e) After the third attempt or thereafter to pass the written and/or oral sections of the examination, the applicant may not

reapply a fourth time or any time thereafter without having first successfully completed and passed a course(s) in the subject matter(s) in which the examination has demonstrated the applicant's deficiencies.

Amended by R.2009 d.302, effective October 5, 2009.  
See: 41 N.J.R. 1653(a), 41 N.J.R. 3832(a).

In (b)1, substituted "high" for "higher"; rewrote the introductory paragraph of (b)4; in the introductory paragraph of (b)4i, inserted "in"; in (b)4i(4), substituted a semicolon for "and compulsive gambling; and"; added new (b)4i(5); recodified former (b)4i(5) as (b)4i(6); in (b)6, inserted ", or its successor"; and in (b)7, inserted "or its successor,".

#### **13:34C-2.4 Licensure: health care provider licensed by the State**

(a) In accordance with N.J.S.A. 45:2D-4(b), the Committee shall recommend that the Board issue a license as a licensed clinical alcohol and drug counselor to any health care provider licensed by the State of New Jersey, who is in good standing and diagnoses and/or treats drug or alcohol related disorders within the health care provider's scope of practice.

(b) The health care provider shall also demonstrate to the Committee, which will then recommend to the Board, that the health care provider has equivalent education as required pursuant to N.J.A.C. 13:34C-2.2(b) and training and comparable years of experience as required pursuant to N.J.A.C. 13:34C-2.3(b)2 through 5, except that the health care provider shall be exempt from taking the oral and written examinations as required pursuant to N.J.A.C. 13:34C-2.3(b)6 and 7.

#### **13:34C-2.5 Qualification review process: licensure and certification**

(a) The Committee shall review the qualifications of each person who applies for licensure or certification as an alcohol and drug counselor.

(b) No applicant shall be licensed or certified by the Board unless a majority of the full Committee first determines that the applicant has met the education and experience requirements of N.J.A.C. 13:34C-2.3(b)1 through 5 and successfully completed the written and oral examinations required pursuant to N.J.A.C. 13:34C-2.3(b)6 and 7. Exempted from this subsection are those applicants who qualify as specified pursuant to N.J.A.C. 13:34C-1.9, 2.1 and 2.4.

(c) An applicant who is determined to be qualified and is recommended for licensure or certification by the Committee shall be considered for licensure or certification by the Board, with the final decision to be made by the Board. The Board may review the action taken by the Committee with respect to the Committee's evaluation and examination of the applicant for licensure as a licensed clinical alcohol and drug counselor or for certification as a certified alcohol and drug counselor.

(d) The Board may reverse, modify or reject any determination of the Committee by an affirmative vote of a majority of the Board.

**13:34C-2.6 Exceptions to licensure and certification**

(a) The licensure and certification rules in this subchapter shall not apply to:

1. A person engaging in or offering alcohol and drug addiction services such as self-help, sponsorship through Alcoholics Anonymous and Narcotics Anonymous groups or other uncompensated alcohol and drug addiction counseling assistance;

2. The activities and services of a designated employee or other agent of a private employer who has been designated to be involved in the evaluation or referral for counseling of employees of the private employer, or an employee or other agent of a recognized academic institution, a Federal, State, county or local government institution, agency or facility, or a school district, if the individual is performing these activities of evaluation or referral for counseling only of employees and solely within the company or agency, as the case may be, or under the jurisdiction of that company or agency and if a license granted under this act is not a requirement for employment;

3. The activities and services of an imam, rabbi, priest, minister, Christian Science practitioner or clergy of any religious denomination or sect, when engaging in activities, which are within the scope of the performance of the person's regular or specialized ministerial duties and for which no separate charge is made, or when these activities are performed, with or without charge, for or under the auspices or sponsorship, individually or in conjunction with others, of an established and legally recognizable church, denomination, or sect, and when the person rendering services remains accountable to the established authority thereof; or

4. A person doing work of an alcohol or drug counseling nature, or advertising those services, when acting within the scope of the person's profession or occupation and doing work consistent with the person's training, including physicians, clinical social workers, professional counselors, marriage and family therapists, psychologists, nurses or any other profession or occupation licensed by the State, or students within accredited programs of these professions, if the person does not hold oneself out to the public as possessing a license or certification issued pursuant to the Act or this chapter.

**SUBCHAPTER 3. GENERAL OBLIGATIONS****13:34C-3.1 Standards of practice; scope of practice**

(a) All licensed clinical alcohol and drug counselors and all certified alcohol and drug counselors who are licensed or certified under this chapter shall comply with the standards of practice contained in this section when engaging in alcohol and drug counseling services.

(b) The scope of practice of a certified alcohol and drug counselor includes, but is not limited to the following 12-core functions: screening, intake, orientation, assessment, treatment planning, counseling-individual, group and family, case management, crisis intervention, client education, referral, consultation and recordkeeping.

(c) A certified alcohol and drug counselor shall practice under the supervision of a licensed clinical alcohol and drug counselor or other clinical supervisor as deemed appropriate by the Committee pursuant to N.J.A.C. 13:34C-6.3 and 6.4.

(d) A certified alcohol and drug counselor is prohibited from making diagnoses.

(e) The scope of practice of a licensed clinical alcohol and drug counselor includes, but is not limited to:

1. The 12 core functions: screening, intake, orientation, assessment, treatment planning, counseling-individual, group and family, case management, crisis intervention, client education, referral, consultation and recordkeeping;

2. Performance of clinical supervision pursuant to N.J.A.C. 13:34C-6.2, 6.3 and 6.4 for alcohol and drug counselor trainees and certified alcohol and drug counselors; and

3. Diagnosis of substance-related disorders as described in the current edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM) of the American Psychiatric Association.

Amended by R.2009 d.302, effective October 5, 2009.

See: 41 N.J.R. 1653(a), 41 N.J.R. 3832(a).

Recodified (b)1 as part of the former introductory paragraph of (b); recodified (b)2 as new (c); in (b), deleted a colon following "to" and a comma following "consultation" and substituted "the following" for "The"; and a period for "; and" at the end; added (d); and recodified former (c) as (e).

**13:34C-3.2 Professional conduct**

(a) No person shall engage in the practice of alcohol and drug counseling as a licensed clinical alcohol and drug counselor unless licensed pursuant to the Act and this chapter.

(b) No person shall engage in the practice of alcohol and drug counseling as a certified alcohol and drug counselor unless certified pursuant to the Act and this chapter.

(c) No person shall present, call or represent himself or herself as a licensed clinical alcohol and drug counselor unless licensed pursuant to the Act and this chapter.

(d) No person shall present, call or represent himself or herself as a certified alcohol and drug counselor unless certified pursuant to the Act and this chapter.

(e) No person shall assume, represent himself or herself as, or use the title or designation such as "alcoholism counselor," "alcohol counselor," "drug counselor," "alcohol and drug counselor," "alcoholism and drug counselor," "licensed clinical"

cal alcohol and drug counselor,” “certified alcohol and drug counselor,” “substance abuse counselor,” “chemical dependency counselor,” “addictions counselor,” “certified addictions counselor,” “certified addictions specialist” or “chemical dependency supervisor,” or any of the abbreviations for the above titles, unless licensed or certified pursuant to the Act and this chapter, and unless the title or designation corresponds to the license or certification held by the person pursuant to the Act and this chapter.

(f) No person shall engage in the independent practice of alcohol and drug counseling for a fee unless the person is licensed as a licensed clinical alcohol and drug counselor or the person is a certified alcohol and drug counselor practicing under the supervision of a licensed clinical alcohol and drug counselor or other approved clinical supervisor approved pursuant to N.J.A.C. 13:34C-6.3.

(g) All licensees and certificate holders are responsible for the conduct of their employees, pursuant to N.J.S.A. 45:2D-11.

### 13:34C-3.3 Sexual misconduct and harassment

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

“Client” means any person who is the recipient of a professional service rendered by an alcohol and drug counselor for purposes of diagnosis, treatment or a consultation relating to treatment. “Client,” for purposes of this section, also means a person who is the subject of professional examination or assessment or clinical supervision even if the purpose of that examination or assessment or clinical supervision is unrelated to treatment.

“Client-counselor relationship” means the association between an alcohol and drug counselor and a client wherein the counselor owes a continuing duty to the client to be available to render alcohol and drug counseling services consistent with his or her training and experience.

“Harassment” means one egregious act or repeated comments, contact, or gestures which are based upon the following and which have the purpose or effect of intimidating or offending the individual based upon his or her race, religion, color, gender, national origin, marital status, sexual orientation, physical or mental disability.

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

or certificate holder or client’s body into or near the genital, anal or other opening of the other person’s body.

“Sexual harassment” means solicitation of any sexual act, physical advances, or verbal or non-verbal conduct that is sexual in nature, and which occurs in connection with a licensee’s or certificate holder’s activities or role as a provider of alcohol and drug counseling services that either: is unwelcome, offensive to a reasonable person, or creates a hostile workplace environment, and the licensee or certificate holder knows, should know, or is told this; or is sufficiently severe or intense to be abusive to a reasonable person in that context. “Sexual harassment” may consist of a single extreme or severe act or of multiple acts and may include, but is not limited to, conduct of a licensee or certificate holder with a client, co-worker, employee, student, or supervisee, whether or not such individual is in a subordinate position to the licensee. “Sexual harassment” may include conduct of a non-sexual nature if it is based upon the sex of the individual.

(b) A licensee or certificate holder shall not seek, solicit or engage in sexual contact with a client with whom he or she has a current client-counselor relationship.

(c) A licensee or certificate holder shall not seek, solicit or engage in sexual contact with a current client’s family member, a former client, a former client’s family member or a former student when any alcohol and drug counseling services were rendered to the client, former client or former student in the immediately preceding 24 months, or with a current student, supervisee, supervisor or research participant.

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, solicit or engage in 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.

Amended by R.2009 d.302, effective October 5, 2009.  
See: 41 N.J.R. 1653(a), 41 N.J.R. 3832(a).

In (b), inserted "seek, solicit or" and "current"; in the introductory paragraph of (c), substituted ", solicit or engage in" for "or solicit", "current client's family member," for "client with whom he or she has a current client-counselor relationship," and "when" for "to whom", inserted ", a former client's family member", "to the client, former client or former student" and the last occurrence of "with", and deleted a comma following "supervisor"; and in (d), substituted a comma for "or" and inserted "or engage in".

### 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(b) 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(b) 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.

Administrative correction.  
See: 36 N.J.R. 3883(c).

## 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: