

CHAPTER 34
BOARD OF MARRIAGE AND FAMILY THERAPY EXAMINERS

Authority

N.J.S.A. 45:1-3.2, 45:8B-13 and 45:8B-34 et seq.

Source and Effective Date

R.1998 d.544, effective October 22, 1998. See: 30 N.J.R. 2987(a), 30 N.J.R. 4058(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 34, Board of Marriage and Family Therapy Examiners, expires on April 19, 2004. See: 35 N.J.R. 5228(a).

Chapter Historical Note

Chapter 34, Board of Marriage Counselor Examiners, was adopted as R.1975 d.100, effective April 15, 1975. See: 7 N.J.R. 236(a).

Pursuant to Executive Order No. 66(1978), Chapter 34, Board of Marriage Counselor Examiners, was readopted as R.1988 d.550, effective October 26, 1988. See: 20 N.J.R. 2361(a), 20 N.J.R. 2932(a).

Pursuant to Executive Order No. 66(1978), Chapter 34, Board of Marriage Counselor Examiners, was readopted as R.1993 d.599, effective October 22, 1993. See: 25 N.J.R. 3060(a), 25 N.J.R. 5485(a).

Subchapter 4, Qualification for Admission to Examination, was re-named Application Qualifications; Board-Approved Examination by R.1997 d.103, effective March 3, 1997. See: 28 N.J.R. 4165(a), 29 N.J.R. 783(a).

Subchapters 10 through 14, 17 through 23 and 26 through 28 were adopted as new rules by R.1998 d.94, effective February 17, 1998. See: 29 N.J.R. 4644(a), 30 N.J.R. 687(a).

Pursuant to Executive Order No. 66(1978), Chapter 34, Board of Marriage Counselor Examiners, was readopted as R.1998 d.544, effective October 22, 1998, and Subchapter 5, General Obligations of a Licensee, Subchapter 6, Advertising, and Subchapter 7, Client Records; Confidentiality, were adopted as new rules by R.1998 d.544, effective November 16, 1998. See: Source and Effective Date. See, also, section annotations. Administrative change. See: 31 N.J.R. 547(b).

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. GENERAL PROVISIONS

- 13:34-1.1 License fees and charges
13:34-1.2 Examination review procedure
13:34-1.3 Office location
13:34-1.4 License lists
13:34-1.5 Applications
13:34-1.6 Licensee to display notice
13:34-1.7 Hearings to conform to law
13:34-1.8 Notification of address; service of process

SUBCHAPTER 2. PROFESSIONAL MISCONDUCT

- 13:34-2.1 Misconduct defined
13:34-2.2 Professional interactions with clients

SUBCHAPTER 3. UNLICENSED PERSONS—PERMISSIBLE ACTIVITIES

- 13:34-3.1 Employees of certain organizations; permissible activities

- 13:34-3.2 Bona fide community agency defined
13:34-3.3 Supervision of employees and interns
13:34-3.4 Supervised experience
13:34-3.5 Permit without supervision
13:34-3.6 Temporary permit requiring supervision
13:34-3.7 Advertising by unlicensed persons

SUBCHAPTER 4. APPLICANT QUALIFICATIONS; BOARD-APPROVED EXAMINATION

- 13:34-4.1 General requirements
13:34-4.2 Experiential requirements
13:34-4.3 Educational requirements

SUBCHAPTER 5. GENERAL OBLIGATIONS OF A LICENSEE

- 13:34-5.1 Financial arrangements with clients
13:34-5.2 Conflicts of interest
13:34-5.3 Termination of service
13:34-5.4 Sexual conduct and harassment
13:34-5.5 Reporting of violations by other licensees
13:34-5.6 Prohibition on solicitation; unethical referrals and kick-backs
13:34-5.7 Prohibition on excessive fees

SUBCHAPTER 6. ADVERTISING

- 13:34-6.1 Definitions
13:34-6.2 Advertising; general requirements
13:34-6.3 Minimum content
13:34-6.4 Use of professional credentials and certifications
13:34-6.5 Advertisements regarding fees; required disclosures
13:34-6.6 Prohibited types or methods of advertising
13:34-6.7 Use of testimonials
13:34-6.8 Retention of advertisements

SUBCHAPTER 7. CLIENT RECORDS; CONFIDENTIALITY

- 13:34-7.1 Preparation and maintenance of client records
13:34-7.2 Use of personal or other computer to prepare client records
13:34-7.3 Confidentiality

SUBCHAPTER 8. CONTINUING EDUCATION

- 13:34-8.1 Continuing education requirement for license renewal
13:34-8.2 Contact hour requirement for licensed marriage and family therapists
13:34-8.3 Approval of continuing education programs and courses
13:34-8.4 Contact hour calculations
13:34-8.5 Documentation of continuing education credit
13:34-8.6 Waiver of continuing education requirements

SUBCHAPTER 9. (RESERVED)

SUBCHAPTER 10. PROFESSIONAL COUNSELORS AND ASSOCIATE COUNSELORS: PURPOSE AND SCOPE; DEFINITIONS; SCOPE OF PRACTICE

- 13:34-10.1 Purpose and scope
13:34-10.2 Definitions
13:34-10.3 Scope of practice; professional counselor and associate counselor

SUBCHAPTER 11. PROFESSIONAL COUNSELORS AND ASSOCIATE COUNSELORS: APPLICATION PROCEDURE AND EDUCATIONAL REQUIREMENTS

- 13:34-11.1 Application procedure: professional counselor
13:34-11.2 Application procedure: associate counselor
13:34-11.3 Educational requirements

**SUBCHAPTER 12. PROFESSIONAL COUNSELORS:
LICENSURE UNTIL FEBRUARY 12, 1999**

- 13:34-12.1 Licensure without examination until February 12, 1999; minimum of 45 graduate hours; five years of experience
- 13:34-12.2 Licensure with examination until February 12, 1999; fewer than 45 graduate hours; five years of experience

**SUBCHAPTER 13. PROFESSIONAL COUNSELORS AND
ASSOCIATE COUNSELORS: SUPERVISION**

- 13:34-13.1 Definitions; supervised experience required for licensure
- 13:34-13.2 Responsibilities of supervisor
- 13:34-13.3 Responsibilities of supervisee
- 13:34-13.4 Permissible supervisor

**SUBCHAPTER 14. PROFESSIONAL COUNSELOR
SPECIALTY DESIGNATIONS**

- 13:34-14.1 Specialty designations
- 13:34-14.2 Clinical mental health counselor

SUBCHAPTER 15. CONTINUING EDUCATION

- 13:34-15.1 License renewal and continuing education requirement
- 13:34-15.2 Contact-hour requirements for licensed professional counselors
- 13:34-15.3 Contact-hour requirements for licensed professional counselors with a specialty permit
- 13:34-15.4 Approval of courses or programs
- 13:34-15.5 Continuing education credits and contact-hour calculation
- 13:34-15.6 Documentation of continuing education credit
- 13:34-15.7 Waiver of continuing education requirements

SUBCHAPTER 16. (RESERVED)

SUBCHAPTER 17. FEES

- 13:34-17.1 Fees

**SUBCHAPTER 18. PROFESSIONAL COUNSELORS AND
ASSOCIATE COUNSELORS: CLIENT RECORDS;
CONFIDENTIALITY**

- 13:34-18.1 Preparation and maintenance of client records
- 13:34-18.2 Use of personal or other computer to prepare client records
- 13:34-18.3 Access to copy of client record
- 13:34-18.4 Access by a managed health care plan to information in client record
- 13:34-18.5 Confidentiality

**SUBCHAPTER 19. PROFESSIONAL COUNSELORS AND
ASSOCIATE COUNSELORS: GENERAL
OBLIGATIONS OF A LICENSEE**

- 13:34-19.1 Posting of practice authorization and notification of availability of fee information
- 13:34-19.2 Notification of change of address; service of process
- 13:34-19.3 Sexual misconduct

**SUBCHAPTER 20. REHABILITATION COUNSELORS:
PURPOSE AND SCOPE; DEFINITIONS; SCOPE
OF PRACTICE**

- 13:34-20.1 Purpose and scope
- 13:34-20.2 Definitions
- 13:34-20.3 Scope of practice; rehabilitation counselor

**SUBCHAPTER 21. REHABILITATION COUNSELORS:
APPLICATION PROCEDURE; EDUCATIONAL
REQUIREMENTS**

- 13:34-21.1 Application procedure: rehabilitation counselor
- 13:34-21.2 Educational requirements

**SUBCHAPTER 22. REHABILITATION COUNSELORS:
LICENSURE UNTIL FEBRUARY 12, 1999**

- 13:34-22.1 Licensure without examination until February 12, 1999; minimum of 45 graduate hours; five years of experience
- 13:34-22.2 Licensure with examination until February 12, 1999; master's degree of fewer than 45 semester hours or related bachelor's degree; 10 years of experience

**SUBCHAPTER 23. REHABILITATION COUNSELORS:
SUPERVISION**

- 13:34-23.1 Definitions; supervised experience required for licensure
- 13:34-23.2 Responsibilities of supervisor
- 13:34-23.3 Responsibilities of supervisee
- 13:34-23.4 Permissible supervisor

SUBCHAPTER 24. CONTINUING EDUCATION

- 13:34-24.1 License renewal and continuing education requirement
- 13:34-24.2 Contact-hour requirements for licensed rehabilitation counselors
- 13:34-24.3 Approval of courses or programs
- 13:34-24.4 Continuing education credits and contact-hour calculation
- 13:34-24.5 Documentation of continuing education credit
- 13:34-24.6 Waiver of continuing education requirements

SUBCHAPTER 25. (RESERVED)

SUBCHAPTER 26. FEES

- 13:34-26.1 Fees

**SUBCHAPTER 27. REHABILITATION COUNSELORS:
CLIENT RECORDS; CONFIDENTIALITY**

- 13:34-27.1 Preparation and maintenance of client records
- 13:34-27.2 Use of personal or other computer to prepare client records
- 13:34-27.3 Access to copy of client record
- 13:34-27.4 Access by a managed health care plan to information in client record
- 13:34-27.5 Confidentiality

**SUBCHAPTER 28. REHABILITATION COUNSELORS:
GENERAL OBLIGATIONS OF A LICENSEE**

- 13:34-28.1 Posting of practice authorization and notification of availability of fee information
- 13:34-28.2 Notification of change of address; service of process
- 13:34-28.3 Sexual misconduct

SUBCHAPTER 1. GENERAL PROVISIONS

13:34-1.1 License fees and charges

(a) There shall be paid to the State Board of Marriage and Family Therapy Examiners the following fees:

1. Application fee \$ 75.00
2. Initial license fee
 - i. If paid during the first year of a biennial renewal period \$250.00
 - ii. If paid during the second year of a biennial renewal period \$125.00
3. Examination fee \$ 65.00
plus the fee charged by Professional Examination Service
4. Verification of licensure \$ 25.00
5. Temporary permit \$ 75.00
6. License renewal fee, biennial \$250.00

- 7. Reinstatement fee \$125.00
- 8. Late renewal fee \$ 50.00
- 9. Replacement wall certificate \$ 40.00
- 10. Duplicate license fee \$ 25.00
- 11. Change of address \$ 25.00

See: 28 N.J.R. 4165(a), 29 N.J.R. 783(a).
 In (a), amended title of the Board.
 Amended by R.1998 d.262, effective May 18, 1998.
 See: 30 N.J.R. 793(a), 30 N.J.R. 1842(a).
 In (a), increased fees in 2 and 6.
 Amended by R.2002 d.125, effective April 15, 2002.
 See: 33 N.J.R. 4199(a), 34 N.J.R. 1551(b).
 In (a), decreased fees in 2 and 6.

New Rule, R.1975 d.100, effective April 15, 1975.
 See: 7 N.J.R. 236(a).
 Amended by R.1983 d.544, effective November 21, 1983.
 See: 15 N.J.R. 1441(a), 15 N.J.R. 1947(a).
 In (a)7, added i-ii.
 Amended by R.1985 d.549, effective November 4, 1985.
 See: 17 N.J.R. 1527(a), 17 N.J.R. 2669(b).
 Substantially amended.
 Amended by R.1990 d.152, effective March 5, 1990.
 See: 21 N.J.R. 3854(a), 22 N.J.R. 830(a).
 Examination fee increased from \$100.00 to \$225.00.
 Amended by R.1992 d.386, effective October 5, 1992.
 See: 24 N.J.R. 2522(b), 24 N.J.R. 3533(a).
 Revised text.
 Amended by R.1994 d.287, effective June 6, 1994.
 See: 26 N.J.R. 1301(a), 26 N.J.R. 2293(a).
 Amended by R.1997 d.103, effective March 3, 1997.

13:34-1.2 Examination review procedure

An unsuccessful candidate may apply to the Board for a review of his or her examination papers. Such application must be submitted to the Board secretary in writing within three months following notification of examination results, and the secretary shall subsequently arrange a mutually convenient date for the candidate to review his or her examination papers and grades in the Board office with an examiner.

New Rule, R.1976 d.309, effective October 6, 1976.
See: 8 N.J.R. 136(c), 8 N.J.R. 532(b).

13:34-1.3 Office location

The offices of the Board shall be at 124 Halsey Street, Newark, New Jersey 07101.

R.1983 d.544, effective November 21, 1983.
See: 15 N.J.R. 1441(a), 15 N.J.R. 1947(a).
Administrative change.
See: 25 N.J.R. 1516(b).

13:34-1.4 License lists

A current list of licensed New Jersey Marriage and Family Therapists shall be maintained and made available at the Board's office.

R.1983 d.544, effective November 21, 1983.
See: 15 N.J.R. 1441(a), 15 N.J.R. 1947(a).
Amended by R.1997 d.103, effective March 3, 1997.
See: 28 N.J.R. 4165(a), 29 N.J.R. 783(a).

Substituted "Marriage and Family Therapists" for "Marriage Counselors".

13:34-1.5 Applications

Application forms and information regarding licensure of practicing marriage and family therapists may be obtained from the State Board of Marriage and Family Therapy Examiners, Post Office Box 45007, 124 Halsey Street, Newark, New Jersey 07101.

R.1983 d.544, effective November 21, 1983.
See: 15 N.J.R. 1441(a), 15 N.J.R. 1947(a).
Administrative change.
See: 25 N.J.R. 1516(b).
Amended by R.1997 d.103, effective March 3, 1997.
See: 28 N.J.R. 4165(a), 29 N.J.R. 783(a).

Substituted "marriage and family therapists" for "marriage counselor" and amended title of the Board.

13:34-1.6 Licensee to display notice

Every licensee shall prominently display in a conspicuous location in his or her office the following notice:

(Name of individual) is licensed by the State Board of Marriage and Family Therapy Examiners, an agency of the New Jersey Division of Consumer Affairs. Any member of the consuming public having a complaint concerning the manner in which this practice is conducted should notice the State Board of Marriage and Family Therapy Examiners, Post Office Box 45007, 124 Halsey Street, Newark, New Jersey 07101, or the New Jersey Division of Consumer Affairs, Post Office Box 45027, 124 Halsey Street, Newark, New Jersey 07101.

R.1983, d.544 effective November 21, 1983.
See: 15 N.J.R. 1441(a), 15 N.J.R. 1947(a).
Administrative change.
See: 25 N.J.R. 1516(b).
Amended by R.1997 d.103, effective March 3, 1997.
See: 28 N.J.R. 4165(a), 29 N.J.R. 783(a).
Amended title of the Board.

13:34-1.7 Hearings to conform to law

The conduct of all hearings shall conform to the requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., as amended and supplemented.

R.1983 d.544, effective November 21, 1983.
See: 15 N.J.R. 1441(a), 15 N.J.R. 1947(a).
Amended by R.1993 d.599, effective December 6, 1993.
See: 25 N.J.R. 3060(a), 25 N.J.R. 5485(a).

13:34-1.8 Notification of address; service of process

(a) A licensee shall notify the Board in writing within 30 days of any change in the address on file with the Board and shall specify whether the address is a residence or an employment address.

(b) Service of an administrative complaint or other process initiated by the Board, the Attorney General, or the Division of Consumer Affairs at the address on file with the Board shall be deemed adequate notice for the commencement of any inquiry or disciplinary proceeding.

(c) A licensee shall, within 30 days of receiving a notice of disciplinary action taken against the licensee in another jurisdiction, report to the Board in writing his or her receipt of such notification and provide a copy of the notification and the underlying documentation of the disciplinary action.

New Rule, R.1998 d.544, effective November 16, 1998.
See: 30 N.J.R. 2987(a), 30 N.J.R. 4058(a).

SUBCHAPTER 2. PROFESSIONAL MISCONDUCT

13:34-2.1 Misconduct defined

(a) Professional or occupational misconduct in the practice of marriage and family therapy by persons licensed by the State Board of Marriage and Family Therapy Examiners shall include, but not be limited to, the following:

1. Willful or grossly negligent failure to comply with Federal, State or local laws, rules or regulations governing the practice of the profession.
2. Failing to respond within 30 days to written communications from the Board of Marriage and Family Therapy Examiners and make available any relevant records with respect to an inquiry or complaint about the licensee's unprofessional conduct.
 - i. The period of 30 days shall commence on the date when such communication was sent from the Board by registered or certified mail, with return receipt requested, to the address appearing in the last registration.
3. Failing to maintain a record for each client which accurately reflects the client contact with the practitioner.

i. Unless otherwise provided by law, all client records must be retained for at least seven years.

ii. If a licensee ceases to engage in practice or it is anticipated that he or she will remain out of practice for more than three months, the licensee or designee shall:

(1) Establish a procedure by which clients can obtain their records or acquiesce in the transfer of those records to another licensee or health care professional who is assuming the responsibilities of that practice;

(2) Publish a notice of the practice cessation and the established procedure for the retrieval of records in a newspaper of general circulation in the geographic location of the licensee's practice, at least once each month for the first three months after the cessation; and

(3) Make reasonable efforts to directly notify any client treated during the six months preceding the cessation, providing information concerning the established procedure for record retrieval.

4. Failing to exercise appropriate supervision over persons who are authorized to practice only under the supervision of the licensed or license eligible professional.

5. Failing to make available to a client, or, upon a client's request, to another licensed health practitioner consistent with that practitioner's authorized scope of practice, copies of reports or test records relating to the client which are in the possession or under the control of the licensee, or failing to complete forms or reports required for the reimbursement of a client by a third party.

i. Reasonable fees may be charged for such copies, forms or reports, but prior payment for the professional services to which such records relate shall not be required as a condition for making such records available.

ii. A practitioner may, however, withhold information from a client if he or she believes release of such information would adversely affect the client's mental or psychological health.

iii. This section shall not require release to the parent or guardian of a minor of records or information relating to sexually transmitted disease or abortion except with the minor's consent.

6. Ordering of excessive tests, treatment, or use of treatment facilities not warranted by the condition of the client.

7. Using the word "Doctor" or otherwise misleading designation in offering to perform professional services when such title or designation has not been earned at an accredited educational institution or is not one which is recognized by the New Jersey State Board of Education.

8. Guaranteeing that satisfaction or a cure will result from the performance of professional services.

9. Claiming or using any secret or special method of treatment and/or diagnostic technique which the licensee refuses to divulge to the Board.

10. Failing to notify the Board of Marriage and Family Therapy Examiners in writing of any change of address from that currently registered with the Board and shown on the most recently issued license.

i. Such notice shall be given not later than 30 days following the change of address.

Amended by R.1993 d.599, effective December 6, 1993.

See: 25 N.J.R. 3060(a), 25 N.J.R. 5485(a).

Amended by R.1997 d.103, effective March 3, 1997.

See: 28 N.J.R. 4165(a), 29 N.J.R. 783(a).

Substituted references to marriage and family therapists or therapy for references to marriage counselor or counseling and amended title of the Board.

Amended by R.1998 d.544, effective November 16, 1998.

See: 30 N.J.R. 2987(a), 30 N.J.R. 4058(a).

Rewrote (a).

13:34-2.2 Professional interactions with clients

(a) Prior to commencing services, a licensee shall advise the client or the client's guardian, in terms that the client can understand, of the nature and purpose of the services to be rendered and the limits and obligations associated with such services.

(b) A licensee shall not provide marriage and family therapy services while under the influence of alcohol or any other drug that may impair the delivery of services.

(c) A licensee shall obtain competent professional assistance in order to determine whether to voluntarily suspend, terminate, or limit the scope of the licensee's professional practice or research activities which are foreseeably likely to lead to inadequate performance or harm to the client, colleague, student, or research participant.

(d) When interacting with a research subject, a licensee shall observe research requirements consistent with accepted standards of practice.

New Rule, R.1998 d.544, effective November 16, 1998.

See: 30 N.J.R. 2987(a), 30 N.J.R. 4058(a).

SUBCHAPTER 3. UNLICENSED PERSONS— PERMISSIBLE ACTIVITIES

13:34-3.1 Employees of certain organizations; permissible activities

(a) For the purpose of N.J.S.A. 45:8B-6(a)(1), (2) and (3), employees of certain organizations may only perform marriage and family therapy functions at the employer's place of business and under the eligible organization's control.

13:34-5.4 Sexual conduct and harassment

(a) By this section, the Board is identifying for its licensees conduct which it shall deem to be violative of law as set forth in (j) below.

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

1. "Client" means any person who is the recipient of a professional service rendered by a licensee 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 even if the purpose of that examination or assessment is unrelated to treatment.

2. "Client-therapist relationship" means the association between a therapist and a client wherein the therapist owes a continuing duty to the client to be available to render marriage and family therapy services consistent with his or her training and experience.

3. "Harassment" means one egregious act or repeated comments, contacts, 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.

4. "Licensee" means any person authorized by the State Board of Marriage and Family Therapy Examiners to engage in marriage and family therapy.

5. "Sexual contact" means the knowing touching of a person's body directly or through clothing, where the circumstances surrounding the touching would be construed by a reasonable person to be motivated by the licensee's own prurient interest or for sexual arousal or gratification. "Sexual contact" includes, but is not limited to, the imposition of the licensee's body upon a part of the patient's body, sexual penetration, or the insertion or imposition of any object or any part of a licensee or patient's body into or near the genital, anal or other opening of the other person's body.

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

non-sexual nature if it is based upon the sex of an individual.

(c) A licensee shall not engage in sexual contact with a client with whom he or she has a client-therapist relationship.

(d) A licensee shall not seek or solicit sexual contact with a client with whom he or she has a current client-therapist relationship, a former client to whom any marriage and family therapy services were rendered in the immediately preceding 24 months, or 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 as clearly vulnerable by reason of emotional or cognitive disorder or exploitative influence by the licensee.

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

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

(g) A licensee shall not engage in any discussion of an intimate sexual nature with a client that serves the licensee's prurient interests or is for the sexual arousal or the sexual gratification of the licensee or client, or constitutes sexual abuse of the client. Such discussion shall not include disclosure by the licensee of his or her own intimate sexual relationships.

(h) A licensee 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.

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

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

(k) It shall not be a defense to any action under this section that:

1. The patient solicited or consented to sexual contact with the licensee; or

2. The licensee was in love with or had affection for the patient.

13:34-5.5 Reporting of violations by other licensees

(a) Except as provided below, a licensee shall promptly notify the Board when in possession of information which reasonably indicates that another licensee has demonstrated an impairment, gross incompetence, or unprofessional conduct which would present an imminent danger to a client, or to the public health, safety, or welfare.

1. When the information is obtained in the course of a professional or consulting relationship with a client and the client is unwilling or unable to make the report, the licensee shall report the information only with the written permission of the client.

13:34-5.6 Prohibition on solicitation; unethical referrals and kickbacks

(a) A licensee who provides services to an agency shall not solicit, for his or her private practice, the agency's clients for the same services the agency provides. Nothing in this section prohibits a licensee from offering to the client all appropriate options upon termination of services by the client or the agency, including the continuation of services in private practice.

(b) A licensee shall not refer a client to a service in which the licensee and his or her immediate family has a financial interest as defined in the Health Care Cost Reduction Act, N.J.S.A. 45:9-22.4 et seq., including an equity or ownership interest in a practice or in a commercial entity holding itself out as offering a health care service.

(c) A licensee shall not prescribe goods or devices which the licensee sells or leases to the client in which the licensee has ownership or interest, unless the licensee advises the client of such ownership or interest.

(d) A licensee shall not pay or offer to pay any fee or other form of compensation for referral of a client for professional services or for referral of a client for the purchase of goods.

(e) A licensee shall not receive any fee or other form of compensation for referral of a client for professional services or for referral of a client for the purchase of goods.

(f) A licensee shall not permit the division of fees for professional services unless the licensee is engaged in a bona fide partnership, professional service corporation, or employment relationship.

13:34-5.7 Prohibition on excessive fees

(a) The licensee shall not charge an excessive fee for services. Factors that the Board shall consider in determining whether a fee is excessive include the following:

1. The time or effort required to perform the service or treatment;

2. The skill required to properly perform the service or treatment;

3. The nature and length of the professional relationship with the client;

4. The experience, reputation, and ability of the licensee performing the services;

5. The nature and the circumstances under which services are provided; and

6. Whether the fee was set by an institution or agency.

SUBCHAPTER 6. ADVERTISING**13:34-6.1 Definitions**

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

“Advertisement” means an attempt, directly or indirectly by publication, dissemination or circulation in print, electronic or other media, to induce any person or entity to purchase or enter into an agreement to purchase marriage and family therapy services, treatment, or goods related thereto.

“Certified” or “certifications” means that a licensee shall have fulfilled all requirements of the agency granting certification and shall have earned a certificate upon satisfactory completion of a program directly related to marriage and family therapy.

“Electronic media” includes, radio, television, telephone, and other electronic means of communication.

“Marriage and family therapy service” means a service which a marriage and family therapist or professional association performs or lawfully authorizes a person under supervision to perform.

“Print media” includes business cards, newspapers, periodicals, professional journals, telephone directories, circulars, handbills, flyers, billboards, signs, direct mail, match covers, and other items disseminated by means of the printed word. The term shall not include serial displays.

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

13:34-6.2 Advertising; general requirements

(a) A licensee shall be able to substantiate the truthfulness of any material, objective assertion, or representation set forth in an advertisement.

13:34-7.2 Use of personal or other computer to prepare client records

(a) A licensee who prepares a client record maintained solely on a personal or other computer shall use a write-protected program which:

1. Contains an internal permanently activated date and time recordation for all entries;
2. Automatically prepares a back-up copy of the file; and
3. Is designed in such manner that, after the licensee signs by means of a confidential personal code ("CPC"), the entry cannot be changed in any manner.

(b) The licensee shall include in the client record at least two forms of identification; for example, name and record number, or any other specific identifying information.

(c) The licensee shall finalize or sign the entry by means of a CPC. Where more than one individual is authorized to make entries into the computer file of any client record, the licensee responsible for the practice shall assure that each such person obtains a CPC and uses the program in the same manner.

(d) A licensee wishing to continue a system of computerized client records that does not meet the requirements of this section shall promptly initiate arrangements for modification of the system. The modification must be completed by no later than November 16, 1999. In the interim, the following will apply:

1. On the date of the first treatment, evaluation, or consultation subsequent to effective date of rule, and after each visit continuing to the date of the changeover, the licensee shall:
 - i. Print out a hard copy of the entire computer recorded client record; and
 - ii. Date and initial each page of the printout.
2. The licensee shall retain all hard copies as a permanent part of the client record.

(e) A licensee shall document any addenda or corrections to a client's record in a separately dated, signed, and timed note.

13:34-7.3 Confidentiality

(a) A licensee shall preserve the confidentiality of all communications with a client or clients while performing marriage and family therapy services for these clients, except in the following circumstances:

1. When disclosure is required by Federal or State law or regulation, such as, but not limited to N.J.S.A. 2A:62A-16, 2A:62A-17, and 12 C.F.R. Part 2; or

2. The licensee is a party defendant to a civil, criminal, or disciplinary action arising from the marriage and family therapy services provided, in which case a waiver of the privilege accorded by this section shall be limited to that action.

SUBCHAPTER 8. CONTINUING EDUCATION**Authority**

N.J.S.A. 45:8B-24.1.

Source and Effective Date

R.2003 d.398, effective October 6, 2003.
See: 35 N.J.R. 2831(a), 35 N.J.R. 4722(c).

13:34-8.1 Continuing education requirement for license renewal

All licensed marriage and family therapists shall complete 40 contact hours of continuing education for license renewal. The licensed marriage and family therapist shall confirm on the renewal application that the licensee has completed the required continuing professional education programs, courses or articles as specified in this subchapter during the biennial period preceding the application for the renewal.

13:34-8.2 Contact hour requirement for licensed marriage and family therapists

(a) A marriage and family therapist applying for renewal for the first renewal period following October 6, 2003 shall complete a minimum of 40 contact hours of continuing education directly related to the profession of marriage and family therapy during this renewal period.

(b) A licensee shall complete at least five of the 40 contact hours of continuing education as required by N.J.A.C. 13:34-8.1 in ethical and legal standards related to marriage and family therapy, regardless of the number of hours accrued during the biennial period.

(c) If a licensee earns more than 40 contact hours of continuing education during a biennial period, the licensee may carry those extra hours, up to a maximum of 10 contact hours, into the next succeeding biennial period as long as those contact hours were earned within the last six months of the biennial period.

13:34-8.3 Approval of continuing education programs and courses

(a) The following are acceptable sources of continuing education as long as the course, program, or article is applicable to marriage and family therapy or falls within the content areas set forth in (c) below:

1. Courses and programs approved by the National Board for Certified Counselors (NBCC); the American

Counseling Association (ACA); the American Psychological Association (APA); the American Psychiatric Association (APA); the National Association of Social Workers (NASW); the National Association of Social Workers–New Jersey (NASW–NJ); the American Association for Marriage and Family Therapy (AAMFT); the American Association for Marriage and Family Therapy of New Jersey, Inc. (AAMFT–NJ); the Commission on Rehabilitation Counselors Certification (CRCC); the American Ortho–Psychiatric Association; the American Medical Association (AMA); the American Nursing Association (ANA); the National Association of Drug Abuse Counselors (NADAC); a member of the International Certification and Reciprocity Consortium/Alcohol and Other Drug Abuse, Inc.; the Commission of Accreditation for Marriage and Family Therapy Education (COAMFTE); the American Family Therapy Association (AFTA); or the American Society of Addiction Medicine;

2. Teaching or completing graduate coursework at a regionally accredited institution of higher education;

3. Authoring an article published in a professional refereed journal within the preceding biennial period;

4. Completing and having accepted a doctoral dissertation from a regionally accredited institution of higher education;

5. Presenting a new course, program or workshop approved by one of the organizations listed in (a)1 above; and

6. Developing and completing courses or programs that provide distance learning opportunities approved by one of the organizations listed in (a)1 above or a regionally accredited institution of higher education.

(b) If a licensee seeks approval of continuing education credit from the Board for attending or presenting a course or program that has not been approved by any of the organizations listed in (a)1 above, the licensee shall first apply to and obtain approval from one of the listed organizations prior to seeking approval of continuing education credit from the Board.

(c) The following are acceptable content areas for continuing education:

1. Marriage and family therapy concepts, theory and practice of human behavior and family/social systems which provide basic theories, principles and techniques of therapy and their specific application to marriage and family therapy settings;

2. Personal and professional ethics, ethical and legal practice considerations, contractual agreements with clients (fees, payment plans, third party payers, treatment plans), confidentiality issues, recordkeeping, uses of computers and other technologies, distance and e-therapy, liabilities of practice and basic concepts in family law;

3. The helping relationship which provides broad understanding of philosophical bases of helping processes, basic and advanced helping skills, consultation theories and their applications, client self-help, self-understanding, and self-development, and facilitation of client change;

4. Human growth, development and maladaptive behavior which provides a broad understanding of the nature and needs of individuals at all developmental levels, normal and abnormal behavior, personality theory, lifespan theory, and learning theory within cultural contexts;

5. Practice in theories of family systems, treatment approaches, assessment of family function and dysfunction, and specific system treatment options as both science and art;

6. Programs that address anger management, family violence, patterns of behavior and substance addiction;

7. Lifestyles and career development which provide a broad understanding of differing lifestyles, career development theories, occupational and educational information sources and systems, career and leisure counseling, guidance and education, lifestyles and career decision-making, career development program planning, resources, and career option identification;

8. Group dynamics, processes, counseling and consulting which provide a broad understanding of group development dynamics, group counseling theories, group leadership styles, basic and advanced group therapy methods and skills, and other approaches to work with groups;

9. Appraisals of individuals which provides broad understanding of group and individual psychometric theories and approaches to appraisal, data and information gathering methods, validity and reliability, psychometric statistics, factors that influence appraisals, use of appraisal results in the helping process and the specific ability to administer and interpret tests and inventories that assess abilities, aptitudes, interest, and identify career options—within the regulations for licensed marriage and family therapist's scope of practice;

10. Research and evaluation which provides a broad understanding of types of research, basic statistics, research and report development, research implementation, program evaluation, needs assessment, efficacy of treatment, publication of research information;

11. Social and cultural foundations which provide a broad understanding of societal changes and trends, human roles, societal subgroups, social mores and interaction patterns, social policy, multi cultural and pluralistic trends, differing lifestyles, and major societal concerns including discrimination, domestic violence, person abuse, stress, substance abuse, and methods of alleviating these concerns; and

12. The marriage and family therapy profession which provides a broad understanding of professional roles and function, business practices including finances, management and recordkeeping, professional goals and objectives, professional organizations and associations, professional history and trends, ethical and legal standards, professional preparation standards, professional credentialing, and supervised clinical training.

13:34-8.4 Contact hour calculations

(a) The Board shall grant credit only for continuing education courses or programs that are at least one contact hour long, and are directly related to the practice of marriage, family and individual therapy. For purposes of this subchapter, a contact hour represents a 60-minute clock hour containing no less than 50 minutes of content within the hour. Programs may include one 10-minute break for each contact hour.

(b) A licensee shall complete and be able to verify completion of a continuing education course, program or article as set forth in N.J.A.C. 13:34-8.3 in order to receive continuing education credit. The Board shall grant continuing education credit to a licensee in each biennial renewal period as follows:

1. Completing graduate or post-graduate coursework at a regionally accredited institution of higher education: 15 contact hours of continuing education for each semester course credit awarded beyond the required educational standards which an applicant must complete for licensure as set forth in N.J.S.A. 45:8B-18 and N.J.A.C. 13:34-4.3;

2. Teaching graduate or post-graduate courses or programs offered at a regionally accredited institution of higher education: 15 contact hours of continuing education for each semester course credit awarded for each new course which a licensee teaches. For the purposes of this subsection, "new" means a course that the licensee has not taught previously in any educational setting;

3. Authoring an article published in a professional refereed journal within the preceding biennial period: 15 contact hours of continuing education per article with a maximum of 30 contact hours of continuing education per biennial period;

4. Completion and acceptance of a doctoral dissertation verified by letter of committee chairperson accepting the dissertation for a doctoral degree in marriage and family therapy or a closely related field: 40 contact hours of continuing education per biennial period;

5. Attending conferences, programs, courses or workshops: one contact hour of continuing education for each hour of attendance, or the number of contact hours of continuing education as calculated by the organization, whichever is greater;

6. Presenting a course, program or workshop: one and one-half contact hours of continuing education for each new course, program or workshop, up to a maximum of nine contact hours of continuing education. For the purposes of this subsection, "new" means a course that the licensee has not taught previously in any educational setting; and

7. Developing and completing programs that provide distance learning opportunities, such as Internet, video, audio, or CD-Rom, through the use of integrated technology/communication systems, verified with details of the program, such as learning objectives, verification of assignments completed, achievements of stated learning objectives, inclusive dates and number of enrollees: the amount of continuing education contact hours as calculated by the endorsing organization, up to a maximum of 20 contact hours of continuing education per biennial period.

13:34-8.5 Documentation of continuing education credit

(a) A licensee shall retain documentation of the continuing education hours which he or she completes in order to verify program attendance and activity completion. Each licensee shall submit such documentation to the Board upon its request. The Board may periodically audit the records of licensees on a random basis to determine compliance with continuing education requirements of this subchapter.

(b) A licensee shall verify attendance at continuing education courses or programs by a certificate of attendance or by a written statement from the course or program instructor. The verification shall include the name of the licensee, the name of the sponsor, the title, location and date of the course or program, the signature of a program official and the number of continuing education hours awarded.

(c) A licensee shall verify continuing education activities by retaining the following:

1. For publications, a copy of the published article;
2. For program presentations, copies of the program, syllabus, outlines and bibliographies;
3. For teaching, copies of the syllabus, bibliography, course outline and verification from the academic institution that the course was "new" as defined by N.J.A.C. 13:34-8.4(b)2;
4. For distance learning, a certificate of successful completion from the endorsing professional organization; and
5. For graduate coursework, an official transcript.

(d) A licensee shall maintain verification documentation for six years following the renewal period for which the Board has granted the licensee continuing education credit.

(e) Falsification of any information submitted with the renewal application, or the audit, or failure to complete

continuing education requirements may result in disciplinary action by the Board.

13:34-8.6 Waiver of continuing education requirements

(a) The Board may waive continuing education requirements on an individual basis for reasons of hardship such as illness, disability, active service in the military or other good cause as established by the licensee.

(b) A licensee who seeks a waiver of the continuing education requirements shall provide to the Board, in writing, during the biennial period for which waiver is sought, the specific reasons for requesting the waiver and such additional documentation as the Board may request in support of the waiver.

SUBCHAPTER 9. (RESERVED)

SUBCHAPTER 10. PROFESSIONAL COUNSELORS AND ASSOCIATE COUNSELORS: PURPOSE AND SCOPE; DEFINITIONS; SCOPE OF PRACTICE

13:34-10.1 Purpose and scope

(a) The rules in this subchapter implement the provisions of the Professional Counselor Licensing Act, P.L. 1993, c.340 (N.J.S.A. 45:8B-34 et seq.) (the "Act") as amended and supplemented by P.L. 1997, c.155, and regulate the profession of counseling, as defined in N.J.A.C. 13:34-10.2, within the State of New Jersey.

(b) Except as set forth in (c) below, this subchapter shall apply to all individuals who render counseling services, as defined in N.J.A.C. 13:34-10.2, and to anyone within the jurisdiction of the Professional Counselor Examiners Committee.

(c) This subchapter shall not apply to an individual exempt from the provisions of the Act pursuant to N.J.S.A. 45:8B-48, including, but not limited to, an individual acting within the scope of a profession or occupation licensed by this State and doing work of a nature consistent with the person's training, as long as the person does not hold himself or herself out to the public as possessing a license issued pursuant to the Act.

13:34-10.2 Definitions

The following words and terms, as used in N.J.A.C. 13:34-10 through 19, shall have the following meanings, unless the context clearly indicates otherwise.

"Counseling" means the application of mental health and human development principles in order to:

1. Facilitate human development and adjustment throughout the lifespan;
2. Clinically assess, evaluate and prevent mental, emotional, behavioral and associated distresses which interfere with mental health and development;
3. Conduct assessments and evaluations for the purpose of establishing goals and objectives; and
4. Plan, implement and evaluate counseling interventions.

"Counseling interventions" means services specifically implemented in the context of a professional counseling relationship. Counseling interventions include, but are not limited to, developmental, preventive, facilitative and crisis intervention.

"Counseling procedures" means methods and techniques that may be performed only by a licensed professional counselor or a licensed associate counselor under supervision pursuant to the provisions of N.J.A.C. 13:34-13. Counseling procedures include, but are not limited to, the following:

1. Appraisal and assessment, defined as:
 - i. Selecting, administering, scoring and interpreting instruments designed to assess an individual's aptitudes, attitudes, abilities, achievements, interests, personal characteristics, disabilities and mental, emotional and behavioral disorders; and
 - ii. Using methods and techniques for understanding human behavior in relation to coping with, adapting to or changing life situations;
2. Counseling, defined as assisting an individual or group through the counseling relationship to develop an understanding of intrapersonal and interpersonal problems, to define goals, to make decisions, to plan a course of action reflecting the client's needs, interests, and abilities, and to use informational and community resources as these methods are related to career development and adjustment and to mental, emotional, social, educational and existential issues;
3. Consulting, defined as applying scientific principles and procedures in counseling and human development to provide assistance in understanding and solving current or potential problems that the consultee(s) may have in relation to an individual, a group or an organization;
4. Referral, defined as evaluating and identifying needs of a counselee to determine the advisability of referral to other specialists, informing the counselee of such judgment and communicating as requested or deemed appropriate to such referral sources; and
5. Research, defined as the conduct of qualitative or quantitative investigations into the nature of human and organizational behavior.

13:34-10.3 Scope of practice; professional counselor and associate counselor

(a) The scope of practice of a licensed professional counselor includes, but is not limited to, counseling, counseling interventions, appraisal and assessment, consulting, referral and research activities, as defined in N.J.A.C. 13:34-10.2.

(b) The scope of practice of a licensed associate counselor includes, but is not limited to, counseling, counseling interventions, appraisal and assessment, consulting, referral and research activities, as defined in N.J.A.C. 13:34-10.2, under supervision pursuant to the provisions of N.J.A.C. 13:34-13. An associate counselor shall not engage in the independent practice of counseling.



SUBCHAPTER 11. PROFESSIONAL COUNSELORS AND ASSOCIATE COUNSELORS: APPLICATION PROCEDURE AND EDUCATIONAL REQUIREMENTS

13:34-11.1 Application procedure: professional counselor

(a) An applicant for licensure as a professional counselor shall submit the following to the Committee:

1. A completed application form, which contains information concerning the applicant's educational and experiential background;
2. The application fee set forth in N.J.A.C. 13:34-17.1;
3. An official transcript indicating that the applicant has satisfied the educational requirements set forth in N.J.A.C. 13:34-11.3;
4. A supervisor's certification indicating that the applicant has met the supervision requirements for licensure set forth in N.J.A.C. 13:34-13; and
5. Proof that the applicant has successfully completed the National Counselors Examination administered by the National Board of Certified Counselors (NBCC), or its successor.

13:34-11.2 Application procedure: associate counselor

(a) An applicant for licensure as an associate counselor shall submit the following to the Committee:

1. The documents set forth in N.J.A.C. 13:34-11.1(a)1, 2, 3 and 5; and
2. A plan for supervision pursuant to the requirements of N.J.A.C. 13:34-13.2.

13:34-11.3 Educational requirements

(a) An applicant for licensure shall submit to the Committee proof that the applicant received a graduate degree in counseling from a planned educational program at a regionally accredited institution of higher education. The degree and/or official transcript shall clearly indicate the following:

1. That the degree awarded is a degree in counseling or a related area as deemed acceptable by the Committee. Examples of acceptable degree titles include, but are not limited to: social work, psychology, counseling, pastoral counseling, rehabilitation counseling, applied family and child development, human development, counselor education or marriage and family therapy;

2. That the applicant, as part of the graduate degree program, successfully completed a minimum of 60 graduate semester hours, 45 of which must be distributed in at least eight of the following areas:

i. Counseling theory and practice, which includes the study of basic theories, principles and techniques of counseling and their application to professional counseling settings;

ii. The helping relationship, which includes studies that provide a broad understanding of philosophic bases of helping processes, basic and advanced helping skills, consultation theories and their applications, client and helper self-understanding and self-development, and facilitation or consultee change;

iii. Human growth and development and maladaptive behavior, which includes studies that provide a broad understanding of the nature and needs of individuals at all developmental levels, normal and abnormal behavior, personality theory, life-span theory, and learning theory within cultural contexts;

iv. Lifestyle and career development, which include studies that provide a broad understanding of career development theories, occupational and educational information sources and systems, career and leisure counseling, guidance and education, lifestyle and career decision-making, career development program planning, resources, and career option identification;

v. Group dynamics, processes, counseling and consulting, which include studies that provide a broad understanding of group development dynamics, group counseling theories, group leadership styles, basic and advanced group counseling methods and skills, and other group approaches;

vi. Appraisal of individuals, which includes studies that provide a broad understanding of group and individual educational and psychometric theories and approaches to appraisal, data and information gathering methods, validity and reliability, psychometric statistics, factors that influence appraisals, use of appraisal results in helping process and the specific ability to administer

and interpret tests and inventories to assess abilities, interests, and identify career options;

vii. Social and cultural foundations, which include studies that provide a broad understanding of societal changes and trends, human roles, societal subgroups, social mores and interaction patterns, multicultural and pluralistic trends, differing lifestyles, and major societal concerns including stress, person abuse, substance abuse, discrimination and methods of alleviating these concerns;

viii. Research and evaluation, which include studies that provide a broad understanding of types of research, basic statistics, research-report development, research implementation, program evaluation, needs assessment, publication of research information and ethical and legal considerations; and

ix. The counseling profession, which includes studies that provide a broad understanding of professional roles and functions, professional goals and objectives, professional organizations and associations, professional history and trends, ethical and legal standards, professional preparation standards and professional credentialing.

**SUBCHAPTER 12. PROFESSIONAL
COUNSELORS: LICENSURE UNTIL
FEBRUARY 12, 1999**

13:34-12.1 Licensure without examination until February 12, 1999; minimum of 45 graduate hours; five years of experience

(a) Until February 12, 1999, an individual who has completed a minimum of 45 graduate semester hours and acquired five years of experience as set forth below may apply for licensure without examination as a professional counselor upon submission of the following on forms provided by the Committee:

1. A completed application form which requests information concerning the applicant's educational and experiential background;

2. The application fee set forth in N.J.A.C. 13:34-17.1;

3. An affidavit indicating that the applicant has acquired at least five years of full time experience in the practice of professional counseling acceptable to the Committee which demonstrates that the applicant has engaged in counseling, counseling interventions, appraisal and assessment, consulting, referral and research activities as defined in N.J.A.C. 13:34-10.2 prior to the date of application for licensure (including the name of the employer(s), the dates of the experience and a detailed job description) which includes proof that the applicant has engaged in counseling individuals and/or groups for a minimum of 5,000 hours at the rate of a minimum of 1,000 hours during a 50-week period and covering five calendar years; and

4. An official transcript indicating that the applicant completed a minimum of 45 graduate semester hours, which includes a master's degree or doctorate from a regionally accredited institution of higher education in subject matter that is primarily counseling in content, in which at least 24 graduate semester hours must be distributed in coursework in each of the areas as set forth in N.J.A.C. 13:34-11.3(a)2i through viii.

13:34-12.2 Licensure with examination until February 12, 1999; fewer than 45 graduate hours; five years of experience

(a) Until February 12, 1999, an individual who has completed fewer than 45 graduate semester hours and acquired five years of experience as set forth below, and who has passed the National Counselor Examination administered by the NBCC, may qualify for licensure as a professional counselor upon submission of the following on forms provided by the Committee:

1. A completed application form which requests information concerning the applicant's educational and experiential background;

2. The application fee set forth in N.J.A.C. 13:34-17.1;

3. An affidavit indicating that the applicant has acquired at least five years of full time experience in the practice of professional counseling acceptable to the Committee which demonstrates that the applicant has engaged in counseling, counseling interventions, appraisal and assessment, consulting, referral and research activities as defined in N.J.A.C. 13:34-10.2 prior to the date of application for licensure (including the name of the employer(s), the dates of the experience and a detailed job description) which includes proof that the applicant has submitted written documentation to the effect that he or she has engaged in counseling individuals and/or groups for a minimum of 5,000 hours at the rate of a minimum of 1,000 hours during a 50-week period and covering 5 calendar years; and

4. An official transcript indicating that the applicant completed fewer than 45 semester hours, which includes a master's degree from a regionally accredited institution of higher education in subject matter that is primarily counseling in content as set forth in N.J.A.C. 13:34-11.3(a)2i through viii; and

5. Evidence that the applicant has passed the National Counselor Examination administered by the NBCC.

"Group supervision" means the process of supervising no more than six persons in a group setting by a qualified supervisor as set forth in N.J.A.C. 13:34-13.4.

"One calendar year" means at least 1,500 hours over a 50 week period.

"Professional counseling experience" means professional counseling practice or the providing of counseling education.

"Supervision" means the ongoing process performed by a supervisor who monitors the performance of the person supervised and provides regular, documented face-to-face consultation, guidance and instruction with respect to the counseling skills and competencies of the person supervised. Supervision shall include at least 50 hours of face-to-face supervision per year, a minimum of one hour per week, not more than 10 hours of which may be group supervision.

(b) An applicant for licensure as a professional counselor shall be required to document full time, supervised professional counseling experience in a professional counseling setting for either:

1. Three calendar years, only one year of which may be obtained prior to the granting of the master's degree; or

2. Two calendar years, provided that the applicant has earned, subsequent to completing the master's degree, an additional 30 graduate semester hours clearly related to counseling as set forth in N.J.A.C. 13:34-11.3(a)2i through ix. Of the required two years of supervised experience, only one year may be obtained prior to the granting of the master's degree.

13:34-13.2 Responsibilities of supervisor

(a) A supervisor shall obtain Committee approval before engaging in a supervisory relationship.

(b) A supervisor seeking Committee approval shall submit the following information on forms provided by the Committee:

1. Proof of qualification to act as a supervisor pursuant to N.J.A.C. 13:34-13.4; and

2. A written statement detailing the planned hours of supervised time, planned hours of practice required for the candidate to qualify for licensure, and the nature of the work assignments planned.

(c) Prior to a supervisee's commencement of client treatment, the supervisor shall obtain a written disclosure, which shall be signed by the client and retained as part of the client record, acknowledging that the client has been informed that services are to be rendered by an associate counselor under the supervision of a professional counselor or a qualified supervisor pursuant to N.J.A.C. 13:34-13.4(a)2. If the written disclosure is included as part of another document provided for the client's information, the disclosure shall be set forth in a conspicuous manner so that it shall be easily readable, clearly understood, signed by the client, and retained as part of the client record.

SUBCHAPTER 13. PROFESSIONAL COUNSELORS AND ASSOCIATE COUNSELORS: SUPERVISION

13:34-13.1 Definitions; supervised experience required for licensure

(a) For purposes of this subchapter, the following words and terms shall have the following meanings:

(d) A supervisor shall retain full professional responsibility for collecting fees from clients.

(e) A supervisor shall be ultimately responsible for the welfare of the client with respect to the treatment being rendered by the supervisee.

(f) The supervisor shall ensure that the supervisee maintains, on an annual basis until the supervisee is licensed as a professional counselor, documentation of supervised experience, using forms provided by the Committee for that purpose. The supervisor shall attest to compliance with the standards set forth in (a) above and shall indicate the hours and dates during which the supervisee has been under direct supervision, the nature of the cases assigned, and the proficiency rating earned by the supervisee.

(g) A supervisor shall supervise only in areas for which he or she possesses the requisite skills, training and experience.

(h) A supervisor shall not supervise an individual with whom the supervisor has a relationship that may compromise the objectivity of the supervisor or impair the professional judgment of the supervisor. Examples of inappropriate supervisory relationships include, but are not limited to, current and former clients, relatives, current students, current and former employees or close friends.

13:34-13.3 Responsibilities of supervisee

(a) The supervisee shall maintain documentation of supervised experience for each 50 week period of supervised experience until the supervisee is licensed as a professional counselor.

(b) A supervisee shall not engage in practice under supervision in any area for which the supervisee has not had appropriate education and training.

(c) A supervisee shall not engage in unsupervised or independent practice.

(d) A supervisee shall not receive a professional fee from a client. A supervisee may be compensated only through the supervisor or employing entity.

(e) A supervisee shall not advertise professional services.

13:34-13.4 Permissible supervisor

(a) A supervisor shall be:

1. Licensed as a professional counselor; or
2. A licensed psychologist; a licensed clinical social worker; a licensed physician practicing in the field of psychiatry; a licensed marriage and family therapist; or any other supervisor acceptable to the Committee.

SUBCHAPTER 14. PROFESSIONAL COUNSELOR SPECIALTY DESIGNATIONS

13:34-14.1 Specialty designations

(a) A licensed professional counselor may utilize a professional specialty designation provided that the licensee:

1. Is certified in one of the following specialties by the NBCC or any successor:
 - i. Clinical mental health counselor pursuant to the requirements set forth in N.J.A.C. 13:34-14.2;
 - ii. Career counselor;
 - iii. Gerontological counselor;
 - iv. School counselor; or
 - v. Master addictions counselor; and
2. Has satisfied the Committee that he or she has met the recognized minimum standards of the NBCC.

(b) A qualified professional counselor who the Committee determines satisfies the requirements of (a) above may claim or advertise that specialty by using only the specific specialty designation assigned to the specialty by the NBCC.

(c) A professional counselor shall post the NBCC certificate in a conspicuous place in a waiting room or other area where it will be visible to the professional counselor's clients.

(d) The Committee may approve other specialty designations through the rulemaking process. Consistent with the requirements for use of the designations outlined above in this subchapter, any additional approved specialty designations must meet nationally accepted standards as established by the NBCC.

Amended by R.2002 d.235, effective July 15, 2002.

See: 33 N.J.R. 2596(a), 34 N.J.R. 2459(b).

In (a)1, inserted "or any successor" after "NBCC"; in (a)1i, inserted "pursuant to the requirements set forth in N.J.A.C. 13:34-14.2" after "counselor".

13:34-14.2 Clinical mental health counselor

(a) A licensed professional counselor may utilize the specialty designation of clinical mental health counselor and be issued a specialty permit provided that the licensed professional counselor submits the following to the Committee:

1. A certificate that the applicant is a certified clinical mental health counselor from NBCC or any successor;
2. Proof of passing the comprehensive qualifying examination prepared by NBCC or any successor;
3. An official transcript clearly indicating that the applicant has completed a minimum of 60 graduate semester hours in a mental health field at an accredited institution of higher education; and

4. Proof that the applicant has completed two years of post-master's degree field experience, which includes at least 3,000 hours of supervised clinical experience and 100 hours of face-to-face supervision of which no more than 20 hours may be group supervision.

(b) Upon biennial renewal of the specialty permit for a clinical mental health counselor, an applicant shall submit the following to the Committee:

1. Proof that the applicant is currently certified as a clinical mental health counselor from NBCC or any successor; and

2. Proof that the applicant has completed at least 40 hours of continuing education in courses or programs directly related to the mental health field.

New Rule, R.2002 d.235, effective July 15, 2002.
See: 33 N.J.R. 2596(a), 34 N.J.R. 2459(b).

SUBCHAPTER 15. CONTINUING EDUCATION

Authority

N.J.S.A. 45:8B-13 and 45.

Source and Effective Date

R.2003 d.190, effective May 5, 2003.
See: 34 N.J.R. 3682(a), 35 N.J.R. 1932(a).

13:34-15.1 License renewal and continuing education requirement

All licensed professional counselors shall complete 40 contact hours of continuing education for license renewal. The licensed professional counselor shall confirm on the renewal application that the licensee has completed all continuing education requirements pursuant to N.J.A.C. 13:34-15.1 and 15.2 during the biennial period preceding application for renewal. Except as set forth in N.J.A.C. 13:34-15.2, a professional counselor applying for renewal for the first renewal period following May 5, 2003 shall complete a minimum of 40 contact hours during this renewal period.

13:34-15.2 Contact-hour requirements for licensed professional counselors

(a) A professional counselor shall not be required to obtain continuing education contact hours during the period of initial licensure prior to the professional counselor's first biennial renewal period, but shall be subject to the requirements of N.J.A.C. 13:34-15.1 for all subsequent biennial renewal periods.

(b) A licensed professional counselor shall complete at least five of the 40 contact hours required by N.J.A.C. 13:34-15.1 in ethical and legal standards in the counseling profession regardless of the number of contact hours accrued during the biennial period.

(c) If the licensed professional counselor earns more than 40 contact hours during a biennial period, the professional counselor may carry a maximum of 10 contact hours into the next succeeding biennial period.

13:34-15.3 Contact-hour requirements for licensed professional counselors with a specialty permit

A holder of a specialty permit shall satisfy the specialty permit continuing education requirements of the National Board of Certified Counselors (NBCC). The required continuing education contact hours for the specialty permit may be used to satisfy the Committee's 40 contact hours of continuing education requirements for the licensed professional counselor set forth in this subchapter.

13:34-15.4 Approval of courses or programs

(a) The following are acceptable sources of continuing education courses, programs and articles as long as the courses, programs or articles fall within the content areas set forth in (c) below or are directly related to professional counseling:

1. Courses and programs approved by the National Board for Certified Counselors; the American Counseling Association; the American Psychological Association; the American Psychiatric Association; the National Association of Social Workers; the American Association for Marriage and Family Therapy; the Commission on Rehabilitation Counselors Certification; the American Orthopsychiatric Association; the American Medical Association; the American Nursing Association; the National Association of Alcoholism and Drug Abuse Counselors; or the member boards of the International Certification and Reciprocity Consortium/Alcohol and Other Drug Abuse, Inc.;

2. Teaching or completing graduate coursework at a regionally accredited institution of higher education;

3. Authoring a refereed article published in a professional journal within the preceding biennial period; and

4. Presentation of a course or program approved by one of the organizations listed at N.J.A.C. 13:34-15.4(a)1.

(b) Prior to seeking approval of continuing education credit from the Committee for attending or presenting a course or program that has not been approved by any of the organizations listed in (a)1 above, the professional counselor shall first apply to and obtain approval from one of the listed organizations.

(c) The following are acceptable content areas for continuing education:

1. Counseling theory and practice which provide basic theories, principles and techniques of counseling and their application to professional counseling settings;

2. The helping relationship which provides broad understanding of philosophic bases of helping processes, basic and advanced helping skills, consultation theories and their applications, client and helper self-understanding and self-development, and facilitation or consultee change;

3. Human growth and development and maladaptive behavior which provide a broad understanding of the nature and needs of individuals at all developmental levels, normal and abnormal behavior, personality theory, life-span theory, and learning theory within cultural contexts;

4. Lifestyle and career development which provides a broad understanding of career development theories, occupational and educational information sources and systems, career and leisure counseling, guidance and education, lifestyle and career decision-making, career development program planning, resources, and career option identification;

5. Group dynamics, processes, counseling and consulting which provide a broad understanding of group development dynamics, group counseling theories, group leadership styles, basic and advanced group counseling methods and skills, and other group approaches;

6. Appraisal of individuals which provides a broad understanding of group and individual educational and psychometric theories and approaches to appraisal, data and information gathering methods, validity and reliability, psychometric statistics, factors that influence appraisals, use of appraisal results in helping process and the specific ability to administer and interpret tests and inventories to assess abilities, interests, and identify career options;

7. Social and cultural foundations which provide a broad understanding of societal changes and trends, human roles, societal subgroups, social mores and interaction patterns, multicultural and pluralistic trends, differing lifestyles, and major societal concerns including stress, person abuse, substance abuse, discrimination and methods of alleviating these concerns;

8. Research and evaluation which provide a broad understanding of types of research, basic statistics, research and report development, research implementation, program evaluation, needs assessment, publication of research information and ethical and legal considerations; and

9. The counseling profession which provides a broad understanding of professional roles and functions, professional goals and objectives, professional organizations and associations, professional history and trends, ethical and legal standards, professional preparation standards and professional credentialing.

13:34–15.5 Continuing education credits and contact-hour calculation

(a) The Committee shall grant credit only for continuing education courses and programs that are at least one con-

tact hour long and are directly related to professional counseling practice. For purposes of this subchapter, a “contact hour” means a 60-minute clock hour with no less than 50 minutes of content within the hour. Courses and programs may include one 10-minute break for each contact hour.

(b) A professional counselor shall complete and be able to verify the completion of a continuing education course, program or article as set forth in N.J.A.C. 13:34–15.4 in order to receive continuing education credit. The Committee shall grant a professional counselor continuing education credit for each biennial renewal period as follows:

1. Completing graduate coursework at a regionally accredited institution of higher education: 15 continuing education contact hours for each semester course credit awarded beyond the required educational standards which the professional counselor must complete for licensure as set forth in N.J.A.C. 13:34–11.3;

2. Teaching graduate courses offered at a regionally accredited institution of higher education: 15 continuing education contact hours for each semester course credit awarded for each new course which a professional counselor teaches. For the purposes of this subsection, “new” means a course that the professional counselor has not taught previously in any educational setting;

3. A refereed article published in a professional journal within the preceding biennial period: four continuing education contact hours per article with a maximum of eight contact hours per biennial period; and

4. Course or program presentation: one and one-half continuing education contact hours for each hour of a new offering up to a maximum of nine continuing education contact hours. For the purposes of this subsection, “new” means a course or program that the professional counselor has not previously presented.

13:34–15.6 Documentation of continuing education credit

(a) A professional counselor shall retain documentation of the continuing education hours which the professional counselor completes in order to verify program attendance or activity completion. Each professional counselor shall submit such documentation to the Committee upon its request. The Committee may periodically audit the records of professional counselors, on a random basis, to determine compliance with continuing education requirements of this subchapter.

(b) A professional counselor shall verify attendance at continuing education courses or programs by a certificate of attendance or by a statement from the course or program instructor. The verification shall include the name of the licensee, the name of the sponsor, the title, location and date of the course or program, the signature of a program official and the number of continuing education hours awarded.

(c) A professional counselor shall verify continuing education activities by retaining the following:

1. For publications, a copy of the published article;
2. For course or program presentations, copies of the program, syllabus, outlines and bibliographies;
3. For teaching, copies of the syllabus, bibliography, course outline and verification from the academic institution that the course was "new" as defined by N.J.A.C. 13:34-15.5(b)2; and
4. For graduate coursework, an official transcript.

(d) A professional counselor shall maintain verification documentation for five years following the renewal period for which the Committee has granted the professional counselor continuing education credit.

(e) Falsification of any information submitted with the renewal application or failure to meet the continuing education requirements may result in the Committee taking appropriate disciplinary measures, including suspension of license, pursuant to N.J.S.A. 45:1-21.

(f) The Committee may reject any continuing education contact hours claimed for continuing education credit that are not relevant to the practice of professional counseling in the State of New Jersey.

13:34-15.7 Waiver of continuing education requirements

(a) The Committee may waive continuing education requirements on an individual basis for reasons of hardship such as illness, disability, active service in the military or other good cause as established by the professional counselor.

(b) A professional counselor who seeks a waiver of the continuing education requirements shall provide to the Committee, in writing, the specific reasons for requesting the waiver and such additional documentation as the Committee may request in support of the waiver.

SUBCHAPTER 16. (RESERVED)

SUBCHAPTER 17. FEES

13:34-17.1 Fees

(a) The State Board of Marriage and Family Therapy Examiners shall charge the following fees in connection with the licensure of professional counselors and associate counselors.

1. Application fee \$75.00
2. Initial license fee:
 - i. Professional counselor:
 - (1) During the first year of a biennial renewal period \$250.00
 - (2) During the second year of a biennial renewal period \$125.00
 - ii. Associate counselor:
 - (1) During the first year of a biennial renewal period \$180.00
 - (2) During the second year of a biennial renewal period \$ 90.00
3. Biennial renewal:
 - i. Professional counselor \$250.00
 - ii. Associate counselor \$180.00
4. Late fee \$100.00
5. Reinstatement Fee \$150.00
6. Duplicate wall certificate \$40.00
7. Change of address \$25.00
8. Verification of licensure \$40.00
9. Verification of specialty designation \$40.00
10. Initial specialty designation permit:
 - i. During the first year of a biennial period \$50.00
 - ii. During the second year of a biennial period \$25.00
11. Biennial renewal, specialty designation permit \$50.00

Amended by R.1998 d.272, effective June 1, 1998.
 See: 30 N.J.R. 794(a), 30 N.J.R. 2050(a).
 In (a), substituted dollar amounts for reserved fees in 2 and 3.
 Amended by R.2002 d.216, effective July 1, 2002.
 See: 34 N.J.R. 210(a), 34 N.J.R. 2318(a).
 In (a), decreased fees in 2 and 3.
 Amended by R.2002 d.235, effective July 15, 2002.
 See: 33 N.J.R. 2596(a), 34 N.J.R. 2459(b).
 In (a), added 10 and 11.

SUBCHAPTER 18. PROFESSIONAL COUNSELORS AND ASSOCIATE COUNSELORS: CLIENT RECORDS; CONFIDENTIALITY

13:34-18.1 Preparation and maintenance of client records

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

(c) The licensee shall include in the client record material pertinent to the nature and extent of the professional interaction, for example:

1. The client name, address and telephone number;
2. The client complaint on intake;
3. Medical history recognized as of potential significance;
4. Past and current medications;
5. Significant social history;
6. Findings on appropriate examination;
7. Raw data and interpretation of tests administered;
8. Current functional impairments and rating levels thereof;
9. A diagnostic impression;
10. Contemporaneous and dated progress or session notes including specific components of treatment, evaluation or consultation;
11. Dates of all treatment, evaluation or consultation sessions;

12. The location of treatment, evaluation or consultation;
13. An evaluation of progress (if applicable);
14. A prognosis;
15. The client identity on each page;
16. Fees charged and paid;
17. The identity of each provider of treatment, evaluation or consultation (and supervisor, if any);
18. If services are rendered by an associate counselor, the written disclosure form signed by the client; and
19. Information regarding referrals to other professionals.

(d) The client record shall contain the written disclosure form required pursuant to N.J.A.C. 13:34–13.2(b) and reports and records provided by other professionals and integrated into the client's treatment, evaluation or consultation report.

(e) A licensee may make corrections or additions to an existing record provided that each change is clearly identified as such, dated and initialed by the licensee. Any other alteration of records shall be deemed professional misconduct.

(f) When records are to be maintained as confidential, the licensee shall establish and maintain a procedure to protect such records from access by unauthorized persons.

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

(h) The licensee shall establish procedures for maintaining the confidentiality of client records in the event of the licensee's relocation, retirement or death and shall establish reasonable procedures to assure the preservation of client records in the event of the licensee's separation from a group practice.

(i) Subsections (f) through (h) above shall not apply to a licensee employed in an agency setting which does not, by agency policy, have control over client records.

13:34–18.2 Use of personal or other computer to prepare client records

(a) A licensee who prepares a client record maintained solely on a personal or other computer shall use a write-protected program which:

1. Contains an internal permanently activated date and time recordation for all entries;
2. Automatically prepares a back-up copy of the file; and

3. Is designed in such manner that, after the licensee "signs" by means of a confidential personal code ("CPC"), the entry cannot be changed in any manner.

(b) Notwithstanding the permanent status of a prior entry, the licensee may make a new entry at any time and may indicate correction to a prior entry.

(c) The licensee shall include in the client record at least two forms of identification; for example, name and record number or any other specific identifying information.

(d) The licensee shall finalize or "sign" the entry by means of a CPC. Where more than one individual is authorized to make entries into the computer file of any client record, the licensee responsible for the practice shall assure that each person obtains a CPC and uses the program in the same manner.

(e) A licensee wishing to continue a system of computerized client records which does not meet the requirements of this section shall initiate arrangements for modification of the system, which must be completed by February 17, 2000. In the interim, the licensee shall, on the date of the first treatment of each client subsequent to February 17, 2000, print out a hard copy of the entire computer recorded client record. The printout shall be dated and initialed by the licensee. Thereafter, a hard copy shall be prepared for each subsequent visit, continuing to the date of the change over of computer program, with each page initialed by the licensee. The initial printout and the subsequent hard copies shall be retained as a permanent part of the client record.

13:34–18.3 Access to copy of client record

(a) For purposes of this section, "authorized representative" means, but is not necessarily limited to, a person designated by the client or a court to exercise rights under this section. An authorized representative may be the client's attorney or an agent of a third party payor with whom the client has a contract which provides that the third party be given access to records to assess a claim for monetary damages or reimbursement. If the client is a minor, a parent or guardian who has custody (whether sole or joint) shall be deemed to be an authorized representative.

(b) A licensee may require the record request to be in writing. The licensee shall provide a copy of the client record and/or billing records, including reports relating to the client, no later than 30 days from receipt of a request from a client or duly authorized representative. Limitations on this requirement are set forth in (g) and (h) below and in N.J.A.C. 13:34–18.5.

(c) Unless otherwise required by law, the licensee may elect to provide a summary of the record, as long as the summary adequately and accurately reflects the client's history and treatment.

(d) A licensee may charge a reasonable fee for the preparation of a summary and reproduction of records, which shall be no greater than an amount reasonably calculated to recoup the costs of transcription or copying.

(e) The licensee's obligation hereunder to release information shall include the obligation to complete forms or reports required for third party reimbursement of client treatment expenses. The licensee may charge reasonable fees for completion of reports other than health insurance claim forms, for which no fee may be charged pursuant to N.J.S.A. 45:1-12.

(f) When a request is made for release of already completed reports to enable the client to receive ongoing care by another practitioner, or for use in judicial proceedings, the licensee shall not require prior payment for the professional services to which such reports relate as a condition for making such reports available. A licensee may, however, require advance payment for a report prepared for the licensee's services as an expert witness.

(g) A licensee may withhold information contained in the client record from a client or the client's guardian if in the reasonable exercise of his or her professional judgment, the licensee believes release of such information would adversely affect the client's health or welfare. That record or the summary, with an accompanying explanation of the reasons for the original refusal, shall nevertheless be provided upon request of and directly to:

1. The client's attorney;
2. Another licensed health care professional; or
3. The client's health insurance carrier.

(h) A licensee shall not be required to release to a minor client's parent or guardian records or information relating to the minor's sexually transmitted disease, termination of pregnancy or substance abuse.

13:34-18.4 Access by a managed health care plan to information in client record

(a) With regard to a client whose treatment cost is covered by a wholly insured health insurance plan or a managed health care plan, a licensee shall make all required information available upon the request of the client or duly authorized representative with the client's consent.

(b) A licensee whose client has explicitly waived the counselor-client confidentiality privilege established by N.J.S.A. 45:8B-49 may release requested information deemed professionally appropriate to a third-party payor whose benefit plan is qualified under the Federal Employee Retirement Income Security Act (ERISA); that is, the plan of a self-insured employer or an entity providing administrative services to that employer for the purposes of determining entitlement to benefits.

13:34-18.5 Confidentiality

(a) Any communication between a licensed professional counselor or a licensed associate counselor and the person or persons counseled while performing counseling shall be confidential and its secrecy preserved.

(b) The privilege set forth in (a) above shall not be subject to waiver except in the following circumstances:

1. When disclosure is required by State law including, but not limited to, N.J.S.A. 2A:62A-16, 2A:62A-17 and 9:6-8.10; or
2. When the licensed professional counselor or licensed associate counselor is a party defendant to a civil, criminal or disciplinary action arising from that counseling, in which case the waiver of the privilege shall be limited to that action.

SUBCHAPTER 19. PROFESSIONAL COUNSELORS AND ASSOCIATE COUNSELORS: GENERAL OBLIGATIONS OF A LICENSEE

13:34-19.1 Posting of practice authorization and notification of availability of fee information

(a) All licensees, whether in an agency setting or conducting independent practice, shall ensure that the following notices are prominently displayed in a waiting room or other area where they will be visible to the licensee's clients:

1. Professional counselors and associate counselors are licensed by the Board of Marriage and Family Therapy Examiners, Professional Counselor Examiners Committee, an agency of the Division of Consumer Affairs. Any member of the consuming public may notify the Committee of any complaint relative to the practice conducted by a professional or associate counselor. The Committee's address is: Division of Consumer Affairs, Professional Counselor Examiners Committee, PO Box 45007, 124 Halsey Street, Newark, New Jersey 07101.

2. "INFORMATION ON PROFESSIONAL FEES IS AVAILABLE TO YOU ON REQUEST."

13:34-19.2 Notification of change of address; service of process

(a) Each licensee shall notify the Committee, in writing, within 30 days of any change in address on file with the Committee and shall specify whether the address is a residence or employment address.

(b) Service of an administrative complaint or other process initiated by the Board, the Committee, the Attorney General or the Division of Consumer Affairs at the address on file with the Committee shall be deemed adequate notice for the commencement of any inquiry or disciplinary proceeding.

(c) Each licensee shall, within 30 days of receiving a notice of disciplinary action taken against the licensee in another jurisdiction, report such action to the Board in writing.

13:34–19.3 Sexual misconduct

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

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

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

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

(b) A licensee shall not engage in sexual contact with a current client, a former client to whom professional counseling services were rendered within the immediately preceding 24 months, a current student, a current direct supervisee, or a current research subject.

(c) In circumstances where the client is, or should be recognized by the licensee as, clearly vulnerable by reason of emotional or cognitive disorder to exploitive influence by the licensee, the prohibition on sexual contact shall extend indefinitely.

(d) A licensee shall not engage in sexual harassment in a professional setting (including, but not limited to, an office,

hospital or health care facility) or outside of the professional setting.

(e) A licensee shall not accept as a client a current or former sexual partner.

(f) A licensee shall not conduct or engage in therapy groups, activities which promote, allow, or involve physical contact of a sexual nature between the licensee and group members or between group members themselves.

(g) A licensee shall not engage in any discussion of an intimate sexual nature with a client unless that discussion is directly related to legitimate client needs and furthers the client’s professional counseling treatment. At no time shall any such discussions include disclosure by the licensee to the client of his or her own intimate sexual relations or relationships.

(h) A licensee shall not engage in any other activity in a professional counseling relationship which would lead a reasonable person to believe that the activity serves the licensee’s personal prurient interests or is for the sexual arousal, sexual gratification, or sexual abuse of the licensee or client.

(i) A licensee shall not seek or solicit sexual contact with a current client, a former client to whom counseling services were rendered within the immediately preceding 24 months, a current student, a current direct supervisee, or a current research subject and shall not seek, solicit, accept, or participate in sexual contact with any person in exchange for professional services.

(j) Violation of any of the prohibitions or directives set forth in (b) through (i) above shall be deemed to constitute gross or repeated malpractice pursuant to N.J.S.A. 45:1–21(c) and (d) respectively, or professional misconduct pursuant to N.J.S.A. 45:1–21(e).

(k) It shall not be a defense to any action under this section that:

1. The client, former client, student, supervisee, or research subject solicited or consented to sexual contact with the licensee; or
2. The licensee was in love with or had affection for the client, former client, student, supervisee or research subject.

New Rule, R.2002 d.236, effective July 15, 2002.
See: 33 N.J.R. 4060(a), 34 N.J.R. 2460(a).

SUBCHAPTER 20. REHABILITATION COUNSELORS: PURPOSE AND SCOPE; DEFINITIONS; SCOPE OF PRACTICE

13:34–20.1 Purpose and scope

(a) The rules in this subchapter implement the provisions of the Professional Counselor Licensing Act, P.L. 1993,

c.340 (N.J.S.A. 45:8B-34 et seq.) (the "Act") as amended and supplemented by P.L. 1997, c.155, and regulate the profession of rehabilitation counseling, as defined in N.J.A.C. 13:34-20.2, within the State of New Jersey.

(b) Except as set forth in (c) below, this subchapter shall apply to all individuals who render rehabilitation counseling services, as defined in N.J.A.C. 13:34-20.2, and to anyone within the jurisdiction of the Professional Counselor Examiners Committee.

(c) This subchapter shall not apply to an individual exempt from the provisions of the Act pursuant to N.J.S.A. 45:8B-48, including, but not limited to, an individual acting within the scope of a profession or occupation licensed by this State and doing work of a nature consistent with the person's training, as long as the person does not hold himself or herself out to the public as possessing a license issued pursuant to the Act.

13:34-20.2 Definitions

The following words and terms, as used in N.J.A.C. 13:34-20 through 28, shall have the following meanings, unless the context clearly indicates otherwise:

"Appraisal" means selecting, administering, scoring, and interpreting instruments designed to assess a person's attitudes, abilities, achievements, interests, personal characteristics, disabilities, and mental, emotional, or behavioral disorders as well as the use of methods and techniques for understanding human behavior in relating to, adapting to, or changing life situations for persons with disabilities.

“Case management” means a systematic process merging counseling and managerial concepts and skills through the application of techniques derived from intuitive and researched methods, thereby advancing efficient and effective decision-making for functional control of self, client, setting, and other relevant factors for anchoring a proactive practice. In case management, the counselor’s role is focused on interviewing, rehabilitation counseling, planning rehabilitation programs, coordinating services, interacting with significant others, placing clients and following up with them, monitoring progress, and solving problems.

“Clinical assessment and evaluation of persons with disabilities” means assessing, analyzing, and evaluating physical and mental impairments of persons with disabilities in terms of the vocational implications of disabilities, and medical aspects and implications of disabilities including physical and functional capacities of the person and the psychosocial and cultural impact of disabilities for the purpose of exploring possible solutions, developing goals, and developing personalized plans for identified needs.

“Consultation” means the application of scientific principles and procedures in counseling and human development to provide assistance in understanding and solving current or potential problems that the consultee may have in relation to a third party, be it a person, group, or organization.

“Major life activities” include such activities as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

“Mental impairments” include mental or psychological disorders such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

“Persons with disabilities: means persons who have a physical and/or mental impairment that substantially limits one or more major life activities.

“Physical impairments” include physiological disorders or conditions, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine.

“Program evaluation” means the effort to determine what changes occur as a result of a planned program by comparing actual changes (results) with desired changes (stated goals), and by identifying the degree to which the activity (planned program) is responsible for those changes.

“Referral” means evaluating and identifying needs of a counselee to determine the advisability of referral to other specialists, informing the counselee of such judgment and

communicating as requested or deemed appropriate to such referral sources.

“Rehabilitation counseling” means offering to assist or assisting, for a fee or other compensation, a person through a rehabilitation counseling relationship to develop an understanding of the personal, social, and vocational impact of their disabilities and to plan and implement a rehabilitation program, which may include training to help the person become more independent and employable.

“Rehabilitation counseling interventions” means services implemented in the context of a rehabilitation counseling relationship between a rehabilitation counselor and persons with disabilities, and the application of individual and group counseling theories and strategies, career development and work adjustment theories and strategies, behavior and personality theories and strategies, and family counseling theories and strategies, specifically implemented for the purpose of helping persons with disabilities to understand and to deal with the personal, social, and vocational impact of their disabilities.

“Research” means a systematic effort to collect, analyze, and interpret quantitative or qualitative data that describe how social characteristics, behavior, emotions, cognition, disabilities, mental disorders, and interpersonal transactions among persons and organizations interact.

“Substantially limits one or more major life activities” means an impairment which substantially interferes with the accomplishment of a major life activity or activities when the person’s major life activity or activities are restricted as to the conditions, manner, or duration under which they can be performed without impairment.

13:34-20.3 Scope of practice; rehabilitation counselor

The scope of practice of a rehabilitation counselor includes, but is not limited to, appraisal, case management, consultation, rehabilitation counseling interventions, clinical assessment and evaluation of persons with disabilities, program evaluation, referral, rehabilitation counseling, and research as defined in N.J.A.C. 13:34-20.2.

SUBCHAPTER 21. REHABILITATION COUNSELORS: APPLICATION PROCEDURE; EDUCATIONAL REQUIREMENTS

13:34-21.1 Application procedure: rehabilitation counselor

(a) An applicant for licensure as a rehabilitation counselor shall submit the following to the Committee:

1. A completed application form, which contains information concerning the applicant's educational and experiential background;
2. The application fee set forth in N.J.A.C. 13:34-26.1;
3. An official transcript indicating that the applicant has satisfied the educational requirements set forth in N.J.A.C. 13:34-21.2;
4. A supervisor's certification indicating that the applicant has met the supervision requirements set forth in N.J.A.C. 13:34-23; and
5. Proof that the applicant has successfully completed the Certified Rehabilitation Counselor Examination administered by the Commission on Rehabilitation Counselor Certification (CRCC), or its successor.

13:34-21.2 Educational requirements

(a) An applicant for licensure shall submit to the Committee proof that the applicant has completed a planned educational program in rehabilitation counseling approved by the Committee, which includes a master's degree in rehabilitation counseling from a regionally accredited institution of higher education and which includes coursework in the following areas:

1. Introduction to rehabilitation counseling;
2. Counseling theories and techniques;
3. Personality theories;
4. Psychosocial aspects of disability;
5. Medical aspects of disability;
6. Evaluation and assessment;
7. Vocational aspects of disability;
8. Rehabilitation case management;
9. Research methods; and
10. Practicum or internship.

3. An affidavit indicating that the applicant has acquired at least five years of full time experience in the practice of rehabilitation counseling acceptable to the Committee which demonstrates that the applicant has engaged in appraisal, case management, consultation, rehabilitation counseling interventions, clinical assessment and evaluation of persons with disabilities, program evaluation, referral, rehabilitation counseling and research as defined in N.J.A.C. 13:34-20.2 prior to the date of application for licensure (including the name of the employer(s), the dates of the experience and a detailed job description) which includes proof that the applicant has engaged in counseling individuals and/or groups for a minimum of 5,000 hours at the rate of a minimum of 1,000 hours during a 50-week period and covering five calendar years; and

4. An official transcript indicating that the applicant completed a minimum of 45 graduate semester hours, which includes a master's degree or doctorate from a regionally accredited institution of higher education, in subject matter that is primarily counseling in content as set forth in N.J.A.C. 13:34-11.3(a)2i through viii, or rehabilitation counseling in content as set forth in N.J.A.C. 13:34-21.2(a)1 through 10.

13:34-22.2 Licensure with examination until February 12, 1999; master's degree of fewer than 45 semester hours or related bachelor's degree; 10 years of experience

(a) Until February 12, 1999, an individual who has completed a master's degree of fewer than 45 semester hours or a bachelor's degree which meets the educational requirements as set forth below, acquired ten years of experience as set forth below, and who has successfully completed the Certified Rehabilitation Counselor Examination administered by the CRCC may qualify for licensure as a rehabilitation counselor upon submission of the following on forms provided by the Committee:

1. A completed application form, which requests information concerning the applicant's educational and experiential background;

2. The application fee set forth in N.J.A.C. 13:34-26.1;

3. An affidavit indicating that the applicant has acquired at least 10 years of full time experience in the practice of rehabilitation counseling acceptable to the Committee which demonstrates that the applicant has engaged in appraisal, case management, consultation, rehabilitation counseling interventions, clinical assessment and evaluation of persons with disabilities, program evaluation, referral, rehabilitation counseling and research as defined in N.J.A.C. 13:34-20.2 during the last 15 years immediately preceding July 3, 1997 (including the name of the employer(s), the dates of the experience, and a detailed job description) which includes proof that the applicant has engaged in counseling individuals and/or groups for a minimum of 10,000 hours at the rate of a minimum of 1,000 hours during a 50-week period and covering 10 calendar years;

SUBCHAPTER 22. REHABILITATION COUNSELORS: LICENSURE UNTIL FEBRUARY 12, 1999

13:34-22.1 Licensure without examination until February 12, 1999; minimum of 45 graduate hours; five years of experience

(a) Until February 12, 1999, an individual who has completed a minimum of 45 graduate semester hours and acquired five years of experience as set forth below may apply for licensure without examination as a rehabilitation counselor upon submission of the following:

1. A completed application form, which requests information concerning the applicant's educational and experiential background;
2. The application fee set forth in N.J.A.C. 13:34-26.1;

4. An official transcript indicating that the applicant completed a master's degree of fewer than 45 semester hours or a bachelor's degree from a regionally accredited institution of higher education in subject matter that is primarily counseling as set forth in N.J.A.C. 13:34–11.3(a)2i through viii, or a related field in content including, but not limited to, the following degrees:

- i. Psychology;
- ii. Social work;
- iii. Marriage and family therapy;
- iv. Human development;
- v. Sociology;
- vi. Nursing;
- vii. Guidance and counseling;
- viii. Human services; and

5. Evidence that the applicant has passed the Certified Rehabilitation Counselor Examination administered by the CRCC.

1. Three calendar years, only one year of which may be obtained prior to the granting of the master's degree; or

2. Two calendar years, provided that the applicant has earned, subsequent to completing the master's degree, an additional 30 graduate semester hours clearly related to rehabilitation counseling as set forth in N.J.A.C. 13:34–21.2(a)1 through 10. Of the required two years of supervised experience, only one year may be obtained prior to the granting of the master's degree.

13:34–23.2 Responsibilities of supervisor

(a) A supervisor shall obtain Committee approval before engaging in a supervisory relationship.

(b) A supervisor seeking Committee approval shall submit the following information on forms provided by the Committee:

1. Proof of qualification to act as a supervisor pursuant to N.J.A.C. 13:34–23.4; and

2. A written statement detailing the planned hours of supervised time, planned hours of practice required for the candidate to qualify for licensure, and the nature of the work assignments planned.

(c) Prior to a supervisee's commencement of client treatment, the supervisor shall obtain a written disclosure, which shall be signed by the client and retained as part of the client record, acknowledging that the client has been informed that services are to be rendered by a supervisee under the supervision of a rehabilitation counselor or a physician practicing rehabilitation medicine. If the written disclosure is included as part of another document provided for the client's information, the disclosure shall be set forth in a conspicuous manner so that it will be easily readable, clearly understood, signed by the client, and retained as part of the client record.

(d) A supervisor shall retain full professional responsibility for collecting fees from clients.

(e) A supervisor shall be ultimately responsible for the welfare of the client with respect to the treatment being rendered by the supervisee.

(f) The supervisor shall ensure that the supervisee maintains, on an annual basis until the supervisee is licensed as a rehabilitation counselor, documentation of supervised experience, using forms provided by the Committee for that purpose. The supervisor shall attest to compliance with the standards set forth in (a) above and shall indicate the hours and dates during which the supervisee has been under direct supervision, the nature of the cases assigned, and the proficiency rating earned by the supervisee.

(g) A supervisor shall supervise only in areas for which he or she possesses the requisite skills, training and experience.

SUBCHAPTER 23. REHABILITATION COUNSELORS: SUPERVISION

13:34–23.1 Definitions; supervised experience required for licensure

(a) For purposes of this subchapter, the following words and terms shall have the following meanings:

“Group supervision” means the process of supervising no more than six persons in a group setting by a qualified supervisor as set forth in N.J.A.C. 13:34–23.4.

“One calendar year” means at least 1,500 hours over a 50 week period.

“Rehabilitation counseling experience” means rehabilitation counseling practice or the provision of rehabilitation counseling education.

“Supervision” means the ongoing process performed by a supervisor who monitors the performance of the person supervised and provides regular, documented face-to-face consultation, guidance and instruction with respect to the counseling skills and competencies of the person supervised. Supervision shall include at least 50 hours of face-to-face supervision per year, a minimum of one hour per week, not more than 10 hours of which may be group supervision.

(b) An applicant for a licensure as a rehabilitation counselor shall be required to document full time, supervised rehabilitation counseling experience in a rehabilitation counseling setting for either:

(h) A supervisor shall not supervise an individual with whom the supervisor has a relationship that may compromise the objectivity of the supervisor or impair the professional judgment of the supervisor. Examples of inappropriate supervisory relationships include, but are not limited to, current and former clients, relatives, current students, current and former employees or close friends.

13:34-23.3 Responsibilities of supervisee

(a) The supervisee shall maintain documentation of supervised experience for each 50 week period of supervised experience until the supervisee is licensed as a rehabilitation counselor.

(b) A supervisee shall not engage in practice under supervision in any area for which the supervisee has not had appropriate education and training.

(c) A supervisee shall not engage in unsupervised or independent practice.

(d) A supervisee shall not receive a professional fee from a client. A supervisee may be compensated only through the supervisor or employing entity.

(e) A supervisee shall not advertise professional services.

13:34-23.4 Permissible supervisor

(a) A permissible supervisor shall include a rehabilitation counselor, a licensed physician practicing in the field of rehabilitation medicine, or any other supervisor acceptable to the Committee.

SUBCHAPTER 24. CONTINUING EDUCATION

Authority

N.J.S.A. 45:8B-13 and 45:8B-45.

Source and Effective Date

R.2003 d.191, effective May 5, 2003.
See: 34 N.J.R. 3686(a), 35 N.J.R. 1934(a).

13:34-24.1 License renewal and continuing education requirement

All licensed rehabilitation counselors shall complete 40 contact hours of continuing education for license renewal. The licensed rehabilitation counselor shall confirm on the renewal application that the licensee has completed all continuing education requirements pursuant to N.J.A.C. 13:34-24.1 and 24.2 during the biennial period preceding application for renewal. Except as set forth in N.J.A.C. 13:34-24.2, a rehabilitation counselor applying for renewal for the first renewal period following May 5, 2003 shall complete a minimum of 40 contact hours during that renewal period.

13:34-24.2 Contact-hour requirements for licensed rehabilitation counselors

(a) A rehabilitation counselor shall not be required to obtain continuing education contact hours required by N.J.A.C. 13:34-24.1 during the period of initial licensure prior to the rehabilitation counselor's first biennial renewal period, but shall be subject to the requirements of N.J.A.C. 13:34-24.1 for all subsequent biennial renewal periods.

(b) A licensed rehabilitation counselor shall complete at least five of the 40 contact hours in ethical and legal standards in the rehabilitation counseling profession regardless of the number of contact hours accrued during the biennial period.

(c) If the licensed rehabilitation counselor earns more than 40 contact hours during a biennial period, the rehabilitation counselor may carry a maximum of 10 contact hours into the next succeeding biennial period.

13:34-24.3 Approval of courses or programs

(a) The following are acceptable sources of continuing education courses, programs and articles as long as the courses, programs or articles fall within the content areas set forth in (c) below or are directly related to rehabilitation counseling:

1. Courses or programs approved by the National Board for Certified Counselors; the American Counseling Association; the American Psychological Association; the American Psychiatric Association; the National Association of Social Workers; the American Association for Marriage and Family Therapy; the Commission on Rehabilitation Counselors Certification; the American Orthopsychiatric Association; the American Medical Association; the American Nursing Association; the National Association of Alcoholism and Drug Abuse Counselors; and the member boards of the International Certification and Reciprocity Consortium/Alcohol and Other Drug Abuse, Inc.; or the Commission on Certification of Work Adjustment and Vocational Evaluation Specialists;

2. Teaching or completing graduate coursework at a regionally accredited institution of higher education;

3. Authoring a refereed article published in a professional journal within the preceding biennial period; and

4. Presentation of a course or program approved by one of the organizations listed at N.J.A.C. 13:34-24.3(a)1.

(b) Prior to seeking approval of continuing education credit from the Committee for attending or presenting a course or program that has not been approved by any of the organizations listed in (a)1 above, the rehabilitation counselor shall first apply to and obtain approval from one of the listed organizations.

(c) The following are acceptable content areas for continuing education:

1. Counseling practices, theories and techniques;
2. Personality theories;
3. Psychosocial aspects of disability;
4. Medical aspects of disability;
5. Evaluation and assessment;
6. Vocational aspects of disability;
7. Rehabilitation case management;
8. Research methods;
9. Practicums or internships; or
10. Ethical and legal standards in the rehabilitation counseling profession.

13:34–24.4 Continuing education credits and contact-hour calculation

(a) The Committee shall grant credit only for continuing education courses and programs that are at least one contact hour long and are directly related to rehabilitation counseling practice. For purposes of this subchapter, a “contact hour” means a 60-minute clock hour with no less than 50 minutes of content within the hour. Courses and programs may include one 10-minute break for each contact hour.

(b) A rehabilitation counselor shall complete and be able to verify the completion of a continuing education course, program or article as set forth in N.J.A.C. 13:34–24.3 in order to receive continuing education credit. The Committee shall grant a rehabilitation counselor continuing education credit for each biennial renewal period as follows:

1. Completing graduate coursework at a regionally accredited institution of higher education: 15 continuing education contact hours for each semester course credit awarded beyond the required educational standards which the rehabilitation counselor must complete for licensure as set forth in N.J.A.C. 13:34–21.2;
2. Teaching graduate courses offered at a regionally accredited institution of higher education: 15 continuing education contact hours for each semester course credit awarded for each new course which a rehabilitation counselor teaches. For the purposes of this subsection, “new” means a course that the rehabilitation counselor has not taught previously in any educational setting;
3. A refereed article published in a professional journal within the preceding biennial period: four continuing education contact hours per article with a maximum of eight contact hours per biennial period; and

4. Course or program presentation: one and one-half continuing education contact hours for each hour of a new offering up to a maximum of nine continuing education contact hours. For the purposes of this subsection, “new” means a course or program that the rehabilitation counselor has not previously presented.

13:34–24.5 Documentation of continuing education credit

(a) A rehabilitation counselor shall retain documentation of the continuing education hours which the rehabilitation counselor completes in order to verify program attendance or activity completion. Each rehabilitation counselor shall submit such documentation to the Committee upon its request. The Committee may periodically audit the records of rehabilitation counselors, on a random basis, to determine compliance with continuing education requirements of this subchapter.

(b) A rehabilitation counselor shall verify attendance at continuing education courses or programs by a certificate of attendance or by a statement from the course or program instructor. The verification shall include the name of the licensee, the name of the sponsor, the title, location and date of the course or program, the signature of a program official and the number of continuing education hours awarded.

(c) A rehabilitation counselor shall verify continuing education activities by retaining the following:

1. For publications, a copy of the published article;
2. For course or program presentations, copies of the program, syllabus, outlines and bibliographies;
3. For teaching, copies of the syllabus, bibliography, course outline and verification from the academic institution that the course was “new” as defined by N.J.A.C. 13:34–24.4(b)2; and
4. For graduate coursework, an official transcript.

(d) A rehabilitation counselor shall maintain verification documentation for five years following the renewal period for which the Committee has granted the rehabilitation counselor continuing education credit.

(e) Falsification of any information submitted with the renewal application or failure to meet the continuing education requirements may result in the Committee taking appropriate disciplinary measures, including suspension of license, pursuant to N.J.S.A. 45:1–21.

(f) The Committee may reject any continuing education contact hours claimed for continuing education credit that are not relevant to the practice of rehabilitation counseling in the State of New Jersey.

13:34-24.6 Waiver of continuing education requirements

(a) The Committee may waive continuing education requirements on an individual basis for reasons of hardship such as illness, disability, active service in the military or other good cause as established by the rehabilitation counselor.

(b) A rehabilitation counselor who seeks a waiver of the continuing education requirements shall provide to the Committee, in writing, the specific reasons for requesting the waiver and such additional documentation as the Committee may request in support of the waiver.

SUBCHAPTER 25. (RESERVED)

SUBCHAPTER 26. FEES

13:34-26.1 Fees

(a) The State Board of Marriage and Family Therapy Examiners shall charge the following fees in connection with the licensure of rehabilitation counselors:

- 1. Application fee \$75.00
- 2. Initial license fee:
 - i. Rehabilitation counselor:
 - (1) During the first year of a biennial renewal period \$250.00
 - (2) During the second year of a biennial renewal period \$125.00
- 3. Biennial renewal:
 - i. Rehabilitation counselor \$250.00
- 4. Late fee \$100.00
- 5. Reinstatement Fee \$150.00
- 6. Duplicate wall certificate \$40.00
- 7. Change of address \$25.00
- 8. Verification of licensure \$40.00

Amended by R.1998 d.272, effective June 1, 1998.
See: 30 N.J.R. 794(a), 30 N.J.R. 2050(a).

In (a), substituted dollar amounts for reserved fees in 2 and 3.
Amended by R.2002 d.216, effective July 1, 2002.
See: 34 N.J.R. 210(a), 34 N.J.R. 2318(a).

In (a), decreased fees in 2 and 3.

SUBCHAPTER 27. REHABILITATION
COUNSELORS: CLIENT RECORDS;
CONFIDENTIALITY

13:34-27.1 Preparation and maintenance of client records

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

(c) The licensee shall include in the client record material pertinent to the nature and extent of the professional interaction, for example:

- 1. The client name, address and telephone number;
- 2. The client complaint on intake;
- 3. Medical history recognized as of potential significance;
- 4. Past and current medications;
- 5. Significant social history;
- 6. Findings on appropriate examination;
- 7. Raw data and interpretation of tests administered;
- 8. Current functional impairments and rating levels thereof;
- 9. A diagnostic impression;
- 10. Contemporaneous and dated progress or session notes including specific components of treatment, evaluation or consultation;
- 11. Dates of all treatment, evaluation or consultation sessions;
- 12. The location of treatment, evaluation or consultation;
- 13. An evaluation of progress (if applicable);

14. A prognosis;
15. The client identity on each page;
16. Fees charged and paid;
17. The identity of each provider of treatment, evaluation or consultation (and supervisor, if any);
18. If services are rendered by a supervisee, the written disclosure form signed by the client; and
19. Information regarding referrals to other professionals.

(d) The client record shall contain the written disclosure form required pursuant to N.J.A.C. 13:34–23.2(b), and reports and records provided by other professionals and integrated into the client’s treatment, evaluation or consultation report.

(e) A licensee may make corrections or additions to an existing record provided that each change is clearly identified as such, dated and initialed by the licensee. Any other alteration of records shall be deemed professional misconduct.

(f) When records are to be maintained as confidential, the licensee shall establish and maintain a procedure to protect such records from access by unauthorized persons.

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

(h) The licensee shall establish procedures for maintaining the confidentiality of client records in the event of the licensee’s relocation, retirement or death and shall establish reasonable procedures to assure the preservation of client records in the event of the licensee’s separation from a group practice.

(i) Subsections (f) through (h) above shall not apply to a licensee employed in an agency setting which does not, by agency policy, have control over client records.

13:34–27.2 Use of personal or other computer to prepare client records

(a) A licensee who prepares a client record maintained solely on a personal or other computer shall use a write-protected program which:

1. Contains an internal permanently activated date and time recordation for all entries;
2. Automatically prepares a back-up copy of the file; and
3. Is designed in such manner that, after the licensee “signs” by means of a confidential personal code (“CPC”), the entry cannot be changed in any manner.

(b) Notwithstanding the permanent status of a prior entry, the licensee may make a new entry at any time and may indicate correction to a prior entry.

(c) The licensee shall include in the client record at least two forms of identification; for example, name and record number or any other specific identifying information.

(d) The licensee shall finalize or “sign” the entry by means of a CPC. Where more than one individual is authorized to make entries into the computer file of any client record, the licensee responsible for the practice shall assure that each person obtains a CPC and uses the program in the same manner.

(e) A licensee wishing to continue a system of computerized client records which does not meet the requirements of this section shall initiate arrangements for modification of the system, which must be completed by February 17, 2000. In the interim, the licensee shall, on the date of the first treatment of each client subsequent to February 17, 2000 print out a hard copy of the entire computer recorded client record. The printout shall be dated and initialed by the licensee. Thereafter, a hard copy shall be prepared for each subsequent visit, continuing to the date of the change-over of computer program, with each page initialed by the licensee. The initial printout and the subsequent hard copies shall be retained as a permanent part of the client record.

13:34–27.3 Access to copy of client record

(a) For purposes of this section, “authorized representative” means, but is not necessarily limited to, a person designated by the client or a court to exercise rights under this section. An authorized representative may be the client’s attorney or an agent of a third party payor with whom the client has a contract which provides that the third party payor be given access to records to assess a claim for monetary damages or reimbursement. If the client is a minor, a parent or guardian who has custody (whether sole or joint) shall be deemed to be an authorized representative.

(b) A licensee may require the record request to be in writing. The licensee shall provide a copy of the client record and/or billing records, including reports relating to the client, no later than 30 days from receipt of a request from a client or duly authorized representative. Limitations on this requirement are set forth in (g) and (h) below and in N.J.A.C. 13:34–27.5.

(c) Unless otherwise required by law, the licensee may elect to provide a summary of the record, as long as the summary adequately and accurately reflects the client’s history and treatment.

(d) A licensee may charge a reasonable fee for the preparation of a summary and reproduction of records, which shall be no greater than an amount reasonably calculated to recoup the costs of transcription or copying.

(e) The licensee's obligation hereunder to release information shall include the obligation to complete forms or reports required for third party reimbursement of client treatment expenses. The licensee may charge reasonable fees for completion of reports other than health insurance claim forms, for which no fee may be charged pursuant to N.J.S.A. 45:1-12.

(f) When a request is made for release of already completed reports to enable the client to receive ongoing care by another practitioner, or for use in judicial proceedings, the licensee shall not require prior payment for the professional services to which such reports relate as a condition for making such reports available. A licensee may, however, require advance payment for a report prepared for the licensee's services as an expert witness.

(g) A licensee may withhold information contained in the client record or the client's guardian if in the reasonable exercise of his or her professional judgment, the licensee believes release of such information would adversely affect the client's health or welfare. That record or the summary, with an accompanying explanation of the reasons for the original refusal, shall nevertheless be provided upon request of and directly to:

1. The client's attorney;
2. Another licensed health care professional; or
3. The client's health insurance carrier.

(h) A licensee shall not be required to release to a minor client's parent or guardian records or information relating to the minor's sexually transmitted disease, termination of pregnancy or substance abuse.

13:34-27.4 Access by a managed health care plan to information in client record

(a) With regard to a client whose treatment cost is covered by a wholly insured health insurance plan or a managed health care plan, a licensee shall make all required information available upon the request of the client or duly authorized representative with the client's consent.

(b) A licensee whose client has explicitly waived the counselor-client confidentiality privilege established by N.J.S.A. 45:8B-49 may release requested information deemed professionally appropriate to a third-party payor whose benefit plan is qualified under the Federal Employee Retirement Income Security Act (ERISA); that is, the plan of a self-insured employer or an entity providing administrative services to that employer for the purposes of determining entitlement to benefits.

13:34-27.5 Confidentiality

(a) Any communication between a rehabilitation counselor and the person or persons counseled while performing counseling shall be confidential and its secrecy preserved.

(b) The privilege set forth in (a) above shall not be subject to waiver except in the following circumstances:

1. When disclosure is required by State law including, but not limited to, N.J.S.A. 2A:62A-16, 2A:62A-17 and 9:6-8.10; or
2. When the rehabilitation counselor is a party defendant to a civil, criminal or disciplinary action arising from that counseling, in which case the waiver of the privilege shall be limited to that action.

SUBCHAPTER 28. REHABILITATION COUNSELORS: GENERAL OBLIGATIONS OF A LICENSEE

13:34-28.1 Posting of practice authorization and notification of availability of fee information

(a) All licensees, whether in an agency setting or conducting independent practice, shall ensure that the following notices are prominently displayed in a waiting room or other area where they will be visible to the licensee's clients:

1. Rehabilitation counselors are licensed by the Board of Marriage and Family Therapy Examiners, Professional Counselor Examiners Committee, an agency of the Division of Consumer Affairs. Any member of the consuming public may notify the Committee of any complaint relative to the practice conducted by a rehabilitation counselor. The Committee's address is: Division of Consumer Affairs, Professional Counselor Examiners Committee, PO Box 45007, 124 Halsey Street, Newark, New Jersey 07101.

2. "INFORMATION ON PROFESSIONAL FEES IS AVAILABLE TO YOU ON REQUEST."

13:34-28.2 Notification of change of address; service of process

(a) Each licensee shall notify the Committee, in writing, within 30 days of any change in address on file with the Committee and shall specify whether the address is a residence or employment address.

(b) Service of an administrative complaint or other process initiated by the Board, the Committee, the Attorney General or the Division of Consumer Affairs at the address on file with the Committee shall be deemed adequate notice for the commencement of any inquiry or disciplinary proceeding.

(c) Each licensee shall, within 30 days of receiving a notice of disciplinary action taken against the licensee in another jurisdiction, report such action to the Board in writing.

13:34-28.3 Sexual misconduct

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

“Client” means any person who is the recipient of a rehabilitation counseling service rendered by a licensee. “Client” for purposes of this section also means a person who is the subject of professional assessment even if the purpose of that assessment is unrelated to treatment.

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

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

(b) A licensee shall not engage in sexual contact with a current client, a former client to whom rehabilitation counseling services were rendered within the immediately preceding 24 months, a current student, a current direct supervisee, or a current research subject.

(c) In circumstances where a client is, or should be recognized by the licensee as, clearly vulnerable by reason of emotional or cognitive disorder to exploitive influence by the licensee, the prohibition on sexual contact shall extend indefinitely.

(d) A licensee shall not engage in sexual harassment in a professional setting (including, but not limited to, an office,

hospital or health care facility) or outside of the professional setting.

(e) A licensee shall not accept as a client a current or former sexual partner.

(f) A licensee shall not conduct or engage in therapy groups, activities which promote, allow, or involve physical contact of a sexual nature between the licensee and group members or between group members themselves.

(g) A licensee shall not engage in any discussion of an intimate sexual nature with a client, unless that discussion is directly related to legitimate client needs and furthers the client’s rehabilitation counseling treatment. At no time shall any such discussions include disclosure by the licensee to the client of his or her own intimate sexual relations or relationships.

(h) A licensee shall not engage in any other activity in a rehabilitation counseling relationship which would lead a reasonable person to believe that the activity serves the licensee’s personal prurient interests or is for the sexual arousal, sexual gratification, or sexual abuse of the licensee or client.

(i) A licensee shall not seek or solicit sexual contact with a current client, a former client to whom counseling services were rendered within the immediately preceding 24 months, a current student, a current direct supervisee, or a current research subject and shall not seek, solicit, accept, or participate in sexual contact with any person in exchange for professional services.

(j) Violation of any of the prohibitions or directives set forth in (b) through (i) above shall be deemed to constitute gross or repeated malpractice pursuant to N.J.S.A. 45:1-21(c) and (d) respectively, or professional misconduct pursuant to N.J.S.A. 45:1-21(e).

(k) It shall not be a defense to any action under this section that:

1. The client, former client, student, supervisee, or research subject solicited or consented to sexual contact with the licensee; or

2. The licensee was in love with or had affection for the client, former client, student, supervisee or research subject.

New Rule, R.2002 d.237, effective July 15, 2002.
See: 33 N.J.R. 4062(a), 34 N.J.R. 2461(a).