

CHAPTER 42

BOARD OF PSYCHOLOGICAL EXAMINERS

Authority

N.J.S.A. 45:14B-13, 44 and 45.

Source and Effective Date

R.1993 d.547, effective November 1, 1993. See: 25 N.J.R. 3062(a), 25 N.J.R. 4937(a).

Executive Order No. 66(1978) Expiration Date

Chapter 42, Board of Psychological Examiners, expires on November 1, 1998.

Chapter Historical Note

All provisions of this chapter became effective October 20, 1975 as R.1975 d.310. See: 7 N.J.R. 510(a).

1977 Revisions: Amendments became effective May 11, 1977 as R.1977 d.165. See: 9 N.J.R. 128(b), 9 N.J.R. 290(c).

1978 Revisions: Amendments became effective June 9, 1978 as R.1978 d.192. See: 10 N.J.R. 70(b), 10 N.J.R. 295(c).

1979 Revisions: Subchapters 2 through 5 and amendments became effective January 17, 1979 as R.1979 d.24. See: 10 N.J.R. 505(a), 11 N.J.R. 78(d).

1983 Revisions: This chapter was readopted pursuant to Executive Order 66(1978) effective November 3, 1983 as R.1983 d.543. See: 15 N.J.R. 1497(a), 15 N.J.R. 1947(b). Further amendments and repeal of Subchapter 5 (Advertising) became effective November 21, 1983 as R.1983 d.543. See: 15 N.J.R. 1497(a), 15 N.J.R. 1947(b).

1985 Revisions: Amendments became effective December 2, 1985 as R.1985 d.621. See: 17 N.J.R. 896(a), 17 N.J.R. 2909(a).

1986 Revisions: Recodification of Subchapter 6 to Subchapter 5 and new rules for Subchapter 6 became effective October 20, 1986 as R.1986 d.438. See: 18 N.J.R. 817(a), 18 N.J.R. 2129(a).

1988 Revisions: Amendments to section 1.3 became effective January 4, 1988 as R.1988 d.12. See: 19 N.J.R. 1632(a), 20 N.J.R. 102(b). Amendments to sections 1.1 and 3.1 became effective February 16, 1988 as R.1988 d.82. See: 19 N.J.R. 2246(a), 20 N.J.R. 404(a). Chapter 42 was readopted pursuant to Executive Order 66(1978) effective October 31, 1988, with amendments effective December 5, 1988 as R.1988 d.557. See: 20 N.J.R. 2244(c), 20 N.J.R. 3023(a).

The fee schedule was subsequently amended by R.1989 d.467, effective September 5, 1989, and by R.1991 d.312, effective June 17, 1991. See: 21 N.J.R. 1649(a), 21 N.J.R. 2801(b); 23 N.J.R. 980(a), 23 N.J.R. 1960(a). Pursuant to Executive Order No. 66(1978), Chapter 42 expired on October 31, 1993. New rules of the Board of Psychological Examiners were adopted as R.1993 d.547. See: Source and Effective Date.

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

13:42-1.1 Scope of practice

(a) The scope of practice of a licensed psychologist includes, but is not limited to, the use or advertisement of the use of theories, principles, procedures, techniques or devices of psychology, whether or not for a fee or other recompense. Psychological services include, but are not limited to:

1. Psychological assessment of a person or group including, but not limited to: administration or interpretation of psychological tests and devices for the purpose of educational placement, job placement, job suitability, personality evaluation, intelligence, psychodiagnosis, treatment planning and disposition; career and vocational planning and development; personal development; management development; institutional placements; and assessments in connection with legal proceedings and the actions of governmental agencies including, but not limited to, cases involving education, divorce, child custody, disability issues and criminal matters;

2. Psychological intervention or consultation in the form of verbal, behavioral or written interaction to promote optimal development or growth or to ameliorate personality disturbances or maladjustments of an individual or group. Psychological intervention includes, but is not limited to, individual, couples, group and family psychotherapy, and psychological consultation includes consultation to or for private individuals, groups and organizations and to or for governmental agencies, police and any level of the judicial system;

3. Use of psychological principles, which are operating assumptions derived from the theories of psychology that include, but are not limited to: personality, motivation, learning and behavior systems, psychophysiological psychology including biofeedback, neuropsychology, cognitive psychology and psychological measurement; and

4. Use of psychological procedures, which are applications employing the principles of psychology and associated techniques, instruments and devices. These procedures include, but are not limited to, psychological interviews, counseling, psychotherapy, hypnotherapy, biofeedback, and psychological assessments.

13:42-1.2 Persons requiring licensure

(a) Persons requiring licensure include all those whose conduct is within the scope of practice set forth in N.J.A.C. 13:42-1.1 and whose practice is not otherwise exempt pursuant to N.J.S.A. 45:14B-6, N.J.S.A. 45:14B-8 and N.J.A.C. 13:42-1.3 through 1.5, including the following:

1. Persons offering services to the public in private practice, in partnership with other licensed health care professionals, in professional service corporations as shareholders or employees, and in or affiliated with all forms of managed health care organizations (for example, HMO, PPO, IPA, etc.);

2. Employees of general business corporations to the extent such practice is permitted pursuant to N.J.A.C. 13:42-7.5; and

3. (Reserved)

Amended by R.1995 d.332, effective June 19, 1995.
See: 26 N.J.R. 4738(a), 27 N.J.R. 2422(a).

13:42-1.3 Employment by a non-profit bona fide community organization; exemption from licensure

(a) Pursuant to N.J.S.A. 45:14B-6(a)3, a psychologist employee of a non-profit organization which is a bona fide community agency supported wholly or in major part by public funds is exempted from licensure provided the employee is under the supervision of a supervisor authorized by law.

(b) For purposes of this section, the term "public funds" shall not mean payments by Medicare or Medicaid or other public or private insurance fund on behalf of an individual client to an individual provider (directly or through a professional service corporation) licensed by the Board.

(c) For purposes of this section, the term "non-profit bona fide community organization" shall mean:

1. An entity which is exempt from taxation pursuant to section 501 of the United States Internal Revenue Code and which meets one of the following definitions. The organization shall be:

i. A corporate entity or any community chest, fund or foundation organized and operated exclusively for religious or charitable purposes;

ii. A civic league or organization not organized for profit but operated exclusively for the promotion of social welfare; or

iii. A religious society devoted exclusively to charitable or religious purposes; or

2. An entity which has as its commitment the delivery of mental health services to clients who are amenable to those forms of psychological services customarily provided by the organization and which meets one of the following definitions:

i. The organization receives 50 percent or more of its funding in the form of public monies from a budget line or grant appropriated on a quarterly, twice-yearly, annual or other regular basis; or

ii. The organization has publicly and permanently committed itself to accepting, without numerical restriction, clients whose treatment shall be reimbursed either by Medicaid or Medicare or other public insurance program funding.

(d) Examples of organizations which may be considered bona fide non-profit community organizations under the definition set forth in (c)2 above include private or public non-psychiatric hospitals which are licensed by the New Jersey State Department of Health to provide health and medical care to the general public and which have a designated psychiatric unit.

(e) By July 19, 1995 or at the time employment of the unlicensed psychologist employee commences, whichever is

later, the exempt entity or exempt practitioner shall submit to the Board a notice specifying the following information:

1. The public commitment of the organization and the basis for exemption under this section;

2. The name of the New Jersey licensed psychologist(s) or psychiatrist(s) or other licensed mental health care practitioner authorized by law to render professional mental health services at the organization's facility; and

3. The name of each unlicensed psychologist employee who does or shall perform psychological services. The unlicensed psychologist employee shall not be an independent contractor.

(f) The exempt entity may submit notice on behalf of the employee(s), and a single annual notice in January of each year shall suffice to retain the exemption for that year. The exempt entity shall update the notice as necessary, and the Board will acknowledge receipt of each notice.

(g) Exemption shall be conditioned upon the employing organization continuing to meet the criteria of this section and N.J.S.A. 45:14B-6 as it may be affected by other applicable law.

New Rule, R.1995 d.332, effective June 19, 1995.
See: 26 N.J.R. 4738(a), 27 N.J.R. 2422(a).

13:42-1.4 Student of psychology; exemption from licensure

(a) For purposes of this section, "student of psychology" means a person who is presently registered at a regionally accredited institution and there matriculated into a graduate program of study leading toward a doctoral degree in psychology or an allied field.

(b) A student of psychology may be exempt from licensure under the Act provided that the student is under the supervision of an authorized supervisor as set forth in N.J.A.C. 13:42-4.2.

(c) The student's authorized supervisor shall be responsible for ensuring that:

1. The student's participation in the training program is a requirement of the graduate psychology program;

2. The student's transcript (or previous transcripts accepted by the degree-granting college or university as specifically supportive of the present graduate program leading toward the graduate degree) reflects prior academic training specific to the duties assigned to the student; and

3. The student is clearly identified as a student intern or extern prior to engaging in psychological practice.

13:42-1.5 Member of other professional group doing work of psychological nature; exemption from licensure

(a) The following individuals, who do work of a psychological nature consistent with the accepted standards of their respective professions, are exempt from licensure under the Practicing Psychology Licensing Act provided they do not hold themselves out to the public by any title or description stating or implying that such person is a psychologist or is licensed to practice psychology:

1. A licensed allopathic or osteopathic physician;
2. A licensed optometrist;
3. A licensed chiropractor;
4. A member of the clergy or pastoral counselor directly affiliated with a recognized ministry and employed by that ministry to provide psychological services;
5. A licensed attorney at law;
6. A licensed social worker under the supervision of a duly licensed mental health professional;
7. A licensed clinical social worker;
8. A licensed registered nurse certified by the Society of Clinical Specialists in Psychiatric Nursing of the American Nurses Association;
9. A person employed by the Federal government and solely in a Federal installation;
10. An authorized practitioner as designated by a New Jersey court of competent jurisdiction to perform services which may be psychological in nature pursuant to Rule of Court 5:3-3;
11. A school psychologist or guidance counselor who is certified by the New Jersey State Department of Education and who is employed by, and whose services are rendered in or for, a public or private school. No exemption shall be permitted to any school psychologist/counselor not certified by a governmental department of the State of New Jersey and not employed in an exempt setting as set forth in N.J.A.C. 13:42-1.3 and N.J.S.A. 45:14B-6(a)1 and (b) unless otherwise authorized by law;
12. A professional counselor or associate counselor licensed pursuant to N.J.S.A. 45:8B-1 et seq., as amended by P.L. 1993, c.340;
13. A licensed marriage counselor;
14. A licensed occupational therapist;
15. A licensed physical therapist;
16. A career counselor registered pursuant to N.J.S.A. 34:8-65 et seq.; and

17. Any other category of practitioners specifically authorized by law to perform work of a psychological nature consistent with the accepted standards of their respective professions/occupations.

Amended by R.1995 d.332, effective June 19, 1995.
See: 27 N.J.R. 4738(a), 27 N.J.R. 2422(a).

13:42-1.6 Ineligibility for exemption

A person denied a permit or license for reasons other than clear educational deficiency, or whose permit or license has been suspended, revoked or limited by the Board, shall be deemed ineligible to be employed in an exempt setting as defined in or to qualify for practice under N.J.S.A. 45:14B-6 except by order of the Board.

SUBCHAPTER 2. INITIAL QUALIFICATIONS

13:42-2.1 Application; qualifications to sit for examination

(a) An applicant for licensure shall file with the Board an application together with all supporting material. The application form requests a brief summary of educational and employment experience. Supporting material required to be submitted with the application includes official transcripts; an abstract of the applicant's doctoral dissertation as published in Dissertation Abstracts International; and two certificates of good moral character. Documentation of two years of full time or full time equivalent supervised experience in the practice of psychology is required upon the applicant's completion of such experience.

(b) In order to be eligible to sit for the examination, an applicant shall have two years of full time or full time equivalent supervised experience in accordance with N.J.A.C. 13:42-4, and:

1. An earned doctorate, which meets the criteria set forth in (d) through (i) below, in the field of psychology from an educational institution recognized by the Board;
2. An earned doctorate, which meets the criteria set forth in (d) through (i) below, in a field allied to psychology; or
3. Equivalent training as set forth in N.J.A.C. 13:42-2.3.

(c) The institution at which the applicant earned his or her doctorate shall have been fully accredited during the entirety of the applicant's attendance by an accrediting body generally recognized within the national academic community. Alternatively, an educational institutional program shall have been granted continuous provisional accreditation by a recognized regional or national entity during the entirety of the applicant's attendance, with full accreditation having been awarded within five years of the candidate's graduation.

(d) No more than one-third of the doctoral credits shall have been transferred from other regionally/nationally accredited graduate schools.

(e) The doctoral degree must be based upon at least 40 doctoral credit hours earned specifically within the field of psychology and within a doctoral program requiring personal attendance at the degree-granting institution. Thirty-six of the required 40 credit hours shall be distributed across the following areas of graduate study:

1. Personality Theory and Human Development Theory: six credits;
2. Learning Theory and/or Physiological Psychology: six credits;
3. Psychological Measurement and Psychological Assessment: six credits;
4. Psychopathology: six credits;
5. Psychological therapy/counseling or Industrial/Organizational Psychology: six credits; and
6. Research and Statistical Design: six credits.

(f) The applicant shall submit evidence of an additional 20 credit hours, also specifically in the field of psychology, but which were not necessarily obtained as part of the doctoral program. The additional 20 credits can have been granted at a pre-doctoral or post-doctoral graduate level and must have been obtained as part of an educational program in a regionally accredited institution.

(g) If the Board finds the psychological nature of the dissertation or of any course submitted as fulfilling the requirements of this section to be questionable, the Board may, prior to making a determination, consult with the chairperson of the graduate department of psychology of the degree-granting institution and the chairperson of the graduate department in which the degree was earned, or with any other expert designated by the Board.

(h) The Board may, in its discretion, recognize up to six credits for a dissertation which is psychological in nature. The six credits may be used either to satisfy the requirement of having at least 40 doctoral credit hours specifically within the field of psychology and earned within a doctoral program, or to satisfy a credit deficiency in one or more of the required distribution areas of doctoral study.

(i) The Board may, in its discretion, accept up to nine credits, taken at a regionally accredited school or university, to remediate a deficiency in the requirements of (e) and (f) above.

Amended by R.1995 d.332, effective June 19, 1995.
See: 26 N.J.R. 4738(a), 27 N.J.R. 2422(a).

13:42-2.2 Academic degree in a field allied to psychology

(a) An applicant for licensure based on receipt of an earned doctoral degree in a field allied to psychology shall arrange for transmittal to the Board of an official copy of all undergraduate and graduate transcripts from a regionally and/or nationally accredited educational institution or one which is recognized by the New Jersey State Department of Higher Education and by the Board.

(b) The doctorate degree must meet the criteria set forth in N.J.A.C. 13:42-2.1(d) through (f), and the doctoral dissertation must be psychological in nature.

13:42-2.3 Equivalent training

(a) An applicant for licensure based on equivalent training shall submit evidence to the Board that the applicant has all of the following equivalent training:

1. An earned doctorate based upon a dissertation which is clearly psychological in nature from a regionally and/or nationally accredited educational institution or one which is recognized by the New Jersey State Department of Higher Education and by the Board; or, if the dissertation is not clearly psychological in nature, authorship of work in a refereed scholarly publication which work the Board deems to be clearly psychological in nature and equivalent to a dissertation; and
2. Extensive experience, subsequent to receipt of the earned doctorate and for at least the five years immediately preceding application, in the field of applied psychology. The applicant's work in the field of applied psychology must be generally accepted by the local and/or regional psychological community as meeting the standards of professional psychological practice and contributing substantially to that community; and
3. Substantial formal post-doctoral study in a training program accredited by a bona fide accrediting body acceptable to the Board.

SUBCHAPTER 3. TEMPORARY PERMITS

13:42-3.1 One-year permit

(a) The Board shall issue a numbered temporary permit for the unsupervised practice of psychology for a period not to exceed one year to a psychologist who:

1. Is licensed as a psychologist by written examination in another state;
2. Otherwise qualifies for licensure pursuant to the Practicing Psychology Licensing Act, N.J.S.A. 45:14B-1 et seq.;
3. Meets all requirements of New Jersey law other than passing of the oral examination in this State; and

4. Has had at least one year of active post-doctoral experience in the practice of applied psychology within the five years immediately preceding application.

(b) The Board shall issue a numbered temporary permit for the unsupervised practice of psychology for a period not to exceed one year to an individual who has not been licensed in any state while that individual is completing the requirements of the New Jersey examination process, provided the individual:

1. Has an earned doctorate in psychology or an allied field from a recognized educational institution;

2. Has completed the supervised experience required for licensure under the Act;

3. Otherwise qualifies for licensure pursuant to the Practicing Psychology Licensing Act, N.J.S.A. 45:14B-1 et seq.;

4. Meets all requirements of New Jersey law other than passing of the oral examination in this State; and

5. Has had at least one year of active post-doctoral experience in the practice of applied psychology in an exempt setting within the five years immediately preceding application.

(c) The Board shall issue a numbered temporary permit for the supervised practice of psychology for a period not to exceed one year to individuals who meet the qualifications of (a)1 through 3 or (b)1 through 4 above but who have not engaged in active practice for one year. Supervision shall be rendered consistent with the provisions of N.J.A.C. 13:42-4.

(d) The holder of a temporary permit pursuant to (a) above shall, within 45 days of issuance of the permit, submit to the Board a work sample for oral examination. Failure to meet this deadline may, upon notice to the permit holder, result in revocation of the permit.

(e) The holder of a temporary permit pursuant to (b) above shall, within 45 days of notification of successful completion of the written examination, submit to the Board a work sample for oral examination. Failure to meet this deadline may, upon notice to the permit holder, result in revocation of the permit.

(f) The holder of a temporary permit issued pursuant to (c) above shall, at least 90 days prior to the expiration of the permit, submit to the Board a work sample for oral examination. Failure to meet this deadline may, upon notice to the permit holder, result in revocation of the permit.

(g) The permit holder shall complete the examination process before the expiration of the permit.

(h) The permit holder shall assume only the number and kind of cases that can be readily transferred to a licensed psychologist in the event the permit holder fails the examination or has his or her permit suspended or revoked prior to the expiration of the one-year period.

(i) An individual granted permission to engage in temporary practice for one year by letter of the Board issued prior to commencement of the numbered permit system on November 1, 1993 may continue to practice pursuant to that authorization for the duration of the one-year period.

13:42-3.2 Three-year permit

(a) The Board shall issue a numbered temporary permit for the supervised practice of psychology for a period not to exceed three years to a qualified individual who meets all requirements for admission to the examination except the requisite number of hours of post-doctoral supervised experience.

(b) The permit holder shall practice only in accordance with the standards of supervised practice set forth in N.J.A.C. 13:42-4.

(c) The permit holder shall obtain the required supervised experience and successfully complete the written and oral examinations prior to the expiration of the permit.

(d) The permit holder shall undertake only the number and kind of cases that may be readily transferred to a licensed psychologist should the permit holder fail to obtain the required supervised experience, have his or her permit suspended or revoked, or fail to successfully complete the examination process prior to the expiration of the three-year period.

(e) An individual granted permission to engage in temporary supervised practice for three years by letter of the Board issued prior to commencement of the numbered permit system on November 1, 1993 may continue to practice pursuant to that authorization for the duration of the three-year period.

13:42-3.3 Limitation, suspension or revocation of permit by Board

(a) The Board may, upon notice to the permit holder limit, suspend or revoke the permit of an individual who fails the written or oral examination.

(b) The Board may, upon notice to the permit holder and the opportunity for a hearing in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, limit, suspend or revoke the permit of an individual who fails to properly discharge his or her responsibilities.

13:42-3.4 Extension of permit upon request of permit holder

(a) Upon the written request of a permit holder, the Board may, in its discretion, extend the temporary permit for good cause shown.

(b) The permit holder shall submit the request for extension, together with the required fee, no later than 30 days before expiration of the permit. The request shall include the reason for the extension.

(c) Extension of a permit may be conditioned upon the individual meeting the following requirements:

1. Immediate appearance by the permit holder, upon notice, before a committee of the Board to review the current caseload;
2. Acceptance of such limitations and conditions (for example, reduction of caseload, alterations in the supervisory arrangement, personal therapy, etc.) as the Board may deem necessary to promote competent psychological practice; and/or
3. Demonstration to the satisfaction of the Board that the welfare of the public is protected by extension of the permit, with appropriate limitations and conditions.

13:42-3.5 Return of permit

All temporary permits are the property of the Board. The holder of a temporary permit shall return the permit to the Board no later than 10 days after its expiration or within 10 days of notice of suspension or revocation of the permit.

SUBCHAPTER 4. SUPERVISION OF CANDIDATES FOR LICENSURE

13:42-4.1 Amount of supervision required

(a) An applicant for licensure shall be required to document at least two years of full time or full time equivalent supervised experience in the practice of psychology, at least one year of which shall have been completed subsequent to the applicant's receipt of his or her doctoral degree.

(b) The equivalent of one year of full time supervised experience shall be a minimum of 1,750 hours. The 1,750 hours shall include:

1. No more than 1,000 client contact hours;
2. At least 200 hours of supervision. At least 100 hours must be individual face-to-face supervision; the remaining 100 hours may be individual or group supervision. The ratio shall be one hour of supervision for each five hours of client contact per week; and

3. At least 550 hours in other work-related activities such as recordkeeping, consultations, report writing, etc.

13:42-4.2 Authorized supervisors

(a) Supervision shall be rendered by:

1. A psychologist licensed in New Jersey for at least two years; or
2. An individual who is clearly eligible for licensure. The Board shall deem an individual to be "eligible for licensure" for supervisory purposes only if the individual:
 - i. Possesses an earned doctorate in psychology or in a closely allied field granted by a recognized educational institution acceptable to the Board; or
 - ii. Is a psychiatrist who is board-certified in psychiatry or neurology; and
 - iii. Is licensed in the jurisdiction(s) in which such person practices (if so required by law); and
 - iv. Demonstrates two years of supervised practice in the delivery of psychological or psychotherapeutic services in a professional setting, or two years of substantial recent experience in the field of applied psychology.

(b) An applicant may receive no more than one-third of the required hours of supervision from a psychiatrist.

13:42-4.3 Responsibilities of applicant for three-year temporary permit

(a) An applicant for a three-year temporary permit shall have on file with the Board an application for licensure together with all required supporting material.

(b) The applicant shall request in writing the issuance of a temporary permit for the purpose of meeting the supervision requirement.

(c) A permit holder shall see only those clients assigned to the permit holder by the supervisor.

(d) A permit holder shall not set a professional fee or receive a professional fee from a client. A permit holder may be compensated only through the supervisor or employing entity as provided in N.J.A.C. 13:42-4.6.

(e) A permit holder shall limit client contact hours to a number reasonable for the educational purposes involved and shall, in any event, not exceed a total caseload of 20 clients or more than 20 client contact hours per week, or a total of 1,000 client contact hours per year.

(f) A permit holder shall not engage in unsupervised or independent practice.

(g) A permit holder shall be responsible for the supervisor's compliance with the requirements of N.J.A.C. 13:42-4.4(a) through (c).

(h) A permit holder shall include his or her permit number on any printed in-office representations of practice.

(i) A permit holder shall not advertise.

13:42-4.4 Responsibilities of supervisor

(a) A supervisor shall obtain prior Board approval and shall provide the Board with a letter stating that the supervisor has agreed to enter into a supervisory arrangement with the permit holder.

(b) A supervisor shall supervise no more than three permit holders at any one time, except for good cause shown and at the discretion of the Board.

(c) Every six months and at the completion of the supervision, the supervisor shall document the supervised experience on a form provided by the Board. The information to be supplied on the form includes the dates during which the permit holder was under supervision, the nature of the cases assigned, and the proficiency rating earned by the permit holder.

(d) A supervisor shall ensure that the permit holder has, at all times, a current and valid Board permit or other required authorization.

(e) A supervisor shall provide adequate and timely evaluations, as required by the work setting, to employees, permit holders, students and others whose work is being supervised.

(f) Prior to a permit holder's commencement of client treatment, the supervisor shall obtain a written disclosure form, which shall be signed by the client and retained as part of the client record, acknowledging that the client has been informed that:

1. Services are to be rendered by a permit holder who is not a licensed psychologist; and
2. Third party payors may not necessarily reimburse services rendered by a person not licensed by this Board, notwithstanding supervision by a licensed psychologist.

(g) A supervisor shall retain full professional responsibility for setting fees, billing clients and collecting fees from clients consistent with the provisions of N.J.A.C. 13:42-10.10 and 10.11.

(h) A supervisor shall provide professional working conditions, constructive consultation and experience opportunities.

(i) A supervisor shall not condone or knowingly permit the permit holder to practice without supervision or independently.

(j) A supervisor shall not enter into supervisory arrangements involving a potential conflict of interest such as, but not limited to, arrangements with:

- i. Family members;
- ii. Those with whom the supervisor has close personal associations;
- iii. Those with whom the supervisor has financial relationships (such as creditor-debtor), other than as specifically permitted by N.J.A.C. 13:42-4.6; or
- iv. Those with whom the licensee has a therapist/client relationship.

13:42-4.5 Supervision of individuals exempt from licensure

(a) A psychologist may supervise services of a psychological nature rendered in:

1. A private practice setting by a health care professional exempt from licensure pursuant to N.J.S.A. 45:14B-8; and
2. An exempt non-profit bona fide community organization as defined in N.J.A.C. 13:42-1.3.

(b) The supervisor shall ensure that the exempt supervisee complies with all Board regulatory requirements (including preparation of client records) and with accepted standards of professional and ethical practice of the exempt agency or exempt health care professional.

New Rule, R.1995 d.332, effective June 19, 1995.
See: 26 N.J.R. 4738(a), 27 N.J.R. 2422(a).

13:42-4.6 Financial arrangements between supervisor and supervisee

(a) The supervisor may segregate fees received from clients being treated by the supervisee in recognition of the fact that fees charged to such clients shall be less than the usual, reasonable and customary fees charged by the supervisor to his or her own clients.

(b) Financial arrangements between the supervisor and supervisee shall be reasonable and may take into account the special teaching arrangement which forms the context of the relationship. For example, the supervisor may:

1. Designate the supervisee as an "independent contractor under supervision," if permitted by tax authorities;
2. Designate the supervisee as a part-time employee; or
3. Agree to pay the supervisee the entirety of the client fees charged by the supervisor.

(c) The supervisor shall charge the supervisee separately, if at all, for the supervision itself or for ancillary costs such as rent for use of premises, equipment, malpractice insurance, etc.

Recodified from 13:42-4.5 by R.1995 d.332, effective June 19, 1995.

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

SUBCHAPTER 5. EXAMINATION

13:42-5.1 Board-approved written examination; oral examination

(a) A candidate who has been admitted to sit for examination shall take the Examination for Professional Practice in Psychology sponsored by the American Association of State Psychology Boards. A satisfactory score is defined minimally as one standard deviation below the national mean of all doctoral level candidates taking the examination on a given date.

(b) A candidate who passes the written examination shall then take an oral examination of his or her professional practice based on a work sample in accord with guidelines to be supplied to the candidate by the Board and as follows:

1. The candidate shall, within 45 days of notification of successful completion of the written examination, present a current work sample representative of the candidate's present practice. For the purposes of this rule, "current" work sample is defined to mean a work sample either in progress or completed no more than one year prior to its submission for the oral examination. The dates of client service shall be specifically mentioned on the cover page. Exceptions may be granted for good cause shown.

2. The candidate shall identify the work sample by the area of the candidate's specialty.

3. The text of the work sample shall be typed and double spaced and shall not exceed 20 pages in length. All tests and protocols used as the basis for professional intervention shall be presented as appendices.

(c) The examiner(s) shall tape the oral examination for the purpose of creating a record. The candidate shall not tape the oral examination.

13:42-5.2 Examination review procedures

(a) A candidate who fails the written examination may request a handscoring of answer sheets, copy of individual answer sheet or role-feedback as available from the Professional Examination Service (PES). The candidate shall be responsible for payment of any fees required by the PES. The candidate's written request for review must reach the Board's Executive Director within 45 days of the date of the letter of notification of examination results.

(b) A candidate who fails the oral examination may request a review of his or her oral examination tape. The candidate's written request for review must reach the Board's Executive Director within 45 days of the date of the

letter of notification of examination results. The Executive Director will make the tape of the oral examination available to the candidate at the Board office on a mutually convenient date. Neither the candidate nor an agent of the candidate may tape the Board's copy of the oral examination tape during this or any review of the tape of the oral examination.

(c) Following review of the examination tape, a candidate who failed the oral examination may request reconsideration of the decision. The candidate's written request for reconsideration must reach the Board's Executive Director within 45 days of the date of the examination review. The request for reconsideration must be limited to no more than 5 8/16 inch by 11 inch sized pages, single spaced, with normal size type set and standard margins. Only one side of the page may be used.

(d) The Board shall grant a request for reconsideration only upon the candidate's showing of good cause establishing that the request is meritorious and made in good faith. Good cause for this purpose shall mean:

1. Proof of unusual circumstances surrounding the examination which adversely and significantly influenced the candidate's performance;

2. Proof that the scope of the examination conducted did not sufficiently address the candidate's professional work sample;

3. Proof of examiner bias against the candidate, the candidate's orientation or kind of work; or

4. Proof of a substantial and material error on the part of the examiners.

(e) If, upon review of the written request for reconsideration, the Board determines that the candidate has demonstrated good cause for reconsideration, the Board may designate a subcommittee to review the matter and make a recommendation to the Board after conducting such inquiry or investigation as the subcommittee deems necessary. The subcommittee shall subsequently present to the Board the following information in closed session: the basis for the request for reconsideration; the reasons advanced by the applicant for changing the Board's previous decision; and the subcommittee's recommendation to sustain, modify, overturn or vacate the Board's previous decision and the reasons for that recommendation.

(f) The Board shall promptly mail to the candidate a copy of the Board's final decision and supporting reasons.

(g) A transcript of the oral examination may be prepared by a shorthand reporter, at the candidate's expense, only if the transcript is required for appellate review by the Superior Court.

13:42-5.3 Out-of-State psychologists; admittance to oral examination

(a) An out-of-State psychologist shall be admitted to take the oral examination in New Jersey provided the individual can demonstrate to the satisfaction of the Board that he or she:

1. Has taken the Board-approved written examination in another state;
2. Has passed the examination at the minimum level established by the Board and in effect at the time of application; and
3. Meets all other requirements for licensure, including submission of a work sample as defined in N.J.A.C. 13:42-5.1(b).

(b) An out-of-State psychologist who can demonstrate proof of meeting all requirements for licensure other than the Board-approved written examination shall be admitted to take the oral examination in New Jersey provided the individual can demonstrate to the satisfaction of the Board completion of 20 years of licensed, responsible and competent practice in another state.

(c) The Board shall not recognize licensing examinations other than the Board-approved examination sponsored by an individual state or other entity, if completed subsequent to January 1, 1980.

13:42-5.4 License without examination

A psychologist who holds a diploma from the American Board of Professional Psychology awarded by examination, and who meets all other requirements of New Jersey law, shall be licensed following satisfactory completion of an oral interview with the Board or designated member(s) thereof.

13:42-5.5 Subversion of the licensing examination process

(a) Any individual found by the Board to have engaged in conduct which subverts or attempts to subvert the licensing examination process may, at the discretion of the Board, have his or her scores on the licensing examination withheld or declared invalid, be found ineligible for licensure, be disqualified from the practice of the pertinent profession, and/or be subject to the imposition of other appropriate sanctions pursuant to N.J.S.A. 45:1-22.

(b) Conduct which subverts or attempts to subvert the licensing examination process includes:

1. Conduct which violates the security of the examination materials, such as removing from the examination room any of the examination materials; taping, reproducing or reconstructing any portion of the licensing examination; aiding by any means in the reproduction or reconstruction of any portion of the licensing examination; or selling, distributing, buying, receiving or having unauthorized possession of any portion of a current or future licensing examination;

2. Conduct which violates the standard of test administration, such as communicating with any other examinee during the administration of the licensing examination; copying answers from another examinee or permitting one's answers to be copied by another examinee during the administration of the licensing examination; or having in one's possession during the administration of the licensing examination any copying or taping equipment, or any books, notes, written or printed materials or data of any kind, other than the examination materials distributed; or

3. Conduct which violates the credentialing process, such as falsifying or misrepresenting educational credentials or other information required for admission to the licensing examination, impersonating an examinee, or having an impersonator take the licensing examination on one's behalf.

13:42-5.6 Failure of examination; when retaking permitted

(a) The written examination may be retaken at any subsequent scheduled examination session provided that all applicable requirements have been satisfied.

(b) The oral examination may be retaken only as follows:

1. First reexamination no sooner than six months after the first examination;
2. Second reexamination no sooner than one year after the date of the first reexamination;
3. Successive reexamination no sooner than one year after the date of the previous reexamination and after having shown proof of meeting any additional professional training which the Board may require.

SUBCHAPTER 6. BOARD FEES**13:42-6.1 Board fees**

(a) Charges for examinations, licensure and other services are:

1. Application fee: \$100.00.
2. Examination fee: \$330.00 written, \$100.00 oral.
3. Initial license fee:
 - i. During the first year of a biennial license renewal period: \$210.00.
 - ii. During the second year of a biennial license renewal period: \$105.00.
4. License renewal fee, biennial: \$210.00.
5. Late renewal fee in addition to biennial renewal: \$50.00.

6. Reinstatement fee in addition to biennial renewal fee: \$150.00.

7. Temporary permit:

i. \$75.00 plus \$25.00 for each additional supervisor.

ii. Review of extension request for one-year and three-year permits, each: \$25.00.

8. Replacement wall certificate: \$50.00.

9. Verification of licensure: \$35.00.

10. Duplicate renewal certificate: \$25.00.

(b) It is the candidate's responsibility to see that all mandated fees reach the Board office as follows:

1. Application, examination, re-examination and reinstatement fees are required to initiate Board action in one's behalf.

2. An initial license fee is required upon notice of successful completion of candidacy and before issuance of a license.

3. A license renewal fee must reach the Board office by June 30 of the renewal year in order to avoid a late renewal fee.

4. A late renewal fee must reach the Board office by December 31st of the renewal year in order to avoid removal from the licensee lists and a reinstatement fee prior to reinstatement.

Amended by R.1994 d.22, effective January 3, 1994.
See: 25 N.J.R. 3929(a), 26 N.J.R. 249(a).

SUBCHAPTER 7. ACCEPTABLE PROFESSIONAL PRACTICE

13:42-7.1 Independent practice

(a) A licensee practicing independently may employ or otherwise remunerate the following individuals to render professional services only in circumstances where quality control of the employed practitioner's professional practice can be and is lawfully supervised and evaluated by the licensee:

1. Other licensed practitioners to render services within the scope of practice of each employee's license; and

2. Practitioners who are authorized to practice psychology under an exemption from licensure pursuant to N.J.A.C. 13:42-1.3.

(b) A licensee with a restricted scope of practice shall not employ a licensee or practitioner with an unrestricted license to practice psychology.

(c) A licensee may employ ancillary non-licensed staff, limited to:

1. Clerical staff;

2. Permit holders;

3. Biofeedback technicians, as defined in N.J.A.C. 13:42-7.3;

4. Neuropsychometric technicians, as defined in N.J.A.C. 13:42-7.4; and

5. A person engaged in the practice of alcohol, drug abuse or gambling intervention, prevention or treatment who is certified and providing such services in a private setting supervised by the licensee.

(d) Any additional types of employees other than those in (c) above may be employed within the professional practice only with the advance review and approval of the Board.

Amended by R.1995 d.332, effective June 19, 1995.
See: 26 N.J.R. 4738(a), 27 N.J.R. 2422(a).

13:42-7.2A (Reserved)

Repealed by R.1995 d.332, effective June 19, 1995.
See: 26 N.J.R. 4738(a), 27 N.J.R. 2422(a).
Section was "Affiliated practitioner".

13:42-7.3 Biofeedback; employer of biofeedback technician

(a) A licensed psychologist may perform or directly supervise the performance of appropriate biofeedback services in a clinical setting as a component of psychological services. Prior medical evaluation and supervision are not required for this psychological service.

(b) A licensed psychologist shall not diagnose, or offer to provide independent biofeedback treatment for a medical condition, a complaint of pain, or other significant physical symptom or condition that has not been medically evaluated. Following such evaluation, psychological biofeedback treatment may be offered in accordance with (a) above or (c) below.

(c) A licensed psychologist may, in a clinical setting, offer therapeutic or palliative biofeedback services in consultation with a licensed physician, as a component of an integrated psychological treatment program for a medically diagnosed condition reasonably believed to be amenable to such treatment.

(d) For purposes of this section, "biofeedback" means the application of bio-regulation procedures to the management of cognitive and physiological status. The feedback may encompass smooth muscle, striated muscle, cardiac muscle, brain wave, blood pressure, skin conduction and other physiological measures.

(e) For purposes of this section, "direct supervision" means that the licensee shall be constantly accessible, either

on-site or through electronic communication, and available to render assistance when required and that the licensee shall retain full professional responsibility for client care and treatment.

(f) A licensee with specialized training in biofeedback may employ a biofeedback technician on the office premises, as appropriate to the primary practice of the employer, only under the following circumstances:

1. The licensee shall provide instruction to the technician; ascertain that the technician has received education and training appropriate for the work assigned; ensure that the technician obtains continuing education credits consistent with standards in the field; and regularly direct, supervise and monitor the technician's work;
2. The licensee shall provide direct supervision to the technician, as defined in (e) above; and
3. The activities of the technician shall be limited to:
 - i. Operating machinery for monitoring feedback, including positioning of the monitoring equipment; and
 - ii. Providing instruction in the use of the machinery to the client.

Amended by R.1995 d.332, effective June 19, 1995.
See: 26 N.J.R. 4738(a), 27 N.J.R. 2422(a).

13:42-7.4 Employer of neuropsychometric technician

(a) For purposes of this section, "direct supervision" means that the licensee shall be constantly accessible, either on-site or through electronic communication, and available to render assistance when required and that the licensee shall retain full professional responsibility for client care and treatment.

(b) A licensee may employ a neuropsychometric technician as an assistant, for the purpose of administering certain classes of sensory, motor and other measures, only under the following circumstances:

1. The licensee shall provide instruction to the technician; ascertain that the technician has received education and training appropriate for the work assigned; ensure that the technician obtains continuing education credits consistent with standards in the field; and regularly direct, supervise and monitor the technician's work;
2. The licensee shall provide direct supervision to the technician, as defined in (a) above; and
3. The activities of the technician shall be limited to the administration of neuropsychological tests which have specific mechanical administration procedures and which do not require interpretation, querying of the examinees about individual items, or other judgments.

(c) The role of the technician is that of a paraprofessional assistant in test administration, and any deviation from that role shall be deemed the unauthorized practice of psychology.

(d) Specifically excluded from the scope of activities of the technician are administration of individual intelligence tests and projective techniques, which may be given only by a licensed practicing psychologist, a permit holder under supervision, or a person doing work of a psychological nature in an exempt setting.

13:42-7.5 Shareholder or employee of a general business corporation

(a) A licensee may offer health care services as an employee of a general business corporation in this State only in one or more of the following settings. Any such setting shall have a designated director of psychological services or a medical director licensed in this State who is regularly on the premises and who (alone or with other persons authorized by the Department of Health, if applicable) is responsible for licensure verification, credentialing and quality control of the provision of psychological services.

1. The corporation is licensed by the New Jersey Department of Health as a health maintenance organization, hospital, long or short term care facility, or ambulatory care facility. Alternatively, the corporation may be another type of health care facility or corporate health care provider accredited by the Joint Commission on Accreditation of Health Care Organizations. The above accredited corporate employers may include a facility which is a component part of a for-profit corporation employing or otherwise remunerating licensed psychologists, provided that the health care facility/provider has a formal credentialing process and quality control procedures, and service providers are supervised by a psychologist or physician licensed in this State and regularly on the premises.

2. The corporation is not in the business of offering treatment services to the public but maintains a clinic for the purpose of providing psychological services to employees and/or for monitoring the health environment of employees. The licensee rendering care or evaluation in this setting shall comply with the provisions of N.J.A.C. 13:42-8 regarding preparation, maintenance and release of treatment and health monitoring records;

3. The corporation is a non-profit corporation sponsored by a union, social, religious or fraternal organization providing health care services to members only; and/or

4. The corporation is an accredited educational institution which maintains a medical or psychological service clinic for health care service to students and faculty.

(b) A licensee may also have an equity or employment interest in a general business corporation which offers to contract with a licensed practitioner or professional service corporation to provide services exclusively of a non-professional nature such as routine office management, hiring of non-professional staff, provision of office space and/or equipment and servicing thereof, and billing services. The general business corporation shall make no determination regarding establishment of client fees or modification or waiver thereof in an individual case and shall make no representations to the public of offering, under its corporate name, health care services which require licensure.

(c) A licensee employed or having an equity interest in any of the practice forms listed in (a) and (b) above shall terminate such employment or sever professional affiliation upon acquiring personal knowledge that the entity regularly fails to provide or observe the quality assurance mechanisms listed in N.J.A.C. 13:42-7.7 and refuses, upon request, to implement such mechanisms. A licensee terminating employment or affiliation with a general business corporation for reasons required by this section shall so notify the Board.

(d) Licensees who have been providing professional services in a business format which is inconsistent with the provisions of this section shall complete a transfer to an acceptable practice form as soon as possible but no later than May 1, 1994.

Amended by R.1995 d.332, effective June 19, 1995.
See: 26 N.J.R. 4738(a), 27 N.J.R. 2422(a).

13:42-7.6 Managed health care plans

(a) For purposes of this section, "managed health care plans" include, but are not limited to, plans involving wholly or partially pre-paid medical/psychological services. By way of example, these include plans commonly described as health maintenance organizations, preferred provider organizations, competitive medical/psychological plans, individual practice associations, or other similar designations.

(b) A licensee may enter into a plan agreement which provides interim remuneration to licensees by making provisional allocation of percentages of plan-member fees, whether denominated as reserves, pools, withholds, hold-backs, etc., for the purpose of funding all portions of the health services plan.

(c) A licensee may participate in a plan which requires a purchase of shares for the purpose of providing start-up funds, provided that any profits of the plan are paid solely in accordance with the principles listed in this section and the licensee complies with the following professional requirements:

1. The licensee retains authority at all times to exercise professional judgment within accepted standards of

practice regarding care, skill and diligence in examinations, diagnosis and treatment of each client;

2. The licensee retains authority at all times to inform the client of appropriate referrals to any other health care providers:

- i. Whether or not those persons are provider-members of the plan; and
- ii. Whether or not the plan covers the cost of the non-member provider's services to the client;

3. Plan clients are informed that they may be personally responsible for the cost of treatment by a provider who is not a member of the plan or for treatment which the plan administration does not approve; and

4. Plan clients are informed of the financial arrangements between the licensee and the plan, including financial incentives and disincentives established by the plan affecting availability or provision of treatment or other psychological services to plan members.

(d) A licensee who is not a full or regular member of a managed health care plan may contract with a plan to render services to an insured person referred by the plan, provided that the licensee retains the authorities listed in (c)1 through 4 above.

(e) The licensee shall submit the bill for services rendered in one of the following ways:

1. To the client-insured;
2. To the managed health care plan, but only if billing is on a per-task or time unit basis and the plan is a professional organization established consistent with N.J.A.C. 13:42-7.1 or 7.2 or a licensed health care corporation as defined in N.J.A.C. 13:42-7.5(a)1.
3. To the employer/administrative entity of the client-insured if the employer is a wholly or partially self-insured health insurance plan or a multiple employer welfare arrangement (MEWA).

Amended by R.1995 d.332, effective June 19, 1995.
See: 26 N.J.R. 4738(a), 27 N.J.R. 2422(a).

13:42-7.7 Conduct of professional practice; quality control

(a) A licensee shall establish policies and procedures with respect to licensed or exempt personnel who are employed by or under the supervision of the licensee. The policies and procedures shall include, but need not be limited, to the following:

1. Designation of a licensed practitioner responsible for:
 - i. Hiring professional staff and verifying current licensing credentials, permits or other educational/training credentials required by law or pertinent agency rule

(for example, recertifications, continuing professional education, current biennial registration or permits, etc.); and/or

ii. The professional propriety of billing and of advertising or other representations;

2. Identification of the nature of the psychological services which shall be offered at the practice location;

3. Policies for maintenance, registration and inspection of professional equipment;

4. Standards for recordkeeping as to client records, billing records, and such other records as may be required by law or rule;

5. Policies for security, including confidentiality of client records; and

6. Procedures for periodic audit of client records and of professional services to assure quality professional care on the premises.

13:42-7.8 Real estate arrangements

(a) A licensee may be an owner, investor or lessor in real estate utilized for the conduct of a professional practice, provided that rent, dividends or any other forms of remuneration are received solely on the basis of the investment or fair market value, as applicable to the circumstances.

(b) A licensee may lease space to or from another licensed health care professional to whom clients are referred only where rent is a fixed fee determined by the fair market value, or less, and is for a regular term and not for sporadic use of the space.

(c) A licensee may lease professional space from a commercial entity on any arrangements consistent with standard business practice in the community, provided the arrangements do not affect the licensee's professional discretion in matters including choice of clients, professional services offered, or fees.

(d) The establishment of any lease, investment or other commercial relationship for the conduct of professional practice other than as set forth in this section shall require Board approval for good cause shown.

SUBCHAPTER 8. CLIENT RECORDS: CONFIDENTIALITY

13:42-8.1 Preparation and maintenance of client records

(a) A licensee shall prepare and maintain separately for each client a permanent client record which accurately reflects the client contact with the licensee whether in an office, hospital 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 location of treatment, evaluation or consultation;

2. The client name, address and telephone number;

3. The client complaint on intake;

4. Medical history recognized as of potential significance;

5. Past and current medications;

6. Significant social history;

7. Findings on appropriate examination;

8. Raw data and interpretation of tests administered;

9. Current functional impairments and rating levels thereof;

10. A diagnostic impression;

11. Contemporaneous and dated progress or session notes including specific components of treatment, evaluation or consultation;

12. Dates of all treatment, evaluation or consultation sessions;

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); and

18. If services are rendered by a permit holder, the written disclosure form signed by the client as required by N.J.A.C. 13:42-4.5(f).

(d) The client record shall contain information regarding referrals to other professionals together with 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.

13:42-8.2 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 such 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 promptly initiate arrangements for modification of the system, which must be completed by November 1, 1994. In the interim, the licensee shall, on the date of the first treatment of each client treated subsequent to November 1, 1993, 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 changeover 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.

13:42-8.3 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) will be deemed to be an authorized representative.

(b) A licensee may require the record request to be in writing. No later than 30 days from receipt of a request from a client or duly authorized representative, the licensee shall provide a copy of the client record and/or billing records, including reports relating to the client. Limitations on this requirement are set forth in (e) and (f) below and in N.J.A.C. 13:42-9.

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

(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) This section shall not require a licensee 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.

(f) 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.

1. 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:

- i. The client's attorney;
- ii. Another licensed health care professional; or
- iii. The client's health insurance carrier (except as may be limited by N.J.A.C. 13:42-9).

(g) Records maintained as confidential pursuant to N.J.A.C. 13:42-8.1(c) shall be released:

1. If requested or subpoenaed by the Board or the Office of the Attorney General in the course of an investigation;
2. Pursuant to an order of a court of competent jurisdiction;

3. Except as limited by N.J.A.C. 13:42-8.4, upon a waiver of the client or an authorized representative to release the client record to any person or entity, including to the Violent Crimes Compensation Board; or

4. In order to contribute appropriate client information to the client record maintained by a hospital, nursing home or similar licensed institution which is providing or has been asked to provide treatment to the client.

(h) 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.

(i) 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 services as an expert witness.

13:42-8.4 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 multiple employer welfare arrangement (MEWA), including a managed health care plan, a licensee shall make available, on request of the client or duly authorized representative with the client's consent, all information required, but only pursuant to N.J.A.C. 13:42-11.4.

(b) A psychologist whose client has explicitly waived the psychologist-client privilege established by N.J.S.A. 45:14B-28 may release requested information deemed professionally appropriate, not limited by the constraints of the Peer Review Law, to a third-party payor whose benefit plan is qualified under the Federal Employee Retirement Income Security Act (ERISA); that is:

1. The plan of a self-insured employer or an entity providing administrative services to that employer for the purposes of determining entitlement to benefits; or

2. An employer's "stop-loss" plan (i.e., a plan in which an employer self-insures up to a certain amount and then purchases excess insurance beyond that amount from an insurance company).

13:42-8.5 Confidentiality

(a) A licensee shall preserve the confidentiality of information obtained from a client in the course of the licensee's teaching, practice or investigation. However, the licensee shall reveal the information to appropriate professional workers, public authorities and the threatened individual(s) or their representatives only, if in the licensee's judgment, exercised in accordance with the standards of the profession, any one of the following circumstances occur:

1. There is a clear and imminent danger to the individual or the public;

2. There is probable cause to believe that an identifiable potential victim of a client is likely to be in danger; or

3. Release of such information is otherwise mandated by law, such as, but not limited to, N.J.S.A. 2A:62A-17.

(b) A licensee may discuss the information obtained in clinical or consulting relationships, or in evaluating data concerning children, students, employees and others, only for professional purposes and only with persons clearly connected with the case.

(c) A licensee may reveal, in writing, lectures or other public forums, personal information obtained during the course of professional work only as follows:

1. With prior consent of the clients or persons involved; or

2. Where the identity of the client or person involved is adequately disguised.

(d) A licensee may share confidential communications with other parties interested therein, in a non-public forum, only where the original source and other persons involved have given their express permission to do so.

(e) A licensee may reveal the identity of research subjects only if the subjects have granted explicit permission.

(f) A licensee may release confidential documents, testimony or other information contained in the client record only in accordance with the provisions of N.J.A.C. 13:42-8.3 and this section.

SUBCHAPTER 9. ADVERTISING

13:42-9.1 Definitions

For the 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 which directly or indirectly induces or attempts to induce any person or entity to purchase from a Board licensee, or enter into an agreement to purchase, services, treatment or goods related thereto.

"Board licensee" means any professional licensee of the State Board of Psychological Examiners.

“Electronic media” include, but are not limited to, radio, television, telephone and other electronic means of communication. The term does not include communications made by sound equipment from a motor vehicle or other promotional media.

“Professional service” means a service which a Board licensee or professional association performs or lawfully authorizes a person under supervision to perform.

“Print media” includes newspapers, magazines, periodicals, professional journals, telephone directories, circulars, handbills, flyers, billboards, signs, direct mail, matchcovers and other items disseminated by means of the printed word. The term shall not include aerial 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 Board licensee.

13:42-9.2 Advertising; general requirements

(a) A Board licensee (but not a permit holder) may provide information to the public by advertising in print or electronic media.

(b) A licensee shall be able to substantiate the truthfulness of any material, objective assertion or representation set forth in an advertisement, when requested by the Board to do so.

(c) A licensee who is a principal, partner or officer of a firm or entity identified in an advertisement which offers psychological services or goods shall be responsible for the form and content of any advertisement disseminated by or on behalf of a licensee affiliated with the firm.

(d) A licensee shall assure that an advertisement does not misrepresent, suppress, omit or conceal a material fact. Omission, suppression or concealment of a material fact includes use of any print, language or format which directly or indirectly obscures a material fact under circumstances where the licensee knows or should know that the omission is improper or prohibits a prospective client from making a full and informed judgment on the basis of the information set forth in the advertisement.

13:42-9.3 Minimum content

(a) Except as set forth in subsections (b) and (c) below, a licensee shall include the following in all advertisements and professional representations (other than an office entry sign), including advertisements in a classified directory, business cards and professional stationery:

1. The name and license number of the Board licensee.
2. The street address and telephone number of the practice location.

(b) A licensee may list, on a business card or in classified advertising, the names of all members of the practice. Alternatively, the licensee may list the name of only the individual psychologist and the trade name or name of the professional service corporation, if any.

(c) A licensee may petition the Board for waiver of the requirement to list street address for good cause. A licensee shall submit a request for a waiver in writing which shall detail the reason(s) for the request which may include, but is not limited to, the maintenance of personal or family safety.

13:42-9.4 Use of professional credentials and certifications

(a) A licensee shall accurately and objectively represent his or her competence, education, training and experience.

(b) Advertisements which include information on professional credentials shall contain the highest academic degrees attained relating to the practice of psychology and shall refer only to degrees obtained from an accredited academic institution or an academic institution acceptable under the rules of the New Jersey State Department of Higher Education.

(c) A licensee may advertise only those certifications obtained from bona fide accrediting bodies and directly related to the practice of psychology, and other degrees earned from bona fide accredited educational institutions.

(d) Nothing in this section shall preclude any truthful and non-deceptive statement in regard to education or experience in a particular area of psychology.

13:42-9.5 Advertising making reference to or setting forth a fee; required disclosures

(a) Advertising making reference to or setting forth a fee shall be limited to that which contains a fixed or a stated range of fees for specifically described professional services.

(b) Advertising making reference to or setting forth a fee shall include the following disclosures:

1. All relevant and material variables and considerations which are ordinarily included in the advertised services so that the fee will be clearly understood by prospective clients. In the absence of such disclosures, the stated fees shall be presumed to include everything ordinarily required for the advertised services;
2. A specific delineation of additional services contemplated and the fee to be charged therefor. In the absence of such disclosures, the licensee shall be prohibited from charging an additional fee for the advertised service; and
3. The time period during which the advertised fee will remain in effect. In the absence of such disclosure, the advertisement shall be deemed to be effective for 30

days from the date of the advertisement's initial publication.

(c) The advertisement of a fee shall not preclude downward adjustment or waiver of a fee between the professional and the client in individual circumstances.

13:42-9.6 Use of testimonials

(a) A licensee may use an advertisement containing either a lay or an expert testimonial provided that:

1. The testimonial is based upon the testimonial giver's personal knowledge or experience obtained from a past, completed provider relationship with the licensee or upon the testimonial giver's direct personal knowledge of the subject matter of the testimonial; and

2. The licensee obtains, prior to the use of the testimonial, a signed, notarized statement and release indicating the testimonial giver's willingness to have his or her testimonial used in the advertisement.

(b) A layperson's testimonial shall not attest to any technical matter beyond the testimonial giver's competence to comment upon.

(c) An expert testimonial shall be rendered only by an individual possessing specialized expertise sufficient to allow the rendering of a bona fide statement or opinion.

(d) A licensee shall be able to substantiate any objective, verifiable statement of fact appearing in a testimonial. The failure to do so, if required by the Board, may be deemed professional misconduct.

13:42-9.7 Prohibited types or methods of advertising

(a) A licensee shall not make any statement or claim or make use of any professional format which is false, fraudulent, misleading or deceptive with regard to the performance of professional services or accepted standards of professional practice.

(b) A licensee shall not use the word "doctor" or an otherwise incomplete and misleading designation when offering to perform professional services without also indicating that the licensee is a psychologist.

(c) A licensee shall not guarantee that satisfaction or a cure will result from the performance of professional services.

(d) A licensee shall not claim or use any secret or special method of treatment and/or diagnostic technique which the licensee refuses to divulge to the Board.

(e) A licensee shall not make claims of professional superiority with regard to services or goods offered or with regard to apparatus, equipment or technology utilized unless the licensee can substantiate such claims.

(f) A licensee shall not communicate any fact, data or information which may identify a client without the client's written consent.

(g) A licensee shall not offer or promote a professional service which the licensee knows or should know is beyond the licensee's ability to perform.

(h) A licensee shall not permit an advertisement to contain any technique or communication which appears to intimidate, exert undue pressure or unduly influence a prospective client.

(i) A licensee shall not engage, either directly or indirectly through an agent, employee or representative, in any in-person solicitation with a prospective client, except that a licensee may offer to a business entity, or its representative, psychological services to be provided to a class of persons.

13:42-9.8 Retention of advertisements

(a) The licensee shall retain, for a period of three years from the date of initial publication or dissemination, a copy of every advertisement appearing in print media as well as a video or audio tape of every advertisement communicated by electronic media. All advertisements in the licensee's possession shall indicate the accurate date and place of publication.

(b) A licensee who advertises through the use of testimonials shall maintain documentation relating to the testimonial for a period of three years from the date of the last use of the testimonial. Documentation shall include, but not be limited to:

1. The name, address and telephone number of the testimonial giver identified in the advertisement;
2. The type and amount or value of compensation; and
3. The notarized statement and release required pursuant to N.J.A.C. 13:42-9.6(a)2.

(c) The licensee shall make copies of all advertisements and documentation concerning testimonials available for review upon request by the Board or its designee.

13:42-9.9 Misleading implications of licensure

(a) A person not licensed under the Practicing Psychology Licensing Act is prohibited from implying licensure under the Act by using a title or description which, when used in combination with other circumstances, would lead a reasonable person to think that the individual is a licensed psychologist or is authorized to perform professional services which only a licensed psychologist can offer. Examples of such conduct, whether for recompense or not, include:

1. Representing that he or she has:

- i. A graduate degree or is a candidate therefor in psychology or an allied field;
- ii. Membership in psychological organizations;
- iii. Training or certification in applied psychological methods; or
- iv. Professional association and identification with a licensed psychologist, unless the individual is the holder of a duly authorized and valid Board permit or is otherwise duly authorized to engage in a health care profession with a psychologist; or

2. Using names or professional or occupational titles including "counselor," "psychotherapist," "therapist," "analyst," and related terms or forms unless clearly qualified by reference to another profession or group exempt from licensure under the Act pursuant to N.J.S.A. 45:14B-8 and N.J.A.C. 13:42-1.5 or other applicable law.

Amended by R.1995 d.332, effective June 19, 1995.
See: 26 N.J.R. 4738(a), 27 N.J.R. 2422(a).

SUBCHAPTER 10. GENERAL OBLIGATIONS OF A LICENSEE

13:42-10.1 Posting of practice authorization and notification of availability of fee information

(a) Every licensee shall prominently display in every place of conducting independent practice the following notice:

(Name of Individual) is licensed by the Board of Psychological Examiners, an agency of the Division of Consumer Affairs. Any member of the consuming public may notify the Board of any complaint relative to the practice conducted under this license at the Division of Consumer Affairs, Board of Psychological Examiners, Post Office Box 45017, 124 Halsey Street, Newark, New Jersey 07101.

(b) Every licensee shall post a conspicuous notice in the waiting room stating: "INFORMATION ON PROFESSIONAL FEES IS AVAILABLE TO YOU ON REQUEST."

13:42-10.2 Notification of change of address; service of process

(a) Each licensee and permit holder 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 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.

13:42-10.3 Prohibition on unethical referrals

(a) A licensee shall not refer a client to a health care service in which the licensee has any financial or significant beneficial interest. This shall not prohibit professionally justified referral for treatment or services to an employed associate or another practitioner within the licensee's bona fide group practice or managed health care plan.

(b) A licensee shall not prescribe goods or devices which the licensee sells or leases to the client, except as follows:

- i. The goods or devices are an integral part of the professional treatment for that client;
- ii. The item and its fee (if any) are specified on the billing statement under the licensee's professional office name; and
- iii. Any fee is set at a level which does not exceed a recoupment of the reasonable actual expense to the licensee for provision of the goods or devices. The burden of justifying the fee shall be on the licensee.

13:42-10.4 Professional responsibilities to the Board, other regulatory authorities, or the public

(a) Where not otherwise specified in this section, the term "licensee" includes holders of licenses and holders of temporary permits issued by the Board.

(b) A licensee shall meet professional responsibilities to the Board, to other regulatory authorities, and to the public as determined by accepted standards of practice, law or rules.

(c) A licensee shall respond within 30 days or sooner, as specified, to written communication from the Board, the Attorney General or the Director of the Division of Consumer Affairs and shall make available all records required with respect to a complaint from a client or as otherwise deemed necessary regarding the licensee's conduct. The response period commences on the date of the communication to the licensee's last reported address.

(d) A licensee shall maintain competence consistent with professional responsibilities, including the following:

- 1. A licensee shall remain abreast of standards of practice in the profession by means of securing continuing education such as training, experience or counsel and through professional journals;
- 2. A licensee-teacher shall base academic instruction primarily upon material the licensee reasonably believes to be accurate, current and scholarly;
- 3. 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 and/or scientific activities which are foreseeably likely to lead to inadequate performance or harm to a client, colleague, student or research participant;

4. A licensee shall refuse to engage in or condone hiring, promotion or training practices that are inhumane or that result in illegal or otherwise unjustifiable discrimination on the basis of race, handicap, age, gender, sexual preference, religion or national origin; and

5. A licensee shall make reasonable use of professional, technical and administrative resources that best serve the interests of consumers. A psychologist is responsible for recognizing his or her areas of competence in the profession and when to refer appropriately to practitioners of related or other professions.

13:42-10.5 Maintaining competence in testing situations

(a) A licensee responsible for decisions involving individuals or policies based on test results shall have an understanding of psychological or educational measurement, validation problems, and other test research.

(b) A licensee responsible for development and standardization of psychological tests and other assessment techniques shall utilize established scientific procedures and observe relevant professional standards.

(c) When reporting test results, if fewer than the standard number of test components as designated by the test manual have been administered, a licensee shall indicate the reason for such deviation and shall note reservations or limitations regarding validity or reliability resulting from testing circumstances or the possible inappropriateness of the test norms for the person tested. A licensee shall take reasonable measures to ensure that the results of assessments and their interpretations are not misused by others.

(d) A licensee shall make reasonable efforts to avoid use of obsolete testing measures.

(e) A licensee offering test scoring and interpretation services shall be prepared to demonstrate that he or she is competent to understand the programs and procedures used in arriving at the interpretations. In this regard, a licensee's use of an automated test interpretation from a professionally recognized testing entity and the licensee's utilization of such interpretation shall remain confidential and shall be considered to be only one component of a psychological evaluation.

(f) A licensee shall not sponsor or supervise the use of psychological assessment techniques by persons who are not in an appropriate psychological or closely-related field or who are otherwise unqualified.

(g) A licensee shall administer or supervise the administration of all testing materials on premises and consistent with accepted standards of practice.

13:42-10.6 Research

(a) A licensee shall observe research requirements consistent with accepted standards of practice including, but not limited to, the following:

1. A licensee shall minimize the possibility that research findings will be misleading and shall not knowingly publish misleading or false findings;

2. A licensee shall provide thorough discussion of the limitations of the published data and alternative hypotheses, especially where the work touches on social policy or might reasonably be construed to the detriment of persons in specific age, sex, ethnic, socio-economic or other identifiable social groups;

3. A licensee shall reveal contrary or disconfirming data or acknowledge the existence of alternative hypotheses and explanations of the findings following reasonable and customary efforts at research of the topic;

4. A licensee shall acknowledge the authors of work in proportion to their professional contribution; and

5. A licensee shall treat research participants ethically and ensure ethical treatment of them by collaborators, assistants, students and employees.

13:42-10.7 Reporting of violations of other licensees

(a) A licensee is encouraged to address violations of law, rule or accepted standards of practice by other licensees of this Board. A licensee who discovers apparent violations by another licensee may attempt to rectify the situation informally or may confidentially notify the Board or a local, State or national professional society for follow-up.

(b) Notwithstanding the provision for voluntary reporting set forth in (a) above, 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.

(c) Notwithstanding the provisions of (b) above, when a licensee in the course of a professional therapeutic relationship with a client who is not a licensee of the Board obtains information from the client about another licensee's suspected unlawful conduct, the treating licensee shall report the information only with the written permission of the client.

(d) Notwithstanding the requirements of (b) above, a licensee who acquires knowledge of impairment, incompetence or unprofessional conduct in the course of treating a client-psychologist or an individual exempt from licensure pursuant to N.J.A.C. 13:42-1.3 and N.J.S.A. 45:14B-8 shall not be obligated to notify the Board if:

1. The treating psychologist reasonably believes that the improper conduct has ceased and that the treatment is preventing a recurrence of the impairment, incompetence or professional misconduct; or

2. The treating psychologist has reasonable cause to believe that the incompetent psychologist or exempt professional is currently receiving professional supervisory and educational measures which are reasonably likely to protect clients against gross incompetence.

(e) A licensee acquiring privileged information of drug or alcohol abuse in the course of treating a client-psychologist or exempt professional in a substance abuse treatment program governed by Federal law shall, as required by Federal law, first obtain authorization for release of such information from a court of competent jurisdiction or shall obtain the client's written consent to release the information.

(f) A licensee is not exempt from reporting any information otherwise mandated by law, such as, but not limited to, P.L.1974, c.119, reporting of an abused child as defined in N.J.S.A. 9:6-8.8 et seq.

13:42-10.8 Professional interactions with clients

(a) A licensee shall not abandon or neglect a client under and in need of professional care without making reasonable arrangements for the continuation of such care or offering to help the client find alternative sources of assistance.

(b) A licensee shall not abandon or neglect professional employment by a group practice, hospital clinic or other health care facility without reasonable notice or under circumstances which would be expected to seriously impair the delivery of professional care to clients.

(c) A licensee shall not exercise undue influence on the client including the promotion of services by the licensee or others.

(d) A licensee shall not willfully harass, abuse or intimidate a client regarding delivery of client services, either physically or verbally.

(e) A licensee shall not order excessive tests, treatment or use of treatment facilities not warranted by the condition of the client.

(f) A licensee shall terminate a clinical or consulting relationship when it is reasonably clear that the client is not benefiting from it. In such instances, the licensee shall offer to help the client find alternative sources of assistance.

(g) A licensee shall not participate in assessment and/or testing in which the client is not advised, in terms the client can understand, of the nature and purposes of the test and test results unless the client agrees in advance to have the test results released to a specified third party.

13:42-10.9 Sexual conduct

(a) A licensee shall not participate in a sexual relationship or engage in sexual intimacies with a current psychotherapy client, a former client to whom psychotherapy was rendered within the immediately preceding 24 months, a current student, a direct supervisee or supervisor, or a research participant.

(b) In circumstances where any of the persons listed in (a) above are, or should be recognized by the licensee as, clearly vulnerable by reason of emotional or cognitive disorder to exploitive influence by the licensee, the 24 month limitation set forth in (a) above shall not apply and the prohibition shall extend indefinitely.

(c) A licensee shall refrain from any sexual harassment which, for the purposes of this section, is defined as condoning or engaging in deliberate or repeated comments, contacts or gestures which are unrelated to professional instruction on the subject of harassment and which are sexually suggestive, seductive, demeaning or harassing.

(d) A licensee shall not accept as a client a former sexual partner.

(e) In the treatment of sexual dysfunction as well as in other areas of the practice of psychology, a licensee shall not engage in the following conduct, which is hereby defined as professional misconduct:

1. Physical contact of a sexual or deliberately hurtful nature between psychologist and client; or

2. In therapy groups, activities which promote or allow physical contact of a sexual or deliberately hurtful nature between group members.

13:42-10.10 Financial arrangements with clients and others

(a) Fees shall be reasonable and commensurate with the status and experience of the licensee when compared with fees of licensed psychologists in the geographic area and shall be consistent with the provisions of N.J.A.C. 13:42-10.11 prohibiting excessive fees.

(b) Fees for services rendered by a permit holder or an exempt professional practicing under supervision shall be reasonable and commensurate with the status and experience of the supervisee when compared with fees of licensed psychologists in the geographic area. The supervisor shall be responsible for justifying any fee charged in light of this requirement.

(c) A licensee shall prepare and maintain a written list of current fees for standard services, which list shall be available to clients upon request. The licensee shall include all of the following information on the list:

1. Whether Medicaid clients are accepted;

2. Whether Medicare clients are accepted and, if so, if the licensee shall bill the client for any balance remaining after assignment;

3. Whether other third party payor plans are accepted;

4. The extent to which insurance payment (excluding deductible) is accepted as payment in full; and

5. Whether special fee categories are available, such as senior citizens or members of designated groups (for example, preferred provider plan members).

(d) Before commencing the therapeutic relationship, a licensee shall assist clients to understand financial arrangements. The information provided to the client shall include, but not be limited to:

1. The fee for services or the basis for determining the fee to be charged, unless services are provided during an emergency or in other circumstances where opportunity, custom and practice preclude discussion prior to the rendering of services;

2. Whether the licensee will accept installment payments or assignment of benefits from a third party payor;

3. That insurance coverage may not be available in all circumstances; and

4. The financial consequences, if any, of missed sessions.

(e) Where payment of the usual fee would be a hardship, a licensee shall assist clients to find other sources for provision of the needed services. A licensee is encouraged, however, to make special accommodations in adjusting usual fees in appropriate cases.

(f) A licensee shall not enter into financial arrangements with clients which are likely to impair professional judgment. Improper financial arrangements shall include, but are not limited to, loans (whether borrower or lender) or assumption of liabilities for debt.

(g) A licensee shall not enter into a financial arrangement or other potentially exploitive relationship with a former client which is likely to be the product of judgment impaired by the former relationship.

13:42-10.11 Prohibition on excessive fees

(a) The Board may review information and complaints alleging excessive fees charged by Board licensees. This regulation is not intended to impinge upon the strong public policy in favor of a competitive, free enterprise economy embodied in the antitrust laws of the United States and of this State.

(b) A licensee shall not charge an excessive fee for services. A fee is excessive when, after a review of the facts, a licensee of ordinary prudence would be left with a definite and firm conviction that the fee is so high as to be manifestly unconscionable or overreaching in the circumstances.

(c) Factors which the Board may consider in determining whether a fee is excessive include, but are not limited to, the following:

1. The novelty and difficulty of the service or treatment;

2. The time and effort required;

3. The skill required to properly perform the procedure or treatment;

4. Any requirements or conditions imposed by the client or by the circumstances;

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

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

7. The nature and circumstances under which services are provided; and

8. Comparable fees charged by licensees not under inquiry.

(d) Charging an excessive fee in violation of the provisions of this section shall constitute professional misconduct subjecting the licensee to disciplinary sanction by the Board.

13:42-10.12 Billing

(a) The licensee's bill shall include at least the following information:

1. The licensee's name, license number, tax identification number and original signature;

2. The street address and telephone number of the practice location;

3. The dates and nature of professional services including, in connection with treatment, whether individual or group;

4. Diagnosis and insurance codes, if required or requested;

5. In a practice setting where services are provided by more than one practitioner, the name and license number of the licensee who provided the services being billed; and

6. Fees. The licensee shall identify which part, if any, of the services billed were provided by a technician at the direction of and under the supervision of the licensee pursuant to N.J.A.C. 13:42-7.3 and 7.4 and shall adjust the fee downward accordingly.

(b) A licensee billing for services rendered by a permit holder or an exempt professional practicing under supervision shall include all of the following information on the bill in addition to the information required pursuant to (a) above:

1. The name and permit number of the supervisee. If the supervisee is practicing pursuant to a Board letter of authorization issued prior to the effective date of this rule, a copy of said letter shall be provided to the client with the first billing statement;
2. The dates, if any, when the client was seen personally by the supervisor; and
3. A statement that treatment was rendered by the supervisee under the supervision of the supervisor.

13:42-10.13 Conflicts of interest

(a) A licensee shall not enter into or continue in any treating relationship in which he or she has any personal, financial or beneficial interest other than that arising from the usual therapist-client relationship.

(b) A licensee shall not enter into any relationship which a reasonable psychologist in similar circumstances would expect to limit objectivity, impair professional judgment or increase risk of exploitation. Examples of such relationships include, but are not limited to, professional treatment of employees, tenants, students, supervisees, close friends or relatives. Professional relationships other than for treatment purposes, such as research using such persons, should be governed by caution to avoid impropriety.

(c) A licensee, whether practicing privately or within an institution or agency utilizing psychological services, shall not condone distortion, misuse or suppression of psychological findings by the licensee or others.

(d) A licensee shall not condone misuse of a psychologist's influence or professional work.

(e) A licensee shall not exploit the client's trust and dependency.

(f) A licensee who has identified a conflict of interest shall notify the parties involved and shall take action to terminate the conflict.

13:42-10.14 Prohibition on kickbacks and rebates

(a) A licensee shall not pay, offer to pay or receive any fee or other form of compensation for referral of a client for professional services or for the purchase of goods. This subsection shall not prohibit a licensee from:

1. Paying a flat fee for regular advertising services;
2. Paying a flat fee for the licensee's placement on a commercially sponsored "referral list" of licensed health care providers; or

3. Contributing a fee to a professionally sponsored referral service for provision of low-cost psychotherapy to screened clients.

(b) A licensee shall not permit the division of fees for professional services other than among licensees engaged in a bona fide partnership or professional service corporation or employment relationship. A licensee shall not divide fees for professional services rendered to a client with a psychologist practicing as an independent contractor. A Licensee who utilizes practices inconsistent with the provisions of this subsection (b) shall transfer to acceptable practices as soon as possible but no later than May 1, 1994.

(c) This section shall be construed broadly to effectuate its remedial intent.

Petition for Rulemaking.
See: 26 N.J.R. 263(a).

13:42-10.15 Supervision of individuals exempt from licensure

(a) A psychologist may supervise services of a psychological nature rendered in

1. A private practice setting by a health care professional exempt from licensure pursuant to N.J.S.A. 45:14B-8; and
2. An exempt non-profit bona fide community organization as defined in N.J.S.A. 45:14B-6(a)3.

(b) The supervisor shall ensure that the exempt supervisee complies with all Board regulatory requirements (including preparation of client records) and with accepted standards of professional and ethical practice of the exempt agency or exempt health care professionals.

13:42-10.16 Restrictive covenants

(a) A licensee shall not participate in offering or making a partnership or employment agreement that restricts the right of a licensed health care professional to practice the licensed profession after termination of the relationship, except an agreement concerning benefits upon retirement.

New Rule, R.1995 d.332, effective June 19, 1995.
See: 26 N.J.R. 4738(a), 27 N.J.R. 2422(a).

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

13:42-11.1 Purpose and scope

(a) This subchapter implements the provisions of P.L. 1985, c.256 (N.J.S.A. 45:14B-31 et seq.), which limits the scope of and establishes procedures by which clients may

authorize licensees to disclose confidential information upon the request of an insurer or other third-party payor. The following provisions of (b) through (d) below apply, unless the third-party payor is:

1. A self-insured employer or an entity providing administrative services to such an employer for the purpose of determining entitlement to benefits; or

2. The payor is a "stop-loss" plan (i.e., a plan in which an employer self-insures up to a certain amount and then purchases excess insurance beyond that amount from an insurance company. (See also 13:42-8.4.)

(b) Any consent or agreement purporting to waive the provisions of P.L. 1985, c.256 or this subchapter shall be against public policy and void.

(c) The provisions of this subchapter shall not apply when access to client treatment records may be had by otherwise lawful methods, as set forth in N.J.A.C. 13:42-11.11.

(d) Nothing in this subchapter shall preclude an interested party, including a licensee, from:

1. Filing a complaint with the Board regarding the conduct of a licensee or of an independent professional review committee (IPRC) member;

2. Notifying the Board of an apparently improper demand for confidential information made upon a licensee by an insurance carrier or other third party; or

3. Notifying the Board of an apparently improper termination or threat to terminate third party benefits without compliance with P.L. 1985, c.256 and this subchapter.

13:42-11.2 Definitions

As used in this subchapter, the following words shall have the following meanings unless the context clearly indicates otherwise and except as otherwise expressly provided:

"Customary" means that range of usual practices provided by psychologists of similar education, experience and orientation within a similar geographic or socioeconomic area.

"Education" means completion of any of the educational programs and attainment of the attendant degrees that have qualified a person for licensure under the Act; that is, Ph.D., Ed.D., Psy.D. For the purposes of assigning reviewers of similar education to a given claim under review, the holders of any of these degrees shall be deemed equivalent.

"Experience" means one of the following areas of specialized practice: psychotherapy with adults and adolescents; psychotherapy with children; marital/family therapy; testing assessment.

"Orientation" means one of the following five theoretical positions: behavioral, humanistic/existential, psychoanalytic, systems, or eclectic.

"Psychological services" means the provision of professional services which are founded upon psychological principles derived from a base of scientific knowledge and a recognized and accepted theory of clinical application; and used to promote the optimal development of an individual's potential or to ameliorate an individual's personality disturbances and maladjustment as manifested in personal and interpersonal situations. Psychological services shall be selected and rendered to clients based upon the client's need, the treating psychologist's professional experience, knowledge of empirical and theoretical literature and professional guidelines and standards. Psychological services shall be necessary and appropriate in light of the client's circumstances, the diagnosis, the reasonableness of goals, and the adequacy of progress.

"Reasonable" means that there is a professionally acceptable probability that the client will realize a significant benefit from continuation of the psychological treatment.

"Stage I (Preliminary Disclosure)" means a request from a third party payor to obtain certain limited information about a client from the treating psychologist for the purpose of permitting the client to obtain or continue benefits from the third party payor for psychological services.

"Stage II Review" means a review conducted by an independent professional review committee (IPRC), established pursuant to N.J.S.A. 45:14B-44, for the purposes of determining whether the treatment is usual, customary or reasonable.

"Stage III Review" means a review conducted by the IPRC when the reviewers are unable to determine, based upon the information provided in Stage II, whether the treatment is usual, customary or reasonable.

"Stage IV Review" means a comprehensive review conducted by the IPRC when the reviewers are unable to determine, based upon the information provided in Stage III, whether the treatment is usual, customary or reasonable.

"Usual" means a practice in keeping with the licensee's general mode of operation.

13:42-11.3 Stage I (Preliminary Disclosure); required authorization

(a) When a licensee receives a request from a third party payor for information about psychological services rendered by the licensee, the licensee shall request a valid authorization from the client or other designated person.

(b) The licensee shall secure the authorization within 14 days of receiving the request from the third party payor, unless precluded from doing so by the circumstances of the case.

(c) The authorization shall be in writing and shall specify at least the following:

1. The nature of the information to be disclosed, the person authorized to disclose the information, to whom the information may be disclosed, the specific purposes for which the information may be used at the time of disclosure and at any future time;

2. That the client is aware of the statutory privilege for confidential communication between a client and a licensed psychologist; and

3. That the consent may be revoked in writing by the client at any time, if such notice is given to both the treating psychologist and the recipient named in the authorization.

(d) The authorization shall be signed and dated by the client or the person authorizing the disclosure. If the client is adjudicated incompetent or is deceased, the authorization shall be signed by the client's legally authorized representative. When the client is more than 14 years of age but has not yet reached age 18, the authorization shall be signed by the client and by the client's parent or legal guardian. When the client is less than 14 years of age, the authorization shall be signed only by the client's parent or legal guardian.

(e) The authorization shall apply only to information existing as of the date signed and is effective for one year only from the date signed.

(f) The licensee shall provide a copy of the authorization to the client or the person authorizing the disclosure.

13:42-11.4 Stage I: Information to be provided to the third party payor

(a) A Stage I inquiry does not involve the Independent Professional Review Committee (IPRC). The licensee shall provide the information set forth below directly to the third party payor.

(b) Within 10 days of receipt of the authorization required pursuant to N.J.A.C. 13:42-11.3, the treating psychologist shall provide the third party payor with basic client information limited to the following. The information provided shall be marked "Confidential" and forwarded to the attention of the specific individual designated in the authorization, if any.

1. Administrative information, defined as the client's name, age, sex, address, educational status, identifying number within the insurance program, date of onset of

difficulty, date of initial consultation, dates and character of sessions (individual or group) and fees;

2. Diagnostic information, defined as therapeutic characterizations (including all five Axes) of the type found in DSM III-R or the current version of the DSM or in another professionally recognized diagnostic manual;

3. Status of the client (voluntary or involuntary; inpatient or outpatient);

4. The reason for continuing psychological services, limited to an assessment of the client's current level of functional impairment and level of distress. Each aspect shall be described as "none," or by the term mild, moderate, severe or extreme; and

5. Prognosis, limited to an estimate of the minimal time during which treatment might continue.

13:42-11.5 Stages II, III and IV; Information to be provided to Independent Professional Review Committee

(a) The licensee shall notify the Board within 10 days of a request by a third party payor for a Stage II, III or IV review by the IPRC, established pursuant to N.J.S.A. 45:14B-44 and N.J.A.C. 13:42-11.6. The notification shall include the following information:

1. The licensee's major theoretical orientation; that is, behavioral, humanistic/existential, psychoanalytic, systems, or eclectic; and

2. The licensee's area of practice specialization; for example, psychotherapy with adults and adolescents, psychotherapy with children, marital/family therapy or testing/assessment.

(b) Within 10 days of the Board's receipt of the licensee's notification, the Board shall designate two or more members of the IPRC to serve as reviewers of the case and shall inform the licensee of their names and addresses.

(c) The licensee shall immediately provide, directly to the IPRC and not to the Board, the client's written authorization and shall disclose to the IPRC, in writing, confidential information concerning the client's treatment limited to the following:

1. For a Stage II review: The case identification number; status of the client; duration and frequency of treatment; diagnosis including all five Axes; prognosis (including minimal length of future treatment expressed in terms of identified goal(s)); the reason for continuing psychological services stated in terms of the various functions assessed; and professional judgment as to level of impairment and level of distress (each rated as none, mild, moderate, severe or extreme).

2. For a Stage III review: All of the information set forth in (c)1 above plus a written statement describing the licensee's customary mode of treatment for the particular

diagnosis and for the client in question, within the context of the licensee's theoretical orientation.

3. For a Stage IV review: All of the information set forth in (c)1 and 2 above, details and circumstances concerning the case under review, and the entire client record for inspection by the reviewers.

(d) In the event a client declines to provide the authorizations required pursuant to P.L. 1985, c.256 and N.J.A.C. 13:42-11.3, the review process shall not be undertaken pursuant to the IPRC process. The licensee shall so notify the third party payor and any assigned reviewers.

(e) Absent good cause shown, failure of the licensee to comply with any of the provisions of P.L. 1985, c.256 or this subchapter shall subject the licensee to any of the disciplinary sanctions authorized by law. Good cause shall include, but not be limited to, taking vacations of reasonable length, illness, serious family problems, or not receiving daily mail deliveries if there is more than one practice location.

13:42-11.6 Independent Professional Review Committee; responsibilities of the Board

(a) The Board shall appoint IPRC members from a pool of volunteer licensed psychologists who are screened and trained by the Board. The Board shall appoint to the IPRC, for a three-year term, licensees who demonstrate that they are:

1. Licensed in New Jersey for the five years immediately preceding appointment;
2. Active practitioners with a current minimum average of 10 hours per week of direct service in the areas of service they are authorized to review; for example, psychotherapy with adults and adolescents; psychotherapy with children; marital/family therapy; testing/assessment; and
3. Respected and known by their professional colleagues for the quality of their clinical work and exemplary professional conduct.

(b) The IPRC Administrator shall, within 10 days of receipt of notification from a licensee or a request by a third party payor for a Stage II review, designate two members of the IPRC to conduct the review and notify the treating psychologist of the assignment of reviewers.

(c) To the extent practicable, reviewers designated for case review shall be knowledgeable in the orientation used by the treating psychologist and the customary practices of that orientation.

13:42-11.7 Stage II review by Independent Professional Review Committee

(a) The reviewers shall examine the material submitted by the treating psychologist as specified in N.J.A.C. 13:42-11.5(c), as well as any material made available by the third party payor, including, but not limited to, billing statements, treating doctor reports and claim forms, and the report of an independent examining practitioner, if any.

(b) Each reviewer shall make an independent assessment of the material provided to determine, on the basis of the limited information provided, whether the psychological services for which payment is claimed are usual, customary or reasonable.

(c) Each reviewer shall confer with the other designated reviewer to ascertain whether there is agreement on the finding.

(d) If, on the basis of the information provided, the reviewers can certify that the treatment is usual, customary or reasonable, the reviewers shall so notify the third party payor and the Board, and no further review shall be undertaken by the IPRC.

(e) If the two reviewers are unable to agree that services are usual, customary or reasonable, or if they both agree that the services are not; or if both reviewers find the information provided to be insufficient to reach a conclusion, the reviewers shall proceed to Stage III and shall so notify the Board and the treating psychologist.

13:42-11.8 Stage III Review by Independent Professional Review Committee

(a) The two designated reviewers shall request the treating psychologist to provide a written statement describing his or her customary mode of treatment for the particular diagnosis and for the client in question, within the context of the psychologist's theoretical orientation.

(b) If, on the basis of the information provided, the reviewers can certify that the treatment is usual, customary or reasonable, the reviewers shall so notify the third party payor and the Board, and no further review shall be undertaken by the IPRC.

(c) If the two reviewers are unable to agree that the treatment is usual, customary or reasonable, or if they both agree that the services are not usual, customary or reasonable, or if one or both reviewers find the information provided to be insufficient to reach such a conclusion, the reviewers shall proceed to Stage IV and shall so notify the Board and the treating psychologist.

13:42-11.9 Stage IV review by Independent Professional Review Committee

(a) In a Stage IV review, the Board shall appoint a third reviewer.

(b) The reviewers shall request the treating psychologist to provide details and circumstances concerning the case under review. The reviewers shall request production of the original client record including session notes, test data and results, etc.

(c) On the basis of the information provided, the reviewers shall then certify to the third party payor and the Board their conclusion as to whether the treatment is usual, customary or reasonable. The conclusion of a majority of the three-person IPRC shall be reported as the conclusion of the Committee.

(d) The reviewers shall certify to the third party payor the date and length of time of their consultation in reviewing the case.

13:42-11.10 Independent Professional Review Committee; responsibilities of reviewers

(a) IPRC reviewers shall complete the entire review process, that is, Stages II, III (if necessary) and IV (if necessary), within 20 days of their receipt of the review request by the Board. The Board shall interpret the timeframe to be exclusive of days lost as a result of injury or extenuating personal circumstances. The reviewers shall inform the Board or arrange for another to do so when such unforeseen event prevents the timely completion of a review assignment. The Board shall, in that event, attempt to appoint a substitute reviewer to complete the assignment.

(b) A reviewer shall treat all information provided by the treating psychologist as confidential and shall not disclose the information to the third party payor or to any private person.

(c) Upon termination of a reviewer's practice, the reviewer or his or her designee shall transfer all IPRC records to the IPRC office.

(d) A reviewer who believes that the information disclosed in the review raises a substantial possibility that a psychologist has engaged in any act or practice declared unlawful by a statute, regulation or accepted standard of practice of the Board shall make a report to the Board, which may conduct its own inquiry.

13:42-11.11 Independent Board investigation

(a) The Board may conduct its own inquiry into a matter pursuant to N.J.S.A. 45:1-18, notwithstanding prior consideration by the IPRC, in the following circumstances:

1. The Board is requested by the third party payor, acting in good faith, to conduct an independent investigation of a matter; and

2. The third party payor's request sets forth specific grounds for questioning the IPRC results.

(b) The Board, at its discretion, may require the IPRC to provide to the Board the complete file of the review team for investigative purposes.

(c) Independent investigation by the Board shall not preclude any available right of the reviewer to judicial review pursuant to N.J.S.A. 45:14B-34(d).

13:42-11.12 Circumstances in which IPRC process is not required

(a) The IPRC process is not required for otherwise lawful methods of access to client treatment records in the following circumstances:

1. The client, vis-a-vis another person or a third party payor, has placed his or her mental condition in issue in a litigation context, and the client has consented to release of records of the treating psychologist;

2. The treating psychologist has been requested to provide information regarding underlying claims for damages or for reimbursement of professional fees, as authorized or directed by the Rules of Court or by order of a court of competent jurisdiction (not the mere service of an attorney's subpoena for discovery in litigation);

3. The third party payor has requested, pursuant to applicable laws, inspection of the client record and/or preparation by the licensee of a written report; that is, the Personal Injury Protection Program established by P.L. 1972, c.70, N.J.S.A. 39:6A-13(b) and (e), as amended or superseded, with regard to injuries resulting from motor vehicle accidents;

4. A third party payor has directed the client-insured to submit to mental or physical examination by an appropriate practitioner who prepares and submits findings and conclusions, pursuant to N.J.S.A. 39:6A-13(d), (e), (f);

5. A hospital, nursing home or other similar licensed health care institution has requested the licensee to provide existing client records of an inpatient for the purpose of ongoing evaluation;

6. A third party payor has requested access to hospital records, to the extent permitted by hospital rules governing the release of client records and/or mental health records in particular; or

7. The Board or the Attorney General has subpoenaed a complete copy of treatment records for the purpose of determining whether the conduct of a Board licensee conforms to accepted standards of practice.