

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.

(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;