

CHAPTER 119

COUNSELING PROFESSIONALS

§13851. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1989, c. 465, §3 (NEW).]

1. Board.

[PL 1991, c. 263, §5 (RP); PL 1991, c. 263, §6 (AFF).]

1-A. Board. "Board" means the Board of Counseling Professionals Licensure, established in section 13852.

[PL 2007, c. 402, Pt. EE, §1 (NEW).]

2. Clinical professional counselor. "Clinical professional counselor" means a professional counselor who renders or offers to render for a fee, monetary or otherwise, to individuals, families, groups, organizations or the general public, a counseling service involving the application of the principles and procedures of counseling to assess and treat intrapersonal and interpersonal problems and other dysfunctional behaviors and to assist in the overall development and adjustment of those served.

[PL 1989, c. 465, §3 (NEW).]

3. Commissioner. "Commissioner" means the Commissioner of Professional and Financial Regulation.

[PL 1989, c. 465, §3 (NEW).]

4. Conditional license. "Conditional license" means a license granted to an applicant for licensure who has met all the requirements defined in section 13858, except for supervised experience.

[PL 1989, c. 465, §3 (NEW); PL 1989, c. 895, §2 (AMD).]

4-A. Counselor. "Counselor" means an individual who for a fee, monetary or otherwise, engages in any of the procedures of counseling defined in subsection 8.

[PL 1989, c. 895, §3 (NEW).]

5. Department. "Department" means the Department of Professional and Financial Regulation.

[PL 1989, c. 465, §3 (NEW).]

6. Marital and family therapy services. "Marital and family therapy services" means the assessment and treatment of intrapersonal and interpersonal problems through the application of principles, methods and therapeutic techniques for the purpose of resolving emotional conflicts, modifying perceptions and behavior, enhancing communication and understanding among all family members, and preventing family and individual crises.

[PL 1989, c. 465, §3 (NEW).]

7. Marriage and family therapist. "Marriage and family therapist" means a person who renders or offers to render for a fee, monetary or otherwise, marital and family therapy services.

[PL 1989, c. 465, §3 (NEW).]

7-A. Pastoral counselor. "Pastoral counselor" means an individual who is trained and certified to provide for a fee, monetary or otherwise, pastoral counseling, which is ministry to individuals, families, couples, groups, organizations and the general public involving the application of principles and procedures of counseling to assess and treat intrapersonal and interpersonal problems and other dysfunctional behavior of a social and spiritual nature, and to assist in the overall development and healing process of those served.

[PL 1989, c. 895, §3 (NEW).]

8. Procedures of counseling. "Procedures of counseling" means methods and techniques that include, but are not limited to, the following.

A. "Assessment" means selecting, administering and interpreting instruments designed to assess personal, interpersonal and group characteristics. [PL 1989, c. 465, §3 (NEW).]

B. "Consulting" means the application of scientific principles and procedures in counseling to provide assistance in understanding and solving a current or potential problem that the client may have in relation to a 3rd party, be it an individual, a family, a group or an organization. [PL 1989, c. 465, §3 (NEW).]

C. "Counseling" means assisting individuals, families or groups through the counseling relationship to develop understanding of intrapersonal and interpersonal problems, to define goals, to make decisions, to plan a course of action reflecting their needs, and to use information and community resources, as these procedures are related to personal, social, educational and vocational development. [PL 1989, c. 465, §3 (NEW).]

D. "Referral" means the evaluation of information to identify needs or problems of the counselee and to determine the advisability of referral to other specialists, informing the counselee of that judgment, and communicating as requested or deemed appropriate with referral sources. [PL 1989, c. 465, §3 (NEW).]

[PL 1989, c. 465, §3 (NEW).]

8-A. Professional counseling. "Professional counseling" means providing counseling services, marital and family therapy services and pastoral counseling services, including any procedures of counseling.

[PL 2021, c. 233, §3 (NEW); PL 2021, c. 233, §6 (AFF).]

9. Professional counselor. "Professional counselor" means a person who, for a fee, monetary or otherwise, renders or offers to render to individuals, families, groups, organizations or the general public a service involving the application of principles and procedures of counseling to assist those served in achieving more effective personal, emotional, social, educational and vocational development and adjustment.

[PL 1989, c. 465, §3 (NEW).]

SECTION HISTORY

PL 1989, c. 465, §3 (NEW). PL 1989, c. 549, §§1,3 (NEW). PL 1989, c. 878, §A101 (RP). PL 1989, c. 895, §§1,22 (AFF). PL 1989, c. 895, §§2,3 (AMD). PL 1991, c. 263, §§5,6 (AFF). PL 2007, c. 402, Pt. EE, §1 (AMD). PL 2021, c. 233, §3 (AMD). PL 2021, c. 233, §6 (AFF).

§13852. Board of Counseling Professionals Licensure; establishment; compensation

1. Establishment. The Board of Counseling Professionals Licensure within the department as established by Title 5, section 12004-A, subsection 9-C, shall carry out the purposes of this chapter.

[PL 2007, c. 402, Pt. EE, §2 (AMD).]

2. Members. The board consists of 8 members, 7 of them appointed by the Governor. Each member must be a resident of this State. Six members must be licensed clinical counseling professionals under this chapter, 4 of whom must be clinical professional counselors, one of whom must be a marriage and family therapist and one of whom must be a pastoral counselor. Each counselor member must have been, for at least 5 years immediately preceding appointment, actively engaged as a practitioner, educator or researcher. One member must be a public member as defined in Title 5, section 12004-A and may not be currently practicing counseling or receiving compensation for counseling services. One member, appointed by the Chancellor of the University of Maine System, must be a member of the university faculty involved in the training of counselors.

[PL 2007, c. 621, §14 (AMD).]

3. Officers.

[PL 2007, c. 402, Pt. EE, §2 (RP).]

4. Terms of office. Appointments are for terms of 3 years each. Appointments of members must comply with Title 10, section 8009.

[PL 2007, c. 402, Pt. EE, §2 (AMD).]

5. Removal. The Governor may remove any member of the board for cause and the reason for the termination of each appointment must be communicated to each member so terminated. The appointment of any member of the board must be terminated if a member is absent for 6 consecutive board meetings without good and just cause that is communicated to the chair.

[PL 1989, c. 465, §3 (NEW); PL 1989, c. 895, §4 (AMD).]

6. Compensation.

[PL 1995, c. 397, §113 (RP).]

7. Meetings; chair. The board shall meet at least once a year to conduct its business and to elect a chair. Additional meetings must be held as necessary to conduct the business of the board and may be convened at the call of the chair or a majority of the board members.

[PL 2013, c. 246, Pt. B, §25 (AMD).]

SECTION HISTORY

PL 1989, c. 465, §3 (NEW). PL 1989, c. 549, §§1,3 (NEW). PL 1989, c. 878, §A101 (RP). PL 1989, c. 895, §§1,22 (AFF). PL 1989, c. 895, §§4,21 (AMD). PL 1991, c. 263, §2 (AMD). PL 1991, c. 263, §§5,6 (AFF). PL 1993, c. 600, §A273 (AMD). PL 1995, c. 397, §113 (AMD). PL 1999, c. 687, §§E10-13 (AMD). PL 1999, c. 790, §B4 (AMD). PL 2007, c. 402, Pt. EE, §2 (AMD). PL 2007, c. 621, §§14, 15 (AMD). PL 2009, c. 112, Pt. A, §19 (AMD). PL 2013, c. 246, Pt. B, §25 (AMD).

§13853. Powers and duties of the board

The board has the following powers and duties in addition to all other powers and duties otherwise set forth in this chapter. [PL 2007, c. 402, Pt. EE, §3 (AMD).]

1. Standards. The board shall administer and enforce this chapter, set forth education and examination standards and evaluate the qualifications for licensure.

[PL 1989, c. 465, §3 (NEW).]

2. Rules. The board may adopt, in accordance with Title 5, chapter 375, rules necessary to carry out the purposes of this chapter.

[PL 2007, c. 402, Pt. EE, §3 (AMD).]

3. Complaints.

[PL 2007, c. 402, Pt. EE, §3 (RP).]

4. Records.

[PL 2007, c. 402, Pt. EE, §3 (RP).]

5. Reports.

[PL 2007, c. 402, Pt. EE, §3 (RP).]

6. Contracts.

[PL 1995, c. 397, §114 (RP).]

7. Budget.

[PL 1995, c. 397, §114 (RP).]

8. Register.

[PL 2007, c. 402, Pt. EE, §3 (RP).]

9. Employees.

[PL 1995, c. 397, §114 (RP).]

10. Officers. The board shall elect from among its members officers as it determines necessary.
[PL 2007, c. 402, Pt. EE, §3 (AMD).]

11. Code of ethics. The board shall adopt a code of ethics generally in keeping with standards established by the national professional associations concerned with the areas of board responsibility.
[PL 1989, c. 465, §3 (NEW).]

12. Hearings.

[PL 2007, c. 402, Pt. EE, §3 (RP).]

13. Disclosure statements. Under this chapter all licensees and registrants are required to provide disclosure statements to clients prior to treatments. The board may adopt, by rule, a standard disclosure statement. This disclosure statement must include, but not be limited to, the name and address of the licensee or registrant, the original date and the expiration date of the license, the proposed course of treatment and financial arrangements for clients.

[PL 2007, c. 402, Pt. EE, §3 (AMD).]

14. Issue licenses. The board shall issue licenses as necessary to implement this chapter.
[PL 1989, c. 895, §6 (NEW); PL 1989, c. 895, §22 (AFF).]

15. Client bill of rights. The board shall specify the information that counselors are to include in a client bill of rights that is to be provided to all clients by all counselors.
[PL 1989, c. 895, §6 (NEW).]

SECTION HISTORY

PL 1989, c. 465, §3 (NEW). PL 1989, c. 549, §§1,3 (NEW). PL 1989, c. 878, §A101 (RP). PL 1989, c. 895, §§1,22 (AFF). PL 1989, c. 895, §§5,6,22 (AMD). PL 1991, c. 263, §§5,6 (AFF). PL 1995, c. 397, §114 (AMD). PL 2007, c. 402, Pt. EE, §3 (AMD).

§13854. Licensing

1. Licensing. A person may not, unless specifically exempted by this chapter, be engaged in the practice of professional counseling or profess to the public to be a, or assume or use the title or designation of, clinical professional counselor, professional counselor, marriage and family therapist, licensed pastoral counselor, registered counselor or conditional license holder or assume or use the abbreviation "LP," "CC," "MF," "PC" or "RC" or any other title, designation, words, letters or device tending to indicate that such a person is licensed or registered, unless that person is licensed or registered with and holds a current valid license or registration from the board.
[PL 2021, c. 233, §4 (RPR); PL 2021, c. 233, §6 (AFF).]

2. Individual licensing. Only an individual may be licensed under this chapter.
[PL 1989, c. 465, §3 (NEW).]

3. Unlicensed practice. A person who violates subsection 1 is subject to the provisions of Title 10, section 8003-C.
[PL 2007, c. 402, Pt. EE, §4 (AMD).]

4. Unfair trade practice. A violation of subsection 1 is an unfair trade practice in violation of Title 5, chapter 10.
[PL 2021, c. 233, §5 (NEW); PL 2021, c. 233, §6 (AFF).]

SECTION HISTORY

PL 1989, c. 465, §3 (NEW). PL 1989, c. 895, §§1,22 (AFF). PL 1989, c. 895, §7 (AMD). PL 1991, c. 263, §§5,6 (AFF). PL 1999, c. 547, §B78 (AMD). PL 1999, c. 547, §B80 (AFF). PL 2001, c. 421, §§B102,103 (AMD). PL 2001, c. 421, §B103 (AMD). PL 2001, c. 421, §C1 (AFF). PL 2007, c. 402, Pt. EE, §4 (AMD). PL 2021, c. 233, §§4, 5 (AMD). PL 2021, c. 233, §6 (AFF).

§13855. Psychological testing; assessment services

Nothing in this chapter may be construed as permitting clinical professional counselors, professional counselors, marriage and family therapists, pastoral counselors or conditional license holders to hold themselves out to the public as psychologists or psychological examiners as defined in section 3811, subsection 1, or to offer primarily or solely the services of psychological testing. The board shall adopt ethical standards relating to the utilization of assessment techniques. [PL 1989, c. 465, §3 (NEW); PL 1989, c. 895, §8 (AMD).]

SECTION HISTORY

PL 1989, c. 465, §3 (NEW). PL 1989, c. 895, §§1,22 (AFF). PL 1989, c. 895, §8 (AMD). PL 1991, c. 263, §§5,6 (AFF).

§13856. Exemptions to licensure

1. Other professionals. Nothing in this chapter may be construed to apply to the activities and services of members of other professions licensed, certified or registered by the State such as, but not limited to, psychiatrists, physicians, psychologists, registered nurses, social workers and substance use disorder counselors performing counseling consistent with the laws of the State governing their practices.

[PL 2017, c. 407, Pt. A, §146 (AMD).]

2. Government and school employees. Nothing in this chapter may be construed to apply to the activities and services of an employee or other agent of a recognized academic institution; employee assistance program; a federal, state, county or local government institution, program, agency or facility; or a school committee, school district, school approved for attendance purposes pursuant to Title 20-A, section 2901, school board or board of trustees, provided that the individual is performing those activities solely within the agency or under the jurisdiction of that agency and provided further that a license granted under this chapter is not a requirement for employment.

[PL 1989, c. 465, §3 (NEW); PL 1989, c. 895, §9 (AMD).]

3. Clergy. Nothing in this chapter may be construed to apply to the activities and services of any priest, rabbi, clergyman, including a Christian Science healer, or minister of the gospel of any religious denomination when performing counseling services as part of religious duties and in connection with a specific synagogue or church of any religious denomination.

[PL 1989, c. 465, §3 (NEW); PL 1989, c. 895, §9 (AMD).]

4. Interns. Nothing in this chapter may be construed to apply to the activities and services of a student, intern or trainee in counseling or marriage and family therapy pursuing a course of study in counseling or marriage and family therapy in a regionally accredited institution of higher education or training institution, if these activities are performed under supervision and constitute a part of the supervised course of study.

[PL 1989, c. 465, §3 (NEW).]

5. Lecturers; consultants. Nothing in this chapter may be construed to apply to the activities and services of visiting lecturers or the occasional services of qualified consultants from outside the State, or the use of occasional services of organizations from outside the State employing qualified counselors.

[PL 1989, c. 465, §3 (NEW).]

6. Peer groups; self-help groups. Nothing in this chapter shall be construed to prevent members of peer groups or self-help groups from performing peer counseling solely in the context of the peer groups or self-help groups.

[PL 1989, c. 465, §3 (NEW).]

7. Management consultants. Nothing in this chapter applies to the activities and services of any management consultant when performing services, counseling or otherwise, with clients other than private individuals. Such clients include, but are not limited to, for-profit and nonprofit corporations, partnerships, sole proprietorships, academic institutions and governmental entities.

[PL 1989, c. 895, §10 (NEW).]

8. Educational and career consultants. Nothing in this chapter applies to the counseling activities of educational, vocational or career consultants when performed as an adjunct to their prime function of educational, vocational or career consultation.

[PL 1989, c. 895, §10 (NEW).]

9. Human resource and organizational developers. Nothing in this chapter applies to the counseling activities of human resource developers and organizational developers when this counseling is an adjunct to their prime function.

[PL 1989, c. 895, §10 (NEW).]

10. Other exemptions. Nothing in this chapter applies to the activities and services of individuals who practice as expressive art therapists, energy field workers, astrologers, tarot card readers, psychic diviners, aromatherapists, crystal workers, palm readers or practitioners of similar disciplines as determined by the board.

[PL 1989, c. 895, §10 (NEW).]

SECTION HISTORY

PL 1989, c. 465, §3 (NEW). PL 1989, c. 895, §§1,22 (AFF). PL 1989, c. 895, §§9,10 (AMD). PL 1991, c. 263, §§5,6 (AFF). PL 2017, c. 407, Pt. A, §146 (AMD).

§13857. Nonresidents; applicants licensed in another jurisdiction; licensure by endorsement

1. Reciprocal agreements. The Board of Counseling Professionals Licensure may enter into reciprocal agreements with other jurisdictions that have substantially similar licensure laws and accord substantially equal reciprocal rights to residents licensed in good standing in this State.

[PL 2003, c. 542, §1 (NEW).]

2. Applicants licensed in another jurisdiction. An applicant who is licensed under the laws of another jurisdiction is governed by this subsection.

A. An applicant who is licensed under the laws of a jurisdiction that has a reciprocal agreement with the Board of Counseling Professionals Licensure may obtain a license under the terms and conditions as agreed upon through the reciprocal agreement. [PL 2003, c. 542, §1 (NEW).]

B. An applicant who is licensed in good standing at the time of application to the board under the laws of a jurisdiction that has not entered into a reciprocal agreement with the Board of Counseling Professionals Licensure may qualify for licensure by submitting evidence to the board that the applicant has held a substantially equivalent, valid license for at least 5 consecutive years immediately preceding application to the board at the level of licensure applied for in this State. [PL 2013, c. 217, Pt. G, §1 (AMD).]

C. An applicant who is licensed in good standing at the time of application to the board under the laws of a jurisdiction that has not entered into a reciprocal agreement and who does not meet the requirements of paragraph B may qualify for licensure by submitting evidence satisfactory to the board that the applicant's qualifications for licensure are substantially similar to those requirements in this chapter. [PL 2003, c. 542, §1 (NEW).]

D. [PL 2013, c. 217, Pt. G, §2 (RP); PL 2013, c. 217, Pt. K, §8 (RP).]

E. Notwithstanding any provision of this chapter to the contrary, the board, in accordance with Title 10, section 8003-H and any applicable rules adopted pursuant to that section, shall establish a process to issue a license by endorsement for each license authorized under this chapter that the board determines is appropriate for licensure by endorsement. An applicant may submit an application under the process established under this paragraph or any other licensure process authorized in this chapter. [PL 2021, c. 642, §41 (NEW).]

[PL 2021, c. 642, §41 (AMD).]

SECTION HISTORY

PL 1989, c. 465, §3 (NEW). PL 1989, c. 895, §§1,22 (AFF). PL 1989, c. 895, §11 (AMD). PL 1991, c. 263, §§5,6 (AFF). PL 2003, c. 542, §1 (RPR). PL 2011, c. 286, Pt. B, §5 (REV). PL 2013, c. 217, Pt. G, §§1, 2 (AMD). PL 2013, c. 217, Pt. K, §8 (AMD). PL 2021, c. 642, §§40, 41 (AMD).

§13858. Requirements for licensure

To be eligible for a license to practice counseling at any level, an applicant must be at least 18 years of age and satisfactorily pass any examination as the board may prescribe by its rules. Each applicant must demonstrate trustworthiness and competence to engage in the practice of counseling in such a manner as to safeguard the interests of the public. Each applicant must submit an application and pay the fee as set under section 13859. The license categories "licensed clinical professional counselor," "licensed pastoral counselor" and "licensed marriage and family therapist" are of equivalent clinical status. Clinical status grants the ability to diagnose and treat mental health disorders. [PL 2007, c. 402, Pt. EE, §5 (AMD).]

The following shall be considered as minimum evidence satisfactory to the board that an applicant is qualified for licensure under this chapter. [PL 1989, c. 465, §3 (NEW).]

1. Licensed professional counselor. To be qualified as a licensed professional counselor, an applicant must demonstrate to the satisfaction of the board adherence to the ethics of the counseling profession, successfully complete the examination prescribed by the board and have:

A. A master's degree or a doctoral degree in counseling or an allied mental health field from an accredited institution or a program approved by the board. Such schooling must include a minimum core curriculum and total credit hours as adopted by the board; and [PL 2003, c. 542, §2 (AMD).]

B. Two years of experience after obtainment of a master's degree or a doctoral degree with a minimum of 2,000 hours of supervised experience. [PL 2003, c. 542, §2 (AMD).]

[PL 2003, c. 542, §2 (AMD).]

2. Licensed clinical professional counselor. To be qualified as a licensed clinical professional counselor, an applicant must demonstrate to the satisfaction of the board adherence to the ethics of the counseling profession, successfully complete the examination prescribed by the board and have:

A. A master's degree or a doctoral degree in counseling or an allied mental health field from an accredited institution or a program approved by the board. Such schooling must include a minimum core curriculum and total credit hours as adopted by the board; [PL 2013, c. 262, §5 (AMD).]

B. Two years of experience after obtainment of a master's degree or a doctoral degree to include at least 3,000 hours of supervised clinical experience with a minimum of 100 hours of personal supervision; and [PL 2013, c. 262, §5 (AMD).]

C. Beginning January 1, 2020, demonstrated to the satisfaction of the board successful completion of a minimum of 12 hours of course work in family or intimate partner violence, including course work in spousal or partner abuse that addresses screening, referral and intervention strategies, including knowledge of community resources, cultural factors, evidence-based risk assessment and

same-gender abuse dynamics. An applicant may fulfill this requirement through course work taken in fulfillment of other educational requirements for licensure or through separate course work provided through contact hours, Internet hours or distance learning programs, as evidenced by certification from an accredited educational institution. The board shall accept certification from the accredited educational institution from which the applicant is a graduate that verifies the applicant's satisfaction of this requirement within the applicant's completed course curriculum. An applicant for initial licensure that is unable to demonstrate completion of the requirements of this paragraph at the time the initial application is submitted shall demonstrate to the board that these requirements have been fulfilled upon the applicant's first application for license renewal. [PL 2013, c. 262, §5 (NEW).]

[PL 2013, c. 262, §5 (AMD).]

3. Licensed marriage and family therapist. To be qualified as a licensed marriage and family therapist, an applicant must demonstrate to the satisfaction of the board adherence to the ethics of the counseling profession, successfully complete the examination prescribed by the board and have:

A. A master's degree or a doctoral degree in marriage and family therapy or its equivalent from an accredited institution or a program approved by the board. Such schooling must include a minimum core curriculum to include a one-year clinical practicum and total credit hours adopted by the board; and [PL 2003, c. 542, §2 (AMD).]

B. Two years of experience after obtainment of a master's degree or a doctoral degree comprised of at least 1,000 hours of direct clinical contact with couples and families and 200 hours of supervision, at least 100 of which must be individual supervision. [PL 2003, c. 542, §2 (AMD).]

Notwithstanding the requirements for conditional licensure in section 13851, subsection 4, the board may grant a temporary conditional license for a period not to exceed 6 months to an applicant who meets the requirements of this subsection except for the successful completion of the examination prescribed by the board. In addition, the applicant must be employed at an agency under clinical supervision and must apply for and successfully complete the examination within this 6-month period. If the applicant fails the examination, the applicant is prohibited from using any clinical experience gained during the 6-month period that the applicant held the temporary conditional license to qualify for licensure.

[PL 2009, c. 172, §1 (AMD).]

3-A. Licensed pastoral counselor. To be qualified as a licensed pastoral counselor, an applicant must have:

A. Demonstrated to the satisfaction of the board adherence to the standard ethics of the pastoral counseling profession; [PL 1989, c. 895, §12 (NEW).]

B. Received a Master of Divinity degree or a Doctor of Divinity degree, or an equivalent degree approved by the board, from an accredited institution or a program approved by the board. Academic preparation includes a minimum graduate core curriculum to include 20 credit hours of counseling and human relations and 400 hours of clinical pastoral education; [PL 2003, c. 542, §3 (AMD).]

C. Two years of experience after attainment of the degree, comprised of at least 1,000 hours of direct clinical contact with individuals, couples and families; [PL 1989, c. 895, §12 (NEW).]

D. Two hundred hours of supervision, including at least 1/3 of those hours with a certified pastoral counseling supervisor, at least 30 hours of which must be interdisciplinary, 30 hours of which must be individual supervision by one supervisor of no more than 3 cases from intake to termination, and 70 hours of which must be individual supervision of multiple case material; [PL 1989, c. 895, §12 (NEW).]

E. A call, appointment or charge by a church, synagogue, religious order or other clearly defined legal religious organization to perform these services as a function of ministry; and [PL 1989, c. 895, §12 (NEW).]

F. Completed successfully the examination prescribed by the board pursuant to subsection 5. [PL 1989, c. 895, §12 (NEW).]
[PL 2003, c. 542, §3 (AMD).]

4. Supervision. Supervision may be provided by a qualified and duly certified or licensed counseling professional, clinical social worker, psychologist or psychiatrist. Any other supervisor must be individually approved by the board.
[PL 1989, c. 465, §3 (NEW).]

5. Examination. All applicants are required to pass a written examination in subjects the board deems necessary to determine the fitness of the applicant to practice. The board shall establish the passing score for all examinations. Examinations must be held at least twice a year. The examination must be graded using established written base line scores for failure or passage, be based on accepted counseling criteria and include measurable and clearly defined procedures for grading the results and issuing a pass or fail decision. Decisions on all examinations must be in writing and include a grade and, whenever possible, a summary of the criteria for the grade and an explanation of the procedure for reexamination or appeal.
[PL 1989, c. 465, §3 (NEW); PL 1989, c. 895, §13 (AMD).]

6. Existing counselors.
[PL 1995, c. 259, §1 (RP).]

7. License not allowed. Notwithstanding subsections 1 to 5, an individual whose license, certification or registration has been revoked or suspended in this or any other state and in this or any other related field, may not be licensed under this section, unless the period of revocation or suspension has been completed and the board has conducted a competency review and determined that an acceptable degree of rehabilitation has been accomplished.
[PL 1995, c. 259, §2 (AMD).]

8. Rulemaking. The board shall adopt rules to implement the provisions of subsections 1, 2 and 3 and subsection 3-A, paragraph B. Rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.
[PL 2003, c. 542, §4 (NEW).]

SECTION HISTORY

PL 1989, c. 465, §3 (NEW). PL 1989, c. 895, §§1,22 (AFF). PL 1989, c. 895, §§12-14 (AMD). PL 1991, c. 263, §§3,4 (AMD). PL 1991, c. 263, §§5,6 (AFF). PL 1995, c. 259, §§1,2 (AMD). PL 1999, c. 386, §T2 (AMD). PL 2003, c. 542, §§2-4 (AMD). PL 2007, c. 402, Pt. EE, §5 (AMD). PL 2009, c. 172, §1 (AMD). PL 2013, c. 262, §5 (AMD).

§13859. Fees

The Director of the Office of Professional and Occupational Regulation within the department may establish by rule fees for purposes authorized under this chapter in amounts that are reasonable and necessary for their respective purposes, except that the fee for any one purpose may not exceed \$300. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2007, c. 402, Pt. EE, §6 (NEW); PL 2011, c. 286, Pt. B, §5 (REV).]

1. Amount.
[PL 2007, c. 402, Pt. EE, §6 (RP).]

SECTION HISTORY

PL 1989, c. 465, §3 (NEW). PL 1989, c. 895, §§1,22 (AFF). PL 1989, c. 895, §15 (AMD). PL 1991, c. 263, §§5,6 (AFF). PL 2007, c. 402, Pt. EE, §6 (RPR). PL 2011, c. 286, Pt. B, §5 (REV).

§13860. Terms of licenses

1. Biennial renewal. Licenses expire biennially on December 31st or on such other date as the commissioner may determine.

Licenses may be renewed up to 90 days after the date of expiration upon payment of a late fee in addition to the renewal fee as set under section 13859. Any person who submits an application for renewal more than 90 days after the license renewal date is subject to all requirements governing new applicants under this chapter, except that the board may, giving due consideration to the protection of the public, waive examination if that renewal examination is received, together with the late fee and renewal fee, within 2 years from the date of that expiration.

[PL 2007, c. 402, Pt. EE, §7 (AMD).]

2. Continuing education and supervision. The board, by rule, may establish continuing education and supervision requirements. Applicants for license renewal must show proof of satisfying the continuing education requirements set forth by the board. If a license lapses due to failure of the licensee to meet continuing education requirements, the licensee may renew the license upon completion of the required continuing education. Beginning January 1, 2020, applicants for license renewal shall demonstrate to the satisfaction of the board a one-time successful completion of a minimum of 12 hours of course work in family or intimate partner violence, including course work in spousal or partner abuse that addresses screening, referral and intervention strategies, including knowledge of community resources, cultural factors, evidence-based risk assessment and same-gender abuse dynamics. An applicant may fulfill this requirement through course work provided through contact hours, Internet hours or distance learning programs, as evidenced by certification from an accredited educational institution or equivalent teaching or practice experience. The board may accept equivalent courses in family or intimate partner violence screening and referral and intervention strategies or equivalent teaching or practice experience completed prior to January 1, 2020 in satisfaction of this requirement. Continuing education courses taken pursuant to this subsection must be applied to the licensee's required hours of continuing education.

[PL 2013, c. 262, §6 (AMD).]

SECTION HISTORY

PL 1989, c. 465, §3 (NEW). PL 1989, c. 895, §§1,22 (AFF). PL 1989, c. 895, §16 (AMD). PL 1991, c. 263, §§5,6 (AFF). PL 1997, c. 128, §1 (AMD). PL 2007, c. 402, Pt. EE, §7 (AMD). PL 2013, c. 262, §6 (AMD).

§13861. Disciplinary action grounds; procedure; complaints

(REPEALED)

SECTION HISTORY

PL 1989, c. 465, §3 (NEW). PL 1989, c. 895, §§1,22 (AFF). PL 1989, c. 895, §17 (AMD). PL 1991, c. 263, §§5,6 (AFF). PL 1993, c. 600, §A274 (AMD). PL 2007, c. 402, Pt. EE, §8 (RP).

§13861-A. Denial or refusal to renew license; disciplinary action; reinstatement

1. Disciplinary action. In addition to the grounds enumerated in Title 10, section 8003, subsection 5-A, paragraph A, the board may deny a license, refuse to renew a license or impose the disciplinary sanctions authorized by Title 10, section 8003, subsection 5-A for:

A. Habitual substance use or use of drugs listed as controlled substances by the federal Drug Enforcement Administration that has resulted or is foreseeably likely to result in the applicant's or

licensee's performing services in a manner that endangers the health or safety of patients; [PL 2017, c. 407, Pt. A, §147 (AMD).]

B. A medical finding of mental incompetency; [PL 2019, c. 165, §31 (AMD).]

C. Having had any professional or occupational license revoked for disciplinary reasons or any application rejected for reasons relating to untrustworthiness, within 3 years of the date of application; and [PL 2019, c. 165, §31 (AMD).]

D. A violation of section 13866. [PL 2019, c. 165, §32 (NEW).]
[PL 2019, c. 165, §§31, 32 (AMD).]

2. Reinstatement.

[PL 2007, c. 621, §16 (RP).]

SECTION HISTORY

PL 2007, c. 402, Pt. EE, §9 (NEW). PL 2007, c. 621, §16 (AMD). PL 2017, c. 407, Pt. A, §147 (AMD). PL 2019, c. 165, §§31, 32 (AMD).

§13862. Privileged communication

Except at the request or consent of the client, no person licensed under this chapter may be required to testify in any civil or criminal action, suit or proceeding at law or in equity respecting any information that the person licensed or registered may have acquired in providing counseling services or marriage and family therapy services to the client in a professional and contractual capacity if that information was necessary to enable the licensee to furnish professional counseling services to the client. When the physical or mental condition of the client is an issue in that action, suit or proceeding or when a court in the exercise of sound discretion determines the disclosure necessary to the proper administration of justice, information communicated to or otherwise learned by that licensed or registered person in connection with the provision of counseling or marriage and family therapy services may not be privileged and disclosure may be required. [PL 1989, c. 465, §3 (NEW); PL 1989, c. 895, §18 (AMD).]

Nothing in this section may prohibit disclosure by a person licensed under this chapter of information concerning a client when that disclosure is required by law and nothing in this section may modify or affect Title 22, sections 3477 to 3479-A and 4011-A to 4015. [PL 2001, c. 345, §10 (AMD).]

This section may not be construed to prevent a 3rd-party reimbursor from inspecting and copying, in the ordinary course of determining eligibility for or entitlement to benefits, any and all records relating to the diagnosis, treatment or other services provided to any persons, including a minor or incompetent, for which coverage, benefit or reimbursement is claimed as long as the policy or certificate under which the claim is made provides that access to those records is permitted. This section may not be construed to prevent access to any records pursuant to any peer review or utilization review procedures applied and implemented in good faith. [PL 1989, c. 465, §3 (NEW).]

SECTION HISTORY

PL 1989, c. 465, §3 (NEW). PL 1989, c. 752 (AMD). PL 1989, c. 895, §§1,22 (AFF). PL 1989, c. 895, §18 (AMD). PL 1991, c. 263, §§5,6 (AFF). PL 2001, c. 345, §10 (AMD).

§13863. Registration

1. Registration. An individual may not engage in procedures of counseling for a fee, monetary or otherwise, unless that individual is licensed pursuant to section 13858 or registers with the department pursuant to this section. Each individual who is not licensed and who engages in procedures of counseling shall register with the department every 2 years. Each individual who registers shall fill out a form designed by the board.

[PL 1991, c. 548, Pt. A, §25 (RPR).]

2. Information required. Each individual who registers shall provide the following information on the form designed by the board. The board shall compile this information and make it available to the public upon request and for a fee that covers the cost of making information available. The information that must be provided includes:

A. Name, address and telephone number of individuals registering; [PL 1991, c. 548, Pt. A, §25 (RPR).]

B. Major fields of training and expertise, including degrees and professional certifications held and from where they were conferred; [PL 1991, c. 548, Pt. A, §25 (RPR).]

C. Method of billing and previous experience and policy with regard to 3rd-party payments; [PL 1991, c. 548, Pt. A, §25 (RPR).]

D. The fee schedule and provisions for pro bono work or sliding scale modifications of the fee schedule; and [PL 1991, c. 548, Pt. A, §25 (RPR).]

E. A description of the individual's practice. [PL 1991, c. 548, Pt. A, §25 (RPR).]

[PL 1991, c. 548, Pt. A, §25 (RPR).]

3. Client bill of rights; code of ethics. Each individual who registers under this section shall sign, post and make a copy available to each client of:

A. The client bill of rights approved by the board; [PL 1991, c. 548, Pt. A, §25 (RPR).]

B. The code of professional ethics approved by the board; and [PL 1991, c. 548, Pt. A, §25 (RPR).]

C. The name and telephone number of the board's complaint officer and a description of the complaint process. [PL 1991, c. 548, Pt. A, §25 (RPR).]

[PL 1991, c. 548, Pt. A, §25 (RPR).]

4. Registration fee. Each individual registering under this section shall pay a registration fee, not to exceed \$50 biennially, established by the board for the purposes of the administration of this section. [PL 1991, c. 548, Pt. A, §25 (RPR).]

5. Registration not allowed. An individual, whose license, certification or registration has been revoked or suspended in this or any other state and in this or any related field, may not register to practice in this State unless the period of revocation or suspension has been completed and the board has conducted a competency review and determined that rehabilitation has taken place. [PL 1991, c. 548, Pt. A, §25 (RPR).]

6. Disciplinary action. Any individual who is registered under this section is subject to section 13861-A. [PL 2007, c. 695, Pt. B, §19 (AMD).]

7. Registration not certification. Registration does not imply or certify in any way that the registrant has met any standards or criteria of education or training. [PL 1991, c. 548, Pt. A, §25 (RPR).]

8. Effective date. This section takes effect October 1, 1992. [PL 1991, c. 548, Pt. A, §25 (NEW).]

9. Sunset. This section applies only to an individual who is validly registered under this section by August 1, 2008. [PL 2007, c. 621, §17 (NEW).]

SECTION HISTORY

PL 1989, c. 878, §D11 (NEW). PL 1989, c. 895, §§19,22 (NEW). PL 1991, c. 263, §6 (AFF). PL 1991, c. 548, §A25 (RPR). PL 2007, c. 621, §17 (AMD). PL 2007, c. 695, Pt. B, §19 (AMD).

§13864. Inactive status license

A licensee who does not perform any of the activities described in section 13851, subsection 8 and who wants to preserve the license while not engaged in any counseling activity may apply for an inactive status license pursuant to Title 10, section 8003, subsection 5-A, paragraph D, subparagraph (5). The fee for inactive status licensure is set under section 13859. During inactive status, the licensee must renew the license and pay the renewal fee as set under section 13859, but is not required to meet the continuing education requirements under section 13860, subsection 2. The board shall adopt rules by which an inactive status license may be reinstated. Rules adopted pursuant to this section are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A. [PL 2007, c. 402, Pt. EE, §10 (AMD).]

SECTION HISTORY

PL 1997, c. 128, §2 (NEW). PL 2007, c. 402, Pt. EE, §10 (AMD).

§13865. Service of process; filing requirement

Licensees who maintain licensure in this State and establish legal residency in another jurisdiction shall submit to the Board of Counseling Professionals Licensure within 30 days of residency in another jurisdiction an irrevocable consent to service of process on the licensee for an action filed in a court of this State arising out of the licensee's activities as a licensee in this State. Service may be made by delivery of the process to the Director of the Office of Professional and Occupational Regulation within the Department of Professional and Financial Regulation if, in the exercise of due diligence, a plaintiff can not effect personal service upon the licensee. [PL 2003, c. 542, §5 (NEW); PL 2011, c. 286, Pt. B, §5 (REV).]

SECTION HISTORY

PL 2003, c. 542, §5 (NEW). PL 2011, c. 286, Pt. B, §5 (REV).

§13866. Prohibition on providing conversion therapy to minors

An individual licensed under this chapter may not advertise, offer or administer conversion therapy to a minor. [PL 2019, c. 165, §33 (NEW).]

REVISOR'S NOTE: §13866. Duty to warn and protect as enacted by PL 2019, c. 317, §6 is REALLOCATED TITLE 32, SECTION 13867

SECTION HISTORY

PL 2019, c. 165, §33 (NEW).

§13867. Duty to warn and protect

(REALLOCATED FROM TITLE 32, SECTION 13866)

1. Duty. A licensee under this chapter has a duty to warn of or to take reasonable precautions to provide protection from a client's violent behavior if the licensee has a reasonable belief based on communications with the client that the client is likely to engage in physical violence that poses a serious risk of harm to self or others. The duty imposed under this subsection may not be interpreted to require the licensee to take any action that in the reasonable professional judgment of the licensee would endanger the licensee or increase the threat of danger to a potential victim. [PL 2019, c. 317, §6 (NEW); RR 2019, c. 1, Pt. A, §47 (RAL).]

2. Discharge of duty. A licensee subject to a duty to warn or provide protection under subsection 1 may discharge that duty if the licensee makes reasonable efforts to communicate the threat to a

potential victim, notifies a law enforcement agency or seeks involuntary hospitalization of the client under Title 34-B, chapter 3, subchapter 4, article 3.

[PL 2019, c. 317, §6 (NEW); RR 2019, c. 1, Pt. A, §47 (RAL).]

3. Immunity. No monetary liability and no cause of action may arise concerning client privacy or confidentiality against a person licensed under this chapter for information disclosed to 3rd parties in an effort to discharge a duty under subsection 2.

[PL 2019, c. 317, §6 (NEW); RR 2019, c. 1, Pt. A, §47 (RAL).]

SECTION HISTORY

PL 2019, c. 317, §6 (NEW). RR 2019, c. 1, Pt. A, §47 (RAL).

§13868. Telehealth services

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Asynchronous encounter" means an interaction between a client and a person licensed under this chapter through a system that has the ability to store digital information, including, but not limited to, still images, video files, audio files, text files and other relevant data, and to transmit such information without requiring the simultaneous presence of the client and the person licensed under this chapter. [PL 2021, c. 291, Pt. B, §20 (NEW).]

B. "Store and forward transfer" means the transmission of a client's records through a secure electronic system to a person licensed under this chapter. [PL 2021, c. 291, Pt. B, §20 (NEW).]

C. "Synchronous encounter" means a real-time interaction conducted with an interactive audio or video connection between a client and a person licensed under this chapter or between a person licensed under this chapter and another health care provider. [PL 2021, c. 291, Pt. B, §20 (NEW).]

D. "Telehealth services" means health care services delivered through the use of information technology and includes synchronous encounters, asynchronous encounters, store and forward transfers and telemonitoring. [PL 2021, c. 291, Pt. B, §20 (NEW).]

E. "Telemonitoring" means the use of information technology to remotely monitor a client's health status via electronic means, allowing the person licensed under this chapter to track the client's health data over time. Telemonitoring may be synchronous or asynchronous. [PL 2021, c. 291, Pt. B, §20 (NEW).]

[PL 2021, c. 291, Pt. B, §20 (NEW).]

2. Telehealth services permitted. A person licensed under this chapter may provide telehealth services as long as the licensee acts within the scope of practice of the licensee's license, in accordance with any requirements and restrictions imposed by this section and in accordance with standards of practice.

[PL 2021, c. 291, Pt. B, §20 (NEW).]

3. Confidentiality. When providing telehealth services, a person licensed under this chapter shall comply with all state and federal confidentiality and privacy laws.

[PL 2021, c. 291, Pt. B, §20 (NEW).]

4. Professional responsibility. All laws and rules governing professional responsibility, unprofessional conduct and generally accepted standards of practice that apply to a person licensed under this chapter also apply to that licensee while providing telehealth services.

[PL 2021, c. 291, Pt. B, §20 (NEW).]

5. Rulemaking. The board shall adopt rules governing telehealth services by persons licensed under this chapter. These rules must establish standards of practice and appropriate restrictions for the

various types and forms of telehealth services. Rules adopted pursuant to this subsection are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

[PL 2021, c. 291, Pt. B, §20 (NEW).]

REVISOR'S NOTE: §13868. Services to minors with consent of a parent or guardian (As enacted by PL 2021, c. 302, §3 is REALLOCATED TO TITLE 32, SECTION 13869)

SECTION HISTORY

PL 2021, c. 291, Pt. B, §20 (NEW).

§13869. Services to minors with consent of a parent or guardian (REALLOCATED FROM TITLE 32, SECTION 13868)

A person licensed under this chapter as a clinical professional counselor who renders services under this chapter to a minor with the consent of one of the minor's parents or the minor's guardian is under no obligation to obtain the consent of any other parent or guardian of the minor. Nothing in this section may be construed so as to prohibit the licensed person rendering the services from informing another parent or guardian of the services. [PL 2021, c. 302, §3 (NEW); RR 2021, c. 1, Pt. A, §34 (RAL).]

SECTION HISTORY

PL 2021, c. 302, §3 (NEW). RR 2021, c. 1, Pt. A, §34 (RAL).

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