

PROPOSED RULEMAKING

STATE BOARD OF PHARMACY

[49 PA. CODE CH. 27]

Pharmacy Internship

The State Board of Pharmacy (Board) proposes to amend § 27.26 (relating to pharmacy internship) to read as set forth in Annex A.

Effective Date

This proposed rulemaking will be effective upon final publication in the *Pennsylvania Bulletin*.

Statutory Authority

The proposed rulemaking is authorized under sections 3(c) and 6(k)(9) of the Pharmacy Act (act) (63 P. S. §§ 390-3(c) and 390-6(k)(9)).

Background and Need for the Proposed Rulemaking

Section 3(c) of the act requires that “to insure proficiency in the practical aspects of pharmacy, the board shall, by regulation, prescribe internship requirements which must be satisfactorily completed prior to issuance of a pharmacist license.” Section 27.26 sets forth standards for the pharmacy internship. In addition to graduation from an Accreditation Council for Pharmacy Education (ACPE) accredited pharmacy degree program and successful completion of the licensure examination, completion of an internship prepares the applicant to function competently and effectively upon licensure. The current trend in pharmacy education is for greater participation by students in an academic internship as part of the educational process. This proposed rulemaking intends to permit a pharmacy intern to complete more of the internship requirements through academic internships or nontraditional internships. Additionally, this proposed rulemaking intends to better ensure that only those aspiring pharmacists who continue the path to licensure will be permitted to continue to work as pharmacy interns.

Description of the Proposed Amendments

The proposed rulemaking would amend § 27.26(a) to provide that the purpose of the internship is to provide the intern with experience that would enable the intern to begin “functioning competently and effectively upon licensure” rather than simply “functioning competently under the act and this chapter.”

In addition to education in an ACPE-accredited pharmacy degree program, a pharmacy internship is a tremendously important phase of pharmacist training. An intern registration is valid for 6 years. However, if a pharmacy student chooses to permanently cease enrollment in a pharmacy program, the student is no longer progressing towards ultimate licensure as a pharmacist and should not be permitted to continue working as a pharmacy intern. The proposed rulemaking would amend § 27.26(c) to provide that a pharmacy intern registration will automatically become invalid if the intern permanently ceases enrollment in an accredited pharmacy degree program and to require the former intern to immediately return to the Board the pharmacy intern registration and preceptor approval documents.

The proposed rulemaking also would amend § 27.26(b)(2) to clarify not only that an applicant shall be enrolled or accepted into an ACPE-accredited pharmacy degree program, but also to expand the pre-pharmacy educational path by which an applicant may become so enrolled or accepted. So long as an applicant is enrolled or accepted as a first professional year (P1) student in an ACPE-accredited pharmacy degree program, the applicant is not required to have completed the 2 years of pre-pharmacy education at an ACPE-accredited school or college of pharmacy.

Section 27.26(d)(1) requires that a pharmacy intern serve an internship of at least 1,500 hours. The proposed rulemaking would amend § 27.26(d)(3) to decrease the minimum portion of that time that shall be served in a pharmacy from 750 to 500 hours. Correspondingly, the proposed rulemaking would amend § 27.26(d)(4) to increase the maximum portion of that time that may be served in an academic internship from 750 to 1,000 hours.

Section 27.26(e) limits internship credit to activities related to the practice of pharmacy and provides examples of those activities. Because a pharmacist may take and fill a prescription by means of an oral order, telephone or otherwise, the proposed rulemaking would add to those examples of activities related to the practice of pharmacy “taking oral orders for prescriptions by telephone or otherwise.”

The proposed rulemaking would add a subsection to allow for an internship not served in a pharmacy or sponsored or approved by an accredited pharmacy degree program. As examples of a nontraditional internship, the Board has previously been asked to consider an intern serving with a preceptor pharmacist without being in a licensed pharmacy and also at a pharmaceutical company participating in a research project. Nontraditional internships would have to be approved by the Board in advance. As a nontraditional internship by definition is not served in a pharmacy, it may not be used to satisfy the pharmacy hours requirement of § 27.26(d)(3). To permit the Board adequate time to review the proposed internship, the request shall be submitted at least 90 days before beginning the internship.

Finally, because the Board does not specifically approve a pharmacy in which a pharmacy intern serves an internship, the proposed rulemaking would amend § 27.26(g) and (h)(3) to refer to the pharmacy that is “utilized” for intern training, rather than a pharmacy that is “approved” for intern training.

Fiscal Impact and Paperwork Requirements

The proposed rulemaking will not have adverse fiscal impact on the Commonwealth or its political subdivisions. The proposed rulemaking does not impose additional paperwork requirements upon the Commonwealth, political subdivisions or the private sector.

Sunset Date

The Board continuously monitors the effectiveness of its regulations. Therefore, a sunset date has not been assigned.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 8, 2012, the Board submitted a copy of this proposed rulemaking and a copy of a

Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House Professional Licensure Committee and the Senate Consumer Protection and Professional Licensure Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Board, the General Assembly and the Governor of comments, recommendations or objections raised.

Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking to Kerry E. Maloney, Board Counsel, State Board of Pharmacy, P. O. Box 2649, Harrisburg, PA 17105-2649, st-pharmacy@state.pa.us within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Reference No. 16A-5424 (pharmacy internship) when submitting comments.

RICHARD R. SMIGA, RPh,
Chairperson

Fiscal Note: 16A-5424. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 27. STATE BOARD OF PHARMACY PHARMACISTS

§ 27.26. Pharmacy internship.

(a) Pharmacy internship means the supervised practical experience required for licensure as a registered pharmacist. The purpose of the pharmacy internship program is to provide a registered intern with the knowledge and practical experience necessary for functioning competently [**under the act and this chapter**] and effectively upon licensure.

(b) [**A certificate of registration**] **Registration** as a pharmacy intern will be available to an individual of good moral character who has completed at least 2 years of [**pharmacy college or an accredited program leading to transfer into the third year of a pharmacy college in which the individual is enrolled or accepted**] college and is enrolled or accepted as a student of pharmacy in an ACPE-accredited pharmacy degree program. A person desiring to register as a pharmacy intern shall do the following:

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(2) Forward to the Board [**a letter or transcript certifying**] acceptable documentation verifying that the applicant has successfully completed at least 2 years of [**pharmacy college or an accredited program leading to transfer into the third year of a pharmacy college in which the applicant is enrolled or**

accepted] college and is enrolled or accepted as a student of pharmacy in an ACPE-accredited pharmacy degree program. Acceptable documentation includes a document bearing the school's seal received by the Board directly from the dean or registrar of the ACPE-accredited pharmacy degree program which includes the pharmacy student's name, address, Social Security number and a statement indicating that the student has successfully completed at least 2 years of college and is enrolled or accepted as a student of pharmacy in, or has graduated from, the ACPE-accredited pharmacy degree program.

(c) The Board will register an applicant after it receives a completed application and other items in subsection (b). A pharmacy intern [**certificate**] registration is valid for 6 years from the date of issue exclusive of time spent in the military. **A pharmacy intern registration will automatically become invalid if the pharmacy intern permanently ceases enrollment in an ACPE-accredited pharmacy degree program prior to graduation. A pharmacy intern whose registration becomes invalid under this subsection shall immediately return to the Board the pharmacy intern registration and preceptor approval documents.**

(d) The following applies to internship credit:

* * * * *

(3) An intern shall serve at least [**750**] **500** of the 1,500 hours in a pharmacy.

(4) An intern may earn up to [**750**] **1,000** of the 1,500 hours in an internship program sponsored or approved by [**the pharmacy college subject to the following conditions:**] an ACPE-accredited pharmacy degree program.

[(i) The Board will determine the maximum number of hours available for each internship program sponsored or approved by a pharmacy college.

(ii) The Board will grant internship credit to an individual in an internship program sponsored or approved by a pharmacy college only if the following applies:

(A) The internship program is full-time.

(B) There is no concurrent academic courseload.

(C) The individual achieves a passing grade in the program.

(iii) A pharmacy college which desires to sponsor or approve an internship program shall request approval from the Board.

(iv) The Board will monitor internship programs which are sponsored or approved by a pharmacy college.]

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(6) The Board will not grant internship credit for hours which an individual served in a pharmacy if the supervising pharmacist was not registered as a preceptor. An exception to the requirement that the supervising pharmacist register as a preceptor will be made for internship hours acquired in an internship program sponsored or approved by [**a pharmacy college**] an ACPE-accredited pharmacy degree program.

STATE BOARD OF PSYCHOLOGY

[49 PA. CODE CH. 41]

Code of Ethics

(e) The Board will grant internship credit only for activities related to the practice of pharmacy. The following are examples of these activities: scrutinizing prescriptions or drug orders, **taking oral orders for prescriptions by telephone or otherwise**, compounding medications and filling prescriptions. The Board will not grant internship credit for activities which are not related to the practice of pharmacy. **[The following are examples of these activities: retail sales unrelated to pharmacy items, shelving or clerical functions unrelated to pharmacy.]**

(f) **An intern who wishes to receive credit for internship experience that is not in a pharmacy or sponsored or approved by an APCE-accredited pharmacy degree program shall apply to the Board for approval before beginning an internship experience. Upon receipt of the application, the Board will review and determine how much, if any, credit will be given. Requests for approval shall be submitted at least 90 days before the internship experience begins. Credit given for a nontraditional internship may not be used to satisfy the requirement of subsection (d)(3) pertaining to the minimum amount of time the internship shall be served in a pharmacy.**

(g) A person may not be eligible to become a candidate for registration to practice pharmacy unless the person receives instruction in practical pharmacy and pharmaceutical technique from an instructor, professor[,] or faculty member who is a registered pharmacist or from a faculty member who is a registered pharmacist at **[a pharmacy college] an ACPE-accredited pharmacy degree program.**

[(g)] (h) The following requirements are applicable to a pharmacy **[approved] utilized** for intern training:

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[(h)] (i) The requirements for registration as a pharmacist preceptor are as follows:

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(3) An applicant shall be working on a full-time basis in a pharmacy **[approved] utilized** for intern training.

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[(i)] (j) Credit shall be granted for practical experience gained in pharmacies outside this Commonwealth upon presentation of evidence satisfactory to the Board to indicate that the experience gained is substantially equivalent to that required by this chapter.

[(j)] (k) The pharmacy internship may not be deemed satisfactorily completed until the intern has filed affidavits with the Board certifying that the intern has obtained a total of 1,500 hours of practical experience since registration as a pharmacy intern.

[(k)] (l) When a candidate receives his first certificate and identification card to practice as a pharmacist, his certificate as an intern terminates.

[Pa.B. Doc. No. 12-1595. Filed for public inspection August 17, 2012, 9:00 a.m.]

The State Board of Psychology (Board) proposes to amend §§ 41.1, 41.57 and 41.61 (relating to definitions; professional records; and Code of Ethics) and add § 41.62 (relating to compliance with APA standards and guidelines) to read as set forth in Annex A.

Effective Date

This proposed rulemaking will become effective upon final-form publication in the *Pennsylvania Bulletin*.

Statutory Authority

The amendments are proposed under the authority of section 3.2(2) of the Professional Psychologists Practice Act (act) (63 P. S. § 1203.2(2)).

Purpose and Background

This proposed rulemaking has three purposes: to update and simplify the Code of Ethics (Code); to add a section addressing compliance with the American Psychological Association’s (APA) standards and guidelines; and to amend the recordkeeping requirements to include disposition of records implicated by other laws and those specifically applicable to minors.

As part of the review of its regulations, the Board determined that to ensure maximum compliance with the Code, it should be redrafted in mandatory regulatory language. Additionally, the Board determined that because it does not license psychologists by specialty, the Code should not refer to specialty areas but rather apply to all psychologists. Finally, the Board determined that certain provisions are outdated and others need to be reorganized. The Board reviewed the APA’s Ethical Principles of Psychologists and Code of Conduct (APA Code) and the Association of State and Provincial Psychology Boards’ Model Code of Conduct (ASPPB Model Code) in this process.

Description of Proposed Amendments

§ 41.1—Definitions

The Board proposes to delete the definition for “client,” amend the definition for “client/patient” and add definitions for “approved treatment program provider,” “confidential information” and “multiple relationship.” Currently, § 41.1 contains a definition for both “client” and “client/patient.” Not only is the definition of “client” redundant, but because client and patient are used interchangeably in the practice of psychology, the Board is proposing to replace “client” with “client/patient” through-out this proposed rulemaking.

“Client/patient” is defined as the person, system, organization, group or family for whom a psychologist provides psychological services. This definition clarifies that sometimes the person speaking to the psychologist is not actually the patient. Rather, the client/patient may be a court, an employer or a parent. Under the proposed definition, when a person has a legal guardian, as in the case of minors and legally incompetent adults, the legal guardian is the client/patient except for issues directly affecting the physical or emotional safety of the individual. The Board proposes to amend this definition to include two additional instances when persons with legal

guardians remain the client/patient. Proposed subparagraph (ii) addresses the therapeutic contract, permissible under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) (Pub. L. 104-191, 110 Stat. 1936), in which the legal guardian agrees prior to the provision of psychological services that the minor/legally incapacitated adult remains the client/patient. This scenario frequently occurs when a teenager is seeking psychological services and the parents agree that conversations between the psychologist and the teenager will remain confidential between the psychologist and the teenager. Another scenario occurs when an inmate or criminal parolee is ordered to receive psychological treatment. The court, rather than the inmate/parolee is the client/patient, but often the court agrees in writing that conversations between the psychologist and the inmate/parolee will remain confidential between the psychologist and the inmate/parolee. Proposed subparagraph (iii) addresses situations when a statute or regulation specifically requires that conversations between the psychologist and the minor/legally incapacitated adult remain confidential, such as 23 Pa.C.S. § 6383(b)(2) (relating to education and training), or specific drug and alcohol laws.

Finally, the Board proposes adding definitions for new terms used in § 41.61. Specifically, the Board proposes adding definitions for “approved treatment provider,” “confidential information” and “multiple relationship,” formerly referred to as dual relationships. The proposed definition of “approved treatment provider” tracks the standards required for providers by the Bureau of Professional and Occupational Affairs’ Professional Health Monitoring Program. The definition of “confidential information” clarifies that written, rather than verbal, consent is required for the disclosure of the confidential information. The inclusion of immediate family members within the definition of “multiple relationship” parallels the language in § 41.83 (relating to sexual intimacies with a former client/patient, or an immediate family member of a former client/patient).

§ 41.57—Professional records

The Board proposes to amend subsection (c) to clarify that psychologists may release records to someone other than the client/patient with the client/patient’s written authorization. At times, after a client/patient dies, the family seeks a copy of the client/patient’s treatment records. Unless the client/patient or the client/patient’s legal guardian signs a release prior to the client/patient’s death, the psychologist is not permitted to release the records. Proposed § 41.61(e) would also clarify when these records may be released.

Current subsection (d) requires psychologists to maintain their professional records for 5 years. The Board proposes to amend this subsection to require psychologists to maintain records for minors for the greater of 5 years or 2 years beyond the age of majority.

§ 41.61—Code of Ethics

The Board is proposing to completely rewrite the Code to move away from the current structure and language, which is often written in passive voice and is more aspirational in tone. The proposed language uses mandatory regulatory language to ensure maximum compliance with the Code. For this reason, with the exception of the introductory language regarding the scope and purpose of the Code, the existing language of the Code is proposed to be deleted and replaced with the following new subsections.

In subsection (a), the current introductory language pertaining to the statutory authority, purpose and scope of the Code is retained.

Proposed subsection (b)(1) tracks the requirement in Principle 2(a) of the Code that psychologists limit their practice and supervision to areas in which they are competent as a result of their education, training and experience. Proposed subsection (b)(2) tracks the requirement in Principle 2(a) and (f) of the Code that psychologists maintain current competency through continuing education, consultation and other procedures, including supervision. Proposed subsection (b)(3) requires psychologists to represent their areas of competence in accordance with proposed subsection (f)(1).

Proposed subsection (b)(4)—(7) is an addition to the Code. Proposed subsection (b)(4) addresses services and techniques that are new to the profession or new to the licensee. Before new services or techniques are utilized, proposed subsection (b)(4) requires psychologists to first obtain training, education and, if warranted, supervision for the new services or techniques and then, prior to applying the new services or techniques, to inform clients/patients about their nature and risks so that the clients/patients can make informed decisions whether to consent to use of the services/techniques. This proposed paragraph is consistent with Principle 2.01(c) and (e) of the APA Code and Section III(A)(4) of the ASPPB Model Code.

Proposed subsection (b)(5) delineates the Board’s longstanding position that psychologists are prohibited from rendering formal psychological opinions about persons whom they have not had direct professional contact or reviewed psychological records. A typical scenario when an opinion is required is in custody determinations wherein psychologists are asked to evaluate the fitness of parents. This prohibition is based upon the Board’s view that without direct professional contact or, at the least, review of psychological records, psychologists do not possess sufficient information to render opinions. It is consistent with Section III(A)(6) of the ASPPB Model Code but more stringent than Principle 9.01(c) of the APA Code, which also permits psychologists to offer opinions based upon limited information with appropriate disclaimers. Proposed subsection (b)(5), however, does not prohibit psychologists from discussing cases at peer review groups, as those discussions center around practice issues generally and do not rise to the level of a formal psychological opinion. Similarly, this paragraph does not prohibit psychologist-supervisors from discussing specific cases with their supervisees, as the psychologist-supervisors are directly responsible for the psychological services provided by their supervisees and have full access to the client/patient’s psychological records.

Proposed subsection (b)(6) requires psychologists to make treatment arrangements for their clients/patients during periods of foreseen absences, such as vacations and leave of absences. These arrangements, which are consistent with Principles 2.01(c) and 3.12 of the APA Code and Section III(A)(8) of the ASPPB Model Code, may include setting up treatment sessions with substitute providers, offering information about alternative services or providing telephone numbers for alternative providers. Proposed subsection (b)(7) prohibits psychologists from undertaking or continuing practice when they become impaired, tracking the requirement in section 8(a)(8) of the act (63 P.S. § 1208(a)(8)), and requires that they terminate the professional relationship as outlined in subsection (m).

Proposed subsection (c) addresses psychologists' responsibilities when they have multiple relationships with clients/patients. Multiple relationships, formerly referred to in the profession as dual relationships, occur when a psychologist serves in a professional capacity with a client/patient and, at the same time, has another relationship with that client/patient, ranging from being a neighbor to being the client/patient's child's sports coach to having a sexual relationship with the client/patient or an immediate family member of the client/patient. As is the case under the current Code, multiple relationships are not per se prohibited. However, as proposed subsection (c)(1) delineates, before entering into a multiple relationship, psychologists are required to evaluate the potential for exploitation by considering the power differential between the client/patient and the psychologist, the dependence and vulnerability of the client/patient and the duration of the therapeutic relationship. The greater the power differential or dependence/vulnerability of the client/patient, the greater potential for exploitation. This evaluation should be documented in the psychologist's records as part of § 41.57(a). In evaluating disciplinary matters involving allegations of multiple relationships, the Board has applied this analysis.

Proposed subsection (c)(2), which is consistent with Principle 3.05(a) of the APA Code and Section III(B) of the ASPPB Model Code, describes the three instances when exploitation occurs: (1) the psychologist's professional judgment or objectivity is impaired; (2) the relationship interferes with the psychologist's ability to perform functions effectively; or (3) the client/patient could be harmed. Examples of exploitation include engaging in sexual intimacies, as defined in § 41.81 (relating to prohibited conduct), and inducing a client/patient to solicit business on behalf of the psychologist.

Proposed subsection (c)(3) tracks the prohibition against engaging in multiple relationships that are exploitative in current Principle 6(b) of the Code, Principles 2.01(c) and 3.12 of the APA Code and Section III(B)(2)(a) of the ASPPB Model Code. Proposed subsection (c)(4) describes the action that the psychologist shall take if the multiple relationship becomes exploitative. Psychologists are required to resolve the exploitation in the best interest of the client/patient. Proposed subsection (c)(5) notifies psychologists that terminating the professional relationship does not obviate an exploitation.

Proposed subsection (c)(6) tracks current Principles 6(a) and (d) and 7(f) of the Code requiring that when there is a conflict between the psychologist's employer and the psychologist's client/patient, the psychologist is required to inform both the employer and the client/patient of the conflict, the direction of the psychologist's loyalties and responsibilities and take appropriate action. Because the resolution of the conflict is fact-specific, the Board cannot prescribe how the conflict is to be resolved.

Proposed subsection (d) addresses issues regarding client/patient welfare. Proposed subsection (d)(1) incorporates the requirement in current Principle 6(a) of the Code that psychologists keep clients/patients apprised of evaluations, treatments and other procedures so that clients/patients are adequately informed to make service decisions. An additional element added to proposed subsection (d)(1) is the recognition that generally psychologists are required to provide clients/patients with accurate and understandable accounts of their conditions. However, there are circumstances when the information would be injurious to the client/patient, or when other statutes or common law, including HIPAA, 23 Pa.C.S.

§ 6383(b)(2) and therapeutic privilege, would permit psychologists to withhold information until the client/patient is psychologically ready to accept the information.

Proposed subsection (d)(2) tracks current Principle 1(a) of the Code requiring that psychologists be objective when providing professional services. Incorporated within this objectivity requirement, taken from current Principle 2(g) and (i) of the Code, is the psychologists' recognition of age, sex, socioeconomic and ethnic differences among people, the psychologists' own personal problems and conflicts, and diverse attitudes of others. Additionally, this objectivity requirement mandates that psychologists avoid diminishing the legal and civil rights of others in current Principle 3(d) of the Code. When psychologists are unable to be objective, proposed subsection (d)(2) requires that they refer their clients/patients for other professional services. This proposed paragraph is consistent with Principles 2.01(b) and 2.06 of the APA Code.

Proposed subsection (d)(3) tracks current Principles 6(e) and 7(e) of the Code which prohibit psychologists from engaging in verbal or physical behavior which is seductive, demeaning, exploitative or harassing. This proposed paragraph is consistent with Principle 3.02 of the APA Code and Section III(D)(6) of the ASPPB Model Code. This prohibition applies to psychologists' interaction with clients/patients, supervisees, research participants, employees and students in the performance of their professional practice. However, this prohibition does not apply to psychologists' conduct that occurs outside of their professional practice.

Proposed subsection (d)(4) incorporates current law and Principle 3.10 of the APA Code requiring psychologists to ensure that their clients/patients are capable of consenting to treatment prior to beginning treatment, except when treatment is mandated by a court. In the case of minors and legally incapacitated adults, the capability to consent is provided by legal guardians as set forth in the definition of "client/patient." Proposed subsection (d)(5) tracks current Principles 5(a) and 6(c) of the Code in connection with psychologists' duty to clarify the scope of the professional relationship and the limits of confidentiality at the beginning of the professional relationship. Because it generally takes several sessions, depending upon the client/patient, to perform an evaluation and determine that scope of the professional relationship, the Board has chosen not to require this clarification at the first session. At the same time, the Board has chosen not to use the language "as soon as feasible," as that time frame may be too long.

Proposed subsection (d)(6) tracks current Principle 4(n) of the Code which requires that psychologists only provide diagnostic and therapeutic services in the context of a professional relationship and clarifies that personal advice provided outside of the professional psychological relationship does not constitute diagnostic or therapeutic services. This provision dovetails with proposed subsection (b)(5).

Proposed subsection (e) addresses confidentiality issues and is generally consistent with Principle 4 of the APA Code and Section III(F) of the ASPPB Model Code. Proposed subsection (e)(1) embodies the general requirement that psychologists, including their office staff, keep confidential information about their clients/patients confidential. The exceptions to this general requirement are in proposed subsection (e)(2).

Proposed subsection (e)(2)(A) arises in a situation when a client/patient makes a specific and immediate threat of

serious bodily injury against specific identified or readily identifiable persons. As mandated by the Pennsylvania Supreme Court in *Emerich v. Philadelphia Center for Human Development, Inc.*, 554 Pa. 209, 232-233, 720 A.2d 1032, 1043 (1996), proposed subsection (e)(2)(A)(i) requires psychologists to warn the threatened third party of the danger. This mandatory duty to warn is a change from current Principle 5(b)(1), last amended prior to the Emerich decision, which made the requirement to warn discretionary. Proposed subsection (e)(2)(A)(ii)—(iv) addresses additional persons to whom psychologists may disclose and discuss the threats to seek their assistance to protect against dangers and to prevent the clients/patients from harming themselves.

The second exception to the confidentiality requirement in proposed subsection (e)(2)(B) addresses reports made as a result of a court order or Federal or State law. Under proposed subsection (e)(2)(B)(i), psychologists shall make disclosures, even without their clients/patients consent, in accordance with court orders and State or Federal mandatory reporting laws, such as child abuse under 23 Pa.C.S. §§ 6301—6386 (relating to Child Protective Services Law) (CPSL). Also, under proposed subsection (e)(2)(B)(ii), psychologists may make discretionary reports under discretionary reporting laws.

Proposed subsection (e)(3) clarifies that other than in the instances described in proposed subsection (e)(2)(B) for confidential information to be released, the written release must contain specific instructions regarding what information is to be released and to whom it is to be released. It also clarifies, that once issued, the release remains in effect until it is withdrawn or expires. Proposed subsection (e)(4), tracking current Principle 5(b)(2) of the Code, requires that even with their clients/patients' consent, prior to sharing confidential and identifiable information with other professionals, psychologists shall take reasonable steps to assure that those who receive the information are informed of their confidential nature and the prohibition against further disclosure. Proposed subsection (e)(5) tracks Principle 5(b)(2) and (3) of the Code which permits psychologists to disclose information and case reports when the client/patient's identification is appropriately disguised. This scenario arises frequently during peer group, professional presentations and academia when professional practice issues are discussed but client/patient names and identifiable information are disguised.

Proposed subsection (e)(6) requires a psychologist to obtain a client/patient's consent prior to permitting observation or electronic recording by another. This scenario frequently occurs when a psychologist or the psychologist's technique is subject to supervision or consultation.

Proposed subsection (e)(7) embodies the general rule that confidential information remains confidential even after the client/patient's death or termination of the professional psychological relationship. The proposed provision further clarifies that psychologists are not permitted to release confidential information about a client/patient, even to the client/patient's legal representatives, estates or family members, without a court order or a release signed by the client/patient.

Proposed subsection (f), like current Principle 4 of the Code, Principle 5 of the APA Code and Section III(G) of the ASPPB Model Code, delineates how psychologists shall represent their education, credentials, products and services. Proposed subsection (f)(1) tracks current Principles 2(d) and 4(a) of the Code that psychologists represent their areas of competence, education, training, exper-

ience and professional affiliations accurately to the Board, the public and their colleagues. Subsection (f)(2) tracks current Principles 2(d) and 4(a) of the Code that psychologists specifically identify doctoral degrees earned in fields other than psychology. For example, psychologists who have earned their licenses through master's degrees and then obtain a subsequent doctoral degree in mathematics are prohibited from referring to themselves as "Dr." in their psychology practices.

Proposed subsection (f)(3) tracks the requirement in current Principle 4(a) of the Code that psychologists represent their institutions and organizations accurately. Proposed subsection (f)(4) tracks requirements in current Principle 4(f)—(h) and (j) of the Code that they not associate themselves or permit their names to be used in connection with products or services that misrepresent the service, product or their degree of responsibility for the product or service. Proposed subsection (f)(5) tracks the requirement in current Principle 4(i) of the Code that psychologists may not compensate or provide anything of value to a representative of any news medium in anticipation of or in return for publicity on a news item. Proposed subsection (f)(6) tracks the requirement in current Principle 4(m) of the Code that in public statements about psychological information, services, products or opinions, psychologists shall base their statements on scientifically acceptable psychological findings and techniques.

Proposed subsection (f)(7) requires psychologists to correct misrepresentations about their professional qualifications, affiliations, associated products or services once learned that they are misrepresented. Proposed subsection (f)(8) requires psychologists to be currently licensed when listing themselves in any directory advertising their professional services.

Proposed subsection (g) addresses fees charged by psychologists for their services. Proposed subsection (g)(1) requires psychologists to discuss their fee arrangements either at the first session or as soon as feasible. Although clients/patients need to be aware of potential fees to determine whether to agree to the services, there are times when fees cannot be determined until after clients/patients are evaluated and the scope of the services determined. Further, when managed care is involved, at times, authorization cannot be obtained until after the evaluation and scope of services determination.

Proposed subsection (g)(2) prohibits psychologists from exploiting clients/patients or responsible payors by charging excessive fees or entering into exploitive bartering arrangements. Through this subsection, the Board permits bartering arrangements because it is cognizant that for patients without insurance and financial hardships, the only way to receive psychological services may be to trade goods or services for those psychological services.

Proposed subsection (g)(3) prohibits the payment and acceptance of referral fees. This prohibition is consistent with Principle 6.07 of the APA Code. Nonetheless, because the Board does not view the placement of a psychologist's name on a commercially or professionally sponsored list of licensed health care providers as a referral fee, proposed subsection (g)(4) permits psychologist to pay a flat fee for these advertising services.

Proposed subsection (h) addresses psychologists' additional obligations when utilizing assessments and incorporates Principles 1(i), 2(h), 6(f) and 8(a) and (d) of the Code, Principle 9 of the APA Code and Section III(I) of the ASPPB Model Code. Proposed subsection (h)(1), like proposed subsection (e)(1) and Section III(I)(1) of the

ASPPB Model Code, requires psychologists to assure that assessment results and information remain confidential. In reports following assessments, proposed subsection (h)(2), like current Principle 8(d) of the Code and Section III(I)(2) of the ASPPB Model Code, requires psychologists to include the results of the assessment as well as available norms, deficiencies and reservations or qualifications which affect the validity or reliability of the results except where the law permits the information to be withheld. Under HIPAA, psychologists may withhold assessment results when releasing the information would be harmful to the patient. These determinations are made on a case-by-case basis. When the information is withheld, it should be documented in the client/patient's record under § 41.57(b).

Proposed subsection (h)(3) incorporates current Principle 8(a) of the Code and Section III(I)(3) of the ASPPB Model Codes requiring that psychologists explain assessment results and limitations to their clients/patients so that they can be understood by the clients/patients. Proposed subsection (h)(4) incorporates current Principle 8(d) of the Code and Section III(I)(4) of the ASPPB Model Code to prohibit psychologists from reproducing or describing the assessments as part of lectures, presentations or popular publications in ways that might invalidate them. Based on this provision, psychologists may not disclose specific questions asked on standardized tests or allow technical manuals to be copied. Proposed subsection (h)(5) tracks current Principle 8(c) of the Code and Section III(I)(5) of the ASPPB Model Code and details the additional requirements on psychologists who offer an assessment procedure or automated interpretation services to other professionals. They are required to provide those professionals with a manual or other printed materials so that the professionals will have information about the assessment's rationale and statistical information.

Proposed subsection (i) sets forth violations of law and incorporates Section III(J) of the ASPPB Model Code. Proposed subsection (i)(1) prohibits psychologists from violating applicable statutes and regulations regulating the practice of psychology, including the act, the Board's regulations, HIPAA and the CPSL. Proposed subsection (i)(2) lists seven categories of violations involving psychology authorized under section 8 of the act. Specifically, it prohibits the use of fraud, misrepresentation or deception in: (1) obtaining a license; (2) passing the licensure examination; (3) assisting others to obtain a license or pass the licensure examination; (4) billing; (5) providing psychological services; (6) reporting results of evaluations/services; or (7) another activity regarding the practice of psychology.

Proposed subsection (j) addresses unauthorized practice. Proposed subsection (j)(1) prohibits psychologists from aiding or abetting another person in misrepresenting their professional credentials or in illegally engaging in the practice of psychology. Proposed subsection (j)(2) tracks current Principle 2(b) of the Code which prohibits the delegation of professional responsibilities to persons who are not properly trained or educated to provide those services.

Proposed subsection (k) addresses a psychologist's obligation to report other psychologists to the Board when the psychologist learns that other psychologists are violating the act or the Board's regulations. The Board had been advised by licensees that the current Code provides psychologists with conflicting directions. Current Principle 2(b) of the Code requires a psychologist who becomes aware of an ethical violation by another psychologist to

attempt to rectify the situation with the violating psychologist informally. If that attempt fails, the psychologist is directed to "call it to the attention of the Board." Conversely, current Principle 7(i) of the Code only requires informal resolution for an ethical violation that does not "affect the welfare of that psychologist's clients and which appears to be owing to lack of sensitivity, knowledge or experience." When the ethical violation "threatens client/patient welfare or is not amenable to an informal solution," psychologists "bring it to the attention of the Board." Proposed subsection (k)(1) resolves the inherent conflict between current Principles 2(b) and 7(i) of the Code and delineates five instances when psychologists are required to report to the Board.

Proposed subsection (k)(1)(i) requires mandatory reporting to the Board by a psychologist who has substantial reason to believe a psychologist is causing harm to a client/patient. Examples of harm include sexual misconduct, insurance fraud and blatant, intentional misrepresentations. The reporting psychologist may have learned of the harm through a variety of channels, including from the client/patient during a therapy session or from the violating psychologist during a peer group or a direct conversation. In either instance, under proposed subsection (k)(4), the reporting psychologist merely reports the violating psychologist and the purported harmful conduct but not the client/patient's name unless the client/patient consents. Although this reporting requirement is more stringent than Section III(L)(1) of the ASPPB Model Code, which makes reporting discretionary, and slightly more stringent than Principles 1.04 and 1.05 of the APA Code, which require informal resolution prior to reporting, the Board believes that mandatory reporting without informal resolution is necessary to protect future and other current clients/patients from the violating psychologist. At the same time, because the Board believes that disclosing the client/patient's name without consent may adversely affect the client/patient, mandatory report cannot include the client/patient's name without consent.

Proposed subsection (k)(1)(ii)—(iv), tracking the requirements in section 18(f) of the act (63 P. S. § 1218(f)), also requires mandatory reporting by psychologists when there is substantial evidence that another psychologist: (1) has an active addictive disease for which that psychologist is not receiving treatment; (2) is diverting a controlled substance; or (3) is mentally or physically incompetent to engage in the practice of psychology. Finally, proposed subsection (k)(1)(v) requires mandatory reporting when required by law, such as child abuse reporting mandated by the CPSL.

Proposed subsection (k)(2), also tracking section 18(f) of the act, carves out further exceptions from the reporting requirements for psychologists who are acting in a treatment capacity to an impaired professional in an approved treatment program. Proposed subsection (k)(3) permits discretionary reporting for those ethical violations that do not fall within proposed subsection (k)(1) and are not capable of informal resolution.

Proposed subsection (k)(4) clarifies that despite the reporting requirements, psychologists may only disclose a client/patient's name with the client/patient's written consent unless required by statute or the report that falls within paragraph (1)(i) as set forth in *Emerich*. Because this is current accepted practice, this subsection should not chill the filing of reports.

Proposed subsection (k)(5) imposes an affirmative obligation on psychologists to inform clients/patients about the standards of practice and the procedure for filing

complaints upon being advised by clients/patients of possible statutory, regulatory or ethical violations.

Proposed subsection (l) addresses psychologists' duty to refer clients/patients to other psychologists, associations, such as professional associations and managed care or insurance companies, or treatment providers for professional services. It delineates four instances when psychologists are required to make referrals: (1) the services needed by the client/patient are beyond the psychologist's competence or the scope of psychological practice; (2) there is a change in the professional relationship, such as an inability to maintain objectivity; (3) the client/patient has requested being referred; and (4) the psychologist has recommended that the client/patient be referred.

Proposed subsection (m) addresses a psychologist's duty in connection with terminating a professional relationship with a client/patient. Proposed subsection (m)(1) mandates termination when the client/patient no longer needs or is benefiting from the services or when the client/patient is being harmed or exploited by continued service. So long as the patient is not abandoned, proposed subsection (m)(2) permits psychologists to terminate at any time. If feasible, when the professional services are terminated and the client/patient requires further treatment, psychologists are required under proposed subsection (m)(3) to make a referral. While it is customary in the profession to provide the client/patient with the names of several professionals who are qualified to treat the client/patient, psychologists are not required to do so. Proposed subsection (m)(4) requires psychologists to document the termination in the client/patient's professional records.

§ 41.62—*Compliance with APA standards and guidelines*

Proposed subsection (a), which follows current Principle 3(e) of the Code, requires psychologists to adhere to APA standards and guidelines. Included within these standards and guidelines are requirements governing research, sharing data with other agencies, employee/employer relationships, teacher-student issues and working relationships or supervision of others within current Principles 1(b)—(h), 2(e), 3(e), 4(k) and (l), 6(b), 7(a), 8(c) and (f), 9(a)—(l) and 10(a)—(f) of the Code. Proposed subsection (a) is consistent with Commonwealth Court's decision in *Grossman v. State Board of Psychology*, 825 A.2d 748 (Pa. Cmwlth. 2003), *aff'd*, 575 Pa. 693, 835 A.2d 710 (2003).

Proposed subsection (b) requires psychologists to follow Federal and State law when there is a conflict between APA standards and guidelines and Federal and State law. Similarly, proposed subsection (c) requires psychologists to follow the Code if there is a conflict between the Code and APA standards and guidelines.

Fiscal Impact and Paperwork Requirements

The proposed rulemaking should not have fiscal impact on the Commonwealth and should not affect the paperwork requirements as the proposed amendments are limited to ethical and practitioner recordkeeping issues.

Sunset Date

The Board reviews the effectiveness of its regulations on an ongoing basis. Therefore, a sunset date has not been assigned.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 8, 2012, the Board submitted a copy of this proposed rulemaking and a copy of a

Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House Professional Licensure Committee and the Senate Consumer Protection and Professional Licensure Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Board, the General Assembly and the Governor of comments, recommendations or objections raised.

Public Comment

Interested persons are invited to submit written comments, recommendations or objections regarding the proposed rulemaking to Judith Pachter Schuller, State Board of Psychology, One Penn Center, 2601 North Third Street, P. O. Box 2649, Harrisburg, PA 17105-2649 within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

ALEX M. SIEGEL, JD, PhD,
Chairperson

Fiscal Note: 16A-6318. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 41. STATE BOARD OF PSYCHOLOGY GENERAL

§ 41.1. **Definitions.**

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise.

* * * * *

Approved treatment program provider—Either of the following:

(i) **A licensed physician or psychologist with verified training and experience in the diagnosis and treatment of addiction.**

(ii) **An individual or staff member of a facility licensed by the Department of Health, Bureau of Community Program Licensure and Certification, Division of Drug and Alcohol Program Licensure or, in the case of dual/multiple diagnoses, the Department of Public Welfare, Office of Mental Health and Substance Abuse Services.**

Board—The State Board of Psychology of the Commonwealth.

* * * * *

[**Client**—A person, system, organization, group or family for whom a psychologist provides psychological services.]

Client/patient—A person, system, organization, group or family for whom a psychologist provides psychological

services. In the case of individuals with legal guardians, including minors and legally incapacitated adults, the legal guardian [shall be] is the client/patient for decisionmaking purposes[. The], except that the minor, legally incapacitated adult or other person actually receiving the [service shall be] psychological services is the client/patient [for]:

(i) For issues [specifically reserved to the individual, such as confidential communications in a therapeutic relationship and issues] directly affecting the physical or emotional safety of the individual[, such as sexual or other exploitive dual relationships].

(ii) When the legal guardian agrees, prior to the provision of services, that the minor or legally incapacitated adult is the client/patient.

(iii) When a statutory or regulatory exception applies.

Confidential information—Information revealed by a client/patient or otherwise obtained by a psychologist when there is a reasonable expectation that because of the relationship between the client/patient and the psychologist, or the circumstances under which the information was revealed or obtained, the information is not disclosed by the psychologist without the written consent of the client/patient or as permitted under an exception in § 41.61(d) (relating to Code of Ethics).

* * * * *

Multiple relationship—A relationship in which a psychologist is in a professional role with a client/patient or immediate family member of a client/patient and at the same time is in another role with the same client/patient or promises to enter into another role in the future with the client/patient.

National Register—The Council for the National Register of Health Service Providers.

* * * * *

MISCELLANEOUS

§ 41.57. Professional records.

* * * * *

(c) A psychologist shall store and dispose of written, electronic and other records in a manner which insures their confidentiality, except as otherwise provided by law or in accordance with a written and signed authorization of a client/patient specifically authorizing release or disclosure of the client/patient’s psychological records.

(d) To meet the requirements of this section, so as to provide a formal record for review, but not necessarily for other legal purposes, a psychologist shall assure that all data entries in professional records are maintained for at least 5 years after the last date that service was rendered, or in the case of minors, the greater of 5 years or the age of majority plus 2 years. A psychologist shall also abide by other legal requirements for record retention, even if longer periods of retention are required for other purposes.

* * * * *

CODE OF ETHICS

§ 41.61. Code of Ethics.

(a) **Purpose and scope.** Whereas the Board is empowered by section 3.2(2) of the [Professional Psycholo-

gists Practice Act] act (63 P. S. § 1203.2(2)), to promulgate rules and regulations, including, but not limited to, a code of ethics for psychologists in this Commonwealth and whereas the Board finds and determines that the following rules are necessary to establish and maintain the high standard of integrity and dignity in the profession of psychology and are necessary in the public interest to protect the public against unprofessional conduct on the part of a psychologist, in accordance with the act, the Board does hereby adopt this code of ethics for psychologists in this Commonwealth. Psychology students, interns, residents and trainees are put on notice that their violation of an ethical obligation imposed on psychologists by this section may be regarded by the Board as evidence of unacceptable moral character or of unacceptable supervised experience disqualifying them from licensure under section 6(a)(1) or (2) of the act (63 P. S. § 1206(a)(1) and (2)). Licensed psychologists are put on notice that an ethical violation by an individual rendering or offering to render psychological services under their supervision, as provided by the act, may result in disciplinary proceedings against the supervisor under section 8(a) of the act (63 P. S. § 1208(a)).

[Preamble

Psychologists respect the dignity and worth of the individual and honor the preservation and protection of fundamental human rights. They are committed to increasing knowledge of human behavior and of people’s understanding of themselves and others and to the utilization of that knowledge for the promotion of human welfare. While pursuing these endeavors, they make every effort to protect the welfare of those who seek their services or of a human being or animal that may be the object of study. They use their skills only for purposes consistent with these values and do not knowingly permit their misuse by others. While demanding for themselves freedom in inquiry and communication, psychologists accept the responsibility this freedom requires: competence, objectivity in the application of skills, and concern for the best interests of clients, colleagues and society in general.

Principle 1. Responsibility.

(a) In their commitment to the understanding of human behavior, psychologists value objectivity and integrity, and in providing services they maintain the highest standards of their profession. They accept responsibility for the consequences of their work and make every effort to insure that their services are used appropriately.

(b) As scientists, psychologists accept responsibility for the selection of their research topics and the methods used in investigation, analysis and reporting. They plan their research in ways to minimize the possibility that their findings will be misleading. They provide thorough discussion on the limitations of their data, especially when their work touches on social policy or might be construed to the detriment of persons in specific age, sex, ethnic, socioeconomic or other social groups. In publishing reports of their work, they never suppress disconfirming data, and they acknowledge the existence of alternative hypotheses and explanations of their findings. Psychologists take credit only for work they have actually done.

(c) Psychologists clarify in advance with appropriate persons and agencies the expectations for

sharing and utilizing research data. They avoid relationships that may limit their objectivity or create a conflict of interest. Interference with the milieu in which data are collected is kept to a minimum.

(d) Psychologists have the responsibility to attempt to prevent distortion, misuse or suppression of psychological findings by the institution or agency of which they are employees.

(e) As members of governmental or other organizational bodies, psychologists remain accountable as individuals to the highest standards of their profession.

(f) As owners or participants in ownership of a professional corporation, psychologists retain full professional liability to persons who, in the course of a professional relationship, suffer personal injury by reason of their actions or omissions.

(g) As teachers, psychologists recognize their primary obligation to help others acquire knowledge and skill. They maintain high standards of scholarship by presenting psychological information objectively, fully and accurately.

(h) As practitioners, psychologists know that they bear a heavy social responsibility because their recommendations and professional actions may alter the lives of others. They are alert to personal, social, organizational, financial or political situations and pressures that might lead to misuse of their influence.

(i) As professionals utilizing computerized assessments or computer-generated data, psychologists abide by the following principles:

(1) The professional psychologist is legally and ethically responsible for psychological assessment and the generation and use of data as a service to the public.

(2) When the results of computerized testing are provided to a psychologist, that psychologist becomes responsible for their use.

(3) When the results of computerized testing are provided to a nonpsychologist, the psychologist shall provide to the nonpsychologist a psychological assessment and evaluation according to current standards for noncomputerized psychological assessments.

Principle 2. Competency.

(a) The maintenance of high standards of professional competence is a responsibility shared by psychologists in the interest of the public and the profession as a whole. Psychologists recognize the boundaries of their competence and the limitations of their techniques. They provide only services and use only techniques for which they are qualified by education and training, consistent with the American Psychological Association's *General Guidelines for Providers of Psychological Services*. In areas in which recognized standards do not yet exist, psychologists take whatever precautions are necessary to protect the welfare of their clients. They maintain knowledge of current scientific and professional information related to the services they render.

(b) The psychologist discourages the practice of psychology by unqualified persons and assists the

public in identifying psychologists competent to give dependable professional service. When a psychologist or person identifying himself as a psychologist, either as a licensed practitioner or as an applicant for licensure identified as a psychologist-in-training, violates ethical standards, psychologists who know first hand of these activities attempt to rectify the situation. When such a situation cannot be dealt with informally, it is called to the attention of the Board.

(c) Psychologists regarded as qualified for independent practice in this Commonwealth are those who have been licensed by the Board. Individuals who do not yet meet the qualifications recognized for independent practice shall gain experience under qualified supervision, as employees, interns or students, until they pass the licensing examination of the Board. An ownership interest by a person who provides direct services to a client in a business which provides psychological services constitutes independent practice.

(d) Psychologists accurately represent their competence, education, training and experience. They claim as evidence of psychological educational qualifications only those degrees obtained from institutions accredited by a regional accrediting association approved by the Commission on Recognition of Postsecondary Accreditation (CORPA). Degrees earned from foreign colleges and universities may be represented only if they are determined to be equivalent to the degrees conferred by these accredited institutions. Determinations of equivalency shall be made by an agency acceptable to the Board, subject to the Board's final approval. Representations of nonpsychological earned academic degrees are not prohibited, if the degrees are from accredited schools. If these degrees are generic, such as Ph.D., Ed.D., M.S., M.A. and M.Ed., the holder may represent them, but shall specify the discipline in which each particular degree was earned.

(e) As teachers, psychologists perform their duties on the basis of careful preparation so that their instruction is accurate, current and scholarly.

(f) Psychologists participate in continuing education programs and keep informed of new professional procedures and knowledge.

(g) Psychologists obtain whatever training, experience or counsel is necessary to enable them to recognize differences among people, such as those that may be associated with age, sex or socioeconomic and ethnic backgrounds.

(h) Psychologists responsible for decisions involving individuals or policies based on test results have an understanding of psychological or educational measurement, validation problems and test research.

(i) Psychologists recognize that personal problems and conflicts may interfere with professional effectiveness. Accordingly, they refrain from undertaking activities in which their personal problems are likely to lead to inadequate performance or harm to a client, colleague, student or research participant. If engaged in the activity when they become aware of their personal problems, they seek competent professional assistance to determine

whether they should suspend, terminate or limit the scope of their professional or scientific activities.

Principle 3. Moral and legal standards.

(a) Psychologists' moral, ethical and legal standards of behavior are a personal matter to the same degree as they are for other citizens, except as these may compromise the fulfillment of their professional responsibilities or reduce the trust in psychology or psychologists held by the general public. Regarding their own behavior, psychologists should be aware of the prevailing community standards and of the possible impact upon the quality of professional services provided by their conformity to or deviation from these standards. Psychologists are also aware of the possible impact of their public behavior upon the ability of colleagues to perform their professional duties.

(b) As teachers, psychologists are aware of the fact that their personal values may affect the selection and presentation of instructional materials. When dealing with topics that may give offense, they recognize and respect the diverse attitudes that students may have toward materials.

(c) As employes or employers, psychologists do not engage in or condone practices that are inhumane or that result in illegal or unjustifiable actions. These practices include, but are not limited to, those which constitute unlawful discriminatory practices under section 1 of the Pennsylvania Human Relations Act (43 P. S. § 955).

(d) In their professional roles, psychologists avoid action that will violate or diminish the legal and civil rights of clients or of others who may be affected by their actions.

(e) As practitioners and researchers, psychologists act in accord with American Psychological Association standards and guidelines related to practice and to the conduct of research with human beings and animals. In the ordinary course of events, psychologists adhere to relevant governmental laws and institutional regulations. Whenever the laws, regulations or standards are in conflict, psychologists make known their commitment to a resolution of the conflict. Both practitioners and researchers are concerned with the development of laws and regulations which best serve the public interest.

Principle 4. Public statement.

(a) Public statements, announcements of services and promotional activities of psychologists serve the purpose of providing sufficient information to aid the consumer public in making informed judgments and choices. Psychologists represent accurately and objectively their professional qualifications, affiliations and functions, as well as those of the institutions or organizations with which they or the statements may be associated. In public statements providing psychological information or professional opinions or providing information about the availability of psychological products, publications and services, psychologists base their statements on scientifically acceptable psychological findings and techniques with full recognition of the limits and uncertainties of the evidence.

(b) Only psychologists licensed by a state board of psychologist examiners may be listed under the

heading of psychologists in the yellow pages of the telephone directory. Psychologists licensed in a state other than Pennsylvania shall furnish written proof to the Board office of their current licensure in another state, and of their compliance with § 41.52(c) (relating to licensure in other states).

(c) Groups offering psychological services may list themselves under the heading "psychologists-group, association and corporate practice" if they are licensed psychologists responsible for the delivery of the services.

(d) When announcing or advertising professional services, or when listing professional services in a telephone directory, psychologists may list the following information to describe the provider and services provided: name, relevant academic degrees earned from regionally accredited institutions, date, type and level of certification or licensure, diplomate status, professional membership status, address, telephone number, office hours, a brief listing of the type of psychological services offered, an appropriate presentation of fee information, foreign languages spoken and policy with regard to third-party payments. Additional relevant or important consumer information may be included if not prohibited by other sections of the principles contained in this Code of Ethics.

(e) Announcements of "personal growth groups" give a clear statement of the purpose and nature of the experiences to be provided. The education, training and experience of a psychologist are appropriately specified.

(f) In announcing or advertising the availability of psychological products, publications or services, psychologists do not present their affiliation with an organization in a manner that falsely implies sponsorship or certification by that organization. In particular, psychologists do not state membership in a professional organization or fellow status in such a way as to suggest that the membership implies specialized professional competence or qualifications. Public statements include, but are not limited to, communication by means of periodical, book, list, directory, television, radio or motion picture. Public statements may not contain one or more of the following:

(1) A false, fraudulent, misleading, deceptive or unfair statement.

(2) A misrepresentation of fact or a statement likely to mislead or deceive because in context it makes only a partial disclosure of relevant facts.

(3) A statement intended or likely to create false or unjustified expectations of favorable results.

(4) A statement falsely implying unusual, unique or one-of-a-kind abilities.

(5) A statement intended or likely to appeal to a client's fears, anxieties or emotions concerning the possible results of failure to obtain the offered services.

(6) A statement comparing the advertiser's services with another psychologist's services, unless the comparison can be factually substantiated.

(g) Psychologists do not compensate or give anything of value to a representative of the press, radio, television or other communication medium

in anticipation of or in return for professional publicity in a news item. A paid advertisement shall be identified as such, unless it is apparent from the context that it is a paid advertisement. If communicated to the public by use of radio or television, an advertisement is prerecorded and approved for broadcast by the psychologist, and a recording of the actual transmission is retained by the psychologist.

(h) Psychologists associated with the development or promotion of psychological devices, books or other products offered for commercial sale make every effort to insure that announcements and advertisements are presented in a professional, scientifically acceptable and factually informative manner.

(i) Psychologists do not participate for personal gain in commercial announcements or advertisements recommending to the public the purchase or use of proprietary or single-source products or services when that participation is based solely upon their identification as psychologists.

(j) Psychologists present the science of psychology and offer their services, products and publications fairly and accurately, avoiding misrepresentation through sensationalism, exaggeration or superficiality. Psychologists are guided by the primary obligation to aid the public in developing informed judgments, opinions and choices.

(k) As teachers, psychologists ensure that statements in catalogs and course outlines are accurate and not misleading, particularly in terms of subject matter to be covered, bases for evaluating progress and the nature of course experiences. Announcements, brochures or advertisements describing workshops, seminars or other educational programs accurately describe the audience for which the program is intended as well as eligibility requirements, educational objectives and the nature of the materials to be covered. These announcements also accurately represent the education, training and experience of the psychologists presenting the program, and an accurate and accessible schedule of fees, if any.

(l) Public announcements or advertisements soliciting research participants in which clinical services or other professional services are offered as an inducement make clear the nature of the services as well as the costs and other obligations to be accepted by participants in the research.

(m) A psychologist accepts the obligation to correct others who represent the psychologist's professional qualifications, or associations with products or services, in a manner incompatible with these ethical principles.

(n) Individual diagnostic and therapeutic services are provided only in the context of a professional psychological relationship. When personal advice is given by means of public lectures or demonstrations, newspaper or magazine articles, radio or television programs, mail or similar media, the psychologist utilizes the most current relevant data and exercises the highest level of professional judgment.

(o) Products that are described or presented by means of public lectures or demonstrations, newspapers or magazine articles, radio or television

programs, or similar media shall meet the same recognized standards as exist for products used in the context of a professional relationship.

(p) Psychologists may not engage in face-to-face, direct solicitation of clients.

Principle 5. Confidentiality.

(a) Psychologists shall safeguard the confidentiality of information about an individual that has been obtained in the course of teaching, practice or investigation. Psychologists may not, without the written consent of their clients or the client's authorized legal representative, or the client's guardian by order as a result of incompetency proceedings, be examined in a civil or criminal action as to information acquired in the course of their professional service on behalf of the client. Information may be revealed with the consent of the clients affected only after full disclosure to them and after their authorization. Psychologists shall exercise reasonable care to prevent their employes, associates and others whose services are utilized by them from disclosing or using information about the client.

(b) A psychologist may reveal the following information about a client:

(1) Information received in confidence is revealed only after most careful deliberation and when there is clear and imminent danger to an individual or to society, and then only to appropriate professional workers or public authorities. This Code of Ethics does not prohibit a psychologist from taking reasonable measures to prevent harm when a client has expressed a serious threat or intent to kill or seriously injure an identified or readily identifiable person or group of people and when the psychologist determines that the client is likely to carry out the threat or intent. Reasonable measures may include directly advising the potential victim of the threat or intent of the client. Because these measures should not be taken without careful consideration of clients and their situation, consultation with other mental health professionals should be sought whenever there is time to do so to validate the clinical impression that the threat or intent of harm is likely to be carried out.

(2) Information obtained in clinical or consulting relationships, or evaluative data concerning children, students, employes and others are discussed only for professional purposes and only with persons clearly concerned with the case. Written and oral reports should present data germane to the purposes of the evaluation; every effort should be made to avoid undue invasion of privacy.

(3) Clinical and other materials are used in classroom teaching and writing only when the identity of the persons involved is adequately disguised.

(4) Confidentiality of professional communications about individuals is maintained. Only when the originator and other persons involved give their express written permission is a confidential professional communication shown to the individual concerned. The psychologist is responsible for informing the client of the limits of the confidentiality.

(5) Only after explicit permission has been granted is the identity of research subjects pub-

lished. When data have been published without permission for identification, the psychologist assumes responsibility for adequately disguising their sources.

(6) The psychologist makes provisions for the maintenance of confidentiality in the preservation and ultimate disposition of confidential records.

(7) When working with minors or other persons who are unable to give voluntary, informed consent, psychologists take special care to protect the person's best interests.

Principle 6. Welfare of the consumer.

(a) Psychologists respect the integrity and protect the welfare of the people and groups with whom they work. When there is a conflict of interest between the client and the psychologist's employing institution, psychologists clarify the nature and direction of their loyalties and responsibilities and keep all parties informed of their commitments. Psychologists fully inform consumers as to the purpose and nature of an evaluative, treatment, educational or training procedure and they freely acknowledge that clients, students or participants in research have freedom of choice with regard to participation.

(b) Psychologists are continually cognizant of their own needs and their inherently powerful position vis a vis clients, students and subordinates, in order to avoid exploiting their trust and dependency. Psychologists make every effort to avoid dual relationships with clients or relationships which might impair their professional judgment or increase the risk of exploitation. Examples of dual relationships include treating employees, supervisees, close friends or relatives. Sexual intimacies with clients are unethical.

(c) When a psychologist agrees to provide services to a client at the request of a third party, the psychologist assumes the responsibility of clarifying the nature of the relationships to all parties concerned.

(d) Where demands of an organization on psychologists go beyond reasonable conditions of employment, psychologists recognize possible conflicts of interest that may arise. When conflicts occur, psychologists clarify the nature of the conflict, inform all parties of the nature and direction of the loyalties and responsibilities involved, and take appropriate action.

(e) When acting as a supervisor, trainer, researcher or employer, psychologists accord informed choice, confidentiality, due process and protection from physical and mental harm to their subordinates in these relationships.

(f) Financial arrangements in professional practice are in accord with professional standards that safeguard the best interests of the client and that are clearly understood by the client in advance of billing. Psychologists are responsible for assisting clients in finding needed services in those instances where payment of the usual fee would be a hardship. No commission, rebate or other form of remuneration may be given or received for referral of clients for professional services, whether by an individual or by an agency.

(g) The psychologist attempts to terminate a clinical or consulting relationship when it is reasonably clear that the consumer is not benefiting from it. Psychologists who find that their services are being used by employers in a way that is not beneficial to the participants or to employees who may be affected, or to significant others, have the responsibility to make their observations known to the responsible persons and to propose modifications or termination of the engagement.

Principle 7. Professional relationships.

(a) Psychologists act with due regard for the needs, special competencies and obligations of their colleagues in psychology and other professions. Psychologists respect the prerogatives and obligations of the institutions or organizations with which these other colleagues are associated.

(b) Psychologists understand the areas of competence of related professions, and make full use of the professional, technical and administrative resources that best serve the interest of consumers. The absence of formal relationships with other professional workers does not relieve psychologists from the responsibility of securing for their clients the best possible professional service nor does it relieve them from the exercise of foresight, diligence and tact in obtaining the complementary or alternative assistance needed by clients.

(c) Psychologists know and take into account the traditions and practices of other professional groups with which they work and cooperate fully with members of these groups. If a consumer is receiving similar services from another professional, psychologists do not offer their services directly to the consumer. If a psychologist is contacted by a person who is already receiving similar services from another professional, the psychologist carefully considers that professional relationship and proceeds with caution and sensitivity to the therapeutic issues as well as the client's welfare. The psychologist discusses these issues with the client to minimize the risk of confusion and conflict.

(d) Psychologists who employ or supervise other professionals or professionals in training accept the obligations to facilitate their further professional development by providing suitable working conditions, consultation, timely evaluations and experience opportunities.

(e) Psychologists do not exploit their professional relationships with clients, supervisees, students, employees or research participants sexually or otherwise. Psychologists do not condone or engage in sexual harassment. Sexual harassment is defined as deliberate or repeated comments, gestures or physical contacts of a sexual nature that are unwanted by the recipient.

(f) As employees of organizations providing psychological services, or as independent psychologists serving clients in an organizational context, psychologists seek to support the integrity, reputation and proprietary rights of the host organization. When it is judged necessary in a client's interest to question the organization's programs or policies, psychologists attempt to effect change by constructive action within the organization before disclosing confidential information acquired in their professional roles.

(g) In the pursuit of research, psychologists give sponsoring agencies, host institutions and publication channels the same respect and opportunity for giving informed consent that they accord to individual research participants. They are aware of their obligation to future research workers and insure that host institutions are given adequate information about the research and proper acknowledgement of their contributions.

(h) Publication credit is assigned to those who have contributed to a publication in proportion to their contributions. Major contributions of a professional character made by several persons to a common project are recognized by joint authorship, with the experimenter or author who made the principal contribution identified and listed first. Minor contributions of a professional character and extensive clerical or similar nonprofessional assistance may be acknowledged in footnotes or in an introductory statement. Acknowledgement through specific citations is made for unpublished as well as published material that has directly influenced the research or writing. Psychologists who compile and edit material of others for publication publish the material in the name of the originating group or author, with their own name appearing as chairperson or editor. Contributors are to be acknowledged and named.

(i) When psychologists know of an ethical violation by another psychologist which does not affect the welfare of that psychologist's clients and which appears to be owing to lack of sensitivity, knowledge or experience, they attempt to resolve the issue informally by bringing the behavior to the attention of the psychologist. Informal corrective efforts are made with regard for rights to confidentiality involved. If the violation is one which threatens client welfare or is not amenable to an informal solution, psychologists bring it to the attention of the Board. Obligations imposed by this subsection are in addition to the reporting requirements under section 18(f) of the act (63 P. S. § 1218(f)).

Principle 8. Utilization of assessment.

(a) In the development, publication and utilization of psychological assessment techniques, psychologists observe relevant professional standards and make every effort to promote the welfare and best interests of the client. A person who has been examined has the right to receive, and the psychologist has the responsibility to provide, explanations of the nature, purpose, results and interpretations of assessment techniques in language the person can understand. Psychologists guard against misuse of assessment results and avoid imparting unnecessary information which would compromise test security, but they provide requested information that explains the basis for decisions that may adversely affect the person examined or that person's dependents.

(b) Persons examined at the request of or under the auspices of a sponsoring entity such as an employer or potential employer, a school, a hospital, or the like shall have, irrespective of who pays for the service, the same rights to information as set out in subsection (a), unless limitations are agreed upon in advance in writing among the psychologist, the person to be examined or that person's legal representative, and the sponsoring

entity. The psychologist shall provide the examination results to the sponsoring entity only upon authorization in writing signed by the person to be examined or that person's legal representative. The psychologist shall ensure that the person to be examined or that person's legal representative makes an informed decision as to giving up one or more of the rights in subsection (a) and as to releasing information to the sponsoring entity.

(c) When a test is published or otherwise made available for operational use, it is accompanied by a manual—or other published or readily available information—that fully describes the development of the test, the rationale, and evidence of validity and reliability. The test manual explicitly states the purposes and applications required to administer the test and to interpret it properly. Test manuals provide complete information regarding the characteristics of the normative population.

(d) In reporting test results, psychologists indicate reservations regarding validity or reliability resulting from testing circumstances or inappropriateness of the test norms for the person tested. Psychologists strive to insure that the test results and their interpretations are not misused by others.

(e) Psychologists accept responsibility for removing from clients' files test score information that has become obsolete, lest the information be misused or misconstrued to the disadvantage of the person tested.

(f) Psychologists offering test scoring and interpretation services are able to demonstrate that the validity of the programs and procedures used in arriving at interpretations is based on appropriate evidence. The public offering of an automated test interpretation is considered as a professional-to-professional consultation. The psychologist makes every effort to avoid misuse of test reports.

Principle 9. Research with human participants.

(a) The decision to undertake research rests upon a considered judgment by the individual psychologist about how best to contribute to psychological science and to human welfare. Having made the decision to conduct research, the psychologist considers alternative directions in which research energies and resources might be invested. On the basis of this consideration, psychologists carry out their investigations with respect for the people who participate, with concern for their dignity and welfare, and in compliance with Federal and State regulations and professional standards governing the conduct of research with human participants.

(b) In planning a study the investigator has the responsibility to make a careful evaluation of its ethical acceptability, taking into account the following additional principles for research with human beings. To the extent that this appraisal, weighing scientific and humane values, suggests a compromise of any principle, the investigator incurs an increasingly serious obligation to seek ethical advice and to observe stringent safeguards to protect the rights of the human research participants.

(c) Considering whether a participant in a planned study will be a "subject at risk" or a "subject at minimal risk" according to recognized standards, is of primary ethical concern to the

investigator. "Minimal risk" means that the risks of harm anticipated in the proposed research are not greater, considering probability and magnitude, than those ordinarily encountered in daily life or during the performance of routine physical or psychological examinations or tests.

(d) Responsibility for the establishment and maintenance of acceptable ethical practice in research always remains with the individual investigator. The investigator is also responsible for the ethical treatment of research participants by collaborators, assistants, students and employees, all of whom, however, incur parallel obligations.

(e) Except in minimal-risk research, the investigator establishes a clear and fair agreement with research participants, prior to their participation, that clarifies the obligations and responsibilities of each. The investigator has the obligation to honor the promises and commitments included in that agreement. The investigator informs the participants of the aspects of the research that might reasonably be expected to influence willingness to participate and explains the other aspects of the research about which the participants inquire. Research with children or with participants who have impairments that limit their understanding or communication requires the informed consent of their legal representatives. Failure to make full disclosure prior to obtaining the consent of a participant or the participant's legal representative is acceptable only under the conditions in subsection (g).

(f) Investigations of human participants using drugs should be conducted only in such settings as clinics, hospitals or research facilities maintaining appropriate safeguards for the participants.

(g) Methodological requirements of a study may make the use of concealment or deception necessary. Before conducting such a study, the investigator has a special responsibility to:

(1) Determine whether the use of techniques involving concealment or deception is justified by the study's prospective scientific, educational or applied value.

(2) Determine whether alternative procedures are available that do not use concealment or deception.

(3) Ensure that the participants are provided with sufficient explanation as soon as possible.

(h) The investigator respects the individual's freedom to decline to participate in or to withdraw from the research at any time. The obligation to protect this freedom requires careful thought and consideration when the investigator is in a position of authority or influence over the participant. Positions of authority include, but are not limited to, situations in which research participation is required as part of employment or in which the participant is a student, client or employe of the investigator.

(i) The investigator protects the participant from physical or mental discomfort, harm and danger that may arise from research procedures. If risks of these consequences exist, the investigator informs the participant of that fact. Research procedures likely to cause serious or lasting harm to a participant are not used unless the failure to use these

procedures might expose the participant to risk of greater harm, or unless the research has great potential benefit and fully informed and voluntary consent is obtained from each participant. The participant should be informed of procedures for contacting the investigator within a reasonable time period following participation should stress, potential harm or related questions or concerns arise.

(j) After the data are collected, the investigator provides the participant with information about the nature of the study and attempts to remove misconceptions that may have arisen. If scientific or humane values justify delaying or withholding this information, the investigator incurs a special responsibility to monitor the research and to ensure that there are no damaging consequences for the participant.

(k) If research procedures result in undesirable consequences for the individual participant, the investigator has the responsibility to detect and remove or correct these consequences, including long-term effects.

(l) Information obtained about a research participant during the course of an investigation is confidential unless otherwise agreed upon in advance. When the possibility exists that others may obtain access to the information, this possibility, together with the plans for protecting confidentiality, is explained to the participant as part of the procedure for obtaining informed consent.

Principle 10. Care and use of animals in research.

(a) An investigator of animal behavior strives either to advance understanding of basic behavioral principles or to contribute to the improvement of human health and welfare or to achieve both these goals. In seeking these ends, the investigator ensures the welfare of animals and treats them humanely. Laws and regulations notwithstanding, an animal's immediate protection depends upon the scientist's own conscience.

(b) The acquisition, care, use and disposal of animals are in compliance with current Federal, State or provincial, and local laws and regulations.

(c) A psychologist trained in research methods and experienced in the care of laboratory animals closely supervises procedures involving animals and is responsible for ensuring appropriate consideration of their comfort, health and humane treatment.

(d) Psychologists ensure that individuals using animals under their supervision have received explicit instruction in experimental methods and in the care, maintenance and handling of the species being used. Responsibilities and activities of individuals participating in a research project are consistent with their respective competencies.

(e) Psychologists make every effort to minimize discomfort, illness and pain of animals. A procedure subjecting animals to pain, stress or privation is used only when an alternative procedure is unavailable and the goal is justified by its prospective scientific, educational or applied value. Surgical procedures are performed under appropriate anesthesia; techniques to avoid infection and minimize pain are followed during and after surgery.

(f) When it is appropriate that the animal's life be terminated, it is done rapidly and painlessly.]

(b) *Competence.*

(1) A psychologist shall limit the psychologist's practice and supervision to the areas in which the psychologist is competent by virtue of education, training and experience.

(2) A psychologist shall maintain current competency in every area in which the psychologist practices, through continuing education, consultation or other procedures, in conformance with current standards of scientific and professional knowledge.

(3) A psychologist shall represent the psychologist's area or areas of competence in accordance with subsection (f)(1).

(4) A psychologist shall obtain education and training and engage in ongoing consultation when developing competency in a service or technique that is either new to the profession or new to the psychologist. A psychologist shall inform each client/patient who receives the service or technique of its innovative nature and the known risks associated with the service or technique so that the client/patient can determine whether to agree to the psychologist's provision of the service or technique.

(5) A psychologist may not render a formal psychological opinion about a person without direct professional contact with or a review of records of the person.

(6) A psychologist shall make arrangements to respond to the needs of the psychologist's clients/patients during periods of foreseen absences from professional availability.

(7) A psychologist may not undertake or continue a professional relationship with a client/patient when the psychologist is unable to practice psychology with reasonable skill and safety as set forth in section 8(a)(8) of the act. If a condition develops after a professional relationship has been initiated, the psychologist shall terminate the relationship as outlined in subsection (m).

(c) *Multiple relationships.*

(1) Before entering into a multiple relationship, a psychologist shall evaluate the potential for exploitation of the client/patient by considering the power differential between the psychologist and the client/patient, the dependence and vulnerability of the client/patient and the duration of the therapeutic relationship.

(2) Exploitation occurs when the multiple relationship impairs the psychologist's professional judgment or objectivity, interferes with the psychologist's effectively performing the psychologist's functions or has the potential to harm the client/patient.

(3) A psychologist may not engage in a multiple relationship with a client/patient that is exploitative.

(4) If, at any time, a multiple relationship becomes exploitative, the psychologist shall resolve the exploitation in the best interest of the client/patient.

(5) Terminating the professional relationship does not obviate an exploitation.

(6) When the interests of a psychologist's employer conflicts with the interests of a client/patient, the psychologist shall clarify the nature of the conflict, inform the parties of the nature and direction of the loyalties and responsibilities involved, and act in accordance with those discussions.

(d) *Client/patient welfare.*

(1) A psychologist shall provide an accurate and understandable account of the client/patient's condition to the client/patient except when the information may be withheld by law. A psychologist shall keep the client/patient informed of the purpose and nature of any evaluation, treatment or other procedure and of the client/patient's right to freedom of choice regarding services provided.

(2) A psychologist shall be objective about the client/patient when providing psychological services. If the psychologist is unable to be objective, the psychologist shall make a referral.

(3) A psychologist may not engage in verbal or physical behavior in the psychologist's professional practice which is seductive, demeaning, exploitative, harassing or causes physical harm.

(4) A psychologist shall ensure that the client/patient receiving treatment is capable of consenting to treatment unless treatment is mandated by a court.

(5) A psychologist shall, at the beginning of the professional relationship, clarify the scope of the relationship and the limits of confidentiality to the client/patient.

(6) A psychologist shall provide diagnostic and therapeutic services only in the context of a professional psychological relationship. Personal advice outside of that relationship does not constitute diagnostic and therapeutic service.

(e) *Protecting confidentiality of clients/patients.*

(1) A psychologist shall keep confidential information as defined in § 41.1 (relating to definitions) about a client/patient confidential and assure that employees keep this information confidential except as provided in paragraph (2).

(2) A psychologist may make the following disclosures without the client/patient's written consent:

(i) When the client/patient communicates to the psychologist a specific and immediate threat of serious bodily injury against a specifically identified or readily identifiable party and when the psychologist determines that the client/patient presents serious danger of violence:

(A) The psychologist shall warn identified or readily identifiable threatened third parties of the danger.

(B) The psychologist may discuss these threats with other psychologists and seek assistance to protect against the danger.

(C) The psychologist may communicate the threats and seek assistance to prevent the client/patient from harming himself or others.

(ii) When mandated to report:

(A) A psychologist shall disclose confidential information without the client/patient's consent when mandated to report pursuant to a court order or as required under Federal or State law.

(B) A psychologist may disclose confidential information without the client/patient's consent in accordance with discretionary reporting requirements in Federal or State law.

(3) A psychologist shall comply with the client/patient's written direction to release confidential information, until it is withdrawn or expired, when the direction specifically identifies the person or persons to whom the information may be released and the specific information to be released.

(4) A psychologist shall take reasonable steps to assure that persons permitted to receive the confidential information are informed about the confidential nature of the information and the prohibition against further disclosure.

(5) When case reports or other confidential information is used in situations other than the treatment of a specific client/patient, a psychologist shall exercise reasonable care to insure that identifiable information is appropriately disguised.

(6) A psychologist shall obtain the consent of the client/patient prior to permitting observation or electronic recording by another.

(7) A psychologist shall keep the client/patient's information confidential even after the professional relationship terminates or the client/patient dies except in response to a court order or a release signed by the client/patient.

(f) *Representations.*

(1) A psychologist shall accurately represent the psychologist's areas of competence, education, training, experience and professional affiliations in psychology to the Board, the public and colleagues.

(2) Doctoral degrees earned in fields other than psychology shall be specifically identified.

(3) A psychologist shall accurately represent the institutions and organizations with which the psychologist is associated.

(4) A psychologist may not associate with or permit the psychologist's name to be used in connection with a service or product in a way as to misrepresent the service or product or the degree of the psychologist's responsibility for the service or product.

(5) A psychologist may not compensate or provide anything of value to a representative of a news medium in anticipation of or in return for professional publicity in a news item.

(6) In public statements about psychological information, the availability of psychological products, publications or services, or professional opinions, a psychologist shall provide sufficient general information to aid the consuming public in making informed judgments and choices, base the statements on scientifically acceptable psychological findings and techniques, and inform consumers of the limits and uncertainties of the evidence.

(7) The psychologist shall, when possible, correct a misrepresentation when a psychologist learns

that the psychologist's professional qualifications, affiliations, associated products or services are misrepresented.

(8) A psychologist shall be currently licensed at the time the psychologist lists the psychologist's services in a directory advertising psychological services.

(g) *Fees.*

(1) At the first session or as soon as feasible, a psychologist shall discuss fee arrangements with the client/patient.

(2) A psychologist may not exploit a client/patient or responsible payor by charging fees that are excessive for the services performed or by entering into an exploitive bartering arrangement instead of a fee.

(3) A psychologist may not pay or accept a referral fee for a psychological service.

(4) A psychologist may pay a flat fee for advertising services, including the placement of the psychologist's name on a commercially or professionally sponsored list of licensed health care providers.

(h) *Assessment procedures.*

(1) A psychologist shall assure that an assessment result or interpretation remains confidential.

(2) A psychologist shall include in a report of the results of a formal assessment procedure, for which norms are available, deficiencies of the assessment norms for the individuals assessed and relevant reservations or qualifications which affect the validity, reliability or other interpretation of results.

(3) A psychologist shall explain assessment results and the limitations of the assessment to the client/patient, except when information may be withheld by law, in a manner that the information can be understood by the client/patient.

(4) A psychologist may not reproduce or describe in popular publications, lectures or public presentations, psychological tests or other assessment devices in ways that might invalidate them.

(5) A psychologist offering an assessment procedure or automated interpretation service to other professionals shall accompany this offering by a manual or other printed materials which describes the development of the assessment procedure or service, the rationale, evidence of validity and reliability, and characteristics of the normative population.

(i) The psychologist shall ensure that the advertisements for the assessment procedure or interpretive service are factual and descriptive.

(ii) The psychologist shall explicitly state the purpose and application for which the procedure is recommended and identify special qualifications required to administer and interpret it properly.

(i) *Violations of law.*

(1) A psychologist may not violate applicable statutes or administrative rules regulating the practice of psychology.

(2) A psychologist may not use fraud, misrepresentation or deception in any of the following:

- (i) Obtaining a psychology license.
- (ii) Passing a psychology licensing examination.
- (iii) Assisting another to obtain a psychology license or to pass a psychology licensing examination.
- (iv) Billing a client/patient or third party payor.
- (v) Providing psychological services.
- (vi) Reporting the results of psychological evaluations or services.
- (vii) Conducting another activity related to the practice of psychology.

(j) *Aiding unauthorized practice.*

(1) A psychologist may not aid or abet another person in misrepresenting the other person's professional credentials or in illegally engaging in the practice of psychology.

(2) A psychologist may not delegate professional responsibilities to a person not appropriately credentialed or otherwise qualified to provide the services.

(k) *Reporting suspected violations.*

(1) A psychologist is required to report suspected violations to the Board when:

(i) The psychologist has a substantial reason to believe a psychologist is causing harm to a client/patient.

(ii) The psychologist has substantial evidence that a psychologist has an active addictive disease for which the psychologist is not receiving treatment.

(iii) The psychologist has substantial evidence that a psychologist is diverting a controlled substance.

(iv) The psychologist has substantial evidence that a psychologist is mentally or physically incompetent to engage in the practice of psychology.

(v) Reporting is required under another law.

(2) A psychologist who is acting in a treatment capacity to an impaired professional in an approved treatment program is exempt from the mandatory reporting requirements in paragraph (1)(ii)—(iv).

(3) A psychologist may report ethical violations that do not fall within paragraph (1) to the Board.

(4) Other than as set forth in paragraph (1)(i), which only requires consent, or unless required by statute, the client/patient's name may be provided to the Board only with the written consent of the client/patient.

(5) When a psychologist learns of possible statutory, regulatory or ethical violations from a client/patient or when a client/patient is seeking information about filing a complaint against another psychologist, the psychologist shall inform the client/patient of the standards of practice of psychology and the procedure for filing a complaint.

(1) *Referrals.* A psychologist shall refer a client/patient when:

(1) Services needed by the client/patient are beyond the psychologist's competence or beyond the scope of psychological practice.

(2) There is a change in the professional relationship,

(3) The client/patient has asked to be referred.

(4) The psychologist has recommended referral.

(m) *Termination of services.*

(1) A psychologist shall terminate a professional relationship when either of the following occurs:

(i) The client/patient no longer needs or is benefiting from the services.

(ii) The client/patient is being harmed or exploited by continued service.

(2) A psychologist may terminate a professional relationship at any time so long as the termination does not constitute abandonment.

(3) When professional services are terminated and the client/patient requires further treatment, a psychologist shall, if feasible, refer the client/patient to other psychologists, associations or treatment providers.

(4) When a psychologist terminates the professional relationship, the psychologist shall document the termination in writing in the client/patient's records.

(Editor's Note: The following section is new and printed in regular type to enhance readability.)

§ 41.62. Compliance with APA standards and guidelines.

(a) A psychologist shall adhere to APA standards and guidelines, except as provided in subsections (b) and (c).

(b) If there is a conflict between APA standards and guidelines and Federal or State law, a psychologist shall adhere to Federal and State law.

(c) If there is a conflict between APA standards and guidelines and this chapter, a psychologist shall adhere to this chapter.

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