

Amended by R.1999 d.49, effective February 1, 1999.
See: 30 N.J.R. 3602(a), 31 N.J.R. 443(a).
Inserted a new second sentence.

13:37-7.9 Requirements for nurse practitioner/clinical nurse specialists certified pursuant to N.J.S.A. 45:11-48

(a) Until October 29, 1994, an individual who submits the following may qualify for certification without completing the educational and examination requirements set forth in N.J.A.C. 13:37-7.2 and 7.3:

1. Proof of a current New Jersey license as a registered professional nurse in good standing;
2. A completed application form and the application fee set forth in N.J.A.C. 13:37-12.1. The application form solicits information including: biographical, educational and experiential data; and
3. Proof that the applicant has been certified as a nurse practitioner/clinical nurse specialist or advanced practice nurse in one or more of the specialization areas listed in N.J.A.C. 13:37-7.11 by a national accrediting agency approved by the Board and that said national accrediting agency certifies that all persons awarded certification have successfully completed a nurse practitioner/clinical nurse specialist or advanced practice nurse program which included pharmacology in its required curriculum.

(b) Each applicant awarded certification under N.J.S.A. 45:11-48 shall be required to meet the pharmacology requirements of N.J.A.C. 13:37-7.2(c) and the biennial certification renewal requirements of N.J.A.C. 13:37-7.4.

13:37-7.10 Practice as registered professional nurse

Nothing in N.J.S.A. 45:11-45 et seq. or this subchapter shall be construed to limit, preclude or otherwise interfere with the practice of nursing as defined by N.J.S.A. 45:11-23 by persons duly licensed as a registered professional nurse in this State, provided that such duties are consistent with the accepted standards of nursing and said registered professional nurse is not represented as a nurse practitioner/clinical nurse specialist.

13:37-7.11 Categories of advanced practice

(a) The following categories of nurse practitioners or clinical nurse specialists may be certified in accordance with the provisions of N.J.S.A. 45:11-45 et seq. and this subchapter:

1. Adult Health;
2. Family;
3. Pediatric;
4. School;
5. Gerontological;

6. Women's Health;
7. OB/GYN;
8. Neonatal;
9. Psychiatric/Mental Health;
10. Community Health;
11. Perinatal;
12. Maternal/child;
13. Oncology;
14. Critical care;
15. Emergency/Burns/Trauma;
16. Medical-Surgical; and
17. Rehabilitation.

(b) Other categories may be approved by the Board through the rulemaking process. Consistent with requirements for approval of the practice areas outlined in this subchapter, any additional approved practice areas must meet nationally accepted standards.

Amended by R.1996 d.304, effective July 1, 1996.
See: 27 N.J.R. 2091(a), 28 N.J.R. 3303(a).

In (a) added Critical care, Emergency/Burns/Trauma, Medical-Surgical and Rehabilitation.

13:37-7.12 (Reserved)

Repealed by R.1995 d.88, effective February 21, 1995.
See: 26 N.J.R. 4731(a), 27 N.J.R. 728(a).
Section was "Reporting".

SUBCHAPTER 8. NURSING PRACTICE

Authority

N.J.S.A. 45:11-24.

Source and Effective Date

R.2004 d.82, effective February 17, 2004.
See: 35 N.J.R. 502(a), 36 N.J.R. 960(a).

13:37-8.1 (Reserved)

13:37-8.2 (Reserved)

13:37-8.3 Sexual misconduct

(a) This section shall apply to all advanced practice nurses, registered professional nurses, licensed practical nurses and homemaker-home health aides licensed or certified by the Board.

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

"Board" means the New Jersey Board of Nursing.

“Client or patient” means any person who is the recipient of nursing services or certified homemaker-home health care rendered by a licensee pursuant to N.J.S.A. 45:11-23 et seq.

“Client or patient relationship” means an association between a licensee and client or patient wherein the licensee owes a continuing duty to the client or patient to be available to render nursing services consistent with the licensee’s education, training and experience.

“Licensee” means any person licensed or certified by the Board.

“Sexual contact” means the knowing touching of a person’s body directly or through clothing, where the circumstances surrounding the touching would be construed by a reasonable person to be motivated by the licensee’s own prurient interest or for sexual arousal or gratification. “Sexual contact” includes the imposition of a part of the licensee’s body upon a part of the client or patient’s body, sexual penetration, or the insertion or imposition of any object or any part of a licensee or client or patient’s body into or near the genital, anal or other opening of the other person’s body.

“Sexual harassment” means solicitation of any sexual act, physical advances, or verbal or non-verbal conduct that is sexual in nature, and which occurs in connection with a licensee’s activities or role as a provider of nursing services, and that either: is unwelcome, offensive to a reasonable person, or creates a hostile environment, and the licensee knows, should know or is told this; or is sufficiently severe or intense to be abusive to a reasonable person in that context. “Sexual harassment” may consist of a single extreme or severe act or of multiple acts and may include conduct of a licensee with an individual whether or not such individual is in a subordinate position to the licensee.

“Spouse” means either the husband, wife or fiancée of the licensee or an individual in a long-term committed relationship with the licensee.

(c) A licensee shall not engage in sexual contact with a client or patient with whom he or she has a client or patient-nurse relationship. The client or patient relationship is considered ongoing for purposes of this section unless:

1. For a homemaker-home health aide, the last homemaker-home health aide service was rendered more than three months prior;
2. For an advanced practice nurse, registered professional nurse or licensed practical nurse, who is not engaged in psychiatric nursing, the last nursing service was rendered more than three months prior;
3. For an advanced practice nurse who practices psychiatric nursing, the last nursing service was rendered more than two years prior; or

4. For a registered professional nurse or a licensed practical nurse who practices psychiatric nursing, the last nursing service was rendered more than one year prior.

(d) A licensee shall not seek or solicit sexual contact with a client or patient with whom he or she has a client or patient relationship and shall not seek or solicit sexual contact with any person in exchange for nursing or homemaker-home health aide services.

(e) A licensee shall not engage in any discussion of an intimate sexual nature with a client or patient, unless that discussion is related to legitimate client or patient needs. Such discussion shall not include disclosure by the licensee of his or her own intimate sexual relationships.

(f) A licensee shall provide privacy and examination conditions which prevent the exposure of the unclothed body of the client or patient unless necessary to the nursing or homemaker-home health aide services rendered.

(g) A licensee shall not engage in sexual harassment, whether in a professional setting or outside of the professional setting.

(h) A licensee shall not engage in any activity performed with a patient or client which would lead a reasonable person to believe that the activity serves the licensee’s personal prurient interests or is for the sexual arousal the sexual or gratification of the licensee or client or patient or which constitutes an act of sexual abuse.

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

(j) Nothing in this section shall be construed to prevent a licensee from rendering nursing or homemaker-home health aide services to a spouse, providing that the rendering of such nursing services is consistent with accepted standards and that the performance of nursing or homemaker-home health aide services is not utilized to exploit the client or patient for the sexual arousal or sexual gratification of the licensee.

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

1. The client or patient solicited or consented to sexual contact with the licensee; or
2. The licensee was in love with or had affection for the client or patient.

SUBCHAPTER 9. SEXUAL ASSAULT NURSE EXAMINER PROGRAM

Authority

N.J.S.A. 45:11-24 and P.L. 2001, c.81.

See: 33 N.J.R. 2241(a), 34 N.J.R. 2462(a).

Former N.J.A.C. 13:47-14.14, Duties and powers of the Board, recodified to N.J.A.C. 13:47-14.15.

13:37-14.15 Duties and powers of the Board

(a) The Board may deny or revoke training program approval if the program sponsor has failed to comply with N.J.S.A. 45:11-24(d)(20) to (24) or this subchapter.

(b) The Board may investigate complaints made against a program sponsor or certified homemaker-home health aide and may conduct hearings in connection with such complaints.

(c) The Board may suspend or revoke the certification of a homemaker-home health aide who has violated any provisions of N.J.S.A. 45:11-24(d)(20) to (24) or this subchapter.

(d) Any Board action for certification suspension or revocation or training program revocation shall take place only upon notice to the licensee and the opportunity for a hearing in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(e) Decisions on violations shall be a public record maintained by the Board pursuant to N.J.S.A. 45:11-24(d)(20) and (24).

Recodified from N.J.A.C. 13:37-14.14 by R.2002 d.220, effective July 15, 2002.

See: 33 N.J.R. 2241(a), 34 N.J.R. 2462(a).

SUBCHAPTER 15. (RESERVED)

SUBCHAPTER 16. MASSAGE, BODYWORK AND SOMATIC THERAPY EXAMINING COMMITTEE

Authority

N.J.S.A. 45:11-67.

Source and Effective Date

R.2004 d.432, effective November 15, 2004.

See: 35 N.J.R. 4819(a), 36 N.J.R. 5133(a).

13:37-16.1 Purpose and scope

(a) The purpose of this subchapter is to implement the provisions of P.L. 1999, c.19 (N.J.S.A. 45:11-53 et seq.), which created the "Massage, Bodywork and Somatic Therapy Examining Committee" under the Board of Nursing.

(b) This subchapter shall apply to all applicants who seek certification by the Committee as a massage, bodywork and

somatic therapist and to all persons who are certified by the Committee as a massage, bodywork and somatic therapist in this State.

(c) This subchapter does not apply to any person who renders massage, bodywork and somatic therapy as long as the person does not use the title "massage, bodywork and somatic therapist," "registered massage, bodywork and somatic therapist," or "certified massage, bodywork and somatic therapist," "certified massage therapist," "certified bodywork therapist," "certified somatic therapist," "massage and bodywork therapist," "registered massage and bodywork therapist," "certified massage and bodywork therapist," "certified oriental bodywork therapist," "certified Asian bodywork therapist," "certified somatic therapist," "certified bodywork therapist," or the abbreviations "MBT," "RMBT," "CMBT," "CMBST," "COBT," "CABT," "CST," "CBT," or "CMT."

(d) This subchapter does not govern the application or practice of "alternative medicines" that do not constitute massage, bodywork and somatic therapy.

13:37-16.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Act" means the Massage, Bodywork and Somatic Therapist Certification Act, N.J.S.A. 45:11-53 et seq.

"Board" means the New Jersey Board of Nursing.

"Certificate" means the document, issued by the Committee, which authorizes a person to utilize the titles set forth in N.J.S.A. 45:11-65 and 66 and N.J.A.C. 13:37-16.9.

"Certificant" means any person who holds a certificate from the Committee as a massage, bodywork and somatic therapist.

"Committee" means the Massage, Bodywork and Somatic Therapy Examining Committee established pursuant to N.J.S.A. 45:11-56.

"Full time practice" means a person has provided a minimum of 750 hours of massage, bodywork and somatic therapies to clients during a year.

"Massage, bodywork and somatic therapies" or "massage, bodywork and somatic" means systems of activity of structured touch which include holding, applying pressure, positioning and mobilizing soft tissue of the body by manual technique and use of visual, kinesthetic, auditory and palpating skills to assess the body for purposes of *applying therapeutic* massage, bodywork or somatic principles. Such application may include the use of therapies such as heliotherapy or hydrotherapy, the use of moist hot and cold external applications, external application of herbal or topical prepa-

rations not classified as prescription drugs, explaining and describing myofascial movement, self-care and stress management as it relates to massage, bodywork and somatic therapies. Massage, bodywork and somatic therapy practices are designed to affect the energetic systems of the body for the purpose of promoting and maintaining the health and well-being of the client. Massage, bodywork and somatic therapies do not include the diagnosis or treatment of illness, disease, impairment or disability.

“NCBTMB” means the National Certification Board for Therapeutic Massage and Bodywork.

“NCCAOM” means the National Certification Commission for Acupuncture and Oriental Medicine.

“Part time practice” means a person has provided a minimum of 300 hours of massage, bodywork and somatic therapies to clients during a year.

13:37-16.3 Certification without education or examination

(a) Prior to November 5, 2006, a person may apply for certification without satisfying the education or examination requirements of N.J.A.C. 13:37-16.4 if the person has completed a minimum of 200 hours of education and training as provided in (b) below and the person has:

1. Practiced full-time as a massage, bodywork and somatic therapist for at least two years prior to November 15, 2004; or
2. Practiced part-time as a massage, bodywork and somatic therapist for five years prior to November 15, 2004.

(b) The 200 hours of education and training required pursuant to (a) above shall be taken in a massage, bodywork and somatic training program which is approved by the New Jersey Department of Education, a Department of Education of another state or a program which substantially meets the requirements of the New Jersey Department of Education as set forth in N.J.S.A. 18A:69-1 et seq. and N.J.A.C. 6A:18-1 and shall consist of:

1. Anatomy and physiology: 45 hours or three credits in a college or university accredited by an accrediting agency recognized by the United States Department of Education;
2. Theory and practice: 150 hours; and
3. Ethics: five hours, which shall include:
 - i. Confidentiality/privacy;
 - ii. Sexual misconduct;
 - iii. Financial misconduct;
 - iv. Boundary issues;
 - v. Conflicts of interest; and
 - vi. Appropriate referrals.

(c) The applicant shall submit to the Committee a completed application which shall include:

1. A notarized affidavit stating that the applicant has worked full-time for the past two years or part-time for the past five years and indicating what methods of massage, bodywork and somatic therapy the applicant practiced. The affidavit shall attest to the authenticity of supporting records such as tax returns, bank statements and accounting records, which may be attached to the affidavit;
2. Evidence that the applicant has completed 200 hours of education or training in massage, bodywork and somatic therapies consistent with (b) above;
3. Proof that the applicant has current certification in Basic Life Support (BLS) from a course approved by the American Heart Association or a substantially similar course approved by the American Red Cross, the National Safety Council, Coyne First Aid, Inc., the American Safety and Health Institute or EMP International Inc.;
4. Two affidavits of good moral character; and
5. The application fee set forth in N.J.A.C. 13:37-5.5(e).

(d) The Committee shall issue a certificate of certification to an applicant who qualifies pursuant to (a), (b) and (c) above if the applicant is not disqualified for certification pursuant to the provisions of N.J.S.A. 45:1-14 et seq.

13:37-16.4 Application for certification

(a) An applicant for certification shall qualify for certification by either:

1. Completing a course of study in massage, bodywork and somatic therapies; or
2. Successfully passing either the NCBTMB or the NCCAOM examination.

(b) An applicant who qualifies for certification pursuant to (a)1 above shall submit to the Committee:

1. A completed application;
2. A transcript from a school of massage, bodywork and somatic therapies approved by the New Jersey Department of Education, a Department of Education of another state or which substantially meets the requirements of the New Jersey Department of Education as set forth in N.J.S.A. 18A:69-1 et seq. and N.J.A.C. 6A:18-1 which indicates that the applicant has completed the course of study outlined in (d) below;
3. Proof that the applicant has current certification in Basic Life Support (BLS) from a course approved by the American Heart Association or a substantially similar course approved by the American Red Cross, the National Safety Council, Coyne First Aid, Inc., the American Safety and Health Institute or EMP International Inc.;