

**CHAPTER 35**

**BOARD OF MEDICAL EXAMINERS**

**Authority**

N.J.S.A. 45:9-2.

**Source and Effective Date**

R.1999 d.356, effective September 20, 1999.  
See: 31 N.J.R. 1742(a), 31 N.J.R. 3117(a).

**Executive Order No. 66(1978) Expiration Date**

Chapter 35, Board of Medical Examiners, expires on September 20, 2004.

**Chapter Historical Note**

Chapter 35, Board of Medical Examiners, was filed and became effective prior to September 1, 1969.

Chapter 35, Board of Medical Examiners, was repealed and Chapter 35, Board of Medical Examiners, was adopted as new rules by R.1983 d.314, effective August 1, 1983. See: 15 N.J.R. 503(a), 15 N.J.R. 1255(a).

Subchapter 7, Chiropractic Practice, was adopted as R.1984 d.533, effective November 19, 1984. See: 16 N.J.R. 686(a), 16 N.J.R. 3208(a).

Pursuant to Executive Order No. 66(1978), Chapter 35, Board of Medical Examiners, was readopted as R.1989 d.532, effective September 21, 1989. See: 21 N.J.R. 2226(b), 21 N.J.R. 3307(a).

Subchapter 6A, Declarations of Death upon the Basis of Neurological Criteria, was adopted as R.1992 d.309, effective August 3, 1992. See: 23 N.J.R. 3635(a), 24 N.J.R. 2731(c).

Subchapter 2A, Limited Licenses: Certified Nurse Midwifery, was adopted as R.1992 d.332, effective Subchapter 8, 1992. See: 23 N.J.R. 3632(a), 24 N.J.R. 3094(a).

Subchapter 9, Acupuncture, was adopted as R.1993 d.299, effective June 21, 1993. See: 24 N.J.R. 4013(a), 25 N.J.R. 2689(c).

Subchapter 10, Athletic Trainers, was adopted as R.1993 d.546, effective November 1, 1993. See: 25 N.J.R. 265(a), 25 N.J.R. 4935(a), 26 N.J.R. 483(a).

Pursuant to Executive Order No. 66(1978), Chapter 35, Board of Medical Examiners, was readopted as R.1994 d.522, effective September 19, 1994, and Subchapter 7, Chiropractic Practice, was repealed by R.1994 d.522, effective October 17, 1994. See: 26 N.J.R. 2526(a), 26 N.J.R. 4195(a).

Subchapter 2B, Limited Licenses: Physician Assistants, was adopted as R.1994 d.538, effective November 7, 1994. See: 25 N.J.R. 5099(b), 26 N.J.R. 4411(b).

Subchapter 11, Alternate Resolution Program, was adopted as R.1995 d.339, effective June 19, 1995. See: 27 N.J.R. 1363(a), 27 N.J.R. 2412(a).

Subchapter 7, Prescription, Administration and Dispensing of Drugs, was adopted as R.1997 d.475, effective November 3, 1997. See: 29 N.J.R. 842(a), 29 N.J.R. 4706(a).

Subchapter 4A, Surgery, Special Procedures, and Anesthesia Services Performed in an Office Setting, was adopted as R.1998 d.294, effective June 15, 1998. See: 29 N.J.R. 2238(a), 30 N.J.R. 2236(b).

Petition for Rulemaking. See: 30 N.J.R. 740(c), 1642(a).

Pursuant to Executive Order No. 66(1978), Chapter 35, Board of Medical Examiners, was readopted as R.1999 d.356, effective September 20, 1999. See: Source and Effective Date. See, also, section annotations.

**Law Review and Journal Commentaries**

How New Jersey Regulates Doctors. Theodosia Tamborlanc, 132 N.J.L.J. No. 15, S24 (1992).

**CHAPTER TABLE OF CONTENTS**

**SUBCHAPTER 1. MEDICAL SCHOOLS, COLLEGES, EXTERNSHIPS, CLERKSHIPS AND POST-GRADUATE WORK**

- 13:35-1.1 Observership program
- 13:35-1.2 Fifth Pathway
- 13:35-1.3 Postgraduate training
- 13:35-1.4 Military service in lieu of M.D. or D.O. internship or postgraduate training
- 13:35-1.5 Registration and permit requirements for graduate medical education programs in medicine or podiatry

**SUBCHAPTER 1A. STANDARDS FOR NEW JERSEY CLINICAL TRAINING PROGRAMS SPONSORED BY MEDICAL SCHOOLS NOT ELIGIBLE FOR EVALUATION AND NOT APPROVED BY THE L.C.M.E., THE A.O.A. OR OTHER AGENCY RECOGNIZED BY THE NEW JERSEY STATE BOARD OF MEDICAL EXAMINERS**

- 13:35-1A.1 Definitions and principles of responsibility
- 13:35-1A.2 Administration of the clinical training program
- 13:35-1A.3 Faculty
- 13:35-1A.4 Education program
- 13:35-1A.5 Facilities
- 13:35-1A.6 Request for approval
- 13:35-1A.7 Public record
- 13:35-1A.8 Termination of program approval
- 13:35-1A.9 Violations
- 13:35-1A.10 Severability
- 13:35-1A.11 Clerkship program approvals: effective date; limited waiver provision; no new applications

**SUBCHAPTER 2. LIMITED LICENSES: PODIATRY, DIAGNOSTIC TESTING CENTERS AND MISCELLANEOUS**

- 13:35-2.1 Approved colleges of podiatry
- 13:35-2.2 Podiatry internship or postgraduate work
- 13:35-2.3 Military service in lieu of internship in podiatry
- 13:35-2.4 through 13:35-2.5 (Reserved)
- 13:35-2.6 Medical standards governing screening and diagnostic medical testing offices; determinations with respect to the validity of certain diagnostic tests
- 13:35-2.7 through 13:35-2.12 (Reserved)
- 13:35-2.13 Limited privileges and conditions of practice permitted for a graduate physician pending licensure
- 13:35-2.14 (Reserved)

**SUBCHAPTER 2A. LIMITED LICENSES: MIDWIFERY**

- 13:35-2A.1 Midwifery practice
- 13:35-2A.2 Definitions
- 13:35-2A.3 Midwifery Liaison Committee
- 13:35-2A.4 Application for licensure
- 13:35-2A.5 Independent practice
- 13:35-2A.6 Affiliated physicians; clinical guidelines
- 13:35-2A.7 Biennial renewal
- 13:35-2A.8 Antepartum management

- 13:35-2A.9 Management of antepartum women at increased risk
- 13:35-2A.10 Intrapartum management
- 13:35-2A.11 Management of intrapartum women at increased risk
- 13:35-2A.12 Postpartum care
- 13:35-2A.13 Well woman care
- 13:35-2A.14 Prescriptive authorization
- 13:35-2A.15 Limited ultrasound examination
- 13:35-2A.16 Colposcopies
- 13:35-2A.17 Circumcisions

**SUBCHAPTER 2B. LIMITED LICENSES: PHYSICIAN ASSISTANTS**

- 13:35-2B.1 Purpose and scope
- 13:35-2B.2 Definitions
- 13:35-2B.3 Practice requirements
- 13:35-2B.4 Scope of practice
- 13:35-2B.5 Eligibility for licensure
- 13:35-2B.6 Refusal to issue, suspension or revocation of license
- 13:35-2B.7 License renewal, continuing education requirement
- 13:35-2B.8 Credit-hour requirements
- 13:35-2B.9 Waiver of continuing education requirement
- 13:35-2B.10 Supervision
- 13:35-2B.11 Recordkeeping
- 13:35-2B.12 Requirements for issuing prescriptions for medications
- 13:35-2B.13 Eligibility for temporary licensure
- 13:35-2B.14 Temporary licensure; scope of practice
- 13:35-2B.15 Supervision of temporary license holder
- 13:35-2B.16 Expiration of temporary license; renewal
- 13:35-2B.17 Reinstatement of lapsed license
- 13:35-2B.18 Sexual misconduct

**SUBCHAPTER 3. LICENSING EXAMINATIONS AND ENDORSEMENTS, LIMITED EXEMPTIONS FROM LICENSURE REQUIREMENTS**

- 13:35-3.1 Licensing examination; physicians
- 13:35-3.2 Endorsement; physicians
- 13:35-3.3 Endorsement; podiatric physicians
- 13:35-3.4 (Reserved)
- 13:35-3.5 Endorsement; certified nurse midwives
- 13:35-3.6 Bioanalytical laboratory director license, plenary or specialty, granted to physicians
- 13:35-3.7 Limited exemption from licensure; physicians
- 13:35-3.8 Administrative processing of license application
- 13:35-3.9 Postponement of or absence from examination; transfer or refund of fee
- 13:35-3.10 Subversion or attempt to subvert the licensing examination process
- 13:35-3.11 Standards for licensure of physicians graduated from medical schools not approved by American national accrediting agencies
- 13:35-3.12 Standards for licensure of physicians with post-secondary educational deficiencies
- 13:35-3.13 Criminal history record information

**SUBCHAPTER 4. SURGERY**

- 13:35-4.1 Major surgery; qualified first assistant
- 13:35-4.2 Termination of pregnancy

**SUBCHAPTER 4A. SURGERY, SPECIAL PROCEDURES, AND ANESTHESIA SERVICES PERFORMED IN AN OFFICE SETTING**

- 13:35-4A.1 Purpose
- 13:35-4A.2 Scope
- 13:35-4A.3 Definitions
- 13:35-4A.4 Policies and procedures requirements
- 13:35-4A.5 Duty to report incidents related to surgery, special procedures or anesthesia in an office
- 13:35-4A.6 Standards for performing surgery and special procedures in an office; privileges necessary; pre-procedure counseling; patient records; recovery and discharge

- 13:35-4A.7 Standards for administering or supervising the administration of anesthesia services in an office; pre-anesthesia counseling; patient monitoring; recovery; patient record; discharge of patient
- 13:35-4A.8 Performance of general anesthesia; authorized personnel
- 13:35-4A.9 Administration of regional anesthesia; authorized personnel
- 13:35-4A.10 Administration of conscious sedation; authorized personnel
- 13:35-4A.11 Administration of minor conduction blocks; authorized personnel
- 13:35-4A.12 Alternative privileging procedure
- 13:35-4A.13 Requirements for anesthetizing locations; emergency equipment and supplies
- 13:35-4A.14 Requirements for anesthetizing locations; safety systems, monitoring devices
- 13:35-4A.15 Equipment requirements for recovery areas
- 13:35-4A.16 Maintenance requirements
- 13:35-4A.17 Compliance timetables
- 13:35-4A.18 Enforcement

**SUBCHAPTER 5. EYE EXAMINATIONS; EYEGLASSES**

- 13:35-5.1 Minimum eye examination; contact lenses
- 13:35-5.2 Minimum standards and tolerances of optical lenses

**SUBCHAPTER 6. GENERAL RULES OF PRACTICE**

- 13:35-6.1 Practice identification
- 13:35-6.2 Pronouncement of death
- 13:35-6.3 Sexual misconduct
- 13:35-6.4 Delegation of administration of subcutaneous and intramuscular injections to certified medical assistants
- 13:35-6.5 Preparation of patient records, computerized records, access to or release of information; confidentiality, transfer or disposal of records
- 13:35-6.6 Standards for joint protocols between advanced practice nurses and collaborating physicians
- 13:35-6.7 (Reserved)
- 13:35-6.8 Prescribing, administering or dispensing amygdalin (laetrile)
- 13:35-6.9 Referral for radiological services
- 13:35-6.10 Advertising and solicitation practices
- 13:35-6.11 Excessive fees
- 13:35-6.12 (Reserved)
- 13:35-6.13 Fee Schedule
- 13:35-6.14 Delegation of physical modalities to a licensed health care provider or an unlicensed physician aide
- 13:35-6.15 (Reserved)
- 13:35-6.16 Professional practice structure
- 13:35-6.17 Professional fees and investments, prohibition of kickbacks
- 13:35-6.18 Medical malpractice coverage; letter of credit
- 13:35-6.19 Duty to report changes in status
- 13:35-6.20 Physician delegation of tasks to radiologic technologists and nuclear medicine technologists
- 13:35-6.21 Hair replacement techniques
- 13:35-6.22 Termination of licensee-patient relationship
- 13:35-6.23 Presence of chaperones

**SUBCHAPTER 6A. DECLARATIONS OF DEATH UPON THE BASIS OF NEUROLOGICAL CRITERIA**

- 13:35-6A.1 Purpose
- 13:35-6A.2 Definitions
- 13:35-6A.3 Requirements for physicians authorized to declare death on the basis of neurological criteria
- 13:35-6A.4 Standards for determination of brain death
- 13:35-6A.5 Criteria and testing for establishment of brain death
- 13:35-6A.6 Objective documentation
- 13:35-6A.7 Certification of death

**SUBCHAPTER 7. PRESCRIPTION, ADMINISTRATION AND DISPENSING OF DRUGS**

- 13:35-7.1 Definitions
- 13:35-7.1A Examination of patient's condition required prior to dispensing drugs or issuing a prescription; exceptions
- 13:35-7.2 Requirements for issuing written prescriptions for medicines
- 13:35-7.3 Verbal prescriptions (Reserved)
- 13:35-7.4 Facsimile transmitted prescriptions
- 13:35-7.4A Electronically transmitted prescriptions
- 13:35-7.5 Requirements for the dispensing of drugs and special limitations applicable to the dispensing of drugs for a fee
- 13:35-7.5A Limitations on prescribing, administering or dispensing of drugs for the treatment of obesity
- 13:35-7.6 Limitations on prescribing, administering or dispensing of controlled substances; special exceptions for management of pain
- 13:35-7.7 Prohibitions on prescribing, administering or dispensing of controlled substances for detoxification; limited exceptions
- 13:35-7.8 Prohibitions and limitations in the prescribing, administering or dispensing of amphetamines and sympathomimetic amines
- 13:35-7.9 Prohibitions and special limitations on prescribing, administering or dispensing anabolic steroids
- 13:35-7.10 Enforcement

**SUBCHAPTER 8. HEARING AID DISPENSERS**

- 13:35-8.1 Purpose
- 13:35-8.2 Definitions
- 13:35-8.3 Training and experience requirements
- 13:35-8.4 Training permits; issuance and practice
- 13:35-8.5 Temporary licenses; issuance
- 13:35-8.6 Temporary licenses; practice
- 13:35-8.7 Sponsors
- 13:35-8.8 Scope of practice
- 13:35-8.9 Fitting and dispensing of deep ear canal hearing aid devices
- 13:35-8.10 Supervising licensee
- 13:35-8.11 Notification to the Committee; suspension of license for failure to renew
- 13:35-8.12 Equipment
- 13:35-8.13 Hearing testing
- 13:35-8.14 Advertising and Solicitation
- 13:35-8.15 Abandonment; excessive fees
- 13:35-8.16 Itemization of services and equipment; retention of records
- 13:35-8.17 Licensing examination
- 13:35-8.18 Violation of the Rules
- 13:35-8.19 Fee schedule
- 13:35-8.20 License renewal; continuing education requirement

**SUBCHAPTER 9. ACUPUNCTURE**

- 13:35-9.1 Purpose and scope
- 13:35-9.2 Definitions
- 13:35-9.3 Credentials required for certification
- 13:35-9.4 Examination requirements
- 13:35-9.5 Prohibited titles
- 13:35-9.6 Fee schedule
- 13:35-9.7 Term of lawful practice; biennial registration
- 13:35-9.8 Referral; informed consent
- 13:35-9.9 Accepted equipment and devices; procedures
- 13:35-9.10 Precautionary and sterilization procedures
- 13:35-9.11 Preparation of patient records; computerized records; access to or release of information; confidentiality, transfer or disposal of records
- 13:35-9.12 Guest acupuncturist
- 13:35-9.13 Tutorial applications and design of tutorial program
- 13:35-9.14 Responsibilities of supervising acupuncturist
- 13:35-9.15 Responsibilities of the acupuncture apprentice
- 13:35-9.16 Training required of a physician or dentist

- 13:35-9.17 Continuing professional education requirements

**APPENDIX A. (RESERVED)****SUBCHAPTER 10. ATHLETIC TRAINERS**

- 13:35-10.1 Scope and purpose
- 13:35-10.2 Definitions
- 13:35-10.3 Education standards
- 13:35-10.4 Examinations
- 13:35-10.5 (Reserved)
- 13:35-10.6 Approved activities
- 13:35-10.7 Violations
- 13:35-10.8 Fees

**SUBCHAPTER 11. ALTERNATIVE RESOLUTION PROGRAM**

- 13:35-11.1 Definitions
- 13:35-11.2 Creation of Impairment Review Committee
- 13:35-11.3 Duties of an approved professional assistance program
- 13:35-11.4 Duties of the Impairment Review Committee
- 13:35-11.5 Professional assistance program: approval and discontinuance
- 13:35-11.6 Colleague referrals
- 13:35-11.7 (Reserved)

**SUBCHAPTER 1. MEDICAL SCHOOLS, COLLEGES, EXTERNSHIPS, CLERKSHIPS AND POST-GRADUATE WORK****13:35-1.1 Observership program**

(a) "Observer" shall mean an undergraduate medical student of an allopathic or osteopathic school accredited either by the Liaison Committee on Medical Education or the American Osteopathic Association or a foreign medical school listed in the World Health Organization Directory and whose graduates are accepted by the New Jersey Board of Medical Examiners as eligible to sit for the licensure examination. Observerships are limited to the student's vacation period in an extra-curricular professional experience as delineated in this section.

(b) An observership program shall be limited to:

1. Observation of operative procedures;
2. The taking of histories;
3. The performance of physical examinations;
4. The performance of non-invasive procedures under the direct supervision of and in the immediate presence of the supervising licensed physician; and
5. The participation in patient rounds and other organized patient care activities of the supervising physician.

(c) At no time shall the observer be delegated any responsibility for the care of the patient, the patient's diagnosis or any aspect of the patient's treatment, including the prescription of medication for the patient. An observer shall make no entries on the patient's permanent record.

(d) The observer shall at all times of patient contact wear an identifying badge inscribed "Medical Student."

(e) Prior to commencing participation in an observership program, the student shall have obtained written permission from the Chief of Staff and the Administration of the participating hospital and shall retain such letter.

(f) Under no circumstances shall the performance of any of the duties listed in (b) above by an observer, while engaged in such a program, be construed as the practice of medicine.

(g) The time spent in an observership program shall not be considered as part of or credited toward fulfillment of any statutory academic or clinical requirements for licensure.

Amended by R.1999 d.356, effective October 18, 1999.  
See: 31 N.J.R. 1742(a), 31 N.J.R. 3117(a).

Substituted references to observers for references to externs and substituted references to observerships for references to externships throughout; in (a), substituted "delineated in this section" for "hereafter delineated" at the end; and in (f), substituted "duties listed in (b) above" for "above duties" following "any of the".

### 13:35-1.2 Fifth Pathway

(a) The Board shall accept application for licensure from an applicant who does not meet the usual statutory prerequisites for educational background, in the following circumstances to be known as the Fifth Pathway:

1. The applicant has completed the entirety of the academic curriculum in residence at a medical school in a foreign country located outside of the United States, Puerto Rico or Canada or in a school-authorized clinical training program;

2. The medical school was approved throughout the applicant's period of education by the government of the country of domicile to confer the degree of Doctor of Medicine and Surgery or its equivalent, and was listed in the World Health Organization Directory;

3. The applicant has satisfactorily completed all the requirements for a matriculated student of that foreign medical school to receive a diploma, except for internship and/or social service;

4. The applicant has achieved a passing score on a screening examination acceptable to the Educational Commission on Foreign Medical Graduates (ECFMG) even though not eligible for ECFMG certification; and

5. The applicant has had his or her academic record reviewed and approved by a medical school approved by the Liaison Committee on Medical Education, which school has accepted the applicant in a one-academic-year program of supervised clinical training under its direction, and the applicant has satisfactorily completed that program as evidenced by receipt of a certificate issued by the sponsoring medical school.

(b) The applicant meeting the requirements in (a) shall thereafter be deemed by the Board to be eligible to enter a graduate training program approved by the Accreditation Council for Graduate Medical Education (ACGME) or the American Osteopathic Association (AOA). Upon satisfactory completion of the three years of post-graduate training required by N.J.A.C. 13:35-3.11, the applicant may apply for licensure in this State.

Amended by R.1989 d.532, effective October 16, 1989.

See: 21 N.J.R. 2226(b), 21 N.J.R. 3307(a).

Rule deleted and replaced with new text.

### 13:35-1.3 Postgraduate training

Postgraduate training shall be taken under the auspices of a hospital or hospitals accredited for such training by the Accreditation Council for Graduate Medical Education (ACGME) or by the American Osteopathic Association (AOA) or by the American Podiatric Medical Association (APMA), as applicable to the profession. The program shall further be acceptable to the Board, which shall take into account the standards adopted by the Advisory Graduate Medical Education Council (AGMEC).

Amended by R.1989 d.532, effective October 16, 1989.

See: 21 N.J.R. 2226(b), 21 N.J.R. 3307(a).

Rule deleted and replaced with new text.

#### Case Notes

Reasonable regulation of advertising. Att'y Gen. Form Op. No. 20 (1977).

### 13:35-1.4 Military service in lieu of M.D. or D.O. internship or postgraduate training

The Board may grant a license to practice medicine and surgery to any person who shall furnish proof, satisfactory to the Board, that such person has fulfilled all of the formal requirements established by law, and who has served at least two years in active military service in the United States Army, Air Force, Navy, Marine Corps, Coast Guard or the U.S. Public Health Service as a commissioned officer and physician and surgeon in a medical facility which the Board determines constitutes the substantial equivalent of the approved internship or residency training program required by law; provided, however, that such military service actively occurred subsequent to graduation from an approved medical school.

Amended by R.1989 d.532, effective October 16, 1989.

See: 21 N.J.R. 2226(b), 21 N.J.R. 3307(a).

Reference to N.J.S.A. deleted and replaced with word "law".

### 13:35-1.5 Registration and permit requirements for graduate medical education programs in medicine or podiatry

(a) The following words and terms shall have the following meanings unless the context in this section indicates otherwise:

“Applicant” means a graduate of a medical or podiatric school, unlicensed in this State, seeking authorization to engage in the practice of medicine or podiatry as a resident in a graduate medical education program. A registration applicant is seeking authorization to participate in the first

year of a graduate medical education program. A permit applicant is seeking authorization to participate in his or her second year (or beyond) of a graduate medical education program.



Deleted (a)2 [Chiropractic (license)]; redesignated existing (a)3 through 11 as (a)2 through 10.

Changed fees in (a)1 through 8.

Amended by R.1993 d.91, effective February 16, 1993.

See: 24 N.J.R. 4011(a), 25 N.J.R. 708(a).

Revised (a)1 through 4.

Amended by R.1993 d.92, effective February 16, 1993.

See: 24 N.J.R. 4334(a), 25 N.J.R. 709(a).

Added new (a)10; redesignated old (a)10 to (a)11.

Amended by R.1993 d.260, effective June 7, 1993.

See: 25 N.J.R. 1058(a), 25 N.J.R. 2487(a).

Amended by R.1993 d.399, effective June 21, 1993.

See: 24 N.J.R. 4013(a), 25 N.J.R. 2689(c).

Amended by R.1994 d.170, effective April 4, 1994.

See: 25 N.J.R. 4583(a), 26 N.J.R. 1520(a).

Administrative Correction.

See: 26 N.J.R. 2589(b).

Amended by R.1994 d.522, effective October 17, 1994.

See: 26 N.J.R. 2526(a), 26 N.J.R. 4195(a).

Amended by R.1995 d.330, effective June 19, 1995.

See: 27 N.J.R. 640(a) (see also, 27 N.J.R. 1746(a)), 27 N.J.R. 2410(a).

Increased some of the fees.

Amended by R.1995 d.423, effective August 7, 1995.

See: 27 N.J.R. 1526(a), 27 N.J.R. 2959(a).

Added Physician Assistant temporary license fee at (a)8.ii.

Administrative correction.

See: 33 N.J.R. 1411(a).

#### Case Notes

Degree designation on license. *Eatough v. Albano*, 673 F.2d 671 (1982) certiorari denied 102 S.Ct. 2931, 457 U.S. 1119, 73 L.Ed.2d 1331, see: dissenting opinion.

Preliminary injunction against rule. *Davis v. Board of Medical Examiners*, 497 F. Supp. 525 (1980).

### 13:35-6.14 Delegation of physical modalities to a licensed health care provider or an unlicensed physician aide

(a) "Physician," for the purpose of this section, shall mean a doctor of medicine (M.D.), a doctor of osteopathic medicine (D.O.) or a doctor of podiatric medicine (D.P.M.).

1. "Licensed health care provider," for the purpose of this section, shall mean an individual holding a current, valid license in this State as a physical therapist, registered nurse, licensed practical nurse, physician assistant, chiropractor or athletic trainer.

(b) A physician may direct his or her unlicensed employee to administer to the doctor's patients certain physical modalities in the limited circumstances set forth in this section, without being in violation of the pertinent professional practice act implemented by the Board, to the extent such conduct is permissible under any other pertinent law or rule administered by the Board or any other State agency.

(c) A physician may direct a licensed health care provider with training and experience to administer to the physician's patients physical modalities including ultraviolet (B and C bands) and electromagnetic rays including, but not limited to, deep heating agents, microwave diathermy, shotwave diathermy, ultrasound, and those modalities listed in (d) below. The physician shall retain responsibility for examining the patient, determining the appropriate modalities,

assessing training and experience, as well as providing the appropriate level of supervision consistent with practice standards, applicable to the specific licensed health care provider.

(d) A physician may direct an unlicensed aide to administer the following physical modalities: hot packs, cold packs, paraffin baths, contrast baths, and whirlpool baths. The aide shall not be permitted to perform any rehabilitative exercise programs. No other modalities including T.E.N.S. or traction shall be performed by the unlicensed physician's aide.

(e) A physician may direct the administration of an appropriate physical modality by an unlicensed assistant only where the following conditions are satisfied:

1. The doctor shall examine the patient to ascertain the nature of the trauma or disease; to determine whether the application of a physical modality will encourage the alleviation of pain and promotion of healing; to assess the risks of the modality for a given patient and the diagnosed injury or disease and to decide that the anticipated benefits are likely to outweigh those risks.

2. The doctor shall determine all the components of the precise treatment to be given at the present therapy session, including the type of modality to be used, extent of area to which it shall be applied, the length of treatment, and any other factors peculiar to the risks of that modality such as strict avoidance of certain parts of the body. This information shall be written on the patient's chart and made available at all times to the assistant carrying out the instructions. The doctor shall assure that the aide administering the treatment is identified in the patient chart on each such occasion.

3. The doctor shall ascertain a satisfactory level of education, competence and comprehension of the particular assistant, who shall be at least 18 years of age, to whom instruction has been given by the doctor as to modalities used in that office. The doctor shall prepare and maintain a written document certifying as to the instructions given to each assistant, and both doctor and assistant shall sign it.

4. The doctor shall see the patient prior to any subsequent scheduled application of the modality to ascertain that continued treatment is appropriate and that no contraindications to treatment have become apparent.

5. The doctor shall remain on the premises at all times that treatment orders are being carried out by the assistant and shall be within reasonable proximity to the treatment room and available in the event of emergency.

(f) A physician shall have due regard for the specialized training and experience of registered physical therapists, and of physiatrists and orthopedists. Injuries or diseases requiring prolonged treatment, if not administered personally by the doctor, shall normally be referred to a licensed physical

therapist, to a physiatrist, orthopedist or other appropriate health care provider.

(g) A bill rendered for the limited consultation set forth in (d)4 above shall not exceed a sum which reasonably reflects the actual level of service, supervision and responsibility personally rendered by the doctor, and consistent with the factors listed in the rule prohibiting excessive fees, N.J.A.C. 13:35-6.11(b) and (c).

(h) On a health insurance claim form pertaining to such service and requiring certification by the doctor, the doctor shall specify the modality applied and shall not generically identify physical therapy.

New Rule, R.1985 d.159, effective April 1, 1985.

See: 16 N.J.R. 2065(a), 17 N.J.R. 836(a).

Amended by R.1989 d.532, effective October 16, 1989.

See: 21 N.J.R. 2226(b), 21 N.J.R. 3307(a).

Requirements added that aides be identified on the patient Chart and that the aides be at least 18 years of age.

Amended by R.1994 d.522, effective October 17, 1994.

See: 26 N.J.R. 2526(a), 26 N.J.R. 4195(a).

#### Case Notes

Rule was not ultra vires as to the Board of Medical Examiners on theory that authority rested solely with the Board of Physical Therapists. Matter of Promulgation of N.J.A.C. 13:35-6.14, 205 N.J.Super. 492, 501 A.2d 547 (App.Div.1985).

#### 13:35-6.15 (Reserved)

New Rule, R.1991 d.56, effective February 4, 1991 (operative May 12, 1991).

See: 22 N.J.R. 2135(b), 23 N.J.R. 311(a).

Repealed by R.1999 d.356, effective October 18, 1999.

See: 31 N.J.R. 1742(a), 31 N.J.R. 3117(a).

Section was "Delegation of tasks to physician assistants".

#### 13:35-6.16 Professional practice structure

(a) A licensee of the Board of Medical Examiners shall engage in professional practice in this State only when in possession of a current biennial registration issued by the Board.

1. The term "professional practice" is deemed to include the offering by a Medical Board licensee of opinions on matters of professional practice (including testimony and professional review organization service), whether or not the offeror has provided direct patient care, where the holding of a professional board license is a significant component or foundation for the offering of the professional opinion.

2. The name of the professional practice entity shall be composed of the actual last names of one or more of the owning licensees, partners or shareholders or composed of a phrase or words reasonably descriptive of the type of professional practice.

(b) The practice shall be conducted in a business form consistent with the principles set forth in this rule and, where so noted, only in accordance with the designated special conditions pertaining to that form. There shall be policies and procedures with respect to professionally licensed personnel. These topics shall include, but not be limited to, the following:

1. Responsibility of a licensed practitioner for review and approval of hiring professional staff and timely demand for and verification of current licensing credentials and any other educational credentials required by law or pertinent agency rule (for example, recertifications, continuing professional education, cardiopulmonary resuscitation, etc.);

2. Medical policies at the office or place where services shall be rendered;

3. Cleanliness of premises;

4. Maintenance, registration and inspection of professional equipment as necessary;

5. Standards for recordkeeping as to patient medical records, billing records, and such other records as may be required by law or rule including Controlled Dangerous Substance inventories, as applicable;

6. Security, including drug storage, prescription pad control, confidentiality of patient records;

7. Periodic audit of patient records and of professional services to assure quality professional care on the premises;

8. Responsibility for the professional propriety of billing and of advertising or other representations including disclosure of financial interest in health care services offered to the public; and

9. Preparation and maintenance of a written list of current fees for standard services, which list shall be available to patients on request.

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

(d) A licensee, alone or with the other investing licensees, may employ a licensed health care professional as director of the professional entity to carry out those policies and procedures designated by the licensee(s). The director must be licensed to conduct all services offered at the premises. Either the director, one of the investing licensees, or another licensed health care professional authorized to render those medical services without direct supervision, must be on the premises at all times when patients or clients are receiving professional services, except as specified herein or otherwise permitted by rule of the Board. With regard to health care entities whose services are performed away from the primary office address (for example, entities providing house calls, mobile medical services, or provision and management of services relating to durable medical equipment, etc.), the director need not be present at all times, provided that patients or clients are receiving professional services from an investing or employed professional who is a licensee of a professional health care board of this State, except as may be limited by law or by another rule of this Board.

(e) A licensee may invest in a health care service as defined in N.J.A.C. 13:35-6.17(a). Said service shall be owned solely by one or more licensed health care professionals except as otherwise permitted by licensure granted by another State agency. Whether or not any or all of the owners, partners or directors all regularly practice on the premises or within the entity, each such person who is a licensee of this Board shall be responsible to the Board for requiring maintenance of all professional practice standards and control set forth in this rule, except as excused by (g) below. A licensee who has invested in a health care service in which he or she has a significant beneficial interest as defined in N.J.A.C. 13:35-6.17(a)5, to which he or she refers patients, shall assure that professional justification for the referred service is documented in the patient record maintained at that entity. Referred services include but are not limited to prescriptions for devices such as hearing aids, eyeglasses, intraocular lenses, requests for radiologic studies, etc. Referral of patients is now limited to the exceptions set forth in N.J.S.A. 45:9-22.4 as amended.

(f) Acceptable professional practice forms are as follows:

1. Solo: A practitioner may practice solo and/or may employ or otherwise remunerate other licensed practitioners to render professional services within the scope of practice of each employee's license, but which scope shall not exceed that of the employer's license. The practitioner may employ ancillary non-licensed staff in accordance with Board rules, if any, and accepted standards of practice.

2. Partnership or professional association: A practitioner may practice in a partnership or professional association, but such entity shall be composed solely of licensed health care professionals. The professional services offered by each practitioner, whether a partner or shareholder, shall be the same or in a closely allied medical or professional health care field. For the purpose of this rule, closely allied fields, pursuant to the Professional Service Corporation Act, N.J.S.A. 14A:17-1 et seq., shall be deemed to include the health care professions licensed by the State Professional Boards under the Division of Consumer Affairs, for example, chiropractic, dentistry, nursing, nurse midwifery, optometry, physical therapy, podiatry, psychology, social work, etc. If the scope of practice authorized by law for each such person differs, any document used in connection with professional practice including but not limited to professional stationery, business cards, advertisements or listings and bills, shall designate the field to which such person's practice is limited. Prescriptions shall list only those practitioners authorized by law to prescribe; shall designate the practice of each listed prescriber as required by N.J.A.C. 13:35-6.1; and shall comply with the data requirements of N.J.A.C. 13:35-6.6.

3. Associational relationship with other practitioner or professional entity: For the purpose of this rule, the term "employment" shall include an ongoing associational relationship between a licensee and professional practitioner(s) or entity on the professional practice premises for the provision of professional services, whether the licensee is denominated as an employee or independent contractor, for any form of remuneration.