

**13:35-1A.9 Violations**

Violation of the above requirements for establishing a clinical education program in this State, or maintaining or participating in an unapproved program whether as student or faculty, may be regarded as engaging in the unlicensed practice of medicine or aiding and assisting in the unlicensed practice, pursuant to the residual or other general powers of the Medical Practice Act, N.J.S.A. 45:9-1 et seq. and also, in particular, N.J.S.A. 18A:68-12 et seq., N.J.S.A. 45:9-6, 45:9-8, 45:9-18, 45:9-22, and 45:1-21(c) and 45:1-23. Violators shall be subject to the monetary penalties and/or other disciplinary sanctions authorized by law.

**13:35-1A.10 Severability**

If any provisions of this rule or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other provisions or applications of the rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.

**13:35-1A.11 Clerkship program approvals: effective date; limited waiver provision; no new applications**

This rule shall apply to all clinical training programs, as defined in N.J.A.C. 13:35-1A.1, taking place in New Jersey on or after January 1, 1983. However, the Board recognizes that, prior to the adoption of this rule, it has granted to a number of foreign medical schools permission to sponsor modest clinical programs which were not required to meet the explicit standards now set forth herein, and which permission reserved all rights of the Board respecting the ultimate evaluation of the adequacy of any such program. No new applications for clinical clerkship programs shall be accepted.

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 clerkship programs added.

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

**13:35-2.1 Approved colleges of podiatry**

An applicant for podiatric licensure shall have graduated from a college or colleges of podiatry approved during the entire course of the applicant's training by the American Podiatric Association and approved by the Board.

Amended by R.1989 d.532, effective October 16, 1989.  
See: 21 N.J.R. 2226(b), 21 N.J.R. 3307(a).

Deleted N.J.S.A. reference.

**13:35-2.2 Podiatry internship or postgraduate work**

The applicant for licensure shall have successfully completed an internship or postgraduate program fully approved by the American Podiatric Medical Association in a duly licensed clinic, hospital or institution acceptable to the Board, which shall take into account the standards adopted by the Advisory Graduate Medical Education Council (AG-MEC).

Amended by R.1989 d.532, effective October 16, 1989.  
See: 21 N.J.R. 2226(b), 21 N.J.R. 3307(a).

Old text deleted, replaced with new text.

**13:35-2.3 Military service in lieu of internship in podiatry**

The Board may grant a license to practice podiatry to any person who shall furnish proof, satisfactory to the Board, that such person has fulfilled all of the formal requirements established by the Podiatric Practice Act, N.J.S.A. 45:5-1 et seq., and has served at least two years in active military service in the United States Army, Air Force, Navy, Marine Corps, Coast Guard or the United States Public Health Service as a commissioned officer and podiatrist in a medical facility which the Board determines constitutes the post-graduate training program required by law; provided, however, that such military service actively occurred subsequent to graduation from an approved school of podiatry.

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 Podiatric Practice Act.

**13:35-2.4 (Reserved)**

Amended by R.1985 d.102, effective March 4, 1985.

See: 16 N.J.R. 3177(a), 17 N.J.R. 605(a).

(k) substantially amended.

Amended by R.1985 d.631, effective December 16, 1985.

See: 17 N.J.R. 2231(b), 17 N.J.R. 2991(b).

Deleted "effective date of this rule" and substituted "March 4, 1985"; deleted "August 1, 1987" and substituted "March 31, 1988."

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

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

At (k), reference made to March 18, 1988 as date prior to which students are recognized.

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

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

Section was "Requirements for approval of college of chiropractic."

**Case Notes**

Emphasis on common subjects in medical and chiropractic education noted; medical doctor competent as expert in chiropractic diagnosis and use of x-rays in each area which the disciplines share in common in terms of education, training and licensure (citing former N.J.A.C. 13:35-10.0 and 13:35-10.9). Rosenberg by Rosenberg v. Cahill, 99 N.J. 318, 492 A.2d 371 (1985).

**13:35-2.5 Medical standards governing screening and diagnostic medical testing offices**

(a) As used in this section, the following terms shall have the following meanings:

1. "Screening facility or office" means a private practice location not licensed by the State Department of Health, which practice offers services to the medical

profession or to the public in the form of one or more types of medical testing. Such a practice shall be owned and under the control, supervision and direction of a physician or group of physicians licensed and currently registered in New Jersey.

2. "Screening test" means a test which results in a determination less complete than a physical examination performed by a licensed physician and does not purport to substitute for a complete examination. The definition is not intended to include a community-sponsored one-modality service such as, for example, a hypertension or glaucoma screening sponsored by a municipal or regional health department or a community screening volunteered by a non-profit professional society at no cost to examinees.

3. "Diagnostic center" means a practice not licensed by the State Department of Health, which practice offers services to the medical profession or to the public and which contains the equipment and medical staff necessary to establish a medical diagnosis and which may recommend a course of treatment for the examinee who elects to become a patient. Such a practice shall be owned and under the control, supervision and direction of a physician or group of physicians licensed and currently registered in New Jersey.

(b) Medical screening or medical diagnostic testing (other than clinical laboratory testing), conducted primarily for persons not receiving medical treatment from the testing entity, is nevertheless deemed to be a medical service. Such a practice shall be owned and under the responsibility of one or more physicians each of whom holds a plenary license from the State Board of Medical Examiners. All such testing, irrespective of the stationary or mobile nature of the facility, shall be performed under the authority of a designated responsible physician who shall establish a protocol and a quality assurance program for the specific type of screening or study. Results of all such procedures shall be interpreted by a physician holding a plenary license in this State, and documented in a written report which is preserved by the physician as required by N.J.A.C. 13:35-6.5.

(c) A copy of the test report shall be issued promptly, by preliminary verbal report when necessary and no later than three business days from the date of receipt of the report by the testing facility, to the referring physician, if any, and upon request to the examinee or other authorized person, to the extent authorized by N.J.A.C. 13:35-6.5. An interpretation delayed pending receipt of additional material shall be issued as soon as possible thereafter. In the event that a report is directed by an examinee to a designated physician who has not personally ordered the test, said physician shall incur no obligation with respect to such report and the testing facility shall formally advise all examinees of this at the time of testing. All abnormalities shall be clearly identified for the attention of a physician. For an examinee without physician referral, an abnormal or questionable result shall be identified in the report with interpretation sufficient to strongly advise the examinee to seek medical consultation. The facility protocol shall make available a referral source for examinees with suspicious findings or suspected disease, which source identifies specialists pertinent to the pathology involved, such as internal medicine, gynecology, hematology, general surgery, surgical and medical oncology and radiation oncology, for follow-up when the examinee does not indicate a primary care provider as recipient of test results.

(d) Requirements for a screening or diagnostic facility not having a full-time physician present on the premises are as follows:

1. Non-invasive screening tests or diagnostic studies may be performed in facilities at which the responsible physician is not physically present at all times of facility operation. For such testing services, the responsible physician may delegate certain tasks to another licensed health care practitioner, such as a registered professional nurse or x-ray technician, consistent with that person's scope of practice. Tasks of a non-medical nature may be delegated to non-licensed employees under the supervision of a licensed employee, where not inconsistent with applicable law or rule and with accepted standards of practice pertinent to that screening or diagnostic procedure. The physician responsible for such screening or diagnostic service shall take the necessary measures to assure compliance with the requirements of this section and accepted standards of practice. Services performed from mobile facilities parked on the premises of or providing services to a licensed health care facility must have approval from the State Department of Health.

2. There shall be a written protocol which specifies at a minimum: equipment operation, procedure manuals, eligibility criteria for persons to be accepted for examination, methods for securing informed consent, record documentation, and provision for follow-up to examinees and/or referring physicians, as applicable. There shall be procedures for authorized billing, and other factors consistent with accepted standards of practice pertinent to the screening test or diagnostic procedure.

3. There shall be a quality assurance program which requires the following:

i. At least annually, documented inspection of personnel credentials upon hire and at least annually thereafter or sooner as required by circumstances including dates of certification and license renewal; review of the procedure manuals; determination of the qualifications, identity and supervision of employees designated to perform specific functions; and assessment of accuracy in test results;

ii. At least quarterly, evaluation of personnel skills and review of test performance techniques and data recordation or more frequently as required by demonstrated staff performance; verification of billing accuracy; and observance of other factors consistent with accepted standards of practice pertinent to the screening test or diagnostic study procedure;

iii. The required quality assurance program shall include documented regular mechanical inspections as customary for that equipment, but no less frequently than four times per year, and before re-use after the reporting of a mechanical or pertinent personnel problem; and

iv. Minimum safety precaution standards shall be established, observed by all personnel and confirmed by the supervising physician.

(e) For screening services accepting examinees without physician referral, the responsible physician shall prepare and produce, at the request of the Board, a report for a specified calendar year(s) designating the total number of examinees issued abnormality reports and the advisory letter required by (c) above.

(f) For radiologic procedures, the responsible physician shall assure compliance with the applicable requirements of the Radiation Protection Act, N.J.S.A. 26:2D-1 et seq. and the Radiation Protection Code, N.J.A.C. 7:28. Certification of inspection results shall be kept on the premises. The responsible physician may delegate certain tasks to a New Jersey-licensed x-ray technologist within that person's scope of practice, provided that the physician has complied with (d) above.

(g) In addition to compliance with all other subsections of this rule, a mammography screening program shall establish a written protocol which shall be documented in the facility policy and procedure manual and which shall be brought to the attention of pertinent personnel.

1. The protocol shall include specific criteria for screening: for example, age, family history, personal medical history, permissible frequency of testing and other indicators. It shall provide for palpation by a physician or by instructed licensed registered nurse personnel, and for appropriate positioning preparatory to the test. The screening program shall include instruction in breast self-

examination, which may be provided in the form of written materials.

2. The physician shall require that anyone other than a physician operating mammography equipment shall be currently licensed as a diagnostic (or mammographic) radiologic technologist as shall be required by the Department of Environmental Protection and Energy in accordance with N.J.S.A. 26:2D-1 et seq. and N.J.A.C. 7:28-19 et seq. The equipment used shall conform to the applicable sections of N.J.A.C. 7:28. Baseline mammography images and periodic images shall be maintained as part of the record of the examinee or referred patient and preserved for seven years from date of last entry. The physician may release the original of any image, providing that signed documentation thereof is retained in the patient's file.

3. Mammography services offered in mobile settings shall be furnished only under the supervision of a doctor of medicine or of osteopathy who is certified by the American Board of Radiology or by the American Osteopathic Board of Radiology or who possesses equivalent certification requirements as determined by the Board of Medical Examiners and who successfully completes a minimum of 20 hours of post-graduate work in mammography interpretation every 24 months after the date he or she begins reading mammographies. Documentation shall be kept on the premises. Physicians practicing in any setting, mobile or otherwise, who offer mammography services as authorized Medicare providers or as meeting requirements of the American College of Radiology, must meet the more stringent training requirements of those programs.

4. The physician shall require that anyone operating mammography equipment, other than a physician, shall be currently licensed by the New Jersey Radiologic Technologist Board of Examiners to perform radiographic procedures. Documentation shall be kept on the premises.

(h) A physician may request a radiologist to perform diagnostic radiology services intended to confirm or rule out suspected pathology. The radiologist shall ascertain whether sufficient objective or clinical data have been provided to determine that the tests are appropriate to the apparent problem. When, in the opinion of a reasonable radiologist, further information is needed to select the appropriate test, then the radiologist, whenever feasible, shall personally consult with the referring doctor in advance of performing the test. In addition or as an alternative, at the professional discretion of the radiologist, he or she shall perform a focussed clinical examination in appropriate cases. Whenever feasible, the radiologist shall be notified of the patient's appearance at the radiologic facility and shall direct the licensed x-ray technologist as to procedure, method of obtaining the test data, scheduling of the physician's oral and written report, and timely notification to the patient or referring physician of results or the need to repeat the test.

(i) A patient or examinee shall not be billed for a test result which is professionally incomplete, or which is found to be non-diagnostic due to inadequate equipment or technique.

(j) This rule shall be effective April 6, 1992, except that subsections (d), (e), (f) and (g) shall be operative July 6, 1992.

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

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

Recodification and reference made to specific Acts.

Repeal and New Rule, R.1992 d.169, effective April 6, 1992 (subsections (d), (e), (f) and (g) operative July 6, 1992.

See: 23 N.J.R. 2858(a), 24 N.J.R. 1367(a).

Section was "Standards concerning testing and diagnostic centers".

#### Case Notes

Failure of mobile-testing service to comply with regulations mandating ownership of and responsibility for such services by licensed physician precluded eligibility for reimbursement from personal injury protection (PIP) benefits, even if service was medically necessary. *Allstate Ins. Co. v. Orthopedic Evaluations, Inc.*, 300 N.J.Super. 510, 693 A.2d 500 (A.D.1997).

#### 13:35-2.6 (Reserved)

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

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

Exception of Certified Nurse Midwife added in (a), reference to specific statute deleted.

Repealed by R.1992 d.332, effective September 8, 1992.

See: 23 N.J.R. 3682(a), 24 N.J.R. 3094(a).

Section was "Midwife and Certified Nurse Midwife Practice".

#### 13:35-2.7 (Reserved)

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

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

Deleted qualification of 2 years Obstetrical clinical experience.

Repealed by R.1992 d.332, effective September 8, 1992.

See: 23 N.J.R. 3682(a), 24 N.J.R. 3094(a).

Section was "Qualifications".

#### 13:35-2.8 (Reserved)

Repealed by R.1992 d.332, effective September 8, 1992.

See: 23 N.J.R. 3682(a), 24 N.J.R. 3094(a).

Section was "Minimum conditions of practice".

#### 13:35-2.9 (Reserved)

Repealed by R.1992 d.332, effective September 8, 1992.

See: 23 N.J.R. 3682(a), 24 N.J.R. 3094(a).

Section was "Minimum standards for C.N.M. and lay midwife practice during prenatal stages".

#### 13:35-2.10 (Reserved)

Repealed by R.1992 d.332, effective September 8, 1992.

See: 23 N.J.R. 3682(a), 24 N.J.R. 3094(a).

Section was "Management by a physician C.N.M. team for high-risk patients".

#### 13:35-2.11 (Reserved)

Repealed by R.1992 d.332, effective September 8, 1992.

See: 23 N.J.R. 3682(a), 24 N.J.R. 3094(a).

Section was "Intrapartum management".

#### 13:35-2.12 (Reserved)

Repealed by R.1992 d.332, effective September 8, 1992.

See: 23 N.J.R. 3682(a), 24 N.J.R. 3094(a).

Section was "Postpartum and other care".

#### 13:35-2.13 Limited privileges and conditions of practice permitted for a graduate physician pending licensure

(a) Persons who are graduates of medical schools recognized by the Board may commence a period of supervised post-graduate training in a licensed hospital with an Accreditation Council on Graduate Medical Education (ACGME) or American Osteopathic Association (AOA) approved residency training program in this State immediately upon graduation. A training period commencing prior to the start of a formal ACGME or AOA approved post-graduate year term shall not exceed six months and shall be documented in the hospital record.

(b) Persons who are graduates of foreign medical schools recognized by the Board but who are not yet deemed eligible for licensure in this State because of the requirements of N.J.S.A. 45:9-8 and N.J.A.C. 13:35-3.11 may sit for the USMLE Step 3 upon completion of one year of approved post-graduate training and satisfaction of all other requirements of N.J.S.A. 45:9-1 et seq. and N.J.A.C. 13:35-3.1.

R.1984 d.138, effective April 16, 1984.

See: 16 N.J.R. 216(a), 16 N.J.R. 920(a).

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

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

#### 13:35-2.14 (Reserved)

R.1984 d.245, effective June 18, 1984.

See: 16 N.J.R. 685(a), 16 N.J.R. 1612(a).

Repealed by R.1992 d.332, effective September 8, 1992.

See: 23 N.J.R. 3682(a), 24 N.J.R. 3094(a).

Old section "Reserved" recodified to 13:35-2A.10. Section was "Limited privileges and conditions of practice permitted for a graduate nurse midwife pending results of certifying examination and licensure".

### SUBCHAPTER 2A. LIMITED LICENSES: CERTIFIED NURSE MIDWIFERY

#### 13:35-2A.1 Certified Nurse Midwife practice

(a) A Certified Nurse Midwife ("CNM") shall mean a registered professional nurse licensed in the State of New Jersey who, by virtue of added knowledge and skill gained through an organized program of study and clinical experience, is qualified to manage the care of women and/or newborns during the antepartum, intrapartum and postpartum periods and to provide well-woman health care as expressly limited and set forth below.

(b) A CNM shall maintain current registration with the Board of Medical Examiners (hereinafter the "Board") in order to discharge those responsibilities set forth in this subchapter.