

CHAPTER 39A

STATE BOARD OF PHYSICAL THERAPY

Authority

N.J.S.A. 45:1-3.2 and 45:9-37.18.

Source and Effective Date

R.1996 d.325, effective June 20, 1996.
See: 28 N.J.R. 1925(b), 28 N.J.R. 3598(b).

Executive Order No. 66(1978) Expiration Date

Chapter 39A, State Board of Physical Therapy, expires on June 20, 2001.

Chapter Historical Note

Subchapters 1 through 5 of Chapter 39A, State Board of Physical Therapy, became effective July 7, 1986 as R.1986 d.265, d.266, d.267, d.268 and d.270. See: 17 N.J.R. 2355(a), 18 N.J.R. 1394(b); 17 N.J.R. 2356(a), 18 N.J.R. 1395(a); 17 N.J.R. 2358(a), 18 N.J.R. 1397(a); 17 N.J.R. 2361(a), 18 N.J.R. 1399(a); 17 N.J.R. 2362(a), 18 N.J.R. 1399(b). Subchapter 6, Temporary Licenses for Physical Therapists, became effective February 2, 1987 as R.1987 d.83. See: 18 N.J.R. 1179(b), 19 N.J.R. 298(a).

Pursuant to Executive Order No. 66, Chapter 39A was readopted as R.1991 d.366, effective June 21, 1991. See: 23 N.J.R. 1065(a), 23 N.J.R. 2162(a).

Pursuant to Executive Order No. 66, Chapter 39A was readopted as R.1996 d.325, effective June 20, 1996. See: Source and Effective Date. As part of R.1996 d.325, Subchapter 7, Supervision of Physical Therapist Assistants; Subchapter 7A, Supervision of Temporary Licensed Physical Therapists and Physical Therapist Assistants; Subchapter 7B, Reserved; and Subchapter 8, Advertising, were adopted as new rules effective July 15, 1996. See, also, section annotations.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. AGENCY ORGANIZATION AND ADMINISTRATION

- 13:39A-1.1 Election of officers
- 13:39A-1.2 Delegation of authority to act on emergent applications
- 13:39A-1.3 Fees and charges
- 13:39A-1.4 (Reserved)

SUBCHAPTER 2. PRACTICE AS A PHYSICAL THERAPIST AND PHYSICAL THERAPIST ASSISTANT

- 13:39A-2.1 Definitions
- 13:39A-2.2 Authorized practice by a licensed physical therapist
- 13:39A-2.3 Authorized practice by a licensed physical therapist assistant
- 13:39A-2.4 Delegation by a physical therapist to unlicensed persons
- 13:39A-2.5 Referral of patients by chiropractors
- 13:39A-2.6 (Reserved)

SUBCHAPTER 3. BUSINESS PRACTICES; PROFESSIONAL CONDUCT

- 13:39A-3.1 Patient records
- 13:39A-3.2 Use of personal or other computer to prepare patient records
- 13:39A-3.3 Release of patient record
- 13:39A-3.4 Financial arrangements with clients and third party payors

- 13:39A-3.5 Display of notice of licensure; notification of availability of fee information
- 13:39A-3.6 Prohibition on excessive fees; overutilization
- 13:39A-3.7 Notification of change of address; service of process
- 13:39A-3.8 Violative acts; professional misconduct
- 13:39A-3.9 Identification of licensees
- 13:39A-3.10 Sexual misconduct

SUBCHAPTER 4. UNLICENSED PRACTICE

- 13:39A-4.1 Acts amounting to unlicensed practice
- 13:39A-4.2 Aiding and abetting unlicensed practice

SUBCHAPTER 5. CREDENTIALING OF APPLICANTS

- 13:39A-5.1 Educational credentials for applicants for licensure as physical therapists
- 13:39A-5.2 Examination standards for applicants for licensure as physical therapists
- 13:39A-5.3 Educational credentials for applicants for licensure as physical therapist assistants
- 13:39A-5.4 Examination standards for applicants for licensure as physical therapist assistants
- 13:39A-5.5 Endorsement
- 13:39A-5.6 Recognition of scores on standardized examinations administered in other states
- 13:39A-5.7 Language comprehension requirements
- 13:39A-5.8 Re-examination of applicants for licensure as physical therapists and physical therapist assistants
- 13:39A-5.9 Non-appearance at examination

SUBCHAPTER 6. TEMPORARY LICENSES FOR PHYSICAL THERAPISTS

- 13:39A-6.1 Temporary license
- 13:39A-6.2 Expiration of temporary license
- 13:39A-6.3 Renewal; consequences of second failure; notice of examination in another jurisdiction
- 13:39A-6.4 Temporary visiting licenses
- 13:39A-6.5 (Reserved)

SUBCHAPTER 7. SUPERVISION OF PHYSICAL THERAPIST ASSISTANTS

- 13:39A-7.1 Supervision requirement; physical therapist assistant
- 13:39A-7.2 Responsibilities of designated supervisor
- 13:39A-7.3 Responsibilities of physical therapist assistant

SUBCHAPTER 7A. SUPERVISION OF TEMPORARY LICENSED PHYSICAL THERAPISTS AND PHYSICAL THERAPIST ASSISTANTS

- 13:39A-7A.1 Supervision requirement; temporary licensed physical therapist; temporary licensed physical therapist assistants
- 13:39A-7A.2 Responsibilities of designated supervisor
- 13:39A-7A.3 Responsibilities of temporary licensed physical therapist; temporary licensed physical therapist assistant

SUBCHAPTER 7B. (RESERVED)

SUBCHAPTER 8. ADVERTISING

- 13:39A-8.1 Advertising and solicitation practices
- 13:39A-8.2 Advertising free or discounted services; required disclosures
- 13:39A-8.3 Testimonial advertising
- 13:39A-8.4 Minimum content
- 13:39A-8.5 Use of professional credentials and certifications
- 13:39A-8.6 Advertising by a business entity offering physical therapy services
- 13:39A-8.7 Advertising record retention

SUBCHAPTER 1. AGENCY ORGANIZATION AND ADMINISTRATION

13:39A-1.1 Election of officers

The membership of the New Jersey Board of Physical Therapy shall once each year elect a chairman, vice chairman and a secretary. The chairman shall have the responsibility to conduct all meetings unless, in his or her discretion, a delegation of that responsibility is made. In the absence of the chairman and an express delegation of responsibility, the vice chairman shall assume all of the duties of chairman.

13:39A-1.2 Delegation of authority to act on emergent applications

The chairman shall be authorized to hear and decide emergent applications by the Attorney General made pursuant to N.J.S.A. 45:1-22 for the temporary suspension of any license. The chairman may also undertake such other interim action as may be required by circumstances arising prior to the next meeting date of the Board, provided that said action is subsequently presented to the Board for its review and action (for example, giving tentative approval to the settlement of a matter about to be heard or during the pendency of a hearing at the Office of Administrative Law.) Any decision made by the chairman pursuant to this rule shall be placed on the agenda of the Board at its next regularly scheduled meeting for the purpose of its review. Insofar as it is practicable, the Board shall be provided with a transcript of the record made before the chairman and the parties will be permitted to supplement the record with written submissions.

13:39A-1.3 Fees and charges

(a) The following fees shall be charged by the New Jersey State Board of Physical Therapy:

1. Application fee for Physical Therapist and Physical Therapist Assistant \$125.00
2. Temporary license for Physical Therapist and Physical Therapist Assistant \$ 75.00
3. Initial licensure fee, Physical Therapist:
 - If paid during first year of biennial renewal period: \$110.00
 - If paid during second year of biennial renewal period: \$ 55.00
- Initial licensure fee, Physical Therapist Assistant:
 - If paid during first year of biennial renewal period: \$100.00
 - If paid during second year of biennial renewal period: \$ 50.00
4. Biennial renewal fee:
 - Physical Therapist \$110.00
 - Physical Therapist Assistant \$100.00
5. Late renewal fee: \$100.00
6. Reinstatement fee \$150.00

7. Temporary visiting license pursuant to N.J.S.A. 45:9-37.29(b) to practice on a temporary basis to assist in a medical emergency or to engage in a special project or teaching assignment \$100.00
8. Duplicate license \$ 25.00
9. Duplicate wall certificate \$ 40.00
10. Certification of eligibility for examination (for persons not yet seeking the issuance of a temporary license) \$ 25.00
11. Certification of licensure status \$ 40.00
12. Change of address fee \$ 25.00

New Rule, R.1987 d.238, effective June 1, 1987.
 See: 18 N.J.R. 1177(a), 19 N.J.R. 986(b).
 Amended by R.1991 d.240, effective May 6, 1991.
 See: 23 N.J.R. 388(a), 23 N.J.R. 1418(c).
 Increase in fee or charge in 1 through 6 of (a).
 Amended by R.1994 d.101, effective February 22, 1994.
 See: 25 N.J.R. 5446(a), 26 N.J.R. 1105(b).
 Recodified from 13:39A-1.4 and amended by R.1996 d.325, effective July 15, 1996.
 See: 28 N.J.R. 1925(b), 28 N.J.R. 3598(b).
 Former section, "Examination review procedure", repealed.

13:39A-1.4 (Reserved)

Recodified to 13:39A-1.3 and amended by R.1996 d.325, effective July 15, 1996.
 See: 28 N.J.R. 1925(b), 28 N.J.R. 3598(b).
 Section was "Fees and charges".

SUBCHAPTER 2. PRACTICE AS A PHYSICAL THERAPIST AND PHYSICAL THERAPIST ASSISTANT

13:39A-2.1 Definitions

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

"Clinically supported" means that a licensee, prior to selecting, performing or ordering the administration of a diagnostic test, has:

1. Personally performed a physical examination, making an assessment of any current and/or historical subjective complaints, observations, objective findings, neurological indications;
2. Considered any and all previously performed tests relating to the patient's medical condition and the results; and
3. Documented in the patient record positive and negative findings, observations and medical indications to justify the test.

“Diagnostic testing” means a medical service utilizing biomechanical, neurological, neurodiagnostic, radiological, vascular or any means, other than bioanalysis, intended to assist in establishing a physical therapy diagnosis, for the purpose of recommending a course of treatment for the tested patient to be performed consistent with the Physical Therapy Practice Act, N.J.S.A. 45:9-37.11 et seq., and this chapter.

“Direct supervision”, when in reference to physical therapist assistant, means the presence of the supervising physical therapist on site, readily available to respond to an emergency during any treatment procedure.

“Disability” means the inability to engage in age specific, gender specific, or sex specific roles in a particular social context and physical environment.

“Functional limitations” means restrictions of the ability to perform a physical action, activity or task in an efficient, typically expected or competent manner.

“Impairment” means the loss or abnormality of physiological, psychological, or anatomical structure or function.

“Physical therapy evaluation” includes taking a patient’s relevant history, hands-on evaluation or assessment of objective symptoms and using tests and measures to assist the physical therapist in evaluating the patient’s objective signs and symptoms. Such tests include, but are not limited to, tests to assess postural alignment; joint mobility and function; muscle and nerve function, including electrophysiologic status; movement skill; gait; necessity for assistive devices; the fit and fabrication of orthoses and prostheses; cardiopulmonary status; sensory and motor function, including related pain and tenderness; performance of activities required in daily living; and functional capacity. Physical therapy evaluation does not include examining any person for the purpose of diagnosing any disease or organic condition. Nothing herein is intended to preclude a physical therapist from conducting an evaluation within the scope of his practice, consistent with his education credentials or taking a history which is designed to ascertain if contraindications to therapy may be present and thus the referral to a plenary licensed physician is warranted.

“Physical therapy instruction” includes providing consultative, educational or other advisory services for the purpose of preventing or reducing the incidence and severity of physical disability, bodily malfunction or pain from injury, disease or other physical condition or providing information to patients or groups of interested persons regarding the value of physical therapy agents and measures in general or regarding specific physical conditions. Physical therapy instruction shall not be construed to include physical therapy treatment. To the extent that instruction may involve any hands-on contact between the physical therapist and the person receiving physical therapy instruction, that contact shall be for demonstration purposes only.

“Physical therapy practice” includes physical therapy evaluation and physical therapy treatment and instruction.

“Physical therapy treatment” includes administering physical therapy measures, activities, agents or devices, including, but not limited to, postural correction; joint mobilization; range of motion exercise; muscle and soft tissue stretching; muscle strengthening exercise; balance and coordination exercises; massage techniques; pre and post-natal exercises; growth and development programs; biofeedback techniques; perceptual training; electrophysiologic tests and modalities; cardiopulmonary care; gait training; wound care; hydrotherapy and paraffin bath when used for preventative and therapeutic purposes to correct or limit physical disorders or dysfunctions.

“Physician direction” includes any of the following:

1. Written prescription of a plenary licensed physician, or a dentist or a podiatrist, to the extent that the treatment prescribed is within the scope of his or her practice, or such other health care; practitioner authorized to prescribe treatment;
2. Documentation of physician clearance for the patient for treatment which may include a countersigning of the physical therapist’s proposed plan of treatment;
3. Verbal prescription, in person or via telephone, which shall be memorialized by the prescriber in writing within two weeks. But, in no case, will physician direction be construed to have been provided on the basis of a patient’s representation that he or she has obtained a physician’s clearance.

Amended by R.1996 d.325, effective July 15, 1996.

See: 28 N.J.R. 1925(b), 28 N.J.R. 3598(b).

Amended by R.1999 d.75, effective March 1, 1999.

See: 30 N.J.R. 3755(a), 31 N.J.R. 661(a).

Inserted “Clinically supported”, “Diagnostic testing”, “Disability”, “Functional limitations” and “Impairment”.

Case Notes

Regulation allowing physical therapists to practice within statutory authority not invalid. *Medical Soc. of New Jersey v. New Jersey Dept. of Law and Public Safety, Div. of Consumer Affairs*, 120 N.J. 18, 575 A.2d 1348 (1990).

Physical therapists may examine patients without physician referral. *Medical Soc. of New Jersey v. New Jersey Dept. of Law and Public Safety, Div. of Consumer Affairs*, 120 N.J. 18, 575 A.2d 1348 (1990).

Within statutory guidelines, physical therapists may modify modality of physician prescribed treatment. *Medical Soc. of New Jersey v. New Jersey Dept. of Law and Public Safety, Div. of Consumer Affairs*, 120 N.J. 18, 575 A.2d 1348 (1990).

Physical therapists may give physical therapy instruction to groups, within statutory guidelines. *Medical Soc. of New Jersey v. New Jersey Dept. of Law and Public Safety, Div. of Consumer Affairs*, 120 N.J. 18, 575 A.2d 1348 (1990).

Regulation regarding certain physical therapist activities exceeded statutory authority. *Medical Soc. of New Jersey v. New Jersey Dept. of Law and Public Safety, Div. of Consumer Affairs*, 229 N.J.Super. 128, 550 A.2d 1272 (A.D.1988) certification granted 117 N.J. 46, 563 A.2d 815, reversed 120 N.J. 18, 575 A.2d 1348.

13:39A-2.2 Authorized practice by a licensed physical therapist

(a) A licensed physical therapist may engage in the following activities and practices without physician direction:

1. Physical therapy evaluation, excluding electromyographic testing;
2. Physical therapy instruction;
3. Modification of physical therapy treatment previously initiated upon physician direction provided that the modification is consistent with that physician direction (for example, the physical therapist, in the exercise of his or her discretion, may determine to utilize a variety of modalities to effectuate the direction given by the physician). If the physical therapist wishes to alter a therapeutic plan in a manner not consistent with the initial physician direction, contact must be made with the patient's physician for the purpose of obtaining additional direction.

(b) A physical therapist may bill a patient or third party payor for a diagnostic test in connection with a physical therapy evaluation provided:

1. The diagnostic testing is clinically supported and is specific to that individual patient's impairments, functional limitations, or disability, and is consistent with physician direction;
2. The data sought to be gathered by such tests is relevant to the patient's impairments, functional limitations, and disability, and will provide sufficient information to assist in the development of appropriate interventions, objectives and goals;
3. The appropriate documentation of the analysis of the data acquired from the testing, relevant to the patient impairment, functional limitation and/or disability, is recorded in the patient's record; and
4. Any repeat or subsequent testing shall be for the purpose of substantiating the effectiveness of the physical therapy intervention. Testing intervals shall be determined by the licensee and shall be consistent with the patient's diagnosis, disability and impairment.

(c) A physical therapist shall not bill a patient or third party for diagnostic testing that lacks demonstrated medical value and a level of general acceptance by the relevant provider community and which fails to provide sufficient clinical data to alter the treatment plan.

(d) The following acts and practices shall be among those deemed to be outside the scope of physical therapy and upon proof that a licensee is engaging in such conduct he or she may be subject to disciplinary action:

1. The conducting of a breast examination;

2. The conducting of a pelvic internal examination, except internal evaluation of the pelvic floor musculature, upon specific direction from the referring licensed health care provider;

3. The taking of radiological studies; or

4. The representation of physical therapy treatment to be a cure or remedy for disease or organic condition unrelated to physical disability for which physical therapy services have been sought.

New Rule, R.1987 d.256, effective July 6, 1987.

See: 18 N.J.R. 1177(b), 19 N.J.R. 1227(c).

Amended by R.1996 d.325, effective July 15, 1996.

See: 28 N.J.R. 1925(b), 28 N.J.R. 3598(b).

Amended by R.1999 d.75, effective March 1, 1999.

See: 30 N.J.R. 3755(a), 31 N.J.R. 661(a).

Inserted new (b) and (c); and recodified former (b) as (d).

Case Notes

Regulation allowing physical therapists to practice physical therapy within statutory authority was valid. *Medical Soc. of New Jersey v. New Jersey Dept. of Law and Public Safety, Div. of Consumer Affairs*, 120 N.J. 18, 575 A.2d 1348 (1990).

Regulation allowing physical therapists to examine patients did not exceed statutory authority. *Medical Soc. of New Jersey v. New Jersey Dept. of Law and Public Safety, Div. of Consumer Affairs*, 120 N.J. 18, 575 A.2d 1348 (1990).

Rule not exceeding statutory authority was valid. *Medical Soc. of New Jersey v. New Jersey Dept. of Law and Public Safety, Div. of Consumer Affairs*, 120 N.J. 18, 575 A.2d 1348 (1990).

Group instruction rule did not exceed statutory authority. *Medical Soc. of New Jersey v. New Jersey Dept. of Law and Public Safety, Div. of Consumer Affairs*, 120 N.J. 18, 575 A.2d 1348 (1990).

Regulations exceeding statutory authority were invalid. *Medical Soc. of New Jersey v. New Jersey Dept. of Law and Public Safety, Div. of Consumer Affairs*, 229 N.J.Super. 128, 550 A.2d 1272 (A.D.1988), certification granted 117 N.J. 46, 563 A.2d 815, reversed 120 N.J. 18, 575 A.2d 1348.

13:39A-2.3 Authorized practice by a licensed physical therapist assistant

(a) A licensed physical therapist assistant may initiate patient physical therapy treatment and engage in the practice of physical therapy at the direction of and under the direct supervision of a licensed physical therapist pursuant to a physician direction given to the physical therapist. A licensed physical therapist assistant may not initiate physical therapy treatment upon the direction of a physician or other authorized health care provider without the direct supervision of a physical therapist.

(b) A licensed physical therapist assistant must document treatments given, but such documentation does not relieve the supervising physical therapist from the responsibility of reviewing entries and documenting the initial evaluation, countersigning monthly progress notes and documenting discharge summaries.

(c) A licensed physical therapist assistant may not perform a physical therapy examination, develop a treatment plan, modify a treatment plan, or engage in physical therapy instruction, including, but not limited to, the recommendation of assistive devices and modifications of the patient's physical environment.

13:39A-2.4 Delegation by a physical therapist to unlicensed persons

(a) Activities which may be delegated to unlicensed persons by physical therapists include routine tasks relating to the cleanliness and maintenance of equipment and the physical plant and the management of the business aspects of the practice and such other assignments with respect to patient care as may be specifically made by the physical therapist, including patient transport, positioning of the patient and undressing and dressing.

(b) A physical therapist shall not authorize or permit an unlicensed person to engage in the following activities:

1. Advise, teach, or instruct patients concerning their condition or disability;
2. Carry out testing or evaluation procedures;
3. Make notations on a patient's permanent record;
4. Attach electrodes of any kind of the skin;
5. Administer any of the following modalities, or such other modalities as the Board may from time to time recognize, in light of developing technology;
 - i. Ultraviolet rays;
 - ii. Ultrasound;
 - iii. Electromagnetic ray;
 - iv. Laser;
 - v. Diathermy;
6. Vary exercise equipment parameters without direct licensed physical therapist supervision;

7. Provide therapeutic massage;

8. Assist in administering physical agents to a patient who has not had a direct initial evaluation by a licensed physical therapist.

Amended by R.1996 d.325, effective July 15, 1996.
See: 28 N.J.R. 1925(b), 28 N.J.R. 3598(b).

13:39A-2.5 Referral of patients by chiropractors

(a) Except as set forth in (b) below, a physical therapist shall not initiate physical therapy treatment unless the physical therapist has received the following information from the referring chiropractor in writing:

1. The name of the patient;
2. The printed name of the referring chiropractor, including office address and phone number;
3. The signature of the chiropractor and the date;
4. The purpose of referral (for example, "physical therapy examination and treatment"); and
5. The spinal component of the patient's problem.

(b) A physical therapist may initiate physical therapy treatment based on verbally supplied information provided that the physical therapist ensures that such information is confirmed in written form within two weeks.

(c) After completing the physical therapy examination and evaluation, the physical therapist shall consult with the referring chiropractor. This consultation shall:

1. Clarify any divergent assessments that the referring chiropractor and physical therapist may have made regarding the patient's needs;
2. Coordinate treatment programs in the event that the patient receives concurrent chiropractic and physical therapy. Any such concurrent treatment programs shall be compatible; and

3. Jointly determine a schedule of additional consultation that will allow the physical therapist to monitor the patient's on-going plan of care.

(d) The physical therapist shall document the initial and on-going consultations with the referring chiropractor in the patient's record.

New Rule, R.1993 d.642, effective December 6, 1993.
See: 25 N.J.R. 3938(a), 25 N.J.R. 5488(a).

13:39A-2.6 (Reserved)

SUBCHAPTER 3. BUSINESS PRACTICES; PROFESSIONAL CONDUCT

13:39A-3.1 Patient records

(a) A licensee shall prepare and maintain for each patient a contemporaneous, permanent patient record that accurately reflects the patient contact with the physical therapist whether in an office, hospital or other treatment, evaluation or consultation setting.

(b) The patient record shall include, in addition to usual and customary information, at least the following information:

1. The full name, as it appears on the license, of the licensee who rendered care, identification of licensure status (PT or PTA), and license number. This information shall be legible and shall appear at least once on each page of the patient record;
2. Dates of all evaluation and treatment sessions;
3. Findings upon initial evaluation including the patient's relevant history and results of appropriate tests and measures;
4. Documentation of physician direction and efforts taken to memorialize verbal and/or electronically submitted orders;
5. A plan of care establishing measurable goals of the treatment program with stated timeframes, the type of treatment, and the frequency and expected duration of treatment;
6. Progress notes in accordance with stated goals;
7. The signature or initials of the licensee who rendered care. If the licensee chooses to sign by means of initials, his or her complete signature must appear at least once on every page;
8. Changes in the treatment plan;
9. Communication with other health professionals relative to the patient's care;

10. A discharge summary which includes the reason for discharge from and outcome of physical therapy intervention relative to established goals at the time of discharge; and

11. Pertinent legal document(s).

(c) Patient records shall be maintained for at least seven years from the date of the last entry, unless another agency or entity requires the records to be kept for a longer time.

Administrative change to (a)10.
See: 25 N.J.R. 1516(b).
Amended by R.1996 d.325, effective July 15, 1996.
See: 28 N.J.R. 1925(b), 28 N.J.R. 3598(b).

13:39A-3.2 Use of personal or other computer to prepare patient records

(a) A licensee who prepares a patient record maintained solely on a personal or other computer shall use a write-protected program which:

1. Contains an internal permanently activated date and time recordation for all entries;
2. Automatically prepares a back-up copy of the file; and
3. Is designed in such manner that, after the licensee "signs" by means of a confidential personal code ("CPC"), the entry cannot be changed in any manner.

(b) The licensee shall include in the patient record at least two forms of identification; for example, name and record number of the patient or any other specific identifying information.

(c) The licensee shall finalize or "sign" the entry by means of a CPC. Where more than one individual is authorized to make entries into the computer file of any patient record, the licensee responsible for the practice shall assure that each such person obtains a CPC and uses the program in the same manner.

(d) A licensee wishing to continue a system of computerized patient records that does not meet the requirements of this section shall promptly initiate arrangements for modification of the system. The modification shall be completed by July 15, 1997. In the interim, the following shall apply:

1. On the date of the first treatment, evaluation or consultation subsequent to July 15, 1996, and after each visit continuing to the date of the changeover, the licensee shall print out a hard copy of the entire computer recorded patient record and date and initial each page of the printout; and
2. The licensee shall retain all hard copies as a permanent part of the patient record.

New Rule, R.1996 d.325, effective July 15, 1996.
See: 28 N.J.R. 1925(b), 28 N.J.R. 3598 (b).

13:39A-3.3 Release of patient record

(a) A licensee shall provide one copy of the patient's record of physical therapy treatment within 15 days of a written request by the patient or any person whom the patient has designated to receive that record.

(b) Licensees may require a record request to be in writing and may charge a fee for the reproduction of records, which shall be no greater than \$1.00 per page or \$100.00 for the entire record, whichever is less. (If the record requested is less than 10 pages, the licensee may charge up to \$10.00 to cover postage and the miscellaneous costs associated with retrieval of the record.) If the patient requests a summary in lieu of the actual record, the charge for the summary shall not exceed the cost that would be charged for the actual record.

(c) If the patient or a subsequent treating health care professional is unable to read the treatment record, either because it is illegible or prepared in a language other than English, the licensee shall provide a transcription at no cost to the patient.

(d) Where the patient has requested the release of a professional treatment record or a portion thereof to a specified individual or entity, in order to protect the confidentiality of the records, the licensee shall:

1. Secure and maintain a current written authorization, bearing the signature of the patient or an authorized representative;
2. Assure that the scope of the release is consistent with the request; and
3. Forward the records to the attention of the specific individual identified and mark the material "Confidential."

(e) A licensee shall not withhold or delay providing a record because the patient failed to pay for services rendered.

New Rule, R.1987 d.255, effective July 6, 1987.
See: 18 N.J.R. 1178(a), 19 N.J.R. 1228(a).
Repeal and New Rule, R.1996 d.325, effective July 15, 1996.
See: 28 N.J.R. 1925(b), 28 N.J.R. 3598(b).
Section was "Scope of physical therapy".

13:39A-3.4 Financial arrangements with clients and third party payors

(a) Fees for physical therapy services shall be reasonable and shall be commensurate with the status and experience of the physical therapist when compared with fees of physical therapists of like status and experience offering like services or treatment in the geographic area and shall be in accordance with the provisions of N.J.A.C. 13:39A-3.6 prohibiting excessive fees.

(b) Prior to the initiation of physical therapy treatment, the physical therapist shall explain to the patient in an understandable manner the financial arrangements. The information provided to the patient shall include, but not be limited to:

1. The fee for services or the basis for determining the fee to be charged;
2. Whether the licensee will accept installment payments or assignment of benefits from a third party payor;
3. That insurance coverage may not be available in all circumstances; and
4. The financial consequences, if any, of missed sessions.

(c) A physical therapist shall not require a patient or a third party payor to pay:

1. A fee for preparing an insurance claim form;
2. Interest on an unpaid account unless the patient has been notified of this policy, in writing, prior to the initiation of physical therapy treatment;
3. A full or partial fee for unkept appointments unless the patient has been notified of this policy, in writing, prior to the initiation of physical therapy treatment;
4. A fee for any physical therapy evaluation, treatment or other services not documented in a patient chart in a manner consistent with N.J.A.C. 13:39A-3.1(a); or
5. A fee for any free services offered pursuant to N.J.A.C. 13:39A-7.2.

(d) A licensee shall provide a copy of a written fee schedule to any interested person upon request;

(e) A licensee shall include on all bills submitted to a patient or third party payor the licensee's current license number.

New Rule, R.1996 d.325, effective July 15, 1996.
See: 28 N.J.R. 1925(b), 28 N.J.R. 3598(b).

13:39A-3.5 Display of notice of licensure; notification of availability of fee information

(a) Every licensee shall conspicuously display his or her biennial renewal certificate and the following notices in a public area in any office or health care facility at which the licensee practices physical therapy:

1. "Physical therapists and physical therapist assistants are licensed by the Board of Physical Therapy, an agency of the Division of Consumer Affairs. Any member of the public may notify the Board of any complaint relative to the practice conducted by a physical therapist or physical therapist assistant. The Board address is: Division of Consumer Affairs, Board of Physical Therapy, Post Office Box 45014, 124 Halsey Street, Newark, New Jersey 07101, Tel: (201) 504-6455."

2. "INFORMATION ON PROFESSIONAL FEES IS AVAILABLE TO YOU ON REQUEST."

(b) A licensee shall not alter, deface or obscure the information on the biennial renewal certificate in any manner including, but not limited to, the licensee's address.

New Rule, R.1996 d.325, effective July 15, 1996.
See: 28 N.J.R. 1925(b), 28 N.J.R. 3598(b).

13:39A-3.6 Prohibition on excessive fees; overutilization

(a) A licensee of the Board of Physical Therapy shall not charge an excessive fee for services. A price is excessive when, after review of the facts, a licensee of ordinary prudence would be left with a definite and firm conviction that the price is so high as to be manifestly unconscionable or overreaching under the circumstances.

(b) Factors which may be considered in determining whether a price is excessive include, but are not limited to, the following:

- i. The time and effort required;
- ii. The novelty and difficulty of the professional treatment;
- iii. The skill required to perform the treatment properly;
- iv. Any requirements or conditions imposed by the patient or by the circumstances;
- v. The nature and length of the professional relationship with the patient;
- vi. The experience, reputation and ability of the licensee performing the services;
- vii. The nature and circumstances under which the services were provided (for example, emergency, home visit).

(c) A physical therapist shall not render treatment or conduct testing which in light of the patient's history and findings are unwarranted and unnecessary.

(d) A physical therapist shall not charge a fee to a patient or a third party payor for a treatment or other physical therapy service which is unwarranted and unnecessary pursuant to (c) above.

(e) Charging an excessive fee shall constitute professional misconduct within the meaning of N.J.S.A. 45:1-21(e) and may subject the licensee to disciplinary action.

New Rule, R.1996 d.325, effective July 15, 1996.
See: 28 N.J.R. 1925(b), 28 N.J.R. 3598(b).

13:39A-3.7 Notification of change of address; service of process

(a) All licensees shall notify the Board, in writing, within 30 days of any change in the address on file with the Board

and shall specify whether the address is a residence or employment address.

(b) Service of an administrative complaint or other process initiated by the Board, the Attorney General or the Division of Consumer Affairs at the address on file with the Board shall be deemed adequate notice for the commencement of any inquiry or disciplinary proceeding.

(c) All licensees shall, within 30 days of receiving a notice of disciplinary action taken against the licensee in another jurisdiction, report to the Board in writing his or her receipt of such notification.

New Rule, R.1996 d.325, effective July 15, 1996.
See: 28 N.J.R. 1925(b), 28 N.J.R. 3598(b).

13:39A-3.8 Violative acts; professional misconduct

(a) The following words and terms, when used in this section, shall have the following meanings:

1. (Reserved)

2. "Referral" means the forwarding of a patient for professional services by one health care professional to another health care professional or health care entity which provides or supplies professional service, or the request for establishment of a plan of care by a health care professional, including the provision of professional services or other health care devices.

3. (Reserved)

(b) The following acts or practices shall be among those deemed to be violative of N.J.S.A. 45:9-37.11 et seq., and to constitute professional misconduct pursuant to N.J.S.A. 45:1-21(e):

1. Accepting, or agreeing to accept, from any person, firm or corporation any fee, commission, rebate, gift or other form of remuneration for prescribing, ordering or promoting the sale of a device, appliance or other item or service; except that nothing in this section shall preclude a licensed physical therapist from accepting a product or commodity which can be used as a sample by patients, provided that the physical therapist does not charge the patient for items so obtained;

2. (Reserved)

3. Charging any patient a fee for making a referral to a physician or other health care professional authorized to direct the initiation of physical therapy treatment, for the purpose of obtaining clearance for physical therapy. Nothing in this section shall preclude a physical therapist from charging a patient for a physical therapy evaluation conducted prior to referral;

4. Using, or permitting the use of, his or her professional education degree, title, or license in connection with the rendition of services which are outside the scope of physical therapy practice;

5. Representing services as therapeutic, or permitting the representation of services as therapeutic, when, although the services are within the licensee's scope of practice, no therapeutic outcome is expected; for example, educational activities, preventative sports conditioning, fitness/wellness programs, etc. Nothing herein shall preclude a physical therapist from using or permitting the use of his or her professional education degree, title or license in connection with educational, preventative or other appropriate activities or from accepting reasonable fees or payment for such activities, provided that no claim of therapeutic outcome is made or charged for;

6. Rendering treatment when, in the exercise of his or her professional judgment, the physical therapist may deem such treatment to be unnecessary. The physical therapist shall notify the referring professional in writing that treatment is to be terminated and the reason(s) for such termination; or

7. Aiding or abetting the unlicensed practice of physical therapy.

New Rule, R.1996 d.325, effective July 15, 1996.
See: 28 N.J.R. 1925(b), 28 N.J.R. 3598(b).

13:39A-3.9 Identification of licensees

All licensees shall conspicuously wear an identification tag using the term "physical therapist" or "physical therapist assistant," as appropriate, whenever acting in that capacity.

New Rule, R.1996 d.325, effective July 15, 1996.
See: 28 N.J.R. 1925(b), 28 N.J.R. 3598(b).

13:39A-3.10 Sexual misconduct

(a) **The purpose of this section** is to identify for licensees of the State Board of Physical Therapy conduct which shall be deemed sexual misconduct.

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

"Licensee" means any person licensed to engage in practice as a physical therapist or physical therapist assistant as regulated by the State Board of Physical Therapy.

"Patient" means any person who is the recipient of physical therapy evaluation, instruction or treatment rendered by a licensee.

"Patient-therapist relationship" means a relationship between a physical therapist or a physical therapist assistant and a patient wherein the licensee owes a continuing duty to the patient to render physical therapy services consistent with his or her training and experience.

"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, but is not limited to, the imposition of a part of the licensee's body upon a part of the patient's body, sexual penetration, or the insertion or imposition of any object or any part of a licensee or patient's body into or near the genital, anal or other opening of the other person's body. "Sexual contact" does not include the touching of a patient's body which is necessary during the performance of a generally accepted and recognized physical therapy procedure.

"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 physical therapy services, and that either: is unwelcome, is offensive to a reasonable person, or creates a hostile workplace 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, but is not limited to, conduct of a licensee with a patient, co-worker, employee, student or supervisee whether or not such individual is in a subordinate position to the licensee.

"Spouse" means the husband, wife or fiancée of the licensee or an individual involved in a long-term committed relationship with the licensee. For purposes of the definition of "spouse," a long-term committed relationship means a relationship which is at least six months in duration.

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

1. Physical therapy is terminated by way of written notice to the patient and is documented in the patient record; or
2. The last physical therapy was rendered more than three months ago.

(d) A licensee shall not seek or solicit sexual contact with a patient with whom he or she has a patient-therapist relationship and shall not seek or solicit sexual contact with any person in exchange for professional services.

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

(f) A licensee shall provide privacy and examination conditions which prevent the exposure of the unclothed body of the patient. Appropriate draping measures shall be employed to protect patient privacy.

(g) A licensee shall not engage in sexual harassment either within or outside of the professional setting.

(h) A licensee shall not engage in any other activity which would lead a reasonable person to believe that the activity serves the licensee's personal prurient interests or which is for the sexual arousal, or sexual gratification of the licensee 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 constitute 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 physical therapy to a spouse, providing that the rendering of such physical therapy is consistent with accepted standards of physical therapy and that the performance of physical therapy is not utilized to exploit the patient spouse 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 patient solicited or consented to sexual contact with the licensee; or
2. The licensee is in love with or held affection for the patient.

New Rule, R.2000 d.458, effective November 20, 2000.
See: 31 N.J.R. 3045(a), 32 N.J.R. 4125(a).

SUBCHAPTER 4. UNLICENSED PRACTICE

13:39A-4.1 Acts amounting to unlicensed practice

(a) For the purpose of the Board's construction of N.J.S.A. 45:9-37.10, the following acts or practices shall be deemed to be the unlicensed practice of physical therapy:

1. Offering physical therapy examination instruction or treatment by means of advertisement or solicitation by any person who does not hold a license as a physical therapist, a physical therapist assistant, M.D., D.O. or D.P.M. (to the extent authorized by N.J.S.A. 45:5-7), even if that person has been instructed or directed to offer that treatment or render that treatment by a physical

therapist, physical therapist assistant, M.D., or D.O. or D.P.M.

2. The use of the words physical therapy, physical therapist, physiotherapy, physiotherapist or such similar words or their related abbreviations in connection with the offering of physical therapy agents measures and services which are utilized in the rendition of physical therapy treatment by any person who does not hold a license as a physical therapist, a physical therapy assistant, an M.D., D.O., or D.P.M. even if that person has been instructed or directed to use such terminology by a physical therapist, physical therapist assistant, M.D., D.O. or D.P.M.;

3. Billing any patient or third party payor for "physical therapy" or "physiotherapy" in connection with the use of physical therapy agents, measures or services, if the individual who personally rendered the services does not hold a license to practice physical therapy medicine and surgery or podiatry;

4. Offering physical therapy agents, measures or services by means of advertisement or solicitation by a limited licensee of the Board of Medical Examiners unless the context of such offering or advertisement reveals that such services are directly related to the practice authorized by the Board of Medical Examiners and the wording of the offering would not lead members of the general public to assume that the advertiser is authorized to practice physical therapy or physiotherapy without limitation.

13:39A-4.2 Aiding and abetting unlicensed practice

It shall be unlawful for a licensee to aid or assist any person engaging in any of the practices identified at N.J.A.C. 13:39A-4.1.

SUBCHAPTER 5. CREDENTIALING OF APPLICANTS

13:39A-5.1 Educational credentials for applicants for licensure as physical therapists

(a) Applicants for examination shall submit to the Board satisfactory proof of:

1. Graduation from a program in physical therapy which has been approved for the education and training of physical therapists by an accrediting agency recognized by the Council on Post-secondary Accreditation and the United States Department of Education; or

2. With respect to foreign trained applicants for licensure as physical therapists, the applicant shall demonstrate satisfactory evidence of graduation from a physical therapy program that is substantially equivalent to a physical therapy program approved for the education and training of physical therapists by an accrediting agency recognized by the Council on Post-secondary Accreditation and the United States Department of Education. The applicant shall show successful completion of course work with a minimum of 45 credits of general education and 60 credits of professional education. General education courses shall include, but not be limited to, mathematics, physical science, biological science, humanities, social science and behavioral science. The professional component of the program shall include, but not be limited to, human anatomy, pathology, physiology, neurologic science and clinical practice.

(b) Proof of eligibility for licensure in the foreign country where the requisite education was obtained shall be submitted by the credentialing agency on behalf of all foreign trained applicants seeking licensure in this State to the Board.

Amended by R.1991 d.185, effective April 1, 1991.
See: 22 N.J.R. 2259(a), 23 N.J.R. 1011(a).

Revised requirements for foreign-trained applicants seeking licensure as physical therapists from specific number of credit hours required to describe required course content in (a)2.

Amended by R.1996 d.325, effective July 15, 1996.
See: 28 N.J.R. 1925(b), 28 N.J.R. 3598(b).

Added (b).

13:39A-5.2 Examination standards for applicants for licensure as physical therapists

Applicants for licensure as physical therapists submitting satisfactory proof of educational attainment as set forth in N.J.A.C. 13:39A-5.1 shall be admitted to take the written examination administered by the Board or such standardized examination as the Board may select pursuant to N.J.S.A. 45:9-37.25. Upon satisfactory passage of such examination, an applicant shall be deemed eligible for licensure. Satisfactory passage of the examination shall be attained upon receipt of a score of at least 600 based on a scale of 200 to 800. Applicants must pass every portion of the examination at the same sitting and will not be permitted to take only those portions of the examination which previously have been failed.

New Rule, R.1987 d.84, effective February 2, 1987.
See: 18 N.J.R. 1179(a), 19 N.J.R. 297(a).
Amended by R.1994 d.87, effective February 22, 1994.
See: 25 N.J.R. 5447(a), 26 N.J.R. 1105(a).

13:39A-5.3 Educational credentials for applicants for licensure as physical therapist assistants

(a) Applicants for examination as physical therapist assistants shall submit to the Board satisfactory proof of:

1. Graduation from a physical therapist assistant program which has been approved for the education and

training of physical therapist assistants by an accrediting agency recognized by the Council on Post-secondary Accreditation and the United States Department of Education, or;

2. Successful completion, in an approved physical therapy program, of at least 90 credits, of which 45 or more shall be in courses relating to the practice of physical therapy, including course work in clinical practice, and at least 30 of which shall be in courses of general academic study. English General College Equivalent A level courses will be accepted toward the necessary credits in general education.

New Rule, R.1987 d.84, effective February 2, 1987.
See: 18 N.J.R. 1179(a), 19 N.J.R. 297(a).

13:39A-5.4 Examination standards for applicants for licensure as physical therapist assistants

Applicants for licensure as physical therapist assistants submitting satisfactory proof of educational attainment as set forth in N.J.A.C. 13:39A-5.3 shall be admitted to take the written examination administered by the Board or such standardized examination as the Board may select pursuant to N.J.S.A. 45:9-37.25. Upon satisfactory passage of such examination, an applicant shall be deemed eligible for licensure. Satisfactory passage of the examination shall be attained upon receipt of a score of at least 600 based on a scale of 200 to 800. Applicants must pass every portion of the examination at the same sitting and will not be permitted to take only those portions of the examination which previously have been failed.

New Rule, R.1987 d.84, effective February 2, 1987.
See: 18 N.J.R. 1179(a), 19 N.J.R. 297(a).
Amended by R.1994 d.87, effective February 22, 1994.
See: 25 N.J.R. 5447(a), 26 N.J.R. 1105(a).

13:39A-5.5 Endorsement

Applicants possessing a valid license issued by another state may be deemed eligible for licensure in New Jersey without the examination if the criteria for licensure in that state are deemed by the Board to be substantially equivalent to those required in New Jersey and the applicant has not previously failed the examination administered by the Board. Nothing herein shall preclude the Board, in its discretion, from deeming an applicant, who possesses a license issued by another jurisdiction, who has failed the examination administered by the Board, to be eligible for licensure.

13:39A-5.6 Recognition of scores on standardized examinations administered in other states

The Board will recognize standardized examination scores obtained as a result of an examination administered in another state or jurisdiction in satisfaction of its examination requirement provided that the applicant has obtained a score of at least 600 on a scale of 200 to 800 and has passed all portions of the examination at the same sitting.

New Rule, R.1987 d.84, effective February 2, 1987.
See: 18 N.J.R. 1179(a), 19 N.J.R. 297(a).
Amended by R.1994 d.87, effective February 22, 1994.
See: 25 N.J.R. 5447(a), 26 N.J.R. 1105(a).

13:39A-5.7 Language comprehension requirements

Any applicant for licensure as a physical therapist or a physical therapist assistant who has received his or her physical therapy training in a country other than the United States of America, the United Kingdom, the Republic of Ireland, Canada except Quebec Province, Australia, New Zealand, Jamaica, Nigeria or Ghana, shall submit to the Board evidence of attainment of a score of at least 550 on the Test of English as a Foreign Language (TOEFL) examination, which test shall have been taken within the two years immediately preceding the filing of the application for licensure. Such evidence must be submitted with the application for licensure. This requirement may be waived for applicants who have received their training in countries other than those listed above upon submission of a written application to the Board demonstrating good cause for the granting of the waiver. In such cases the Board may also require a personal interview with the applicant.

New Rule, R.1987 d.84, effective February 2, 1987.
See: 18 N.J.R. 1179(a), 19 N.J.R. 297(a).
Amended by R.1990 d.240, effective May 21, 1990.
See: 21 N.J.R. 3856(a), 22 N.J.R. 1616(a).

Revised rule to include specific countries where training has been received.

Changed score requirement on TOEFL test from 600 to 550.

Revised text to require an applicant to submit proof of test score results simultaneously with an application for licensure.

Amended by R.1996 d.325, effective July 15, 1996.

See: 28 N.J.R. 1925(b), 28 N.J.R. 3598(b).

Added Jamaica, Nigeria, and Ghana.

13:39A-5.8 Re-examination of applicants for licensure as physical therapists and physical therapist assistants

An examinee who fails the examination on his first attempt, may retake the examination once in this state, without filing another application, provided he is rescheduled for the examination within two years of his initial date of application and he pays the required examination fee to the Board. If any examinee fails the examination on his second attempt, in the Board's discretion, he may be required to re-submit an application before being rescheduled for another examination.

New Rule, R.1987 d.84, effective February 2, 1987.
See: 18 N.J.R. 1179(a), 19 N.J.R. 297(a).

13:39A-5.9 Non-appearance at examination

Failure to appear at any scheduled examination shall be deemed to be a failure unless, in the Board's discretion, good cause has been shown for the absence.

New Rule, R.1987 d.84, effective February 2, 1987.
See: 18 N.J.R. 1179(a), 19 N.J.R. 297(a).

SUBCHAPTER 6. TEMPORARY LICENSES FOR PHYSICAL THERAPISTS

13:39A-6.1 Temporary license

(a) Any person deemed eligible to sit for his or her initial examination for licensure as a physical therapist or a physical therapist assistant, may apply for the issuance of a temporary license to practice physical therapy under supervision by indicating such on the initial application for examination.

(b) At the time of submission of the initial application for licensure and examination for licensure in this State, the candidate shall disclose in writing any physical therapy licensure examinations taken in other jurisdictions which the applicant failed.

Amended by R.1996 d.325, effective July 15, 1996.
See: 28 N.J.R. 1925(b), 28 N.J.R. 3598(b).

13:39A-6.2 Expiration of temporary license

(a) A temporary license issued to a person who has applied for licensure automatically expires upon notification by the Board of the candidate's failing examination results in this State or the same standardized examination in another state in which he has taken the examination.

(b) A temporary license, issued to a person who takes the first available examination as scheduled after receipt of the temporary license, shall expire on the date the licensee is notified by the Board of the failure.

(c) A temporary license issued to a person who does not take the first available examination as scheduled after receipt of the temporary license, shall expire on that examination date. At that time the candidate shall not practice physical therapy and shall refrain from practicing physical therapy thereafter, until the person successfully attains unrestricted licensure.

Amended by R.1996 d.325, effective July 15, 1996.
See: 28 N.J.R. 1925(b), 28 N.J.R. 3598(b).

13:39A-6.3 Renewal; consequences of second failure; notice of examination in another jurisdiction

The holder of a temporary license receiving notice that he or she has failed the first examination for which he or she has been scheduled, in this State or any other State, may renew his or her temporary license for a period not to exceed six months, by completing a renewal application form and paying the renewal fee. However, if the holder of the temporary license upon retaking the examination in this State or the same standardized examination in any other state, fails it, within the six-month period, he or she will be required to immediately surrender his license to the Board. Holders of temporary licenses are required to give notice to the Board of their intention to take the examination in other states or jurisdictions and the results of those out-of-State examinations must be reported to the Board within 10 days of receipt of notification of failure.

Amended by R.1996 d.325, effective July 15, 1996.
See: 28 N.J.R. 1925(b), 28 N.J.R. 3598(b).

13:39A-6.4 Temporary visiting licenses

Any person having made application to the Board pursuant to N.J.S.A. 45:9-37.29(b) for the issuance of a temporary license to practice physical therapy in this State on a temporary basis to assist in a medical emergency or to engage in a special project or teaching assignment relating to the practice of physical therapy, may be issued a temporary visiting license without examination, which shall remain valid for a period not to exceed one year, provided that said person can demonstrate to the Board that he or she is licensed, registered or otherwise authorized to engage in the practice of physical therapy in another state or jurisdiction and that permitting his or her practice in this State would not be inconsistent with the public interest. A temporary visiting license, upon its expiration, may be renewed, at the discretion of the Board, for an additional year. Any holder of a temporary visiting license is required to give notice to this Board if his or her authority to engage in the practice of physical therapy is revoked, suspended or otherwise limited by any state, agency or authority.

Recodified from 13:39A-6.5 and amended by R.1996 d.325, effective July 15, 1996.

See: 28 N.J.R. 1925(b), 28 N.J.R. 3598(b).

Former section, "Failure to appear at a scheduled second examination", repealed.

13:39A-6.5 (Reserved)

Recodified to 13:39A-6.4 and amended by R.1996 d.325, effective July 15, 1996.

See: 28 N.J.R. 1925(b), 28 N.J.R. 3598(b).

Section was "Temporary visiting licenses".

SUBCHAPTER 7. SUPERVISION OF PHYSICAL THERAPIST ASSISTANTS

13:39A-7.1 Supervision requirement; physical therapist assistant

(a) A licensed physical therapist assistant shall work only under the direct supervision of a licensed physical therapist pursuant to the provisions of this subchapter.

(b) The maximum therapist/assistant ratio shall be one physical therapist to two physical therapist assistants at any one time.

(c) The supervising physical therapist shall retain responsibility for the physical therapy care of the patient being treated by the physical therapist assistant. The physical therapist assistant shall be responsible for patient care within the limits of his or her scope of practice.

(d) In the event of a change of the supervising physical therapist, the subsequent supervisor shall assume responsi-

bility for the ongoing supervision of any physical therapist assistant(s) providing care to the patient and shall become the designated supervisor.

(e) In the unanticipated absence of the supervising physical therapist, a licensed physical therapist assistant in the State of New Jersey may continue working for one business day in the absence of direct supervision.

13:39A-7.2 Responsibilities of designated supervisor

(a) The supervisor shall be in the same building or, where physical therapy is rendered in several contiguous buildings, in one of the contiguous buildings, while the physical therapist assistant is rendering care. The supervisor shall be constantly available through electronic communications for consultation or for recall to the immediate area.

(b) The supervising physical therapist's professional judgment shall ultimately determine the safe provision of physical therapy services being rendered by the physical therapist assistant(s) at the contiguous buildings.

(c) The supervising physical therapist shall cosign the physical therapist assistant's notes contemporaneously with the services rendered.

(d) The supervising physical therapist shall review the plan of care with the physical therapist assistant as follows:

1. Before a physical therapist assistant provides care to a specific patient for the first time;
2. Before the physical therapist assistant implements a new or revised plan of care; and
3. On or before the patient's next visit in the event of a change in the designated supervisor.

(e) At least once every 30 days after initial review of a new or revised plan of care with the assistant, the supervising physical therapist shall document in the patient record that he or she has reviewed the patient's progress and plan of care with the assistant, including the dates when those reviews took place. Such documentation may be incorporated into progress notes written by the physical therapist and the physical therapist assistant and need not require separate or additional notes.

13:39A-7.3 Responsibilities of physical therapist assistant

(a) A physical therapist assistant shall not render nor continue to render care unless he or she has obtained ongoing direction from his or her designated supervisor.

(b) A physical therapist assistant shall obtain the signature of the designated supervisor indicating that the designated supervisor reviewed the plan of care and the date when that review took place. The supervising physical therapist's signature in the record shall serve as evidence that the plan of care has been reviewed by the supervising physical therapist.

(c) At least once every 30 days after the initial review of a new or revised plan of care with the supervising physical therapist, the physical therapist assistant shall document in the patient record that the patient's progress and plan of care were reviewed with the supervising physical therapist including the dates when those reviews took place. Such documentation may be incorporated into progress notes written by the physical therapist and the physical therapist assistant and need not require separate or additional notes.

**SUBCHAPTER 7A. SUPERVISION OF
TEMPORARY LICENSED PHYSICAL
THERAPISTS AND PHYSICAL THERAPIST
ASSISTANTS**

13:39A-7A.1 Supervision requirement; temporary licensed physical therapist; temporary licensed physical therapist assistant

(a) A temporary licensed physical therapist or temporary licensed physical therapist assistant shall work only under the direct supervision of a licensed physical therapist pursuant to the provisions of this subchapter.

(b) At no time shall one licensed physical therapist supervise more than two persons holding a temporary license.

(c) The supervising physical therapist shall be responsible for the physical therapy care of the patient being treated by the temporary licensed physical therapist or temporary licensed physical therapist assistant.

(d) The temporary licensed physical therapist or temporary licensed physical therapist assistant shall be responsible for patient care within the limits of his or her scope of practice.

(e) In the event of a permanent change of the supervising physical therapist, upon notification to the Board, the subsequent supervisor shall assume responsibility for the ongoing supervision of any temporary licensed physical therapist(s) or temporary licensed physical therapist assistant(s) providing care to the patient and shall become the designated supervisor.

(f) In the unanticipated absence of the supervising physical therapist, a physical therapist or physical therapist assistant holding a temporary license in the State of New Jersey may continue for one business day in the absence of direct supervision.

13:39A-7A.2 Responsibilities of designated supervisor

(a) The supervisor shall be subject to those responsibilities set forth in N.J.A.C. 13:39A-7.2, as they relate to the supervision of temporary licensed physical therapists and/or temporary licensed physical therapist assistants.

(b) Cosignature of a temporary licensed physical therapist's or temporary licensed physical therapist assistant's patient record entries by a physical therapist other than the designated supervisor shall not be considered indicative of ongoing supervision.

13:39A-7A.3 Responsibilities of temporary licensed physical therapist; temporary licensed physical therapist assistant

(a) A temporary licensed physical therapist or temporary licensed physical therapist assistant shall not render care unless he or she has obtained ongoing direction from his or her designated supervisor.

(b) A temporary licensed physical therapist or temporary licensed physical therapist assistant shall obtain the signature of the designated supervisor indicating that the designated supervisor reviewed the plan of care and the date when that review took place. The physical therapist's signature in the record shall serve as evidence that the plan of care has been reviewed by the supervising physical therapist.

(c) At least once every 30 days after the initial review of a new or revised plan of care with the supervising physical therapist, the temporary licensed physical therapist or temporary licensed physical therapist assistant shall document in the patient record that the patient's progress and plan of care was reviewed with the supervising physical therapist, including the dates when those reviews took place. Such documentation may be incorporated into progress notes written by the physical therapist and the temporary licensed physical therapist or the temporary licensed physical therapist assistant and need not require separate or additional notes.

SUBCHAPTER 7B. (RESERVED)

SUBCHAPTER 8. ADVERTISING

13:39A-8.1 Advertising and solicitation practices

(a) The following words and terms, when used in this section shall have the following meanings unless the context clearly indicates otherwise.

1. The term "advertisement" means any attempt directly or indirectly by publication, dissemination, or circulation in print or electronic media which directly or indirectly induces or attempts to induce any person or entity to purchase or enter into an agreement to purchase services, treatment, or goods related thereto from a Board licensee.

2. "Board licensee" means any individual holding a valid license issued by the New Jersey Board of Physical Therapy.

3. The term "clinical specialist" means a licensed physical therapist who has demonstrated advanced clinical knowledge and skills by successfully completing an American Board of Physical Therapy Specialties (ABPTS) clinical specialist program and has passed a written examination in one of the physical therapy specialty areas.

4. The term "electronic media" shall include, but not be limited to, radio, television, telephone, facsimile machine, or computer.

5. The term "fee schedule" refers to the fees charged for services or goods offered by a physical therapist.

6. The term "graphic representation" means the use of drawings, animations, clinical photographs, dramatizations, music or lyrics.

7. The term "print media" shall refer to newspapers, magazines, periodicals, professional journals, telephone directories, circulars, handbills, fliers or other publications, the content of which is disseminated by means of the printed word.

8. "Routine professional service" refers to a service which a physical therapist, physical therapist assistant or professional association routinely performs.

(b) A licensee may provide information to the public by advertising in print or electronic media.

(c) A licensee who engages in the use of advertising which contains any of the following shall be deemed to have engaged in professional misconduct:

1. Any statement, claim or format including, but not limited to, a graphic representation which is false, fraudulent, misleading or deceptive;

2. Any misrepresentation of a material fact;

3. The suppression, omission or concealment of any material fact under circumstances which the licensee knows or should have known is improper or prevents a prospective patient from making a full and informed judgment on the basis of the information set forth in the advertisement;

4. Any claim that the service performed or the materials used are superior to that which is ordinarily performed or used in the profession;

5. Any promotion of professional service that the licensee knows or should know is beyond the licensee's ability to perform;

6. A technique or communication which appears to intimidate, exert undue pressure or to unduly influence a prospective patient or consumer;

7. Any personal testimonial attesting to the quality or competence of service or treatment by a licensee involving medical or technical assessments that are beyond the patient's competency to assess, or any testimonial not in compliance with N.J.A.C. 13:39A-8.3;

8. The communication of any fact, data or information that may personally identify a patient without the patient's signed written permission obtained in advance;

9. An offer to pay, give or accept a fee or other consideration to or from a third party for the referral of a patient;

10. Any print, language or format that directly or indirectly obscures a material fact; or

11. Any guarantee of results from any procedure.

(d) Any violations of (e) through (i) below shall be deemed professional misconduct.

(e) The Board may require a physical therapist to substantiate the truthfulness of any assertion or representation set forth in an advertisement. Failure of a physical therapist to provide factual substantiation to support a representation or assertion shall be deemed professional misconduct.

(f) A licensee shall not engage, either directly or through the use of any agent, employee or representative, in solicitation of a prospective patient or a consumer. This subsection shall not prohibit a licensed physical therapist from offering services through materials provided to a community service organization which makes known the availability of all professional services listed; nor shall it prohibit the offering of services by a licensed physical therapist to any bona fide representative of prospective patients including, but not limited to, employers, labor union representatives or insurance carriers.

(g) Advertising making reference to or setting forth fees shall be limited to that which contains a stated fee schedule for specifically described routine professional services or goods offered by licensees.

1. A licensee who advertises a fee shall disclose all relevant and material variables and considerations that are ordinarily included in such a service so that the fee will be clearly understood by prospective patients or consumers.

2. In the absence of such disclosure referred to in (g)1 above, the stated fees shall be presumed to include everything ordinarily required for such a service. No additional charges shall be made for an advertised service unless the advertisement specifically delineates the additional services contemplated and the fee to be charged therefor.

(h) The time period during which an advertised fee will remain in effect shall be set forth on the face of the advertisement. In the absence of such disclosure, the effec-

tive period shall be deemed to be 30 days from the date of the advertisement's final publication.

(i) Any licensed physical therapist advertising certification in a specialty area shall possess certification by American Board of Physical Therapy Specialties or other Board-recognized national certifying body.

13:39A-8.2 Advertising free or discounted services; required disclosures

(a) An advertisement offering a fee reduction shall state the reduced fee and the physical therapist's usual fee for each service for which a reduction is advertised. The usual fee shall be the fee charged for the advertised service for a period of not less than 90 days prior to the advertised reduction.

(b) All offers of free services or discounts shall include a statement of the specific charges for all associated or reasonably anticipated services which are not included in the offer of free or discounted services. If the discount or free service does not apply to all services to be rendered, the advertisement shall specify any associated or reasonably anticipated services which are not included.

(c) Except for those services specifically excluded in the advertisement offering free services, the physical therapist shall not charge for any service whatsoever rendered during a period of 72 hours from the time the free service was rendered.

13:39A-8.3 Testimonial advertising

(a) All testimonials involving a specific or identifiable procedure shall truthfully reflect the actual experience of the patient.

(b) The licensee shall be able to substantiate any objective, verifiable statement of fact appearing in a testimonial. The failure to do so, if required by the Board, may be deemed professional misconduct.

(c) Where an advertiser directly or indirectly provides compensation to a testimonial giver, the fact of such compensation shall be conspicuously disclosed in a clear, legible and readable manner in any advertisement as follows: "COMPENSATION HAS BEEN PROVIDED FOR THIS TESTIMONIAL."

13:39A-8.4 Minimum content

(a) A licensee shall include the following in all advertisements and professional representations (other than an office entry sign), including advertisements in a classified directory, business cards and professional stationery:

1. The name, identification of licensure and license number of at least one principal of the corporation; and
2. The street address and telephone number of the practice.

13:39A-8.5 Use of professional credentials and certifications

(a) A licensee shall accurately and objectively represent his or her competence, education, training and experience.

(b) A licensee shall use the designation "physical therapist" or "physical therapist assistant" or the abbreviation "PT" or "PTA" in conjunction with the use of his or her name and license number. Academic degree designations may be interposed between the name and the title.

(c) An advertisement that includes information on professional credentials shall contain the academic degrees attained related to the practice of physical therapy and shall refer only to degrees obtained from accredited academic institutions.

13:39A-8.6 Advertising by a business entity offering physical therapy services

(a) A licensee who uses or participates in the use of any form of public communication relating to a business entity offering physical therapy services shall include in that communication the name of the person holding an ownership interest in the advertising entity and the professional license held by that person. If the entity is owned by more than four persons, the notice need only include the names of officers in that entity and the licenses they hold.

(b) The responsibility for the form and content of any advertisement offering services or goods by a licensee shall be jointly and severally that of each licensed physical therapist who is a principal, partner or officer of the firm or entity identified in the advertisement.

13:39A-8.7 Advertising record retention

(a) The licensee shall retain, for a period of three years from the date of initial publication or dissemination, a copy of every advertisement appearing in print media as well as a video or audio tape of every advertisement communicated by electronic media. The licensee shall indicate on all advertisements in his or her possession the date and place of publication.

(b) Documentation relating to the use of testimonials shall be retained for a period of three years from the date of last use of the testimonial. Documentation shall include, but not be limited to, the name, address and telephone number of the testimonial giver and the type and amount or value of compensation, if any.