
SUBCHAPTER 1. MEDICAL SCHOOLS, COLLEGES, EXTERNSHIPS AND CLERKSHIPS

13:35-1.1 Observership program

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

(b) An observership program shall be limited to:

1. Observation of operative procedures;

2. The taking of histories;

3. The performance of physical examinations;

4. The performance of non-invasive procedures under the direct supervision of and in the immediate presence of the supervising licensed physician; and

5. The participation in patient rounds and other organized patient care activities of the supervising physician.

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

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

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

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

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

Amended by R.1999 d.356, effective October 18, 1999.
See: 31 N.J.R. 1742(a), 31 N.J.R. 3117(a).
Substituted "references to observers" for "references to externs" and substituted "references to observerships" for "references to externships" throughout; in (a), substituted "delineated in this section" for "hereafter delineated" at the end; and in (f), substituted "duties listed in (b) above" for "above duties" following "any of the".

Case Notes

Regulations relied upon by the State, such as N.J.A.C. 8:39-11.2, to establish a standard of care were never part of the Board of Medical Examiners regulations, and were never administered by the Board of Medical Examiners; in view of this, the physician licensee's failure to comply with these regulations did not constitute professional misconduct in violation of N.J.S.A. 45:1-21(e) and/or repeated acts of negligence in violation of N.J.S.A. 45:1-21(d). In re Suspension or Revocation of License of Anama, OAL Dkt. No. BDS 2628-02, 2007 N.J. AGEN LEXIS 394, Initial Decision (June 11, 2007).

13:35-1.2 Fifth Pathway

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

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

2. The medical school was approved throughout the applicant's period of education by the government of the

(h) A practitioner licensed to practice on or after the date of the expiration of the next licensure cycle (June 30, 2007 for physicians and October 31, 2007 for podiatrists) who did not receive instruction in cultural competency training as part of the curriculum of a college of medicine, shall document completion of CME or equivalent post-secondary education in cultural competency training pursuant to (d) above by the end of the next complete renewal cycle after he or she was licensed. Cultural competency training may be included in the CME required by the Board at N.J.A.C. 13:35-6.15.

(i) The Board, or its designee, may waive the cultural competency training CME requirement for an applicant who is applying for relicensure and who can demonstrate to the satisfaction of the Board that he or she has attained the substantial equivalent of the cultural competency training CME requirement through completion of a similar course in his or her post-secondary education.

New Rule, R.2008 d.77, effective April 7, 2008.
See: 39 N.J.R. 2202(a), 40 N.J.R. 1889(b).

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

13:35-6A.1 Purpose

(a) The rules in this subchapter are established pursuant to N.J.S.A. 26:6A-1 et seq. (P.L. 1991, c. 90), the New Jersey Declaration of Death Act, and set forth:

1. Requirements, by specialty or expertise, for physicians authorized to perform a clinical brain death examination and declare death upon the basis of neurological criteria; and

2. Accepted medical standards, including criteria, tests and procedures, to govern declarations of death upon the basis of neurological criteria.

13:35-6A.2 Definitions

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

"Apnea" means the absence of respiration and a terminal PCO2 greater than 60 mmHG or a terminal PCO2 at least 20 mmHg over the initial normal baseline PCO2.

"Brain death" means the irreversible cessation of all functions of the entire brain, including the brainstem.

"Examining physician" means a physician who performs a clinical brain death examination and meets the qualifying criteria set forth at N.J.A.C. 13:35-6A.3. The term "examining physician" may refer to one or more physicians involved in the clinical brain death examination.

13:35-6A.3 Requirements for physicians authorized to declare death on the basis of neurological criteria

(a) A physician performing a clinical brain death examination shall be plenary licensed and shall hold the following qualifications, dependent on the age of the patient upon whom a declaration of brain death is to be made:

1. Age below two months: When declarations of brain death are to be made upon children below two months of age, the examining physician shall be a specialist in neonatology, pediatric neurology or pediatric neurosurgery.

2. Age between two months and 12 months: When declarations of brain death are to be made upon children at or above two months of age, and at or below 12 months of age, the examining physician shall be a specialist in pediatric critical care, pediatric neurology or pediatric neurosurgery.

3. Age greater than 12 months: When declarations of brain death are to be made upon patients above 12 months of age, the examining physician shall be duly qualified by training and experience to declare brain death. For purposes of this section, neurologists, neurosurgeons, critical care specialists and trauma surgeons shall be deemed to be duly qualified physicians. In addition, any physician who has been granted privileges by a hospital to declare brain death may serve as the examining physician pursuant to this subchapter.

13:35-6A.4 Standards for declaration of brain death

(a) Declarations of brain death shall be made in accordance with accepted medical standards. A patient may be pronounced dead if a physician meeting the requirements set forth in N.J.A.C. 13:35-6A.3 determines in accordance with the criteria set forth in this section that brain death has occurred.

(b) The examining physician who is to pronounce brain death shall:

1. Determine a reasonable basis to suspect brain death. Brain death may be declared where the etiology of the insult or injury is sufficient to cause brain death and, in the judgment of the examining physician, is irreversible;

2. Exclude complicating medical conditions that may confound the clinical assessment of brain death, including:

i. Severe hypothermia, defined as core body temperature at or below 92 degrees Fahrenheit in adults, or outside the clinically established age specific range in a child;

ii. The effects of neuromuscular blockade(s). In the event a neuromuscular blockade was used to treat the patient, the examining physician shall establish that the effects of the blockade are reversed prior to performing clinical examinations for brain death;

iii. The effects of CNS depressants. If CNS depressants are present and serum blood level is therapeutic or below the therapeutic range, a clinical examination may be initiated. If serum blood levels are not available, above the therapeutic range or unknown, or there is an overdose or toxic exposure of an unknown agent, a brain death evaluation may proceed without reliance on clinical examination if, in the judgment of the examining physician, the injury or cause of coma is non-survivable. In such event, an objective measure of intracranial circulation shall be used as a confirmatory test;

iv. Severe metabolic imbalances, unless in the judgment of the examining physician any such imbalances do not confound the clinical assessment of brain death; and

v. Mean arterial pressure less than 60 mmHg in an adult or outside the clinically established age specific range in a child;