

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.

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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.

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).

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