

**CHAPTER 35
BOARD OF MEDICAL EXAMINERS**

Authority

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

Source and Effective Date

R.1994 d.522, effective September 19, 1994.
See: 26 N.J.R. 2526(a), 26 N.J.R. 4195(a).

Executive Order No. 66(1978) Expiration Date

Chapter 35, Board of Medical Examiners, expires on September 19, 1999.

Chapter Historical Note

Chapter 35, Board of Medical Examiners, was filed and became effective prior to September 1, 1969. Chapter 35, except Subchapter 8, Hearing Aid Dispensers, was repealed and new rules of the Board of Medical Examiners, Subchapters 1 through 6, were adopted as R.1983 d.314, effective August 1, 1983. See: 15 N.J.R. 503(a), 15 N.J.R. 1255(a). Subchapter 7, Chiropractic Practice, was adopted as R.1984 d.533, effective November 19, 1984. See: 16 N.J.R. 686(a), 16 N.J.R. 3208(a).

Pursuant to Executive Order No. 66(1978), Chapter 35 was readopted as R.1989 d.532, effective September 21, 1989. See: 21 N.J.R. 2226(b), 21 N.J.R. 3307(a). Subchapter 6A, Declarations of Death upon the Basis of Neurological Criteria, was adopted as R.1992 d.309, effective August 3, 1992. See: 23 N.J.R. 3635(a), 24 N.J.R. 2731(c). Subchapter 2A, Limited Licenses: Certified Nurse Midwifery, was adopted as R.1992 d.332, effective Subchapter 8, 1992. See: 23 N.J.R. 3632(a), 24 N.J.R. 3094(a). Subchapter 9, Acupuncture, was adopted as R.1993 d.299, effective June 21, 1993. See: 24 N.J.R. 4013(a), 25 N.J.R. 2689(c). Subchapter 10, Athletic Trainers, was adopted as R.1993 d.546, effective November 1, 1993. See: 25 N.J.R. 265(a), 25 N.J.R. 4935(a), 26 N.J.R. 483(a).

Pursuant to Executive Order No. 66(1978), Chapter 35 was readopted as R.1994 d.522. See: Source and Effective Date. As a part of R.1994 d.522, Subchapter 7, Chiropractic Practice, was repealed, effective October 17, 1994. See: 26 N.J.R. 2526(a), 26 N.J.R. 4195(a). Subchapter 11, Alternate Resolution Program, became effective June 19, 1995. See: 27 N.J.R. 640(a), 27 N.J.R. 2410(a). See, also, section annotations.

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

Law Review and Journal Commentaries

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

CHAPTER TABLE OF CONTENTS

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

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

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

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

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

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

SUBCHAPTER 2A. LIMITED LICENSES: CERTIFIED NURSE MIDWIFERY

- 13:35-2A.1 Certified Nurse Midwife practice
- 13:35-2A.2 Qualifications
- 13:35-2A.3 Minimum conditions of practice
- 13:35-2A.4 Normal antepartum management
- 13:35-2A.5 Normal intrapartum management
- 13:35-2A.6 Postpartum and well-woman health care
- 13:35-2A.7 Management of antepartum women at risk
- 13:35-2A.8 Care of intrapartum women at risk
- 13:35-2A.9 Certified Nurse Midwife Liaison Committee
- 13:35-2A.10 Limited privileges and conditions of practice permitted for a graduate nurse midwife pending results of certifying examination and licensure
- 13:35-2A.11 Prescriptive authorization

SUBCHAPTER 2B. LIMITED LICENSES: PHYSICIAN ASSISTANTS

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

- 13:35-2B.15 Supervision of temporary license holder
- 13:35-2B.16 Expiration of temporary license; renewal

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

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

SUBCHAPTER 4. SURGERY

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

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

- 13:35-4A.1 Purpose
- 13:35-4A.2 Scope
- 13:35-4A.3 Definitions
- 13:35-4A.4 Policies and procedures requirements
- 13:35-4A.5 Duty to report incidents related to surgery, special procedures or anesthesia in an office
- 13:35-4A.6 Standards for practitioners performing surgery and special procedures in an office; credentials necessary; pre-procedure counseling; patient records; recovery and discharge
- 13:35-4A.7 Standards for physicians administering or supervising the administration of anesthesia services in an office; pre-anesthesia counseling; patient monitoring; recovery; patient record; discharge of patient
- 13:35-4A.8 Performance of general anesthesia; authorized personnel
- 13:35-4A.9 Administration of regional anesthesia; authorized personnel
- 13:35-4A.10 Administration of conscious sedation; authorized personnel
- 13:35-4A.11 Administration of minor conduction blocks; authorized personnel
- 13:35-4A.12 Alternative credentialing procedure (Reserved)
- 13:35-4A.13 Requirements for anesthetizing locations; emergency equipment and supplies
- 13:35-4A.14 Requirements for anesthetizing locations; safety systems, monitoring devices
- 13:35-4A.15 Equipment requirements for recovery areas
- 13:35-4A.16 Maintenance requirements
- 13:35-4A.17 Compliance timetables
- 13:35-4A.18 Enforcement

SUBCHAPTER 5. EYE EXAMINATIONS; EYEGLASSES

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

SUBCHAPTER 6. GENERAL RULES OF PRACTICE

- 13:35-6.1 Practice identification
- 13:35-6.2 Pronouncement of death
- 13:35-6.3 Sexual misconduct
- 13:35-6.4 Delegation of administration of subcutaneous and intramuscular injections to certified medical assistants
- 13:35-6.5 Preparation of patient records, computerized records, access to or release of information; confidentiality, transfer or disposal of records
- 13:35-6.6 through 13:35-6.7 (Reserved)
- 13:35-6.8 Prescribing, administering or dispensing amygdalin (laetrile)
- 13:35-6.9 Referral for radiological services
- 13:35-6.10 Advertising and solicitation practices
- 13:35-6.11 Excessive fees
- 13:35-6.12 (Reserved)
- 13:35-6.13 Fee Schedule
- 13:35-6.14 Delegation of physical modalities to a licensed health care provider or an unlicensed physician aide
- 13:35-6.15 Delegation of tasks to physician assistants
- 13:35-6.16 Professional practice structure
- 13:35-6.17 Professional fees and investments, prohibition of kickbacks (Reserved)
- 13:35-6.18 Duty to report changes in status
- 13:35-6.19 (Reserved)
- 13:35-6.20 (Reserved)
- 13:35-6.21 Hair replacement techniques

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

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

SUBCHAPTER 7. PRESCRIPTION, ADMINISTRATION AND DISPENSING OF DRUGS

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

SUBCHAPTER 8. HEARING AID DISPENSERS

- 13:35-8.1 Purpose
- 13:35-8.2 Definitions
- 13:35-8.3 Training and experience requirements
- 13:35-8.4 Training permits; issuance and practice
- 13:35-8.5 Temporary licenses; issuance
- 13:35-8.6 Temporary licenses; practice
- 13:35-8.7 Sponsors
- 13:35-8.8 Scope of practice
- 13:35-8.9 Fitting and dispensing of deep ear canal hearing aid devices

BOARD OF MEDICAL EXAMINERS

- 13:35-8.10 Supervising licensee
- 13:35-8.11 Notification to the Committee; suspension of license for failure to renew
- 13:35-8.12 Equipment
- 13:35-8.13 Hearing testing
- 13:35-8.14 Advertising and Solicitation
- 13:35-8.15 Abandonment; excessive fees
- 13:35-8.16 Itemization of services and equipment; retention of records
- 13:35-8.17 Licensing examination
- 13:35-8.18 Violation of the Rules
- 13:35-8.19 Fee schedule
- 13:35-8.20 License renewal; continuing education requirement

SUBCHAPTER 9. ACUPUNCTURE

- 13:35-9.1 Purpose and scope
- 13:35-9.2 Definitions
- 13:35-9.3 Credentials required for certification
- 13:35-9.4 Examination requirements
- 13:35-9.5 Prohibited acts
- 13:35-9.6 Fee schedule
- 13:35-9.7 Term of lawful practice; biennial registration
- 13:35-9.8 Standards of practice
- 13:35-9.9 Accepted equipment and devices; procedures
- 13:35-9.10 Precautionary and sterilization procedures
- 13:35-9.11 Patient records
- 13:35-9.12 Guest acupuncturist
- 13:35-9.13 Tutorial applications and design of tutorial program

- 13:35-9.14 Responsibilities of supervising acupuncturist
- 13:35-9.15 Responsibilities of the acupuncture trainee
- 13:35-9.16 Training required of a physician or dentist
- 13:35-9.17 Continuing professional education requirements

APPENDIX A

SUBCHAPTER 10. ATHLETIC TRAINERS

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

SUBCHAPTER 11. ALTERNATIVE RESOLUTION PROGRAM

- 13:35-11.1 Definitions
- 13:35-11.2 Creation of Impairment Review Committee
- 13:35-11.3 Duties of an approved professional assistance program
- 13:35-11.4 Duties of the Impairment Review Committee
- 13:35-11.5 Professional assistance program approval
- 13:35-11.6 Colleague referrals
- 13:35-11.7 Alternative Resolution Program pilot period

(b) A practitioner or physician who offers anesthesia services in an office setting shall purchase and install the equipment and safety systems, as required pursuant to this rule, no later than December 15, 1998. Alternatively, a practitioner or physician shall have written proof that by October 15, 1998, an order for such equipment has been transmitted to and received by a manufacturer or legitimate vendor of the equipment. Such proof shall include an anticipated date of delivery. All such equipment shall be properly installed in a timely fashion after delivery and shall be used in conformance with this section, no later than December 15, 1998.

(c) All other requirements of this subchapter shall be effective June 15, 1998.

13:35-4A.18 Enforcement

(a) Any violation of N.J.A.C. 13:35-4A.3 through 4A.17 shall be deemed to be professional misconduct within the meaning of N.J.S.A. 45:1-21(e) and may further constitute violation of other law or rule, as applicable to the circumstances.

SUBCHAPTER 5. EYE EXAMINATIONS; EYEGLASSES

Subchapter Historical Note

Petition for Rulemaking. See: 30 N.J.R. 3340(b), 30 N.J.R. 3867(a).

13:35-5.1 Minimum eye examination; contact lenses

(a) Physicians licensed to practice medicine and surgery, when performing an eye examination for the purpose of prescribing corrective lenses, shall fully and adequately disclose to the patient the limited purpose of the eye examination. The physician shall perform, and keep a complete record of, physical examination of the patient which shall include:

1. A complete history of visual aberrations;
2. A determination of visual acuity in each eye separately;
3. A cover test, distance and near, and a determination of muscle balance or imbalance;
4. An ophthalmoscopic examination and a determination of any abnormalities of lids, cornea, pupils, lens, vitreous and fundus. A record entry of "negative" or "clear" should be made if no pathology is found.

(b) Upon observing positive findings of ocular disease or abnormality, the physician shall disclose his findings to the patient and suggest an appropriate course of action.

(c) The complete record of contact lens specifications shall be released by an ophthalmologist to another ophthalmologist, optometrist or ophthalmic dispenser licensed in New Jersey upon either the oral or written request of the patient or the professional acting on the patient's behalf.

mologist, optometrist or ophthalmic dispenser licensed in New Jersey upon either the oral or written request of the patient or the professional acting on the patient's behalf.

13:35-5.2 Minimum standards and tolerances of optical lenses

(a) Every pair of lenses, spectacles, eyeglasses or appurtenances thereto, prepared for or dispensed to the intended wearers from written prescriptions of physicians duly licensed to practice their profession, or duplication, replacements, reproductions or repetitions, must conform to the following minimum standards and tolerances:

PHYSICAL QUALITY AND APPEARANCE

1. Surface imperfections

TOLERANCE: No pits, scratches (other than hairline), grayness or watermarks shall be acceptable.

2. Glass defects

TOLERANCE: No bubbles, striae and inclusions shall be acceptable.

3. Localized power errors

TOLERANCE: Waves found by visual inspection shall be passable if no deterioration in image quality is found when the localized area is examined with a standard lens measuring instrument.

4. Refractive powers

TOLERANCE: 0.0. to 6.00, + or -0.12.

6.25 to 12.00, 2 per cent of power.

Above 12.00, + or -0.25.

Maximum cylinder power variation + or -0.12.

5. Refractive power addition

TOLERANCE: + or -0.12.0.

6. Cylinder Axis

TOLERANCE: 0.12 to 0.37 + or -3 degrees.

0.50 to 1.00, + or -2 degrees.

1.12 on up, + or -1 degree.

7. Prism power and location of specified optical center

TOLERANCE: Vertical + or -0.25 prism for each lens or a total of 0.50 prism imbalance. Horizontal + or -0.25 prism for each lens or a total of 0.50 prism imbalance.

8. Segment size

TOLERANCE: + or -0.5 mm. Pair must be symmetrical upon visual inspection.

9. Segment location

TOLERANCE: As specified within + or -0.5 mm.

10. Lens size:

i. Rimless

TOLERANCE: + or -0.5 mm;

ii. Bevel, for plastic frames

TOLERANCE: + or -0.5 mm;

iii. Bevel, for metal frames

TOLERANCE: To fit standard specified frame. Lens shape must match. Edges must be smooth and straight and sharp edge must be removed.

(j) A licensee having a significant beneficial interest, as defined in (a) above, in a health care service including a professional service corporation or a general business corporation (see N.J.A.C. 13:35-6.16(f)) shall notify the Board of such interest no later than February 18, 1993. Notice is not required for a practice conducted under the practitioner's own name.

(k) This rule shall be operative April 15, 1992.

New Rule, R.1992 d.75, effective February 18, 1992 (operative April 15, 1992, except as noted).

See: 23 N.J.R. 161(a), 23 N.J.R. 1063(a), 24 N.J.R. 626(a).

Public Notice: Stay of operative date of (e) until July 15, 1992.

See: 24 N.J.R. 1905(a).

Public Notice: Stay of operative date of portion of (a)2 until August 12, 1992.

See: 24 N.J.R. 2460(a).

Public Notice: Delayed operative date of (e) until August 15, 1992.

See: 24 N.J.R. 3443(b).

Administrative Correction to (a)5.

See: 24 N.J.R. 4409(a).

Amended by R.1995 d.8, effective January 3, 1995.

See: 25 N.J.R. 5441(a), 27 N.J.R. 120(a).

Law Review and Journal Commentaries

Examiners' Board Hits Physician Referrals. 133 N.J.L.J. No. 4, 11 (1993).

Rules Changes Target Medical Group Practices. Theodosia A. Tamborlane, 136 N.J.L.J. No. 11, 10 (1994).

13:35-6.18 (Reserved)

New Rule, R.1993 d.604, effective December 6, 1993.

See: 24 N.J.R. 4012(a), 25 N.J.R. 5487(a).

Repealed by R.1997 d.475, effective November 3, 1997.

See: 29 N.J.R. 842(a), 29 N.J.R. 4706(a).

Section was "Prescribing, dispensing or administering anabolic steroids".

13:35-6.19 Duty to report changes in status

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

"Ability to practice" means and is construed to include all of the following:

1. The cognitive capacity to make appropriate clinical diagnoses and exercise reasoned medical judgments and to learn and keep abreast of medical developments;
2. The ability to communicate those judgments and medical information to patients and other health care providers, with or without the use of aids or devices, such as voice amplifiers; and
3. The physical capability to perform medical tasks such as physical examination and surgical procedures, with or without the use of aids or devices, such as corrective lenses or hearing aids.

"Affiliation" means a professional relationship, including an employment relationship, a position as an independent contractor or the grant of privileges by a health care facility or health maintenance organization in this State or any other jurisdiction.

"Alternative Resolution Program" refers to the program established pursuant to N.J.A.C. 13:35-11 by which licensees suffering from medical conditions or chemical dependency may confidentially enter into a rehabilitation and monitoring program, under the sponsorship of an approved professional assistance program, subject to the periodic submission of coded status reports and continuing confidential review by the Board's Impairment Review Committee. To be deemed a participant in the Alternative Resolution Program, the licensee must be accepted by the Impairment Review Committee and assigned a code number.

"Biennial renewal form" means the form provided to a licensee by the Board, which must be completed in order to renew and keep current a license to practice in this State.

"Chemical substances" is to be construed to include alcohol, drugs or medications, including those taken pursuant to a valid prescription for legitimate medical purposes and in accordance with the prescriber's direction, as well as those used illegally.

"Conviction" means a judgment of conviction entered following plea agreement or trial on an arrest, indictment, accusation or bill of particulars in a state or Federal criminal proceeding, or the resolution of such charges, whether by a plea of no contest or nolo contendere or by pre-trial diversion program.

"Directly associated" means a professional relationship including an employment relationship, partnership arrangement or a shareholder status in a professional service corporation or general business corporation. "Directly associated" does not include any relationship established pursuant to preferred provider agreements, IPA's or other provider panels.

"Disciplinary order" means a disposition suspending or revoking licensure privileges or imposing civil penalties or ordering the restoration of money or ordering corrective action or medical or other professional treatment or monitoring, or censuring or reprimanding a licensee.

"Financial interest" means a monetary interest of any amount held by a practitioner personally or through immediate family, as defined at N.J.S.A. 45:9-22.4 et seq.

"Health care facility" means a facility or institution, whether public or private, engaged in providing medical services, including diagnosis or treatment of human disease, pain, injury, deformity or physical condition, including, but not limited to, a general hospital, special hospital, mental hospital, health maintenance organizations, public health center, diagnostic center, treatment center, rehabilitation center, extended care facility, skilled nursing home, nursing home, intermediate care facility, tuberculosis hospital, chronic disease hospital, maternity hospital, outpatient clinic, dispensary, home health care agency, boarding home for the sheltered care of adult persons, and bio-analytical laboratory or central services facilities serving one or more such institutions but excluding institutions that provide healing solely by prayer.

“Health care service entity” means a business entity which provides on an inpatient or outpatient basis: testing for a diagnosis or treatment of human disease or dysfunction; or dispensing of drugs or medical devices for the treatment of human disease or dysfunction. Health care service entity includes, but is not limited to, a bio-analytical laboratory, pharmacy, home health care agency, rehabilitation facility, nursing home, hospital, home infusion company, or facility which provides radiological or other diagnostic imagery services, physical therapy, ambulatory surgery, or ophthalmic services.

“Health maintenance organization” means any entity licensed by the State Department of Health which directly or through contracts with providers furnishes health care services on a prepaid basis to enrollees.