

CHAPTER 35

BOARD OF MEDICAL EXAMINERS

Authority

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

Source and Effective Date

R.1999 d.356, effective September 20, 1999.
See: 31 N.J.R. 1742(a), 31 N.J.R. 3117(a).

Executive Order No. 66(1978) Expiration Date

Chapter 35, Board of Medical Examiners, expires on September 20, 2004.

Chapter Historical Note

Chapter 35, Board of Medical Examiners, was filed and became effective prior to September 1, 1969.

Chapter 35, Board of Medical Examiners, was repealed and Chapter 35, Board of Medical Examiners, was adopted as new rules by R.1983 d.314, effective August 1, 1983.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, Board of Medical Examiners, 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, Board of Medical Examiners, was readopted as R.1994 d.522, effective September 19, 1994, and Subchapter 7, Chiropractic Practice, was repealed by R.1994 d.522, effective October 17, 1994. See: 26 N.J.R. 2526(a), 26 N.J.R. 4195(a).

Subchapter 2B, Limited Licenses: Physician Assistants, was adopted as R.1994 d.538, effective November 7, 1994. See: 25 N.J.R. 5099(b), 26 N.J.R. 4411(b).

Subchapter 11, Alternate Resolution Program, was adopted as R.1995 d.339, effective June 19, 1995. See: 27 N.J.R. 1363(a), 27 N.J.R. 2412(a).

Subchapter 7, Prescription, Administration and Dispensing of Drugs, was adopted as R.1997 d.475, effective November 3, 1997. See: 29 N.J.R. 842(a), 29 N.J.R. 4706(a).

Subchapter 4A, Surgery, Special Procedures, and Anesthesia Services Performed in an Office Setting, was adopted as R.1998 d.294, effective June 15, 1998. See: 29 N.J.R. 2238(a), 30 N.J.R. 2236(b).

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

Pursuant to Executive Order No. 66(1978), Chapter 35, Board of Medical Examiners, was readopted as R.1999 d.356, effective September 20, 1999. See: Source and Effective Date. See, also, section annotations.

Law Review and Journal Commentaries

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

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

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 country of domicile to confer the degree of Doctor of Medicine and Surgery or its equivalent, and was listed in the World Health Organization Directory;

3. The applicant has satisfactorily completed all the requirements for a matriculated student of that foreign medical school to receive a diploma, except for internship and/or social service;

4. The applicant has achieved a passing score on a screening examination acceptable to the Educational Commission on Foreign Medical Graduates (ECFMG) even though not eligible for ECFMG certification; and

5. The applicant has had his or her academic record reviewed and approved by a medical school approved by the Liaison Committee on Medical Education, which school has accepted the applicant in a one-academic-year program of supervised clinical training under its direction, and the applicant has satisfactorily completed that program as evidenced by receipt of a certificate issued by the sponsoring medical school.

(b) The applicant meeting the requirements in (a) shall thereafter be deemed by the Board to be eligible to enter a graduate training program approved by the Accreditation Council for Graduate Medical Education (ACGME) or the American Osteopathic Association (AOA). Upon satisfactory completion of the three years of post-graduate training required by N.J.A.C. 13:35-3.11, the applicant may apply for licensure in this State.

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

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

Rule deleted and replaced with new text.

13:35-1.3 Postgraduate training

Postgraduate training shall be taken under the auspices of a hospital or hospitals accredited for such training by the Accreditation Council for Graduate Medical Education (ACGME) or by the American Osteopathic Association (AOA) or by the American Podiatric Medical Association (APMA), as applicable to the profession. The program shall further be acceptable to the Board, which shall take into account the standards adopted by the Advisory Graduate Medical Education Council (AGMEC).

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

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

Rule deleted and replaced with new text.

Case Notes

Reasonable regulation of advertising. Att'y Gen. Form Op. No. 20 (1977).

13:35-1.4 Military service in lieu of M.D. or D.O. internship or postgraduate training

The Board may grant a license to practice medicine and surgery to any person who shall furnish proof, satisfactory to the Board, that such person has fulfilled all of the formal requirements established by law, and who has served at least two years in active military service in the United States Army, Air Force, Navy, Marine Corps, Coast Guard or the U.S. Public Health Service as a commissioned officer and physician and surgeon in a medical facility which the Board determines constitutes the substantial equivalent of the approved internship or residency training program required by law; provided, however, that such military service actively occurred subsequent to graduation from an approved medical school.

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

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

Reference to N.J.S.A. deleted and replaced with word "law".

13:35-1.5 Registration and permit requirements for graduate medical education programs in medicine or podiatry

(a) The following words and terms shall have the following meanings unless the context in this section indicates otherwise:

“Applicant” means a graduate of a medical or podiatric school, unlicensed in this State, seeking authorization to engage in the practice of medicine or podiatry as a resident in a graduate medical education program. A registration applicant is seeking authorization to participate in the first

year of a graduate medical education program. A permit applicant is seeking authorization to participate in his or her second year (or beyond) of a graduate medical education program.

(e) Credits taken in excess of the 20 required for biennial registration renewal shall not be carried over for use in subsequent renewal periods.

(f) The Board may, at its discretion, waive continuing education requirements on an individual basis for reasons of hardship such as illness, disability, active service in the military, or other good cause. An acupuncturist who seeks a waiver of the continuing education requirements shall provide to the Board, in writing, the specific reasons for requesting the waiver and such additional information as the Board may request in support of the waiver.

Amended by R.1999 d.356, effective October 18, 1999.
See: 31 N.J.R. 1742(a), 31 N.J.R. 3117(a).
Rewrote the section.

APPENDIX A

(RESERVED)

Repealed by R.1999 d.356, effective October 18, 1999.
See: 31 N.J.R. 1742(a), 31 N.J.R. 3117(a).

SUBCHAPTER 10. ATHLETIC TRAINERS

13:35-10.1 Scope and purpose

(a) This subchapter is promulgated by the New Jersey State Board of Medical Examiners, pursuant to N.J.S.A. 45:9-37.35 et seq., providing for the registration and regulation of athletic trainers within the State of New Jersey.

(b) The rules contained in this subchapter shall apply to all individuals currently practicing as athletic trainers, as well as those individuals studying to become athletic trainers within this State. The rules are designed to better define the allowable activities, professional standards, and the educational requirements of athletic trainers.

13:35-10.2 Definitions

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

“Advisory Committee” means the Athletic Training Advisory Committee established under N.J.S.A. 45:9-37.39.

“Athlete” means an individual who participates in an inter-scholastic, intercollegiate or intramural athletic activity being conducted by an educational institution licensed in the State of New Jersey or a professional athletic activity.

“Athletic trainer” means a person who practices athletic training as an employee of a school, college, university or professional athletic team.

“Athletic training” means the practice of physical conditioning and reconditioning of athletes and the prevention of injuries incurred by athletes. Athletic training shall also include, at the direction of a physician licensed in the State of New Jersey, the application of physical treatment modalities to athletes as recommended by the Advisory Committee and defined in N.J.A.C. 13:35-10.6(c).

“Board” means the State Board of Medical Examiners.

“Direction of a licensed physician” means the designing and overseeing of a plan of care for the athlete by a physician licensed in the State of New Jersey (M.D., D.O., D.C., D.P.M.) within his or her permitted scope of practice as specified by N.J.S.A. 45:9-5.1, N.J.S.A. 45:9-14.5, N.J.S.A. 45:9-41.27, N.J.S.A. 45:5-7.

“Non-injured athlete” means an athlete who has not sustained an injury or who has received medical clearance from a physician licensed in the State of New Jersey for full participation after injury/illness.

“Professional athletic team” means any team, group or individual athlete paid to perform at athletic events and activities.

13:35-10.3 Education standards

The requirement of N.J.S.A. 45:9-37.42 that an athletic trainer must provide proof of graduation or successful completion of a program of education, training, and experience approved by the Board shall be defined as the curriculum or program of education, training, and experience which was approved during the entire course of the applicant's education, training, and experience by the National Athletic Trainers Association Board of Certification, Inc.

13:35-10.4 Examinations

The requirement of N.J.S.A. 45:9-37.43 that an athletic trainer must pass an examination approved by the Board shall be deemed to have been met by evidence of passing the examination administered by the National Athletic Trainers Association Board of Certification, Inc. The Advisory Committee, in its discretion and with prior approval of the Board, may develop and administer an alternative examination, testing the applicant's knowledge in the areas outlined in N.J.S.A. 45:9-37.43.

13:35-10.5 (Reserved)

13:35-10.6 Approved activities

(a) A registered athletic trainer may provide the full spectrum of pre-season, in-season and post-season conditioning programs. These programs include, but are not limited to, maintenance and reconditioning programs, as well as bandaging, wrapping, taping, padding, and splinting procedures for the prevention and management of injuries.

(b) Nothing in this subchapter shall be interpreted to prohibit registered athletic trainers from providing first-aid.

(c) A registered athletic trainer may, at the direction of a licensed physician as provided in N.J.A.C. 13:35-10.2, administer the following physical treatment modalities:

1. Cold;
2. Heat;
3. Light;
4. Sound;
5. Electricity;
6. Electromagnetic waves;
7. Water; and
8. Traditional mobilization techniques, rehabilitative exercise programs, traction, and massage.

(d) A registered athletic trainer may, at the direction of a licensed physician as provided in N.J.A.C. 13:35-10.2, provide testing of neuromotor and musculoskeletal functional capability for the purposes of conditioning, reconditioning or otherwise evaluating the athlete's performance capability. However, nothing in this subchapter shall be interpreted to permit a registered athletic trainer to conduct electromyographic testing or nerve conduction velocity studies.

(e) The Advisory Committee recognizes that the athletic trainer is not authorized to diagnose an injury or illness. However, prior to implementing or while maintaining the plan of care, the athletic trainer shall exercise professional judgment to determine whether any intervening circumstances have adversely affected the athlete's ability to participate in or continue to participate in the plan of care.

(f) A written record regarding the treatment of an athletic injury shall be created by the athletic trainer and maintained for a period of seven years from the date of the last entry.

(g) Nothing in this subchapter shall be interpreted to prohibit registered athletic trainers from being employed or performing activities which do not require licensure or registration provided they do not hold themselves out as being able to perform athletic training in that employment or performance.

(h) Nothing in this section shall be interpreted to prohibit unregistered individuals from applying bandaging, wrapping, taping, padding or splinting techniques to non-injured athletes.

13:35-10.7 Violations

Without limiting the prosecution of any practices which may be unlawful under any other state or Federal law, a violation of this subchapter shall be deemed to be a violation of the Athletic Training Practice Act, N.J.S.A. 45:37-35 et seq., and shall be subject to the sanctions and penalties provided for thereunder.

13:35-10.8 Fees

(a) The following fees shall be charged by the Board for athletic trainer registration:

1. Temporary registration or authorized registration without examination	60.00
2. Examination (RESERVED)	
3. Initial Registration Fee	
i. If paid during the first year of a biennial renewal period:	70.00
ii. If paid during the second year of a biennial renewal period:	35.00
4. Biennial registration	70.00
5. Endorsement	60.00
6. Late renewal fee	50.00

New Rule, R.1993 d.260, effective June 7, 1993.

See: 25 N.J.R. 1058(a), 25 N.J.R. 2487(a).

Administrative Correction.

See: 25 N.J.R. December 6, 1993.

Amended by R.1995 d.330, effective June 19, 1995.

See: 27 N.J.R. 640(a) (see also 27 N.J.R. 1746(a)), 27 N.J.R. 2410(a).

Increased some of the fees.

SUBCHAPTER 11. ALTERNATIVE RESOLUTION PROGRAM

13:35-11.1 Definitions

As used in this subchapter the following words and terms have the following meanings, unless the context indicates otherwise:

"Alternative Resolution Program" or "ARP" means a program established pursuant to this subchapter for those subject to Board jurisdiction who are suffering from chemical dependencies and other impairments which shall permit such licensees to disclose their status to an entity which would allow for confidential oversight.

"Board" means the New Jersey State Board of Medical Examiners.

"Chemical dependency" means a condition involving the continued misuse of chemical substances.

"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.

- ii. What services will be provided by the sponsoring program;
- iii. What practice restrictions should be imposed, if any;
- iv. What monitoring regimen should be instituted, if any;
- v. What supervision and reporting should be required and by whom; and
- vi. At what frequency periodic interviews with the IRC should be scheduled;

8. Shall conduct such supplemental inquiry as may be directed by the Board;

9. Shall review coded letter agreements between the PAP and participating licensees embodying the terms of participation as reviewed by the Board and mandating that certain notice shall be provided to other jurisdictions if the licensee should elect to leave this State or should apply for initial licensure in another state, or in response to a particular inquiry from another state or regulatory agency or a health care facility at which the participating licensee has applied for privileges;

10. Shall notify the Board of any rejection by the licensee of a term of participation, including a refusal to consent to the release of records, and if no new agreement can be reached, shall notify the licensee that he or she may not participate in the program and shall disclose the licensee's identity and transmit the entire IRC file to the Board for appropriate disciplinary review;

11. Shall promptly review all reports submitted pursuant to such letter agreements, requesting supplemental investigation or appearances, as appropriate;

12. Shall immediately review any report indicating that a participating licensee has not complied with the terms of the letter agreement or has otherwise demonstrated a relapse or impairment, and shall thereafter provide the Board with notice of any information, which appears to be reliable and for which no acceptable explanation has been proffered, concerning noncompliance;

13. Shall provide the Board with periodic coded reports, submitted in accordance with a schedule established by the IRC, as to the status of all participating licensees and any recommendations for modification of the terms of agreement;

14. Shall, throughout the duration of the term of the agreement, maintain the agreement and information relating to the licensee as a matter under investigation relating to possible licensee misconduct and thus shall, except as provided herein, afford confidentiality pursuant to N.J.S.A. 45:9-19.3, except that nothing herein shall preclude the Board, the IRC or the Attorney General from conducting appropriate investigation of the relevant

facts, securing opinions from consultants and complying with judicial directives; and

15. Shall, upon a licensee's successful completion of the terms as provided by the letter agreement, advise the Board that it deems the matter to be closed without a finding of cause for action, except that nothing herein shall preclude the Board or the Panel from reviewing and relying upon all relevant materials should it receive a subsequent referral regarding the licensee.

13:35-11.5 Professional assistance program: approval and discontinuance

(a) A professional assistance program seeking to sponsor participants in the ARP first shall seek approval from the Board. A PAP applying for approval shall be required to enter into a formal agreement with the Board, attesting to its willingness and ability to provide necessary services to participants and to work with the IRC in the discharge of its responsibilities. Upon request, any PAP seeking approval shall provide the Board with sufficient information concerning its staffing, the services it provides, available treatment referrals and monitoring contracts so that the Board can be assured that the program is in a position to discharge its obligations under the agreement. Each program shall designate a plenary licensed physician who shall serve as program director and who shall be responsible to assure that the program fulfills its obligations under the agreement. By that agreement the Board shall grant its approval and delineate the conditions upon which the approval could be rescinded.

(b) Should an approved professional assistance program cease offering services, the Board shall allow participating licensees a period of 30 days to seek the sponsorship of another approved professional assistance program provided that interim monitoring provisions are proposed and acceptable to the Board.

Amended by R.1999 d.356, effective October 18, 1999.
See: 31 N.J.R. 1742(a), 31 N.J.R. 3117(a).

Designated the former section as (a); and added (b).

13:35-11.6 Colleague referrals

The Board authorizes the IRC and approved professional assistance programs to accept reports from practitioners pursuant to N.J.S.A. 45:9-19.5 and any practitioner who files such a report directly with the IRC, an approved PAP or with any of the report recipients otherwise authorized by law shall be deemed to have discharged the obligation imposed by statute. Although the PAP need not disclose to the IRC, the Panel or the Board the identity of colleagues who file such report, it shall maintain that information on file and shall make it available to the Board in the event that an inquiry is initiated as to whether the reporting colleague discharged his or her obligation pursuant to N.J.S.A. 45:9-19.5. If the reporting practitioner elects to file a report directly with the IRC, the Panel or the Board, he or she may utilize that licensee's code number in the report.

These reports shall be retained confidentially if the licensee agrees to the terms of participation in the program.

See: 31 N.J.R. 1742(a), 31 N.J.R. 3117(a).
Section was "Alternative Resolution Program pilot period".

13:35-11.7 (Reserved)

Repealed by R.1999 d.356, effective October 18, 1999.