

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 Chapter 35, except Subchapter 8, Hearing Aid Dispensers, was repealed and new rules of the Board of Medical Examiners, Subchapters 1 through 6, were adopted as R.1983 d.314, effective August 1, 1983.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 As a part of R.1994 d.522, Subchapter 7, Chiropractic Practice, was repealed, effective October 17, 1994.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).

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“Illegal use of controlled dangerous substances” means the use of controlled dangerous substances obtained illegally (for example, heroin or cocaine) as well as the use of controlled dangerous substances which are not obtained pursuant to a valid prescription or not taken in accordance with the directions of a licensed health care practitioner.

“Licensee” means any person licensed or authorized to engage in the health care profession regulated by the Board of Medical Examiners.

“Licensing authority” means any professional or occupational licensing board charged with granting, suspending or revoking licensure or certification privileges.

“Medical condition” includes physiological, mental or psychological conditions or disorders, such as, but not limited to, orthopedic, visual, speech, or hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional or mental illness, specific learning disabilities, HIV disease, tuberculosis, drug addiction and alcoholism.

“Practice location” means the actual physical site of the office and business address from which the licensee provides professional services and where relevant books and records are or should be maintained.

“Practice name” means the title under which a group practice of five or more practitioners is conducted.

“Practitioner” means physician or podiatrist licensed by the Board.

(b) A licensee shall provide notice to the Board in writing, on such forms as the Board may require and within 21 days, of any changes, additions or deletions pertaining to the following information last provided by the licensee on the biennial license renewal form:

1. The name and address of all practice locations;
2. The name of all practitioners directly associated with the practice, or the practice name if five or more practitioners are offering professional services through the same practice entity;
3. The name and address of each licensed health care facility and health maintenance organization with which the licensee has an affiliation, except that with respect to health maintenance organization affiliations, the licensee shall be relieved of this reporting obligation if the entities with which the licensee has an affiliation have agreed to provide the Board with a list of participating providers on a quarterly basis;
4. The name and address of the licensee’s medical malpractice insurer, if any; and
5. The name and address of any health care service entity in which the licensee or any member of his or her immediate family has acquired a financial interest, the

date on which that interest was acquired and whether the licensee refers patients to that service.

(c) A licensee shall provide notice to the Board in writing of any changes in circumstances which would alter the response last provided by the licensee to questions on the biennial renewal form eliciting information pertaining to pending or finalized actions, including those predicated on a no contest or nolo contendere plea or other consensual or voluntary agreement, or a surrender or resignation of license or of privileges or a consent to limitations on practice which occurred in the face of an investigation or of pending action. Reporting of the following actions is required:

1. Actions by criminal authorities for violations of law or regulation;
2. Actions by a health care facility or health maintenance organization grounded, in whole or in part, upon patient care concerns which actions condition, curtail, limit, suspend or revoke privileges;
3. Disciplinary actions by state licensing authorities;
4. Actions by the Department of Health;
5. Actions by the Drug Enforcement Administration or any state drug enforcement agency;
6. Actions by Medicaid, Medicare, CHAMPUS, or other governmental insurance program;
7. Actions by professional review organizations or utilization review organizations; or
8. Actions by a medical malpractice insurance carrier declining coverage or a continuation of coverage, assessing a surcharge based on claims experience, imposing new limitations or restrictions on practice, or requiring remedial education or office monitoring.

(d) A licensee, who is not already known to the Board’s Impairment Review Committee through participation in the Alternative Resolution Program, shall provide notice to the Board in writing of any changes in circumstances which would alter the response last provided by the licensee to questions on the biennial renewal form pertaining to medical conditions and use of chemical substances which in any way impair or limit the licensee’s ability to practice with reasonable skill and safety. Licensees shall provide notice to the Board of any hospitalization, in-patient treatment or participation in supervised rehabilitation programs relating to these medical conditions. Licensees shall notify the Board of any leave of absence taken from a health care facility or health maintenance organization for reasons related to these medical conditions. (Parental leaves need not be reported.) Any notices received by the Board pursuant to this subsection shall be retained by the Board in a confidential manner and shall not be deemed to be public records within the meaning of N.J.S.A. 47:1A-1 et seq.

(e) To the extent that a required disclosure may relate to the illegal use of controlled dangerous substances or other criminal activity which may give a licensee reasonable cause to believe he or she is exposed to the possibility of criminal prosecution, the licensee may assert, on the form provided by the Board, the Fifth Amendment privilege against self-incrimination. Any claim of Fifth Amendment privilege must be made in good faith, and does not relieve the licensee from making disclosures not implicating criminal liability. The Board may make follow-up inquiries and the licensee may later be directed by the Attorney General to make a disclosure of information previously withheld on the basis of the Fifth Amendment, provided that the Attorney General first grants immunity afforded by statutory law. N.J.S.A. 45:1-20.

(f) For each change, addition or deletion in the foregoing information, the licensee shall further indicate the effective date of the change, addition or deletion and provide an explanation therefor.

(g) Failure by a licensee to provide the Board with notice of any information required pursuant to this section within 21 days of the change or the event necessitating the filing of the notice may be deemed professional misconduct within the meaning of N.J.S.A. 45:1-21(e).

New Rule, R.1996 d.243, effective May 20, 1996.
See: 27 N.J.R. 1746(b), 28 N.J.R. 2563(a).

13:35-6.20 (Reserved)

13:35-6.21 Hair replacement techniques

(a) As used within this section, the following terms have the following meanings unless the content indicates otherwise:

1. "Cosmetic suturing retaining process" means a method of attaching a unit of hair to the scalp via a suturing (retaining) process.

2. "Implanted prolene loop procedure" means a surgical insertion of continuous prolene sutures in and out of the scalp in concentric circles to which a hair weave is attached.

3. "Licensee" means a physician subject to regulation by the New Jersey Board of Medical Examiners.

(b) No licensee shall perform or assist in the performance of a hair replacement technique using the implanted prolene loop procedure or any other cosmetic suturing retaining process involving the use of suture material in the scalp.

(c) Nothing in this section shall preclude licensees from performing medically recognized hair transplantation techniques.

(d) Licensees shall complete and maintain patient medical records pursuant to N.J.A.C. 13:35-6.5 which accurately reflect the transplantation technique utilized in any hair replacement procedure, a brief history pertinent to the procedure, any complications which ensued, any medications prescribed and follow-up directed.

(e) Licensees shall assure that prior to the initiation of a permitted hair transplantation technique, the risks and benefits have been discussed with the patient and informed consent has been obtained.

(f) Licensees shall, by means of a telephone number by which they shall be available, provide appropriate medical coverage on a 24-hour basis to all patients undergoing a hair transplantation technique and shall maintain a log for the sole purpose of recording all complications. This log shall be available for inspection by the Board upon request.

(g) Violation of any of (b) through (f) above may be deemed to constitute one or more of the following:

1. Gross malpractice, gross neglect, or gross incompetence in the practice of the licensed profession pursuant to N.J.S.A. 45:1-21(c);

2. Professional misconduct in the practice of the licensed profession, pursuant to N.J.S.A. 45:1-21(e);

3. A failure to comply with the provisions of an act or regulation administered by the Board, pursuant to N.J.S.A. 45:1-21(h); or

4. Unprofessional conduct which would present an imminent danger to the individual patient or to the public health, safety or welfare, within the meaning of N.J.S.A. 45:9-19.5.

(h) Licensees who are in possession of information which reasonably indicates that another licensee has engaged in a prohibited hair replacement technique shall be obligated to report such information to the Board pursuant to N.J.S.A. 45:9-19.5.

New Rule, R.1994 d.86, effective February 22, 1994.

See: 25 N.J.R. 5444(a), 26 N.J.R. 1104(a).

Stay of Operative Date until February 23, 1994; further stay until April 13, 1994.

See: 26 N.J.R. 1354(a).

Withdrawal of stay of Operative Date.

See: 26 N.J.R. 4083(a).

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: