13:35–2B.10 Supervision

(a) A physician assistant shall engage in practice only under the direct supervision of a physician.

(b) The physician assistant shall not render care unless the following conditions are met:

1. In an inpatient setting, the supervising physician or physician-designee is continuously or intermittently present on-site with constant availability through electronic communications for consultation or recall;

2. In an outpatient setting, the supervising physician or physician-designee is constantly available through electronic communications for consultation or recall;

3. The supervising physician regularly reviews the practice of the physician assistant;

4. The supervising physician personally reviews all charts and patient records and countersigns all medical orders as follows:

i. In an inpatient setting, within 24 hours of the physician assistant's entry of the order in the patient record; and

ii. In an outpatient setting, within a maximum of seven days of the physician assistant's entry of the order in the patient record; and

5. The following supervisory ratios are met:

i. In a private practice which is not hospital based or institutionally affiliated, no more than two physician assistants to one physician at any one time;

ii. In all other settings, no more than four physician assistants to one physician at any one time.

(c) Upon application to the Board, the Board may alter the supervisory ratios set forth in (b) above.

(d) A supervising physician who is a department head may assign physician assistants under his or her supervision to attending and staff physicians, who shall be responsible for the practice of the physician assistant during the assignment. In all other settings in which a physician assistant is employed, the supervising physician of record shall be considered to be the person responsible for the practice of the physician assistant.

13:35–2B.11 Recordkeeping

(a) Licensees shall make contemporaneous, permanent entries into professional treatment records which shall accurately reflect the treatment or services rendered. To the extent applicable, professional treatment records shall reflect:

1. The dates and times of all treatments;

2. The patient complaint;

3. The history;

4. Findings on appropriate examination;

5. Progress notes;

6. Any orders for tests or consultations and the results thereof;

7. Diagnosis or medical impression; and

8. Treatment ordered. If medications are ordered, the patient record shall include:

i. Specific dosages, quantities and strengths of medications;

ii. A statement indicating whether the medication order is written pursuant to protocol or specific physician direction. Acceptable abbreviations are "prt" for protocol and "spd" for specific physician direction;

iii. The physician assistant's full name, printed or stamped, and the license number; and

iv. The supervising physician's full name, printed or stamped.

(b) If the information required pursuant to (a)8iii and iv appears at least once in the patient record, it need not be repeated each time a medication order is entered in the patient record.

(c) The physician assistant shall sign each entry in the patient record and record the designation "PA–C" following his or her signature.

(d) To the extent a physician assistant is charged with independent responsibility for the provision of information used to prepare bills and claims forms, such information shall accurately reflect the treatment or services rendered.

13:35–2B.12 Requirements for issuing prescriptions for medications

(a) A physician assistant may issue prescriptions only in accordance with the following conditions:

1. A physician assistant may issue prescriptions only in an in-patient setting.

2. A physician assistant shall not issue prescriptions for controlled dangerous substances.

3. A physician assistant shall provide the following on all prescription blanks:

i. The physician assistant's full name, professional identification ("PA–C"), license number, address and telephone number. This information shall be printed or stamped on all prescription blanks;

ii. The supervising physician's full name, printed or stamped;

iii. A statement indicating whether the prescription is written pursuant to protocol or specific physician

direction. Acceptable abbreviations are "prt" for protocol and "spd" for specific physician direction;

iv. The full name, age and address of the patient;

v. The date of issuance of prescription;

vi. The name, strength and quantity of drug or drugs to be dispensed and route of administration;

vii. Adequate instruction for the patient. A direction of "p.r.n." or "as directed" alone shall be deemed an insufficient direction;

viii. The number of refills permitted or time limit for refills, or both;

ix. The signature of the prescriber, hand-written; and

x. Every prescription blank shall be imprinted with the words "substitution permissible" and "do not substitute" and shall contain space for the physician assistant's initials next to the chosen option, in addition to the space required for the signature in (a)3ix above.

13:35–2B.13 Eligibility for temporary licensure

(a) An individual who has filed an application for licensure and is waiting to take the next scheduled examination administered by the National Commission on Certification of Physician Assistants (NCCPA) or awaiting the results of the examination may apply to the Board for a temporary license to be employed under the direct supervision of a physician, as defined in N.J.A.C. 13:35–2B.2 and 2B.15.

(b) An applicant for temporary licensure shall submit to the Board, with the completed application form, the documents required pursuant to N.J.A.C. 13:35–2B.5, the required fee, and evidence that the applicant has filed an application for the NCCPA examination.

New Rule, R.1995 d.423, effective August 7, 1995.
See: 27 N.J.R. 1526(a), 27 N.J.R. 2959(a).

13:35–2B.14 Temporary licensure; scope of practice

(a) A temporary license holder who has complied with the practice requirements set forth in N.J.A.C. 13:35–2B.3 may perform all of the procedures within the scope of practice of a physician assistant, as set forth in N.J.A.C. 13:35–2B.4(a) and (b) and subject to the limitations therein, except that a temporary license holder shall not issue prescriptions.

(b) A temporary license holder shall engage in practice only under the direct supervision of a physician pursuant to the provisions of N.J.A.C. 13:35–2B.15.

New Rule, R.1995 d.423, effective August 7, 1995.
See: 27 N.J.R. 1526(a), 27 N.J.R. 2959(a).

13:35–2B.15 Supervision of temporary license holder

(a) A temporary license holder shall not render care unless the following conditions are met:

1. In any setting, the supervising physician or physician designee or a licensed physician assistant with privileges in the same discipline:

i. Is continuously present on-site; and

ii. Countersigns, immediately after its entry in the chart, any order for medication written by the temporary license holder.

2. The supervising physician or physician designee:

i. Personally reviews all charts and patient records within 24 hours of the temporary license holder's entry in the chart and record; and

ii. Countersigns any order for medication written by the temporary licensee and countersigned by a licensed physician assistant.

New Rule, R.1995 d.423, effective August 7, 1995.
See: 27 N.J.R. 1526(a), 27 N.J.R. 2959(a).

13:35–2B.16 Expiration of temporary license; renewal

(a) A temporary license shall expire 30 days after the temporary license holder has received notification of successful completion of the examination or immediately upon the applicant's receipt of notification of failure to pass the examination.

(b) An applicant who fails an examination shall cease and desist from the performance of his or her duties.

(c) Except in extenuating circumstances such as the applicant's critical illness or incapacitation, a temporary license may not be renewed. An applicant seeking to renew based upon extenuating circumstances shall be required to present to the Board satisfactory documentation of the basis for the renewal request.

New Rule, R.1995 d.423, effective August 7, 1995.
See: 27 N.J.R. 1526(a), 27 N.J.R. 2959(a).

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

13:35–3.1 Licensing examination; physicians

(a) Effective December 1994, the standard medical and surgical licensing examination in the State of New Jersey shall be the United States Medical Licensing Examination (USMLE), Step 3.

(b) Prior to January 1995, the Federation Licensing Examination (FLEX) shall serve as one of the two standard medical and surgical licensing examinations in the State of New Jersey.

(c) A candidate for examination who has met all other requirements of law for medical licensure shall be admitted to USMLE, Step 3, upon appropriate demonstration to the Board of successful completion of one of the following examination sequences. Completion of the examination sequence includes attainment of a passing score on each portion of the sequence. (The passing score for each portion of the examination sequence will be the score that was deemed passing by the Board at the time the examination was administered.)

1. USMLE Step 1 or National Board Part I and USMLE Step 2 or National Board Part II; or

2. FLEX Component I.

(d) The entire examination sequence shall be passed within a seven-year period. The seven-year period begins when the first portion of the examination is passed. No passing credit shall be carried beyond the seven-year period. Candidates shall be required to repeat the entire USMLE sequence if the entire examination is not passed within seven years of the initial date of passage.

(e) No candidate shall be permitted more than five attempts to pass Step 3 of USMLE without demonstration of additional education, experience or training acceptable to the Board.

Amended by R.1985 d.224, effective May 6, 1985.
See: 17 N.J.R. 561(a), 17 N.J.R. 1131(c).
Substantially amended.
Amended by R.1989 d.532, effective October 16, 1989.
See: 21 N.J.R. 2226(b), 21 N.J.R. 3307(a).
Added alternate method for taking FLEX exam; deleted (e).
Amended by R.1994 d.522, effective October 17, 1994.
See: 26 N.J.R. 2526(a), 26 N.J.R. 4195(a).

Case Notes

There was no violation of law warranting suspension or revocation of surgeon's license. In the Matter of the Suspension or Revocation of the License of Termanini, 93 N.J.A.R.2d (BDS) 85.

13:35–3.2 Endorsement; physicians

(a) The Board shall grant without examination a license to practice medicine and surgery to any person who shall furnish proof that he or she can fulfill the requirements of law relating to applicants for admission by examination and who:

1. Has presented certification of either the National Board of Medical Examiners or Osteopathic Examiners that the applicant has attained diplomate status from either of those organizations;

2. Has been licensed in another state upon successful passage of a non-FLEX written plenary examination taken in English prior to December 31, 1972, and submits proof of active and reputable practice of medicine and surgery for 10 or more years;

3. Has been licensed in another state upon successful passage of a non-FLEX written plenary examination and presents proof of certification as a diplomate of any specialty board recognized by the American Board of Medical Specialties or the American Osteopathic Association;

4. Has taken the FLEX exam prior to January 1981, and attained a FLEX weighted average of 74.5 or better;

5. Has taken the FLEX exam between January 1981 and June 1985, and attained a weighted score of 75 or better;

6. Has taken the FLEX exam between June 1985 and December 1994 and attained a FLEX weighted average of 75 or better in each of the two components;

7. Has presented certification from either the National Board of Medical Examiners or Osteopathic Examiners that the applicant has successfully passed the first two parts of the examination administered by those entities, as well as proof of the attainment of a score of 75 or better on Component II of the FLEX or passing scores on Step 3 of the USMLE; or

8. Has taken the full USMLE examination sequence in a manner consistent with New Jersey standards, as set forth in N.J.A.C. 13:35–3.1.

Amended by R.1985 d.224, effective May 6, 1985.
See: 17 N.J.R. 561(a), 17 N.J.R. 1131(c).
Added text: "in an examination . . . a five year period."
Amended by R.1989 d.532, effective October 16, 1989.
See: 21 N.J.R. 2226(b), 21 N.J.R. 3307(a).
Deleted reference to specific statute.
Amended by R.1994 d.522, effective October 17, 1994.
See: 26 N.J.R. 2526(a), 26 N.J.R. 4195(a).

13:35–3.3 Endorsement; podiatric physicians

The Board shall grant without examination a license to practice podiatry to any person who shall furnish proof of satisfaction of the requirements of law relating to applicants for admission by examination and who shall further furnish proof of certification by the National Board of Podiatric Medical Examiners certifying that the applicant has attained a passing score in said examination.

As amended, R.1983 d.510, effective November 7, 1983.
See: 15 N.J.R. 784(a), 15 N.J.R. 1865(e).
Added (c).
Amended by R.1985 d.224, effective May 6, 1985.
See: 17 N.J.R. 561(a), 17 N.J.R. 1131(c).
Added text to (a) 4. "prior to June 1985, . . . 75 or better."
Amended by R.1989 d.532, effective October 16, 1989.
See: 21 N.J.R. 2226(b), 21 N.J.R. 3307(a).
Deleted reference to specific statute and added reference to taking test "in English".
Amended by R.1994 d.522, effective October 17, 1994.
See: 26 N.J.R. 2526(a), 26 N.J.R. 4195(a).

13:35–3.4 (Reserved)

Amended by R.1985 d.224, effective May 6, 1985.
See: 17 N.J.R. 561(a), 17 N.J.R. 1131(c).
Added text "Component II".
Amended by R.1989 d.532, effective October 16, 1989.

See: 21 N.J.R. 2226(b), 21 N.J.R. 3307(a).
Deleted reference to specific statute.
Repealed by R.1994 d.522, effective October 17, 1994.
See: 26 N.J.R. 2526(a), 26 N.J.R. 4195(a).
Section was "Examination in FLEX Component II after proof of passing the first two parts of the National Boards of Medical or Osteopathic Examiners".

13:35–3.5 Endorsement; certified nurse midwives

The Board shall grant a license to practice midwifery so long as authorized by law and registration to practice as a certified nurse midwife to such person who shall furnish proof of satisfaction of the requirements of law and N.J.A.C. 13:35–2.6 relating to applicants for admission by examination, and furthermore provide with the application certification by the American College of Nurse–Midwives, or other evidence to the Board's satisfaction, that the person has been licensed to practice midwifery and has been certified as a nurse-midwife in a sister state where such license was granted by examination with a grade average of 75 percent or over.

Amended by R.1989 d.532, effective October 16, 1989.
See: 21 N.J.R. 2226(b), 21 N.J.R. 3307(a).
Deleted reference to specific statute.

13:35–3.6 Bioanalytical laboratory director license, plenary or specialty, granted to physicians

(a) The Board shall grant to any person licensed in this State to practice medicine and surgery a plenary license to direct and supervise a registered bioanalytical laboratory, without examination, provided that:

1. Such person is certified in clinical pathology by a specialty board approved by the A.M.A. or the A.O.A.; or

2. Such person, is certified in anatomical pathology or is Board-eligible, and can demonstrate to the satisfaction of the Board, following a personal appearance, appropriate training, including completion of a residency program in pathology in a laboratory or laboratories acceptable to the Board, and not less than three full years of post graduate general bioanalytical laboratory experience in a laboratory or laboratories acceptable to the Board.

(b) The Board shall grant to any person licensed in the State to practice medicine and surgery, a specialty license in one or more of the following fields: toxicological chemistry, microbiology, cytogenetics, biochemical genetics, clinical chemistry, and such other specialities as may be hereafter authorized by law, without examination, provided that such person is certified by a national accrediting board in one of the above specialties, which board requires a doctorate degree plus experience, such as the American Board of Pathology, the American Osteopathic Board of Pathology, the American Board of Medical Microbiology, the American Board of Clinical Chemistry, the American Board of Bioanalysis and the American Society of Cytogenetics, or any other national accrediting board recognized by the Board of Medical Examiners. The specialty license shall authorize the licensee to perform and supervise only those tests which are within the scope of the specific specialty license issued by the Board.

(c) Nothing herein shall be construed to waive registration and fees required by the Bioanalytical Laboratory Director Licensing Act, as amended.

(d) It shall be deemed to be professional misconduct for a bioanalytical laboratory director to accept a request for examination of material from the human body unless the request originates from a licensed plenary physician, dentist, podiatrist, chiropractor or any other health care professional authorized by Board rule, public health officer or agency or local board of health. The reports of the scientific data obtained shall be submitted in writing bearing the original, rubber stamp or electronic signature of a licensed laboratory director and shall be addressed to individuals who originate a request pursuant to this subsection.

Amended by R.1987 d.368, effective September 8, 1987.
See: 19 N.J.R. 1179(a), 19 N.J.R. 1647(a).
Substantially amended.
Amended by R.1989 d.532, effective October 16, 1989.
See: 21 N.J.R. 2226(b), 21 N.J.R. 3307(a).
At (a)2, added requirement of completion of residency program in pathology in a laboratory.
Amended by R.1991 d.565, effective November 18, 1991.
See: 23 N.J.R. 23(a), 23 N.J.R. 3520(b).
Added (d).

13:35–3.7 Limited exemption from licensure; physicians

(a) "Exempt physician" means a person holding the academic degree of M.D. or D.O., currently employed or pending employment on a salary basis at a State or county institution on its medical staff or as a member of the teaching or scientific staff of a State agency, who has patient care responsibility and who does not conduct any type of private medical practice.

(b) "Exemption" means the exercise of discretion granted to the State Board of Medical Examiners of New Jersey pursuant to law to permit a physician unlicensed in the State of New Jersey to engage in the limited practice of medicine and surgery under the conditions set forth in said statute without being in violation of the Medical Practice Act, N.J.S.A. 45:9–1 et seq.

(c) Any physician employed or to be employed under an exemption from licensure must:

1. Satisfy all statutory and regulatory requirements preceding examination required by law;

2. Take and pass the earliest USMLE Step 3 examination given subsequent to the physician's start of employment;

3. Make application for licensure within 10 days after notification of successfully passing USMLE or cease employment.

(d) Following the physician's start of employment, the exemption will automatically terminate either on the date of the earliest USMLE Step 3 not taken or on the date the physician is notified of failure on the earliest USMLE Step 3 taken, whichever is later.

Methylphenidate
Ritalin

13:35–7.9 Prohibitions and special limitations on prescribing, administering or dispensing anabolic steroids

(a) Unless an accepted medical necessity exists, a practitioner shall not prescribe, order, dispense, administer, sell or transfer any anabolic steroid or human growth hormone, for the purpose of hormonal manipulation intended to increase muscle mass, strength or weight. Body building, muscle enhancement, or increasing muscle bulk or strength through the use of anabolic steroid or human growth hormone by a person in good health for the intended purpose of improving performance in any form of exercise, sport or game is not a valid medical purpose.

(b) A practitioner shall prepare and maintain patient medical records which accurately reflect the utilization of any substance or drug subject to this section, which records must indicate the diagnosis, the information upon which the diagnosis is based, and the purpose for which the substance or drug has been prescribed.

(c) The following list, although not exhaustive or exclusive, includes many of the generic and brand-name anabolic steroids and human growth hormones subject to this section:

Bolenone
Chlorotestosterone
(4–chlortestosterone)
Chorionic gonadotropin
Closebol
Dehydrochlormethyltestosterone
Dihydrotestosterone
(4–dihydrotesterone)
Ethylestrenol
Fluoxymesterone
Mesterolone
Methandienone
Methandriol
Methandrostenolone
Methenolone
Methyltestosterone
Mibolerone
Nandrolone
Norethandrolone
Oxandrolone
Oxymesterone
Oxymetholone
Somatrem
Somatropin
Stanolone
Stanozolol
Testolactone
Testosterone
Trebolone

13:35–7.10 Enforcement

(a) A violation of N.J.A.C. 13:35–7.1 through 7.9 may be deemed to constitute one or more of the following:

1. Distribution or dispensing of a controlled substance in an indiscriminate manner, or not in good faith, or without good cause, as prohibited by N.J.S.A. 45:1–13;

2. Gross or repeated malpractice, neglect, or incompetence in the practice of medicine, as prohibited by N.J.S.A. 45:1–21(c) and (d);

3. Professional misconduct, as prohibited by N.J.S.A. 45:1–21(e);

4. A failure to comply with the provisions of an Act or regulation administered by the Board, as prohibited by N.J.S.A. 45:1–21(h); and

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

(b) A practitioner who is in possession of information which reasonably indicates that another practitioner has prescribed, dispensed or administered any drug or drugs in a manner which jeopardizes the public health, safety or welfare or for purposes deemed to be unlawful pursuant to this subchapter shall report such information to the Board pursuant to N.J.S.A. 45:9–19.5.

SUBCHAPTER 8. HEARING AID DISPENSERS

13:35–8.1 Purpose

The rules in this subchapter are established pursuant to N.J.S.A. 45:9A–7 and govern the licensing and the practice of hearing aid dispensing in the State of New Jersey.

13:35–8.2 Definitions

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

"Act" means the New Jersey Hearing Aid Dispensers Act, N.J.S.A. 45:9A–1 et seq. as amended and/or supplemented.

"Advertisement" means any attempt, directly or indirectly, by publication, display, dissemination or circulation, in print or electronic media, which induces or attempts to induce any person to purchase or enter into an agreement to purchase a hearing aid, services and/or merchandise from a licensee.

"Board" means the State Board of Medical Examiners.

"Committee" means the Hearing Aid Dispensers Examining Committee.

"Hearing aid" means a hearing aid as defined by N.J.S.A. 45:9A–2(c) and includes the earmold system.

"Licensee" means any person who has been duly issued a license to fit and dispense hearing aids in accordance with N.J.S.A. 45:9A–1 et seq. and this subchapter.

"Place of practice" means the actual physical location of the office and business address from which the licensee conducts his or her business and where relevant books and records are maintained.

"Sponsor" means any person holding a valid license pursuant to N.J.S.A. 45:9A–1 et seq. for two or more years who is deemed qualified by the Committee to instruct, train and supervise in the requisite skills, methods and techniques so

as to insure competency in the fitting and dispensing of hearing aids and who has assumed the responsibilities for supervising and training in accordance with N.J.S.A. 45:9A–16 and the provisions of this subchapter.

"Temporary license" means a temporary license as defined by N.J.S.A. 45:9A–16(a) and the provisions of this subchapter.

"Training permit" means a temporary license as defined by N.J.S.A. 45:9A–16(b) and the provisions of this subchapter.

13:35–8.3 Training permits; issuance and practice

(a) The Committee may issue a training permit in accordance with N.J.S.A. 45:9A–16(b) and the provisions of this subchapter.

(b) The requisite training and experience referred to in N.J.S.A. 45:9A–9 and 16(b) shall be a minimum of six months continuous or interrupted training within a 24–month period ending with the deadline for making application to take the next examination. Where proof of successful completion of a course of study approved by the State Board of Education or the Department of Higher Education is presented to the Committee, the Committee may accept this training as a substitute for any portion of the training and experience requirement.

(c) No person shall commence training as a hearing aid dispenser until such time as he or she has received a training permit. The training period shall be calculated to have commenced on the date the permit is issued.

(d) Upon being issued a training permit, the trainee shall train in the same office or business location as that of his or her sponsor and in the physical presence of the sponsor. The training shall consist of the following:

1. 40 hours of training with an audiometer;

2. 160 hours of hearing aid dispensing procedures, including the taking of earmold impressions, the alteration of earmolds and hearing aids, and application and fitting techniques;

3. Reading all the books and articles relating to hearing aid dispensing specified in a list formulated by the Committee.

(e) No trainee shall be permitted to sell, fit or dispense hearing aids or to engage in the potential fitting or dispensing of hearing aids except in the same office or business location of his or her sponsor and in the physical presence of the sponsor.

(f) A trainee shall complete the training only with the sponsor designated by the Committee and only during regular business hours.

13:35–8.4 Temporary licenses; issuance

(a) The Committee may issue a temporary license in accordance with N.J.S.A. 45:9–16(a) and the provisions of this subchapter to an applicant provided he or she has not previously held a training permit or has not previously taken the licensing examination described in N.J.S.A. 45:9A–10 and N.J.A.C. 13:35–8.15. A temporary license shall not be renewed when an applicant has failed the licensing examination, except on showing of good cause (such as illness or emergency precluding the taking of the examination).

(b) Persons from another jurisdiction who are not eligible for license by endorsement under N.J.S.A. 45:9A–13 who wish to sit for the licensing examination shall demonstrate a minimum of two years of full-time independent experience in dispensing, fitting and selling hearing aids as defined by N.J.S.A. 45:9A–2(d) and N.J.A.C. 13:35–8.7. The applicant must submit documentation and verification of said experience satisfactory to the Committee, or submit verification of current licensure to practice audiology in the State of New Jersey.

(c) Applicants may be interviewed by the Committee, at which time their education, training and experience will be examined. Where an applicant's documentation of education, training and experience appears unsatisfactory, the Committee may deny a temporary license, but may permit the applicant to sit for the next licensing examination.

13:35–8.5 Temporary licenses; practice

(a) A temporary licensee shall spend a minimum of 20 days in the office or business location of his or her sponsor within any 60–day period.

(b) A temporary licensee shall not maintain an independent office or a place of business for the purpose of dispensing hearing aids, but shall at all times operate in the sponsor's office in a manner consistent with the ability of his or her sponsor to provide responsible supervision.

(c) No temporary licensee shall complete a sale of hearing aids without the physical presence of his or her sponsor, and without obtaining the sponsor's signature on the purchase agreement.

(d) Every temporary licensee shall submit a daily written report of his or her activities to his or her sponsor which shall be retained as part of the permanent records.

(e) Upon submitting an application for a license, every temporary licensee shall submit an affidavit from his or her sponsor attesting to the supervision requirements of N.J.S.A. 45:9A–1 et seq. and this subchapter.

(f) Upon request, all records shall be made available to the Committee for its review and evaluation.

13:35–8.6 Sponsors

(a) Every trainee and temporary licensee shall be supervised and trained by a sponsor who has fulfilled the requirements of N.J.S.A. 45:9A–16 and the provisions of this subchapter.

(b) In addition, a sponsor shall:

1. Supervise at any one time no more than a total of two persons who may be temporary licensees and/or permit holders;

2. Be present in the same physical location for purposes of training and supervision;

3. Not pre-sign purchase agreements;

4. Maintain a daily log for each day of supervision and training as part of the permanent record;

5. Provide an affidavit attesting to the supervision requirements of N.J.S.A. 45:9A–1 et seq. and this subchapter; and

6. Notify the Committee within five days of any termination in the sponsorship arrangement, stating the reasons therefor.

13:35–8.7 Scope of practice

(a) The practice of fitting a hearing aid as defined by N.J.S.A. 45:9A–2(d) shall include:

1. The evaluation or measurement of the power or range of human hearing utilizing customary and appropriate instrumentation available in the field;

2. The making of an ear impression;

3. Pursuant to N.J.A.C. 13:35–8.8, the fitting and dispensing of a deep ear canal hearing aid device that requires an impression taking technique involving instruments applied to the tympanic membrane;

4. The cleaning, change of design or alteration of an earmold (including tubing);

5. The change of frequency response of any instrument;

6. The selection or adaptation of a hearing aid; and

7. The interpretation and evaluation of hearing tests and the physical examination of a person's ear, where such interpretation, evaluation or examination is used in conjunction with the dispensing of a hearing aid.

(b) The practice of dispensing a hearing aid as defined by N.J.S.A. 45:9A–2(d) shall include the sale, rental or lease of hearing aids, the evaluation of the necessity for repair of a hearing aid, and the delivery after repair.

(c) The practice of fitting and dispensing a hearing aid shall include any activity which reasonably may be expected to result in the sale of a hearing aid, including but not limited to canvassing, counselling, soliciting and screening for potential hearing aid users.

(d) The terms of this subchapter are not to be construed to include activities of a licensed audiologist under N.J.S.A. 45:3B–21 et seq., unless he or she is also engaged in the dispensing of hearing aids.

(e) A license to fit and dispense hearing aids does not confer upon a licensee the right to hold oneself out to the public as an audiometrist, audiologist, otologist, otorhinolaryngologist or any such title which connotes medical or audiological competence.

Amended by R.1994 d.595, effective December 5, 1994.
See: 26 N.J.R. 1301(b), 26 N.J.R. 4780(b).

13:35–8.8 Fitting and dispensing of deep ear canal hearing aid devices

(a) A licensee may fit and dispense a deep ear canal hearing aid device that requires an impression taking technique involving instruments applied against the tympanic membrane, provided that the licensee advises the Committee, on a form provided by the Committee, of the name and address of a Board-certified ENT physician licensed in this State who has agreed to be constantly accessible through electronic communications during the impression taking process and who is available to render immediate in-person assistance when required.

(b) The licensee shall not initiate the impression taking process unless the licensee has ensured that a physician is available as required by (a) above and that the consumer has, within seven days prior to the impression taking process, received a medical evaluation from an ENT physician licensed in the State. The physician's evaluation shall determine whether a deep ear canal hearing aid device may be safely and effectively worn by the consumer and shall be documented by written medical clearance, which the licensee shall place in the consumer's patient records.

(c) The licensee shall immediately refer any consumer who develops any complications during the impression taking or fitting process to the physician identified in (a) above or to a physician selected by the consumer.

(d) The licensee shall refer the consumer, following the impression taking process, to the physician who performed the pre-impression taking evaluation or to another plenary physician licensed in the State and shall secure a written evaluation regarding the placement of the deep ear canal hearing aid device and the consumer's continuing ability to safely and effectively wear the device.

(e) The licensee shall maintain documentation of the evaluations required pursuant to subsection (b) and (d) above consistent with the provisions of N.J.A.C. 13:35–6.5(b).

New Rule, R.1994 d.595, effective December 5, 1994.
See: 26 N.J.R. 1301(b), 26 N.J.R. 4780(b).

13:35–8.9 Supervising licensee

(a) Every corporation, partnership, trust, association or unincorporated business entity operating for the purpose of fitting and dispensing hearing aids shall designate a duly licensed hearing aid dispenser to act as a supervising licensee.

(b) All such businesses shall file annually with the Committee the name and license number of the designated supervising licensee.

(c) The supervising licensee shall be responsible for assuring that all records are maintained in accordance with N.J.A.C. 13:35–8.14.

Recodified from 13:35–8.8 by R.1994 d.595, effective December 5, 1994.
See: 26 N.J.R. 1301(b), 26 N.J.R. 4780(b).

13:35–8.10 Notification to the Committee; suspension of license for failure to renew

(a) Every licensee shall notify the Committee of any change of residence or place of practice within seven days following such change.

(b) Every licensee, temporary licensee or trainee whose license or permit has expired or has been terminated shall return the license or permit to the Committee office within five days of such invalidation.

(c) Every licensee who does not respond to the computerized notice for renewal of his or her registration prior to the renewal deadline but who files a renewal application within 60 days after the expiration of the biennial registration period shall be assessed a late fee of $25.00. Thereafter, licensees who seek to renew their registrations shall be assessed a reinstatement fee of $100.00.

1. A licensee may petition for license reinstatement by making written application to the Committee.

2. The Committee may require payment for any missed registration period caused by his or her failure to renew.

3. The Committee may make reasonable inquiry to evaluate his or her qualifications for continued licensure.

(d) A licensee may retire his or her licensure by surrendering the registration for any period of time when he or she is not engaged in hearing aid dispensing. Prior to reinstatement of the license, the Committee may make reasonable inquiry to evaluate his or her qualifications for continued licensure.

Amended by R.1991 d.458, effective September 3, 1991.
See: 23 N.J.R. 1895(a), 23 N.J.R. 2651(a).
In (c), added explanation for assessment of late fee of $25.00 and reinstatement of $100.00. Deleted language regarding failure to respond to computerized notice of renewal. In heading, deleted "suspension of license for".
Recodified from 13:35–8.9 by R.1994 d.595, effective December 5, 1994.
See: 26 N.J.R. 1301(b), 26 N.J.R. 4780(b).

13:35–8.11 Equipment

(a) The equipment necessary to dispense hearing aids in accordance with N.J.S.A. 45:9A–1 et seq. and the provisions of this subchapter shall be available for use at all place(s) of practice.

(b) All electrical equipment used in testing hearing aids including the audiometer shall be inspected as often as necessary to assure accuracy and calibrated no less often than once a year. Audiometers shall be calibrated in accordance with the American National Standard Specifications for Audiometers (ANSI S3.6–1969) and the American National Standard for an Artificial Head Bone for the Calibration of Bone Vibrations (ANSI S3.13–1972). Complete records of calibration shall be maintained as part of the licensee's permanent records.

Recodified from 13:35–8.10 by R.1994 d.595, effective December 5, 1994.
See: 26 N.J.R. 1301(b), 26 N.J.R. 4780(b).

13:35–8.12 Hearing testing

(a) No hearing aid shall be sold to a person who has not first been given a hearing examination utilizing appropriate established procedures and instrumentation for the measurement of the hearing and the fitting of hearing aids, unless the dispensing consists solely of making an exact make and model replacement or spare aid of an immediately preceding hearing aid fitted within the last 12 months.

1. The appropriate hearing test which must precede any hearing aid fitting shall include at a minimum pure tone air conduction and bone conduction thresholds. In such cases, the testing shall be performed under conditions suitable to obtain valid and reliable thresholds.

2. Where indicated, SRT, MCL, TD, speech discrimination and other tests which may be necessary shall be provided by using customary and appropriate instrumentation.

(b) A significant air bone gap as referred to in N.J.S.A. 45:9A–24(f) shall be a gap of 15 db or more measured at 500 HZ, 1,000 HZ or 2,000 HZ. In the event that there is a gap at any of these frequencies, or higher, the individual shall be referred to a medical doctor. A written waiver of the individual's right to be examined by a medical doctor may be accepted.

Recodified from 13:35–8.11 by R.1994 d.595, effective December 5, 1994.
See: 26 N.J.R. 1301(b), 26 N.J.R. 4780(b).

13:35–8.13 Advertising and Solicitation

(a) Any licensee who engages in the use of advertising, stationery, business cards or signs which contain any of the following shall be deemed to have committed professional misconduct in violation of N.J.S.A. 45:1–21:

1. Any statement, claim or format which is false, fraudulent, misleading or deceptive;

2. Any misrepresentation of material fact;

3. Any omission or concealment of material fact, under circumstances where a licensee knows or should know that the omission is improper or is likely to hamper a customer from making a full and informed judgment on the basis of the information set forth;

4. Any claim that the service performed or the materials used are superior to that which is ordinarily performed or used in the business unless such claim can be documented as truthful and not misleading;

5. A technique or communication which appears to intimidate, exert undue pressure or undue influence on a customer;

6. The use of terms such as "prescription made" and "certified hearing aid audiologist" or "audiologist," unless the person to whom reference made is a licensed audiologist as defined by N.J.S.A. 45:3B–2(a);

7. The use of any term that connotes a medical competence that does not exist; or

8. The use of the name of a temporary licensee or trainee in an advertisement, sign, stationery or business card.

(b) The name, license number and title designation ("Hearing Aid Dispenser") of the supervising licensee shall appear on every advertisement, stationery or business card. The name and title designation of the supervising licensee shall appear on every sign.

(c) The responsibility for the form and content of every advertisement, sign, stationery or business card shall be jointly and severally that of each licensee who is a principal, partner or officer of the firm or entity so identified as well as the supervising licensee whose name and license number is displayed therein.

(d) It shall be professional misconduct for a licensee to visit the home or office of a potential customer for the purpose of inducing a sale of a hearing aid without having obtained the express prior consent of such potential customer.

Recodified from 13:35–8.12 by R.1994 d.595, effective December 5, 1994.
See: 26 N.J.R. 1301(b), 26 N.J.R. 4780(b).

13:35–8.14 Abandonment; excessive fees

(a) It shall be professional misconduct for a licensee to unilaterally terminate without good cause as determined by the Committee, an agreement to deliver service(s) and/or equipment to a customer without first making arrangements for the orderly continuation of said services and/or equipment delivery.