

CHAPTER 37

NEW JERSEY BOARD OF NURSING

Authority

N.J.S.A. 45:11-24 and 52:14B-5.1.

Source and Effective Date

R.2005 d.251, effective July 6, 2005.
See: 37 N.J.R. 208(a), 37 N.J.R. 2885(a).

Chapter Expiration Date

Chapter 37, New Jersey Board of Nursing, expires on July 6, 2010.

Chapter Historical Note

Chapter 37, New Jersey Board of Nursing, was adopted as R.1970 d.66, effective June 3, 1970. See: 1 N.J.R. 22(a), 2 N.J.R. 55(e).

Subchapter 13, Nurse Anesthetists, was adopted by R.1984 d.493, effective November 5, 1984. See: 16 N.J.R. 2067(a), 16 N.J.R. 3054(d).

Pursuant to Executive Order No. 66(1978), Subchapter 2, Licensure by Examination for Professional Nurses, Subchapter 3, Licensure by Examination for Practical Nurses, Subchapter 4, Foreign Nurses, Subchapter 5, Licensure by Endorsement, and Subchapter 6, Nursing Procedures, were readopted as R.1985 d.105, effective March 4, 1985. See: 16 N.J.R. 3179(a), 17 N.J.R. 607(a).

Pursuant to Executive Order No. 66(1978), Chapter 37, New Jersey Board of Nursing, was readopted by R.1990 d.122, effective January 23, 1990. See: 21 N.J.R. 3854(b), 22 N.J.R. 6631(a).

Subchapter 7, Certification of Nurse Practitioners/Clinical Nurse Specialists, was adopted as R.1994 d.212, effective May 2, 1994. See: 25 N.J.R. 2829(a), 26 N.J.R. 1876(a).

Subchapter 14, Homemaker-Home Health Aides, was adopted as R.1994 d.289, effective June 6, 1994, with N.J.A.C. 13:37-14.10, Competency examination, operative December 6, 1994. See: 25 N.J.R. 1950(a), 25 N.J.R. 3704(b), 26 N.J.R. 2293(c).

Pursuant to Executive Order No. 66(1978), Chapter 37, New Jersey Board of Nursing, was readopted by R.1995 d.88, effective January 19, 1995, and Subchapter 2, Licensure by Examination for Professional Nurses, Subchapter 3, Licensure by Examination for Practical Nurses, Subchapter 4, Licensure by Examination for Foreign Nurses, Subchapter 5, Licensure by Endorsement, and Subchapter 12, Fee Schedule, were repealed and Subchapter 2, Licensure by Examination; Professional and Practical Nurses, Subchapter 3, Practice as a Graduate Nurse, Subchapter 4, Licensure by Endorsement; Professional and Practical Nurses, and Subchapter 5, General Requirements of Licensure; License Renewal; Fee Schedule, were adopted as new rules by R.1995 d.88, effective February 21, 1995. See: 26 N.J.R. 4731(a), 27 N.J.R. 728(a).

Pursuant to Executive Order No. 66(1978), Chapter 37, New Jersey Board of Nursing, was readopted by R.2000 d.55, effective January 13, 2000, and Subchapter 3, Practice as a Graduate Nurse, was repealed by R.2000 d.55, effective February 7, 2000. See: 31 N.J.R. 3988(a), 32 N.J.R. 450(a).

Subchapter 8, Nursing Practice, was adopted by R.2004, d.82, effective February 24, 2004. See: 35 N.J.R. 502(a), 36 N.J.R. 960(a). Subchapter 9, Sexual Assault Nurse Examiner Program, was adopted by R.2004 d.114, effective March 15, 2004 (operative July 13, 2004). See: 35 N.J.R. 1195(a), 36 N.J.R. 1407(a). Subchapter 16, Massage, Bodywork and Somatic Therapy Examining Committee, was adopted by R.2004 d.432, effective November 15, 2004. See: 35 N.J.R. 4819(a), 36 N.J.R. 5133(a).

Chapter 37, New Jersey Board of Nursing, was readopted by R.2005 d.251, effective July 6, 2005. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. PROGRAMS IN NURSING EDUCATION

13:37-1.1 Eligibility for accreditation

(a) For purposes of this subchapter, the term "accreditation" shall include the accreditation of professional nursing programs and the approval of practical nursing programs.

(b) The following educational institutions are eligible for accreditation to provide nursing programs:

1. A school, division or department of nursing authorized to operate by its own charter, articles of incorporation or resolution of the governing board of its sponsoring institution; or

2. Degree granting institutions licensed by the New Jersey Commission on Higher Education and accredited by a regional accrediting agency recognized by the United States Department of Education.

(c) The following educational programs, when offered by an institution that meets the requirements of (b) above, shall be considered eligible for accreditation by the Board as nursing programs:

1. Generic doctoral degree programs: For purposes of this subchapter, a generic doctoral degree program means a program conducted by an educational institution with a program in nursing, which leads to a doctoral degree in nursing and makes a student eligible for licensure as a registered professional nurse. The educational institution shall be licensed by the New Jersey Commission on Higher Education for the purpose of granting doctoral degrees;

2. Generic masters degree programs: For purposes of this subchapter, a generic masters degree program means a program conducted by an educational institution with a program in nursing, which leads to a masters degree in nursing and makes a student eligible for licensure as a registered professional nurse. The educational institution shall be licensed by the New Jersey Commission on Higher Education for the purpose of granting masters degrees;

- 1. Application fee..... \$100.00
- 2. Initial certification fee
 - i. If paid during the first year of a biennial renewal period 100.00
 - ii. If paid during the second year of a biennial renewal period 50.00
- 3. Renewal of certification (biennial)..... 100.00
- 4. Application for certification by endorsement..... 100.00
 - Plus the applicable initial certification fee set forth in (e)2 above

(f) The following fees shall be charged by the Board in connection with certification of massage, bodywork and somatic therapists:

- 1. Application fee..... \$75.00
- 2. Initial certification fee
 - i. If paid during the first year of a biennial renewal period \$120.00
 - ii. If paid during the second year of a biennial renewal period \$60.00
- 3. Renewal of certification..... \$120.00
- 4. Late certification renewal \$50.00
 - Plus the applicable biennial certification renewal fee set forth in (f)3 above
- 5. Lapsed certificate fee..... \$100.00
 - Plus the applicable biennial certification renewal fee set forth in (f)3 above
- 6. Continuing education sponsor fee..... \$100.00
- 7. Duplicate certificate..... \$35.00
- 8. Inactive license fee (to be established by the Committee by rule)

Amended by R.1996 d.127, effective March 4, 1996.
 See: 27 N.J.R. 4496(a), 28 N.J.R. 1394(a).
 Amended by R.1999 d.49, effective February 1, 1999.
 See: 30 N.J.R. 3602(a), 31 N.J.R. 443(a).
 Rewrote the section.
 Recodified from N.J.A.C. 13:37-5.8 by R.2000 d.55, effective February 7, 2000.
 See: 31 N.J.R. 3988(a), 32 N.J.R. 450(a).
 Former N.J.A.C. 13:37-5.5, Self-reporting, repealed.
 Amended by R.2003 d.167, effective April 21, 2003.
 See: 34 N.J.R. 1317(a), 35 N.J.R. 1678(a).
 Added (d).
 Amended by R.2004 d.114, effective March 15, 2004 (operative July 13, 2004).
 See: 35 N.J.R. 1195(a), 36 N.J.R. 1407(a).
 Added (e).
 Amended by R.2004 d.432, effective November 15, 2004.
 See: 35 N.J.R. 4819(a), 36 N.J.R. 5133(a).
 Added (f).
 Amended by R.2006 d.117, effective March 20, 2006.
 See: 37 N.J.R. 4179(a), 38 N.J.R. 1461(a).
 In (a), (b) and (c), increased fees throughout; deleted (a)11.
 Amended by R.2006 d.160, effective May 1, 2006.
 See: 37 N.J.R. 1920(a), 38 N.J.R. 1840(a).
 Added new (a)2; recodified former (a)2 through (a)10 as (a)3 through (a)11.
 Administrative correction.
 See: 38 N.J.R. 2834(d).

13:37-5.6 Responsibilities of licensure

A licensee shall be held to the level of practice associated with his or her licensure, either as a registered professional nurse or licensed practical nurse, regardless of his or her employment status. For example, when a registered professional nurse is employed as a licensed practical nurse, he or she will be held to the standards of a registered professional nurse.

New Rule, R.2000 d.55, effective February 7, 2000.
 See: 31 N.J.R. 3988(a), 32 N.J.R. 450(a).

See: 33 N.J.R. 2241(a), 34 N.J.R. 2462(a).

Former N.J.A.C. 13:47-14.14, Duties and powers of the Board, recodified to N.J.A.C. 13:47-14.15.

13:37-14.15 Duties and powers of the Board

(a) The Board may deny or revoke training program approval if the program sponsor has failed to comply with N.J.S.A. 45:11-24(d)(20) to (24) or this subchapter.

(b) The Board may investigate complaints made against a program sponsor or certified homemaker-home health aide and may conduct hearings in connection with such complaints.

(c) The Board may suspend or revoke the certification of a homemaker-home health aide who has violated any provisions of N.J.S.A. 45:11-24(d)(20) to (24) or this subchapter.

(d) Any Board action for certification suspension or revocation or training program revocation shall take place only upon notice to the licensee and the opportunity for a hearing in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(e) Decisions on violations shall be a public record maintained by the Board pursuant to N.J.S.A. 45:11-24(d)(20) and (24).

Recodified from N.J.A.C. 13:37-14.14 by R.2002 d.220, effective July 15, 2002.

See: 33 N.J.R. 2241(a), 34 N.J.R. 2462(a).

SUBCHAPTER 15. (RESERVED)

SUBCHAPTER 16. MASSAGE, BODYWORK AND SOMATIC THERAPY EXAMINING COMMITTEE

13:37-16.1 Purpose and scope

(a) The purpose of this subchapter is to implement the provisions of P.L. 1999, c.19 (N.J.S.A. 45:11-53 et seq.), which created the "Massage, Bodywork and Somatic Therapy Examining Committee" under the Board of Nursing.

(b) This subchapter shall apply to all applicants who seek certification by the Committee as a massage, bodywork and somatic therapist and to all persons who are certified by the Committee as a massage, bodywork and somatic therapist in this State.

(c) This subchapter does not apply to any person who renders massage, bodywork and somatic therapy as long as the person does not use the title "massage, bodywork and somatic therapist," "registered massage, bodywork and somatic therapist," or "certified massage, bodywork and

somatic therapist," "certified massage therapist," "certified bodywork therapist," "certified somatic therapist," "massage and bodywork therapist," "registered massage and bodywork therapist," "certified massage and bodywork therapist," "certified oriental bodywork therapist," "certified Asian bodywork therapist," "certified somatic therapist," "certified bodywork therapist," or the abbreviations "MBT," "RMBT," "CMBT," "CMBST," "COBT," "CABT," "CST," "CBT," or "CMT."

(d) This subchapter does not govern the application or practice of "alternative medicines" that do not constitute massage, bodywork and somatic therapy.

13:37-16.2 Definitions

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

"Act" means the Massage, Bodywork and Somatic Therapist Certification Act, N.J.S.A. 45:11-53 et seq.

"Board" means the New Jersey Board of Nursing.

"Certificate" means the document, issued by the Committee, which authorizes a person to utilize the titles set forth in N.J.S.A. 45:11-65 and 66 and N.J.A.C. 13:37-16.9.

"Certificant" means any person who holds a certificate from the Committee as a massage, bodywork and somatic therapist.

"Committee" means the Massage, Bodywork and Somatic Therapy Examining Committee established pursuant to N.J.S.A. 45:11-56.

"Full time practice" means a person has provided a minimum of 750 hours of massage, bodywork and somatic therapies to clients during a year.

"Massage, bodywork and somatic therapies" or "massage, bodywork and somatic" means systems of activity of structured touch which include holding, applying pressure, positioning and mobilizing soft tissue of the body by manual technique and use of visual, kinesthetic, auditory and palpating skills to assess the body for purposes of applying therapeutic massage, bodywork or somatic principles. Such application may include the use of therapies such as heliotherapy or hydrotherapy, the use of moist hot and cold external applications, external application of herbal or topical preparations not classified as prescription drugs, explaining and describing myofascial movement, self-care and stress management as it relates to massage, bodywork and somatic therapies. Massage, bodywork and somatic therapy practices are designed to affect the energetic systems of the body for the purpose of promoting and maintaining the health and well-being of the client. Massage, bodywork and somatic therapies do not include the diagnosis or treatment of illness, disease, impairment or disability.

“NCBTMB” means the National Certification Board for Therapeutic Massage and Bodywork.

“NCCAOM” means the National Certification Commission for Acupuncture and Oriental Medicine.

“Part time practice” means a person has provided a minimum of 300 hours of massage, bodywork and somatic therapies to clients during a year.

13:37-16.3 Certification without education or examination

(a) Prior to November 5, 2006, a person may apply for certification without satisfying the education or examination requirements of N.J.A.C. 13:37-16.4 if the person has completed a minimum of 200 hours of education and training as provided in (b) below and the person has:

1. Practiced full-time as a massage, bodywork and somatic therapist for at least two years prior to November 15, 2004; or
2. Practiced part-time as a massage, bodywork and somatic therapist for five years prior to November 15, 2004.

(b) The 200 hours of education and training required pursuant to (a) above shall be taken in a massage, bodywork and somatic training program which is approved by the New Jersey Department of Education, a Department of Education of another state or a program which substantially meets the requirements of the New Jersey Department of Education as set forth in N.J.S.A. 18A:69-1 et seq. and N.J.A.C. 6A:18-1 and shall consist of:

1. Anatomy and physiology: 45 hours or three credits in a college or university accredited by an accrediting agency recognized by the United States Department of Education;
2. Theory and practice: 150 hours; and
3. Ethics: five hours, which shall include:
 - i. Confidentiality/privacy;
 - ii. Sexual misconduct;
 - iii. Financial misconduct;
 - iv. Boundary issues;
 - v. Conflicts of interest; and
 - vi. Appropriate referrals.

(c) The applicant shall submit to the Committee a completed application which shall include:

1. A notarized affidavit stating that the applicant has worked full-time for the past two years or part-time for the

past five years and indicating what methods of massage, bodywork and somatic therapy the applicant practiced. The affidavit shall attest to the authenticity of supporting records such as tax returns, bank statements and accounting records, which may be attached to the affidavit;

2. Evidence that the applicant has completed 200 hours of education or training in massage, bodywork and somatic therapies consistent with (b) above;

3. Proof that the applicant has current certification in Basic Life Support (BLS) from a course approved by the American Heart Association or a substantially similar course approved by the American Red Cross, the National Safety Council, Coyne First Aid, Inc., the American Safety and Health Institute or EMP International Inc.;

4. Two affidavits of good moral character; and

5. The application fee set forth in N.J.A.C. 13:37-5.5(e).

(d) The Committee shall issue a certificate of certification to an applicant who qualifies pursuant to (a), (b) and (c) above if the applicant is not disqualified for certification pursuant to the provisions of N.J.S.A. 45:1-14 et seq.

13:37-16.4 Application for certification

(a) An applicant for certification shall qualify for certification by either:

1. Completing a course of study in massage, bodywork and somatic therapies; or
2. Successfully passing either the NCBTMB or the NCCAOM examination.

(b) An applicant who qualifies for certification pursuant to (a)1 above shall submit to the Committee:

1. A completed application;
2. A transcript from a school of massage, bodywork and somatic therapies approved by the New Jersey Department of Education, a Department of Education of another state or which substantially meets the requirements of the New Jersey Department of Education as set forth in N.J.S.A. 18A:69-1 et seq. and N.J.A.C. 6A:18-1 which indicates that the applicant has completed the course of study outlined in (d) below;
3. Proof that the applicant has current certification in Basic Life Support (BLS) from a course approved by the American Heart Association or a substantially similar course approved by the American Red Cross, the National Safety Council, Coyne First Aid, Inc., the American Safety and Health Institute or EMP International Inc.;

4. Two affidavits of good moral character; and

5. The application fee set forth in N.J.A.C. 13:37-5.5(e).

(c) An applicant who qualifies for certification pursuant to (a)2 above shall submit to the Committee:

1. A completed application;

2. Proof that the applicant has successfully passed the written examination offered by the NCBTMB or the NCCAOM;

3. Proof that the applicant has current certification in Basic Life Support (BLS) from a course approved by the American Heart Association or a substantially similar course approved by the American Red Cross, the National Safety Council, Coyne First Aid, Inc., the American Safety and Health Institute or EMP International Inc.;

4. Two affidavits of good moral character; and

5. The application fee set forth in N.J.A.C. 13:37-5.5(e).

(d) A course of study in massage, bodywork and somatic therapy shall include:

1. Anatomy/Physiology/Pathophysiology: 100 hours;

2. Ethics: six hours, which includes:

i. Confidentiality/privacy;

ii. Sexual misconduct;

iii. Financial misconduct;

iv. Boundary issues;

v. Conflicts of interest; and

vi. Appropriate referrals;

3. Law: six hours, which shall include local, State and Federal law and regulations regarding the practice of massage, bodywork and somatic therapy;

4. Theory and Practice: 225 hours;

5. Supervised clinical practice: 100 hours; and

6. Electives directly related to the practice of massage, bodywork and somatic therapy: 70 hours.

(e) The Committee shall issue a certificate of certification to an applicant who qualifies pursuant to (a), (b), (c) and (d) above if the applicant is not disqualified for certification pursuant to the provisions of N.J.S.A. 45:1-14 et seq.

13:37-16.5 Certification without examination based on licensure in another state

(a) A person who is certified or licensed in another state as a massage, bodywork and somatic therapist shall be eligible for certification in this State if the educational requirements of the state in which he or she is certified or

licensed are substantially similar to the educational requirements of this State.

(b) An applicant for certification who is certified or licensed in another state shall submit to the Committee:

1. A completed application form;

2. Verification of licensure or certification in good standing in another state;

3. Proof that the applicant has current certification in Basic Life Support (BLS) from a course approved by the American Heart Association or a substantially similar course approved by the American Red Cross, the National Safety Council, Coyne First Aid, Inc., the American Safety and Health Institute or EMP International Inc.;

4. Two affidavits of good moral character;

5. A copy of the current statutes and regulations regarding massage, bodywork and somatic therapy from the state in which the applicant is certified or licensed; and

6. The application fee set forth in N.J.A.C. 13:37-5.5(e).

(c) The Committee shall review the statutes and regulations of the other state to determine if the educational requirements of that state are substantially similar to the certification requirements in this State, and the applicant otherwise meets the other requirements for certification set forth in (b) above. If the Committee finds that the educational requirements are substantially similar, and that the applicant meets the requirements for certification set forth in (b) above, it shall issue a certificate to the applicant if the applicant is not disqualified for certification pursuant to the provisions of N.J.S.A. 45:1-14 et seq.

13:37-16.6 Renewal of certification

(a) Certifications shall be renewed biennially on a form provided by the Committee. Each applicant shall attest that the continuing education requirements of N.J.A.C. 13:37-16.11 have been completed during the prior biennial period.

(b) The Committee shall send a notice of renewal to each certificant, at least 60 days prior to the expiration of the certificate. If the notice to renew is not sent at least 60 days prior to the expiration date, no monetary penalties or fines shall apply to the holder for failure to renew.

(c) The certificant shall submit the renewal application and pay the renewal fee pursuant to N.J.A.C. 13:37-5.5(e) prior to the date of expiration of the certificate. If the certificant does not renew the certificate prior to its expiration date, the certificant may renew it no later than 30 days after its expiration date by submitting a renewal application and paying a renewal fee and a late fee pursuant to N.J.A.C. 13:37-5.5(e). A certificant who fails to renew the certificate

within 30 days after the expiration date of the certificate shall be suspended without a hearing.

(d) Individuals who continue to hold themselves out as State certified massage, bodywork and somatic therapists after being suspended shall be deemed to have violated N.J.A.C. 13:37-16.9, even if no notice of suspension had been provided to the person.

(e) A person seeking reinstatement within five years following the suspension of certification shall submit the following to the Committee:

1. A complete reinstatement application;
2. Payment of all past delinquent renewal fees as set forth in N.J.A.C. 13:37-5.5(e);
3. Payment of a reinstatement fee as set forth in N.J.A.C. 13:37-5.5(e);
4. A certification verifying completion of the continuing education credits required pursuant to N.J.A.C. 13:37-16.11 for the renewal of a certificant certification; and
5. An affidavit of employment listing each job held during the period of suspension which includes the names, addresses, and telephone numbers of each employer.

(f) A person seeking reinstatement after more than five years following the suspension of a certification shall satisfy the requirements of (e) above and shall successfully complete the examination required for initial certification as set forth in N.J.A.C. 13:37-16.4(a)2.

(g) Renewal applications for all certificates shall provide the certificant with the option of either active or inactive renewal. Certificants electing to renew as inactive shall not hold themselves out to the public as State certified massage, bodywork and somatic therapists.

(h) Upon application to the Committee, the Committee may permit a certificant who has been on inactive status to return to active status provided such applicant completes the continuing education credits that are required per biennial period for each biennial period that the applicant is on inactive status and holds current certification in Basic Life Support (BLS) from a course approved by the American Heart Association or a substantially similar course approved by the American Red Cross, the National Safety Council, Coyne First Aid, Inc., the American Safety and Health Institute or EMP International Inc.

13:37-16.7 Scope of practice

(a) A certificant shall only practice those methods of massage, bodywork and somatic therapy which:

1. The certificant learned during his or her initial training as outlined in N.J.A.C. 13:37-16.3(b);

2. The certificant learned during a course offered by a provider approved by the NCBTMB or NCCAOM, or which is offered by a school which is approved by an agency recognized by the United States Department of Education or offered by a school which is approved by the New Jersey Department of Education, or an agency of another state with requirements substantially similar to the requirements of the New Jersey Department of Education as set forth in N.J.S.A. 18A:69-1 et seq. and N.J.A.C. 6A:18-1; or

3. The certificant developed and which are taught in a course offered by a provider approved by the NCBTMB or NCCAOM.

(b) Notwithstanding any training received as permitted by (a) above, a certificant shall not perform:

1. Colonic irrigations;
2. Prostate massages;
3. Vaginal or penile massages;
4. Decongestive therapy;
5. Manual lymph drainage used as part of decongestive therapy;
6. Animal therapies prohibited by the Veterinary Medical Act, N.J.S.A. 45:16-1 et seq.;
7. Any application of electrical current to the body (Transcutaneous Electronic Nerve Stimulation, TENS, machine);
8. Ultrasound therapy; and
9. Treatment or diagnosis of illness, disease, impairment or disability.

13:37-16.8 Infection control precautions

(a) Certificants shall comply with the standard precautions for infection control as set forth in this section.

(b) Certificants shall wash hands with liquid disinfectant soap and water in the following instances:

1. Before and after providing massage, bodywork and somatic therapies for each client; or
2. Immediately upon contact with blood, body fluids, secretions or any item that has touched a patient or that has been contaminated with blood, bodily fluids or secretions, not including sweat.

(c) If hand washing facilities are not available, certificants shall disinfect their hands with a bactericidal agent.

(d) Liquid soap containers shall not be refilled and shall be disposed of when empty.

(e) Clean linens and drapes or disposable coverings shall be used for each client.

(f) Soiled disposable items shall be discarded into a container lined with a plastic bag, securely fastened, and disposed daily into the regular trash disposal, unless otherwise specified by State and local health regulations.

(g) A hospital-grade disinfectant registered with the Environmental Protection Agency (EPA) shall be used to disinfect:

1. Any equipment, that comes in contact with a client, prior to the provision of massage, bodywork and somatic therapies for a client;
2. Exposed surfaces such as counter tops, tables and sinks on a daily basis;
3. Any implement or tools used during massage, bodywork and somatic therapy;
4. Face cradles and arm rests on all massage chairs and tables; and
5. All ice and heat pack equipment.

(h)-(i) (Reserved)

(j) Certificants shall store all single service materials and linens off the floor in shelves, containers, cabinets or closets.

(k) Soiled linens and draping materials shall be either commercially laundered or washed in a clothes washing machine, in hot water with detergent and at least one cup of bleach or an antibacterial agent, and dried on the high heat setting in a clothes dryer.

(l) Clean linens and dirty linens shall be stored separately.

(m) Clean linens and trash shall be stored separately.

(n) When a certificant is providing massage, bodywork and somatic therapy in a temporary location, such as a sporting event, the certificant shall sanitize all equipment pursuant to this section.

(o) Certificants shall maintain a clean environment in the massage, bodywork and somatic therapy establishment and shall ensure that the massage, bodywork and somatic therapy establishment is well-lit and ventilated. Certificants shall maintain the area where massage, bodywork and somatic therapy is being performed free of animals except as provided by law.

(p) Certificants shall provide access to a restroom for clients in the massage, bodywork and somatic therapy establishment.

13:37-16.9 Designations for certified persons, prohibitions on uncertified persons

(a) An active certificant may use the title "massage, bodywork and somatic therapist" or "certified massage,

bodywork and somatic therapist," "massage and bodywork therapist," "registered massage, bodywork and somatic therapist," "certified massage therapist," "certified oriental bodywork therapist," "certified Asian bodywork therapist," "certified bodywork therapist," "certified massage therapist" or the abbreviations "MBT," "CMBT," "RMBT," "CMBST," "COBT," "CABT," "CBT," or "CMT."

(b) No person, business entity or its employees, agents or representatives shall use the titles "massage, bodywork and somatic therapist," "registered massage, bodywork and somatic therapist," "certified massage, bodywork and somatic therapist," "certified massage therapist," "certified bodywork therapist," or "certified somatic therapist" or the abbreviations "MBT," "RMBT," "CMBT," "CMBST," "COBT," "CABT," "CST," "CBT," or "CMT," unless actively certified pursuant to the provisions of this subchapter.

(c) No person may use the term "licensed massage therapist" or the abbreviation "LMT," unless they are licensed by another state and indicate the state by which they are licensed when identifying themselves.

(d) A person who has a certification from a school, has passed a certifying examination or is certified by an agency, but is not certified by New Jersey pursuant to this subchapter, shall not hold himself or herself out as being certified.

(e) Nothing in this subchapter shall be construed to prohibit any person from rendering massage, bodywork and somatic therapy services as defined in N.J.A.C. 13:37-16.2 provided that person is not represented by the titles, abbreviations or designations referred to in (a) above.

(f) No certificant shall use a title which does not accurately reflect the certificant's education and areas of expertise.

13:37-16.10 Display of certification

(a) Certificants shall display their certificate of certification in view of clients whenever providing massage, bodywork and somatic services in their place of business or office.

(b) Whenever certificants provide massage, bodywork and somatic services outside of their place of business or office they shall display the certificate of certification while providing services.

(c) A certificant shall display either the original certificate of certification or a duplicate certificate obtained from the Committee.

13:37-16.11 Continuing education, programs, standards

(a) Upon biennial certification renewal, certificants shall attest that they have completed courses of continuing education of the types and number of credit hours specified in (b), (c), (d) and (e) below. Falsification of any information

submitted on the renewal application may require an appearance before the Committee and may subject a certificant to penalties and/or suspension or revocation of the certification pursuant to N.J.S.A. 45:1-21 through 25.

(b) Each applicant for biennial license renewal shall be required to obtain current certification in Basic Life Support (BLS) from a course approved by the Red Cross or American Heart Association, or a substantially similar course approved by the American Red Cross, the National Safety Council, Coyne First Aid, Inc., the American Safety and Health Institute or EMP International Inc., and to complete during the preceding biennial period, except as provided in (c) below, a minimum of 20 credit hours of continuing education related to the practice of massage, bodywork and somatic therapy. Courses that are related solely to the business practices of certificants shall not satisfy continuing education requirements.

(c) A certificant who is certified in the second year of a biennial renewal period shall be required to complete 10 credit hours of continuing education.

(d) A certificant who completes more than the minimum continuing education credit hours set forth above in any biennial registration period may carry no more than 20 of the additional credit hours into a succeeding biennial period.

(e) A certificant may obtain continuing education credit hours from the following:

1. Successful completion of continuing education courses or programs related to the practice of massage, bodywork and somatic therapy, approved by, or offered by providers approved by: the NCBTMB; the NCCAOM; the American Massage Therapy Association (AMTA); the American Organization for Bodywork Therapies of Asia (AOBTA); the Association of Bodywork and Massage Professionals (ABMP); and the American Nurses Credentialing Center (ANCC): one credit hour for each hour of attendance;

2. Successful completion of continuing education courses or programs related to the practice of massage, bodywork and somatic therapy provided the presentation of the courses or programs are pre-approved by the Committee pursuant to (h) below, prior to the presentation of the course: one credit hour for each hour of attendance;

3. Successful completion of continuing education courses or programs related to the practice of massage, bodywork and somatic therapy given by a school of massage, bodywork or somatic therapy that meets the requirements of N.J.A.C. 13:37-16.3(b): one credit hour for each hour of attendance;

4. Successful completion of a course, related to the practice of massage, bodywork and somatic therapy, given by a school, college or university accredited by the New Jersey Department of Education or an agency of another state with requirements substantially similar to the requirements of the New Jersey Department of Education: one credit hour for each hour of attendance;

5. Teaching a new continuing education program related to massage, bodywork and somatic therapy that is approved pursuant to (e) 1, 2 or 3 above; "new" means that the certificant has never taught or developed curriculum for that course program in any educational setting: one credit hour for each hour taught;

6. Authorship of a textbook or a chapter of a textbook directly related to the practice of massage, bodywork and somatic therapy: four credit hours for each chapter up to 20 credit hours;

7. Authorship of a published article, which has been refereed through peer review related to the practice of massage, bodywork and somatic therapy, in a medical or health related journal: four credit hours; and

8. Presenting a new seminar or lecture to professional peers, provided the seminar or lecture is at least one hour long; "new" means that the certificant has never presented the seminar or lecture before: one credit hour for each hour of presentation.

(f) The Committee should perform audits on randomly selected certificants to determine compliance with continuing education requirements. A certificant shall maintain the following documentation for a period of four years after completion of the credit hours and shall submit such documentation to the Committee upon request:

1. For attendance at programs or courses: a certificate of completion from the sponsor;

2. For publication of textbook or article: the published item, including the date of publication;

3. For developing curriculum or teaching a course or program: documentation, including a copy of the curriculum, location, date and time of course, duration of course by hour, and letter from sponsor confirming that the certificant developed or taught the course or program; and

4. For presenting a lecture or seminar: documentation including the location, date and duration of the lecture or seminar.

(g) The Committee may waive the continuing education requirements of this section on an individual basis for reasons of hardship, such as severe illness, disability, or military service.

1. A certificant seeking a waiver of the continuing education requirements shall apply to the Committee in writing at least 90 days prior to certificate renewal and set forth in specific detail the reasons for requesting the waiver. The certificant shall provide the Committee with supplemental materials that support the request for waiver.

2. A waiver of continuing education requirements granted pursuant to this subsection shall only be effective for the biennial period in which such waiver is granted. If the condition(s) which necessitated the waiver continue(s) into the next biennial period, a certificant shall apply to the Committee for the renewal of such waiver for the new biennial period.

(h) Sponsors of continuing education programs or courses seeking Committee approval shall:

1. Obtain Committee approval prior to representing that any course, seminar or program fulfills the requirements of this section;

2. Submit the following for each course or program offered, for evaluation by the Committee, at least 90 days prior to presenting the course:

i. A detailed description of course content and the hours of instruction; and

ii. A curriculum vitae of each lecturer, including specific background which qualifies the individual as a lecturer in the area of instruction;

3. Submit a fee pursuant to N.J.A.C. 13:37-5.5(e) for each submission of course or program offering(s) for which Committee approval is sought.

(i) The Committee may direct or order a certificant to complete continuing education credit hours:

1. As part of a disciplinary or remedial measure in addition to the required 20 hours of continuing education; or

2. To correct a deficiency in the certificant's continuing education requirements.

(j) Any continuing education credit hours completed by the certificant in compliance with an order or directive from the Committee as set forth in (i) above shall not be used to satisfy the minimum continuing education requirements as set forth in this section.

13:37-16.12 Sexual misconduct

(a) The purpose of this section is to identify for certifiants conduct which shall be deemed sexual misconduct.

(b) As used in this section, the following terms have the following meanings unless the context clearly indicates otherwise:

"Certificant" means any person who holds a certificate from the Committee as a massage, bodywork and somatic therapist.

"Client" means any person who is the recipient of massage, bodywork or somatic therapy.

"Client-therapist relationship" means a relationship between a certificant and a client wherein the certificant owes a continuing duty to the client to render massage, bodywork or somatic therapy services consistent with his or her training and experience.

"Sexual conduct" means the knowing touching of a person's body directly or through clothing, where the circumstances surrounding the touching would be construed by a reasonable person to be motivated by the certificant's own prurient interest or for sexual arousal or gratification.

"Sexual contact" includes, but is not limited to, the imposition of a part of the certificant's body upon a part of the client's body, sexual penetration, or the insertion or imposition of any object or any part of a certificant or client's body into or near the genital, anal or other opening of the other person's body. "Sexual contact" does not include the touching of a client's body which is necessary during the performance of a generally accepted and recognized massage, bodywork and somatic therapy procedure.

"Sexual harassment" means solicitation of any sexual act, physical advances, or verbal or non-verbal conduct that is sexual in nature, and which occurs in connection with a certificant's activities or role as a provider of massage, bodywork and somatic therapy services, and that either: is unwelcome, is offensive to a reasonable person, or creates a hostile workplace environment, and the certificant knows, should know, or is told this; or is sufficiently severe or intense to be abusive to a reasonable person in that context. "Sexual harassment" may consist of a single extreme or severe act or of multiple acts and may include, but is not limited to, conduct of a certificant with a client, co-worker, employee, student or supervisee whether or not such individual is in a subordinate position to the certificant.

"Spouse" means the husband, wife or fiancée of the certificant or an individual involved in a long-term committed relationship with the certificant. For purposes of the definition of "spouse," a long-term committed relationship means a relationship which is at least six months in duration.

(c) A certificant shall not engage in sexual contact with a client with whom he or she has a client-therapist relationship. The client-therapist relationship is ongoing for purposes of this section, unless the last massage, bodywork and somatic therapy was rendered more than three months ago.

(d) A certificant shall not seek or solicit sexual contact with a client with whom he or she has a client-therapist

relationship and shall not seek or solicit sexual contact with any person in exchange for professional services.

(e) A certificant shall not engage in any discussion of an intimate sexual nature with a person with whom the certificant has a client-therapist relationship, unless that discussion is directly related to a proper massage, bodywork and somatic therapy purpose. Such discussion shall not include disclosure by the certificant of his or her own sexual relationships.

(f) A certificant shall provide privacy and therapy conditions which prevent the exposure of the unclothed body of the client. Appropriate draping measures shall be employed to protect client privacy.

(g) A certificant shall not engage in sexual harassment either within or outside of the professional setting.

(h) A certificant shall not engage in any other activity which would lead a reasonable person to believe that the activity serves the certificant's personal prurient interests or which is for the sexual arousal, or sexual gratification of the certificant or client or which constitutes an act of sexual abuse.

(i) Violation of any of the prohibitions or directives set forth in (c) through (h) above shall constitute professional misconduct pursuant to N.J.S.A. 45:1-21(e).

(j) Nothing in this section shall be construed to prevent a certificant from rendering massage, bodywork or somatic therapy to a spouse, providing that the rendering of such massage, bodywork or somatic therapy is consistent with accepted standards of massage, bodywork or somatic therapy and that the performance of therapy is not utilized to exploit the spouse for the sexual arousal or sexual gratification of the certificant.

(k) It shall not be a defense to any action under this section that:

1. The client solicited or consented to sexual contact with the certificant; or
2. The certificant is in love with or held affection for the client.

13:37-16.13 Advertising and solicitation practices

(a) A certificant may provide information to the public by advertising in print or electronic media pursuant to this section.

(b) The following words and terms, when used in this section, shall have the following meanings unless the content clearly indicates otherwise:

"Advertisement" means any attempt directly or indirectly by publication, dissemination, or circulation in print or electronic media which directly or indirectly induces or attempts to induce any person or entity to purchase or enter into an agreement to purchase services related thereto from a certificant.

"Print media" means newspapers, magazines, periodicals, professional journals, telephone directories, circulars, handbills, flyers, billboards, signs, business cards, matchcovers and other similar items, documents or comparable publications, the content of which is disseminated by means of the printed work.

"Electronic media" means radio, television and internet.

(c) A certificant who engages in the use of advertising which contains any of the following shall be deemed to be engaged in professional misconduct:

1. Any statement, claim or format which is false, fraudulent, misleading or deceptive;
2. Any promotion of a professional service for which the certificant has not received education or training to perform; or
3. The communication of any fact, data or information which may personally identify a client without that client's signed written permission obtained in advance.

(d) The Committee may require a certificant to substantiate the truthfulness of any assertion or representation set forth in an advertisement. Failure of a certificant to provide factual substantiation to support a representation or assertion shall be deemed professional misconduct.

(e) All advertisements shall include:

1. The certificant's first name, or first initial of the first name, and the certificant's full last name;
2. The certificant's address or telephone number; and
3. The terms "N.J. Cert. #" followed by the certificant's certificate number.

(f) If an entity advertises under a professional name the entity must identify at least one certificant's first name, or first initial of the first name, and the certificant's full last name, certificant number and telephone or address.

(g) A video or audio tape of every advertisement communicated by electronic media shall be retained by the certificant and shall be made available for review upon request by the Committee or its designee. A copy of any advertisement appearing in the print media shall also be retained by the certificant and made available for review. The tapes and print media copies required to be retained by this subsection shall be kept for a minimum period of three years from the date of the last authorized publication or dissemination of the advertisement.

(h) Certificants who are on inactive status pursuant to N.J.A.C. 13:37-16.6(g) shall not hold themselves out to the public as State certified massage, bodywork and somatic therapists.

13:37-16.14 Recordkeeping

(a) Certificants shall make contemporaneous, permanent entries into client records which shall accurately reflect the massage, bodywork and somatic services rendered. Client records shall be maintained for a period of seven years from the date of the most recent entry. The client record shall contain, at a minimum:

1. Intake record;
2. The dates of each service;
3. Reasons for visits;
4. The name of the certificant who provided services if there is more than one certificant practicing at the office;
5. Modalities used and areas of focus on the body;
6. Any referral to another healthcare professional; and
7. Fees charged and paid.

(b) Corrections and/or additions may be made to a client record, provided that each change is clearly identified as such, dated and initialed by the certificant.

(c) A client record which is prepared and maintained on a personal or other computer shall be prepared and maintained as follows:

1. The client record shall contain at least two forms of identification, for example, name and record number or any other specific identifying information;
2. The entry made by the certificant shall be made contemporaneously with the service and shall contain the date of service, date of entry, and full printed name of the certificant. The certificate shall finalize or "sign" the entry by means of a confidential personal code (CPC) and include the date of the "signing";
3. The computer system shall contain an internal permanently activated date and time recordation for all entries, and shall automatically prepare a back-up copy of the file; and
4. Where more than one certificant is authorized to make entries into the computer file of any provision of massage, bodywork and somatic therapies, the certificant responsible for the practice shall assure that each such person obtains a CPC and uses the file program in the same manner.

(d) Certificants shall provide access to client records to a client or an authorized representative in accordance with the following:

1. No later than 30 days from receipt of a written request from a client or an authorized representative, the certificant shall provide a copy of the client record, and/or billing records as may be requested;
2. The certificant may charge a fee for the reproduction of records, which shall be no greater than \$1.00 per page or \$100.00 for the entire record, whichever is less; and
3. If the client or a subsequent treating health care professional is unable to read the client record, because it is illegible, the certificant, upon request, shall provide a typed transcription of the record. If the record is in a language other than English, the certificant shall also provide a translation.

(e) Certificants shall maintain the confidentiality of professional records, except that:

1. The certificant shall release client records as directed by a subpoena issued by the Board, the Committee, or the Office of the Attorney General, or by a demand for statement in writing under oath, pursuant to N.J.S.A. 45:1-18. Such records shall be originals, unless otherwise specified, and shall be unedited, with full client names; and
2. The certificant shall release information as required by statute or regulation.

(f) Where the client has requested the release of a client record or a portion thereof to a specified individual or entity, in order to protect the confidentiality of the records, the certificant shall:

1. Secure and maintain a current written authorization, bearing the signature of the client or an authorized representative;
2. Assure that the scope of the release is consistent with the request;
3. Forward the records to the attention of the specific individual identified in the request; and
4. Mark the material "Confidential."

13:37-16.15 Change in address of record or name

(a) A certificant shall notify the Committee in writing within 30 days of changes to:

1. The certificant's address of record. Service to the address of record registered with the Committee shall constitute effective notice pursuant to N.J.A.C. 13:45-3.2; or

2. The certificant's legal name. Notification of a name change shall include a copy of the marriage certificate or a court order which authorized the legal name change.

13:37-16.16 Informed consent

(a) Prior to providing an initial service to a client, a certificant shall have the client read and sign an informed consent form which includes the following statement:

“Massage, bodywork and somatic therapy practices are designed to promote and maintain the health and well-being of the client. Massage, bodywork and somatic therapies do not include the diagnosis or treatment of illness, disease, impairment or disability. If I experience any pain or discomfort during this session, I will immediately inform the therapist so that the pressure and/or strokes may be adjusted to my level of comfort. Because massage, bodywork and somatic therapy may be contraindicated due to certain medical conditions, I affirm that I have informed the therapist of all my known medical conditions and will keep the therapist updated as to any changes in my medical condition.”