

CHAPTER 44H
ORTHOTICS AND PROSTHETICS
BOARD OF EXAMINERS

Authority

N.J.S.A. 45:12B-26.

Source and Effective Date

R.2003 d.310, effective July 3, 2003.
See: 35 N.J.R. 1200(a), 35 N.J.R. 3593(b).

Chapter Expiration Date

Chapter 44H, Orthotics and Prosthetics Board of Examiners, expires on July 3, 2008.

Chapter Historical Note

Chapter 44H, Orthotics and Prosthetics Board of Examiners, was adopted as R.1998 d.79, effective February 2, 1998. See: 29 N.J.R. 310(a), 29 N.J.R. 2259(a), 30 N.J.R. 553(a).

Subchapter 4, Clinical Residency in New Jersey for Orthotics and Prosthetics, was repealed by R.2002 d.196, effective June 17, 2002. See: 33 N.J.R. 1864(a), 34 N.J.R. 2129(a).

Chapter 44H, Orthotics and Prosthetics Board of Examiners, was readopted as R.2003 d.310, effective July 3, 2003. See: Source and Effective Date. See, also, section annotation.

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**SUBCHAPTER 1. PURPOSE AND SCOPE;
DEFINITIONS**

13:44H-1.1 Purpose and scope

(a) The rules in this chapter implement the provisions of the Orthotist and Prosthetist Licensing Act (the Act), N.J.S.A. 45:12B-1 et seq. as amended by P.L. 1999, c.115, regulate the practice of orthotics and prosthetics, and offer licensure to certified pedorthists within this State.

(b) Except as set forth in (c) below, this chapter shall apply to all individuals who practice orthotics and prosthetics in New Jersey, and to those pedorthists certified by the American Board for Certification in Pedorthics who voluntarily obtain a license pursuant to N.J.S.A. 45:12B-18(d) and N.J.A.C. 13:44H-3.2.

(c) This chapter shall not apply to:

1. Any person who is licensed to practice medicine and surgery, dentistry or podiatry in this State;

2. A student, fellow or trainee in orthotics or prosthetics who is pursuing a course of study at a college or university accredited by an accrediting agency recognized by the United States Department of Education, or working in a training center or research facility which has a written affiliation agreement with a college or university accredited by an accrediting agency recognized by the United States Department of Education, to the extent that the activities and services performed are a part of the course of study under the supervision of a licensee pursuant to N.J.A.C. 13:44H-3.6;

3. A student who, pursuant to N.J.A.C. 13:44H-3.5, is training to be a licensed prosthetist assistant, a licensed orthotist assistant or a licensed prosthetist-orthotist assistant to the extent that the activities and services are a part of the course of study under the supervision of a licensee pursuant to N.J.A.C. 13:44H-3.6;

4. A licensed occupational therapist or licensed physical therapist when designing, modifying, fabricating or applying upper extremity adaptive equipment, finger splints and hand splints;

5. A licensed physical therapist in providing corsets and soft cervical collars;

6. A licensed physical therapist in providing lower extremity orthotics made of fabric, canvas, neoprene or elastic with or without metal or plastic insertable or removable hinges or stays;

7. A licensed physical therapist in providing any lower extremity, low temperature splint or ankle foot orthotic when such bracing is for the evaluation or treatment of an adult patient for less than three months or for a pediatric patient for less than one year without the necessity to consult with a licensed orthotist and when the braces do not become the patient's property;

8. A licensed physical therapist in providing any off-the-shelf ankle foot orthosis made of fabric, canvas, neoprene or elastic and any low temperature posterior leaf ankle foot orthosis;

9. A licensed physical therapist in providing any high temperature posterior leaf ankle foot orthosis when the licensed physical therapist is conducting research at a college or university accredited by a regional or national accrediting agency recognized by the United States Department of Education;

10. A licensed physical therapist in managing lower extremity prosthetic volumetric changes, provided that the physical therapist consults with the dispensing prosthetist prior to implementing any non-reversible changes; and

11. A certified pedorthist whose activities are limited to the practice of orthotics and prosthetics for the ankle and below.

Amended by R.2002 d.196, effective June 17, 2002.

See: 33 N.J.R. 1864(a), 34 N.J.R. 2129(a).

In (a), inserted "as amended by P.L. 1999, c.115," preceding "regulate"; rewrote (c).

13:44H-1.2 Definitions

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

"Ankle" means the proximal aspect of the medial malleoli.

"Brace" means any device which supports the trunk or limbs, limits or assists motion in any direction, or immobilizes, stabilizes and protects joints, trunk, head and neck.

"Established facility" means a facility that:

1. Is primarily devoted to the provision of orthotic or prosthetic devices;

2. Provides a dedicated area for the proper care, treatment and dignity of clients receiving such devices; such area shall be large enough to allow for extended and continuous ambulation; and

3. Is appropriately equipped to design, cast and measure, provide, service, adjust, maintain and replace (when necessary) orthotic and prosthetic devices.

"Orthotic appliance or orthosis" means a brace or support but does not include fabric and elastic supports, corsets, arch supports, trusses, elastic hose, canes, crutches, cervical collars, dental appliances or other similar devices carried in stock and sold by drug stores, department stores, corset shops or surgical supply facilities.

"Orthotist" means any person who practices orthotics and who is representing himself or herself to the public by title or by description of services, incorporating such terms as "orthotics," "orthotists," "orthotic" or "L.O." or any similar title or description of services, provided that the individual has met the eligibility requirements contained in N.J.S.A. 45:12B-11 and N.J.A.C. 13:44H-3.1, and has been licensed pursuant to N.J.S.A. 45:12B-1 et seq. and this chapter.

"Orthotist assistant" means a person licensed pursuant to the provisions of P.L. 1991, c.512 and N.J.A.C. 13:44H-3.5, and who assists, and practices under the supervision of, a licensed orthotist.

"Pedorthist" means a person who is certified by the American Board for Certification in Pedorthics, or its successor, in the design, manufacture, fit and modification of shoes and related foot appliances from the ankle and below as prescribed by a licensed doctor of medicine or podiatry for the amelioration of painful or disabling conditions of the foot.

See: 33 N.J.R. 1864(a), 34 N.J.R. 2129(a).
 Section was "Failure of examination; when retaking permitted".

13:44H-3.7 Licensing and biennial renewal

(a) Once the Board has determined that an applicant should be issued a license, it shall send notification to the applicant that he or she should send the Board the licensing fee pursuant to N.J.A.C. 13:44H-10.1(a)3, for orthotists, prosthetists and prosthetist-orthotists, or N.J.A.C. 13:44H-10.1(a)4, for orthotist assistants, prosthetist assistants or prosthetist-orthotist assistants. The Board shall send a license to the applicant upon receipt of this fee.

(b) Licenses shall be valid for two years. Prior to the expiration of a license, the Board shall send out notification to licensees that the license will expire unless renewed. The Board shall renew the license upon receipt of a completed renewal form and the renewal fee pursuant to N.J.A.C. 13:44H-10.1(a)5, for orthotists, prosthetists and prosthetist-orthotists, or N.J.A.C. 13:44H-10.2(a)6, for orthotist assistants, prosthetist assistants or prosthetist-orthotist assistants.

New Rule, R.2002 d.196, effective June 17, 2002.
 See: 33 N.J.R. 1864(a), 34 N.J.R. 2129(a).

SUBCHAPTER 4. (RESERVED)

SUBCHAPTER 5. ORTHOTIC AND PROSTHETIC ESTABLISHED FACILITY REQUIREMENTS

13:44H-5.1 Minimum requirement

(a) Every established orthotic facility which utilizes centralized fabrication services shall, at a minimum, be equipped with the following:

1. A Trautman router (or similar);
2. A machinist vise;
3. A drill press;
4. Compressed air;
5. A sewing machine;
6. A plaster modification area;
7. Plaster tools;
8. A work bench;
9. A sanding machine;
10. A band saw or alternate cutting device;
11. A heat gun;
12. A cast cutter;
13. Bending irons;
14. One full length mirror; and
15. One set of parallel bars at least seven feet long.

(b) Every established orthotic facility which engages in on-site fabrication shall, in addition to the equipment listed in (a) above, be equipped with the following:

1. An oven;
2. Exhaust equipment;
3. A molding station;
4. A vacuum pump;
5. Joint alignment tools;
6. A shoe jack; and
7. A sandblaster or polishing equipment.

(c) Every established prosthetic facility which utilizes centralized fabrication services shall, in addition to the equipment listed in (a) above, be equipped with the following:

1. A limb vise; and
2. A sanding disc.

(d) Every established prosthetic facility which engages in on-site fabrication shall, in addition to the equipment listed in (a) above, be equipped with the following:

1. A limb transfer jig;
2. An oven;
3. A molding station;
4. A vacuum pump;
5. Compressed air;
6. A limb vise;
7. A sanding disc; and
8. Exhaust equipment.

(e) Every established pedorthic facility, wherein a licensed pedorthist engages in the practice of pedorthics, shall meet the facility accreditation requirements set forth by the American Board for Certification in Pedorthics ("BCP").

SUBCHAPTER 6. GENERAL OBLIGATIONS OF LICENSEES AND CERTIFICATE HOLDERS; UNLICENSED PRACTICE

13:44H-6.1 Notification of change of address; service of process; duty to cooperate

(a) Every licensee shall notify the Board of the licensee's office address. Each licensee shall notify the Board, in writing, within 30 days of any change in the office address on file with the Board.

(b) Service of an administrative complaint or other process initiated by the Board, the Attorney General or the Division of Consumer Affairs at the licensed practitioner's address on file with the Board shall be deemed adequate notice for the commencement of any inquiry or disciplinary proceeding against the licensed practitioner.

(c) Every licensee shall cooperate in any inquiry, inspection or investigation conducted by or on behalf of the Board or the Director pursuant to N.J.A.C. 13:45C.

13:44H-6.2 Unlicensed practice of prosthetics, orthotics and prosthetics-orthotics

(a) The following acts or practices shall be deemed to be the unlicensed practice of prosthetics, orthotics and prosthetics-orthotics:

1. Offering or rendering orthotics or prosthetics services by any person other than a licensed orthotist, licensed prosthetist, licensed prosthetist-orthotist, certified pedorthist, pedorthist licensed to the practice of orthotics and prosthetics on the ankle and below, licensed orthotist assistant, a licensed prosthetist, a licensed prosthetist-orthotist assistant or by a licensed professional acting within his or her scope of practice and exempt pursuant to N.J.A.C. 13:44H-1.1(c).

2. The use by any person other than a licensed orthotist, prosthetist or prosthetist-orthotist of:

i. Any title or designation which includes the words orthotist, prosthetist or prosthetist-orthotist which may mislead the public; or

ii. The abbreviations L.O., L.P., L.P.O. or any similar abbreviations.

(b) A licensee shall use only the title or designation corresponding to his or her license.

Amended by R.2002 d.196, effective June 17, 2002.

See: 33 N.J.R. 1864(a), 34 N.J.R. 2129(a).

In (a)1, inserted “, licensed orthotist assistant, a licensed prosthetist, a licensed prosthetist-orthotist assistant” preceding “or by a licensed professional” and amended N.J.A.C. reference.

1. “ORTHOTISTS, PROSTHETISTS, PROSTHETIST-ORTHOTISTS, ORTHOTIST ASSISTANTS, PROSTHETIST ASSISTANTS AND PROSTHETIST-ORTHOTIST ASSISTANTS ARE LICENSED BY THE ORTHOTICS AND PROSTHETICS BOARD OF EXAMINERS, AN AGENCY OF THE DIVISION OF CONSUMER AFFAIRS. CERTIFIED PEDORTHISTS MAY OBTAIN VOLUNTARY LICENSURE TO PRACTICE ORTHOTICS AND PROSTHETICS TO THE ANKLE AND BELOW. ANY MEMBER OF THE PUBLIC MAY NOTIFY THE BOARD OF ANY COMPLAINT RELATIVE TO THE PRACTICE CONDUCTED BY AN ORTHOTIST, PROSTHETIST, PROSTHETIST-ORTHOTIST, ORTHOTIST ASSISTANT, PROSTHETIST ASSISTANT, PROSTHETIST-ORTHOTIST ASSISTANT OR A CERTIFIED PEDORTHIST LICENSED BY THE ORTHOTICS AND PROSTHETICS BOARD OF EXAMINERS. THE BOARD’S ADDRESS IS:

NEW JERSEY DIVISION OF CONSUMER AFFAIRS
ORTHOTICS AND PROSTHETICS BOARD OF EXAMINERS
PO BOX 45034
124 HALSEY STREET
NEWARK, NEW JERSEY 07101“

2. “INFORMATION ON PROFESSIONAL FEES IS AVAILABLE UPON REQUEST FROM THIS OFFICE.”

Amended by R.2002 d.196, effective June 17, 2002.

See: 33 N.J.R. 1864(a), 34 N.J.R. 2129(a).

In (a), inserted “, licensed orthotist assistants, licensed prosthetist assistants, licensed prosthetist-orthotist assistants” preceding “and pedorthists” and “to provide actual notice to the patient” following “patients” in the introductory paragraph and inserted references to orthotist assistants, prosthetist assistants and prosthetist-orthotist assistants throughout in 1.

**SUBCHAPTER 7. BUSINESS PRACTICES;
PROFESSIONAL CONDUCT**

13:44H-7.1 Display of notice of licensure; notification of availability of fee information

(a) All licensed orthotists, prosthetists, prosthetist-orthotist, licensed orthotist assistants, licensed prosthetist assistants, licensed prosthetist-orthotist assistants and pedorthists licensed to practice orthotics and prosthetics to the ankle and below shall ensure that the following notices are prominently displayed in a waiting room or other area where they will be visible to patients to provide actual notice to the patient:

13:44H-7.2 Excessive fees

(a) A licensee shall not charge an excessive fee for services. Factors which the Board may consider in determining whether a fee is excessive include the following:

(f) Where an advertiser directly or indirectly provides compensation to a testimonial-giver, the fact of such compensation shall be conspicuously disclosed in a legible and readable manner in any advertisement in the following language or its substantial equivalent:

“COMPENSATION HAS BEEN PROVIDED FOR THIS TESTIMONIAL.”

13:44H-8.8 Retention of advertisements

(a) A licensee shall retain, for a period of three years from the date of initial publication or dissemination, a copy of every advertisement appearing in print media as well as a video or audio tape of every advertisement communicated by telephonic or electronic media. The orthotist, prosthetist, prosthetist-orthotist, orthotist assistant, prosthetist assistant, prosthetist-orthotist assistant or pedorthist shall indicate on all advertisements in his or her possession the date, name and place of publication.

(b) Documentation relating to the use of testimonials shall be retained for a period of three years from the date of last use of the testimonial. Documentation shall include, but not be limited to:

1. The name, address and telephone number of the testimonial-giver;
2. The type and amount or value of compensation; and
3. The notarized statement and release required pursuant to N.J.A.C. 13:44H-8.7(b).

Amended by R.2002 d.196, effective June 17, 2002.
See: 33 N.J.R. 1864(a), 34 N.J.R. 2129(a).

In (a), inserted “orthotist assistant, prosthetist assistant, prosthetist-orthotist assistant” following “prosthetist-orthotist” and “, name” following “date”.

SUBCHAPTER 9. CLIENT RECORDS

13:44H-9.1 Preparation and maintenance of client records

(a) A licensee shall prepare and maintain for each client a contemporaneous, permanent client record which accurately reflects the client contact with the orthotist, prosthetist, prosthetist-orthotist, orthotist assistant, prosthetist assistant, prosthetist-orthotist assistant or pedorthist, whether in an office, hospital or other evaluation or consultation setting.

(b) A licensee shall include at least the following information in the client record:

1. The client name (on each page of the record), address and telephone number;

2. The location and dates of all treatment, evaluation or consultation settings;
3. The identity of each provider of treatment, evaluation or consultation and the supervisor, if any;
4. The presenting situation;
5. The name and address of the referring physician, podiatrist or dentist;
6. All prescriptions relevant to the client;
7. A treatment or service plan;
8. Contemporaneous progress notes for each session;
9. Fees charged and paid unless a separate financial record is kept; and
10. The name of the manufacturer of any device not made by the licensee.

(c) The licensee shall periodically review and update the treatment or service plan.

(d) The licensee shall retain the permanent client record for at least seven years from the date of last entry, unless otherwise provided by law.

(e) All licensees shall comply with this section notwithstanding an employer’s recordkeeping requirements.

Amended by R.2002 d.196, effective June 17, 2002.
See: 33 N.J.R. 1864(a), 34 N.J.R. 2129(a).

In (a), inserted “, orthotist assistant, prosthetist assistant, prosthetist-orthotist assistant” following “prosthetist-orthotist”.

13:44H-9.2 Release of client record

(a) A licensee shall provide the client record within 15 days of the request of, and directly to, the client, the client’s guardian or any other party designated by the client or the client’s guardian.

(b) A licensee may require that a record request be made in writing and 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. (If the record requested is less than 10 pages, the licensee may charge up to \$10.00 to cover postage and the miscellaneous costs associated with retrieval of the record.)

(c) A licensee shall not charge a fee for completion of health insurance claim forms.

(d) A licensee may charge a reasonable fee for completion of reports required for third-party reimbursement of client treatment expenses or for use in judicial proceedings.

(e) When a report is needed to enable a client to receive ongoing care by another practitioner or for use in judicial proceedings, a licensee shall not require advance payment as a condition for releasing the report; except that a licensee may require advance payment for release of a report pre-

pared by the licensee, for use by the licensee as an expert witness on behalf of the client.

SUBCHAPTER 10. FEES

13:44H-10.1 Fee schedule

(a) The following fees shall be charged by the Orthotics and Prosthetics Board of Examiners:

- 1. Application fee \$125.00
- 2. Examination fee \$200.00
(plus cost charged by examination administrator)
- 3. Initial license fee for orthotist, prosthetist and prosthetist-orthotist:
 - i. If paid during the first year of the biennial renewal period \$350.00
 - ii. If paid during the second year of the biennial renewal period \$175.00

- 4. Initial license fee for orthotist assistant, prosthetist assistant and prosthetist-orthotist assistant:
 - i. If paid during the first year of the biennial renewal period \$150.00
 - ii. If paid during the second year of the biennial renewal period \$ 75.00
- 5. Biennial license renewal for orthotist, prosthetist and prosthetics-orthotist \$350.00
- 6. Biennial license renewal orthotist assistant, prosthetist assistant and prosthetist-orthotist assistant \$150.00
- 7. Temporary license \$175.00
(one-year expiration)
- 8. Late renewal \$100.00
- 9. Reinstatement fee \$150.00
- 10. Written verification of licensure \$ 25.00
- 11. Duplicate or replacement of renewal certificate \$ 25.00
- 12. Duplicate or replacement of wall license \$ 40.00

Amended by R.2002 d.196, effective June 17, 2002.
See: 33 N.J.R. 1864(a), 34 N.J.R. 2129(a).
Rewrote the section.