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### SUBCHAPTER 1. MEDICAL SCHOOLS, COLLEGES, EXTERNSHIPS AND CLERKSHIPS

#### 13:35-1.1 Observership program

(a) "Observer" shall mean an undergraduate medical student of an allopathic or osteopathic school accredited either by the Liaison Committee on Medical Education or the American Osteopathic Association or a foreign medical school listed in the World Health Organization Directory and whose graduates are accepted by the New Jersey Board of Medical Examiners as eligible to sit for the licensure examination. Observerships are limited to the student's vacation period in an extra-curricular professional experience as delineated in this section.

(b) An observership program shall be limited to:

1. Observation of operative procedures;
2. The taking of histories;

3. The performance of physical examinations;
4. The performance of non-invasive procedures under the direct supervision of and in the immediate presence of the supervising licensed physician; and
5. The participation in patient rounds and other organized patient care activities of the supervising physician.

(c) At no time shall the observer be delegated any responsibility for the care of the patient, the patient's diagnosis or any aspect of the patient's treatment, including the prescription of medication for the patient. An observer shall make no entries on the patient's permanent record.

(d) The observer shall at all times of patient contact wear an identifying badge inscribed "Medical Student."

(e) Prior to commencing participation in an observership program, the student shall have obtained written permission from the Chief of Staff and the Administration of the participating hospital and shall retain such letter.

(f) Under no circumstances shall the performance of any of the duties listed in (b) above by an observer, while engaged in such a program, be construed as the practice of medicine.

(g) The time spent in an observership program shall not be considered as part of or credited toward fulfillment of any statutory academic or clinical requirements for licensure.

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

See: 31 N.J.R. 1742(a), 31 N.J.R. 3117(a).

Substituted "references to observers" for "references to externs" and substituted "references to observerships" for "references to externships" throughout; in (a), substituted "delineated in this section" for "hereafter delineated" at the end; and in (f), substituted "duties listed in (b) above" for "above duties" following "any of the".

#### Case Notes

Regulations relied upon by the State, such as N.J.A.C. 8:39-11.2, to establish a standard of care were never part of the Board of Medical Examiners regulations, and were never administered by the Board of Medical Examiners; in view of this, the physician licensee's failure to comply with these regulations did not constitute professional misconduct in violation of N.J.S.A. 45:1-21(e) and/or repeated acts of negligence in violation of N.J.S.A. 45:1-21(d). In re Suspension or Revocation of License of Anama, OAL Dkt. No. BDS 2628-02, 2007 N.J. AGEN LEXIS 394, Initial Decision (June 11, 2007).

#### 13:35-1.2 Fifth Pathway

(a) The Board shall accept application for licensure from an applicant who does not meet the usual statutory prerequisites for educational background, in the following circumstances to be known as the Fifth Pathway:

1. The applicant has completed the entirety of the academic curriculum in residence at a medical school in a foreign country located outside of the United States, Puerto Rico or Canada or in a school-authorized clinical training program;

2. The medical school was approved throughout the applicant's period of education by the government of the

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

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

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

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

(b) The applicant meeting the requirements in (a) shall thereafter be deemed by the Board to be eligible to enter a

graduate training program approved by the Accreditation Council for Graduate Medical Education (ACGME) or the American Osteopathic Association (AOA). Upon satisfactory completion of the three years of post-graduate training required by N.J.A.C. 13:35-3.11, the applicant may apply for licensure in this State.

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

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

Rule deleted and replaced with new text.

### **13:35-1.3 (Reserved)**

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

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

Rule deleted and replaced with new text.

Recodified to N.J.A.C. 13:35-3.15 by R.2008 d.100, effective April 21, 2008.

See: 39 N.J.R. 3876(a), 40 N.J.R. 2115(a).

Section was "Postgraduate training".

### **Case Notes**

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

10. Not be a party to a contract, whether written or verbal, with the lessor of the equipment, its technicians or any other agent, whereby the lessor or agent would recommend or provide a consultant practitioner to read or overread and interpret the test data;

11. (Reserved);

12. Be fully responsible for the reasonableness of the fee charged.

(r) Consistent with N.J.A.C. 13:35-6.17(c), a consulting practitioner shall not request or receive, offer or pay, directly or indirectly, any form of remuneration from the practitioner/professional office for accepting a referral of a patient.

1. A referring practitioner shall not request or receive, offer or pay, directly or indirectly, any form of remuneration from the consulting practitioner for providing a referral.

2. A practitioner shall not request or receive any form of remuneration from the company providing testing equipment or technicians to that practitioner or to his or her office, whether in the form of a shared fee, or for "rent" (whether on premises or off-premises) or for "administrative services" or under any other description.

3. A referring or consulting practitioner shall not be deemed an independent contractor to anyone associated with the testing of a specific patient; thus, the bill, if any, for any component of the testing shall be submitted solely in the name of the referring or consulting practitioner, as applicable.

(s) A practitioner who transmits diagnostic test data/records, other than bioanalytical specimens to a clinical laboratory under the jurisdiction of the Department of Health and Senior Services pursuant to N.J.S.A. 45:9-42.27 et seq., for interpretation by a consultant who is not a licensee of the Board shall assure that advance written consent for such interpretation service by such consultant has been obtained from the patient/third party payor. Utilization of the provisions in this subsection shall be consistent with the requirements of (n) above. This subsection is intended to be available for special, occasional or emergent consultations only. A consultant or consultant entity rendering medical services interpreting diagnostic test data/records, whether in or out of this State, by means of any media, for 10 or more patients under treatment in New Jersey on an annual basis is deemed to be rendering medical services in this State and requires licensure by the Board. However, the exchange of information, which may include patient specific information, between a licensee and a physician licensed in another state, a possession of the United States or the District of Columbia shall not be deemed to be rendering medical services.

New Rule, R.1999 d.70, effective March 1, 1999.

See: 30 N.J.R. 3751(a), 31 N.J.R. 659(a).

Amended by R.2001 d.43, effective February 20, 2001.

See: 32 N.J.R. 19(a), 33 N.J.R. 670(a).

In (a), added "Diagnostic office", "Screening office", and "Screening test"; added (d) through (s).

Administrative correction.

See: 33 N.J.R. 1203(a).

Amended by R.2005 d.120, effective April 18, 2005.

See: 36 N.J.R. 4633(a), 37 N.J.R. 1203(a).

Rewrote the section.

#### 13:35-2.7 (Reserved)

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

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

Deleted qualification of 2 years Obstetrical clinical experience.

Repealed by R.1992 d.332, effective September 8, 1992.

See: 23 N.J.R. 3682(a), 24 N.J.R. 3094(a).

Section was "Qualifications".

#### 13:35-2.8 (Reserved)

Repealed by R.1992 d.332, effective September 8, 1992.

See: 23 N.J.R. 3682(a), 24 N.J.R. 3094(a).

Section was "Minimum conditions of practice".

#### 13:35-2.9 (Reserved)

Repealed by R.1992 d.332, effective September 8, 1992.

See: 23 N.J.R. 3682(a), 24 N.J.R. 3094(a).

Section was "Minimum standards for C.N.M. and lay midwife practice during prenatal stages".

#### 13:35-2.10 (Reserved)

Repealed by R.1992 d.332, effective September 8, 1992.

See: 23 N.J.R. 3682(a), 24 N.J.R. 3094(a).

Section was "Management by a physician C.N.M. team for high-risk patients".

#### 13:35-2.11 (Reserved)

Repealed by R.1992 d.332, effective September 8, 1992.

See: 23 N.J.R. 3682(a), 24 N.J.R. 3094(a).

Section was "Intrapartum management".

#### 13:35-2.12 (Reserved)

Repealed by R.1992 d.332, effective September 8, 1992.

See: 23 N.J.R. 3682(a), 24 N.J.R. 3094(a).

Section was "Postpartum and other care".

#### 13:35-2.13 Limited privileges and conditions of practice permitted for a graduate physician pending licensure

(a) Persons who are graduates of medical schools recognized by the Board may commence a period of supervised post-graduate training in a licensed hospital with an Accreditation Council on Graduate Medical Education (ACGME) or American Osteopathic Association (AOA) approved residency training program in this State immediately upon graduation. A training period commencing prior to the start of a formal ACGME or AOA approved post-graduate year term shall not exceed six months and shall be documented in the hospital record.

(b) Persons who are graduates of foreign medical schools recognized by the Board but who are not yet deemed eligible for licensure in this State because of the requirements of N.J.S.A. 45:9-8 and N.J.A.C. 13:35-3.11 may sit for the USMLE Step 3 upon completion of one year of

approved post-graduate training and satisfaction of all other requirements of N.J.S.A. 45:9-1 et seq. and N.J.A.C. 13:35-3.1.

R.1984 d.138, effective April 16, 1984.  
See: 16 N.J.R. 216(a), 16 N.J.R. 920(a).  
Amended by R.1994 d.522, effective October 17, 1994.  
See: 26 N.J.R. 2526(a), 26 N.J.R. 4195(a).

### 13:35-2.14 (Reserved)

R.1984 d.245, effective June 18, 1984.  
See: 16 N.J.R. 685(a), 16 N.J.R. 1612(a).  
Repealed by R.1992 d.332, effective September 8, 1992.  
See: 23 N.J.R. 3682(a), 24 N.J.R. 3094(a).

Old section "Reserved" recodified to 13:35-2A.10. Section was "Limited privileges and conditions of practice permitted for a graduate nurse midwife pending results of certifying examination and licensure".

## SUBCHAPTER 2A. LIMITED LICENSES: MIDWIFERY

### 13:35-2A.1 Purpose and scope

(a) The rules in this subchapter are intended to protect the health and safety of the public through licensure of midwives, pursuant to N.J.S.A. 45:10-1 et seq.

(b) This subchapter prescribes standards for midwifery licensure and for the renewal, suspension or revocation of that licensure.

Repeal and New Rule, R.2003 d.210, effective May 19, 2003.  
See: 34 N.J.R. 3433(a), 35 N.J.R. 2227(a).  
Section was "Certified Nurse Midwife practice".  
Amended by R.2005 d.120, effective April 18, 2005.  
See: 36 N.J.R. 4633(a), 37 N.J.R. 1203(a).

### 13:35-2A.2 Definitions

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

"Affiliated physician" means a person who holds a plenary license to practice medicine and surgery in New Jersey, issued by the Board, who adheres to clinical guidelines with a licensed midwife.

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

"Certified midwife (CM)" means a person who is not a registered nurse and who holds certification from the American College of Nurse Midwives Certification Council (ACC) or its successors.

"Certified nurse midwife (CNM)" means a person who is a registered nurse and who holds certification from the American College of Nurse Midwives (ACNM) or the ACC or their successors.

"Certified professional midwife (CPM)" means a person who holds certification from the North American Registry of Midwives (NARM) or its successor.

"Clinical guidelines" means a written agreement, signed by both the licensee and the affiliated physician, which sets forth patterns of care and which provides for consultation, collaboration, management and referral as indicated by the health status of a woman receiving care from a licensee.

"Committee" means the Midwife Liaison Committee of the New Jersey State Board of Medical Examiners.

"Licensee" means any person who holds a license from the Board to practice as a midwife.

"Midwife" means a person licensed by the Board as a certified midwife (CM), certified nurse midwife (CNM) or certified professional midwife (CPM).

Repeal and New Rule, R.2003 d.210, effective May 19, 2003.  
See: 34 N.J.R. 3433(a), 35 N.J.R. 2227(a).  
Section was "Qualifications".  
Amended by R.2005 d.120, effective April 18, 2005.  
See: 36 N.J.R. 4633(a), 37 N.J.R. 1203(a).  
Added "Midwife".

### 13:35-2A.3 Midwifery Liaison Committee

(a) The Midwifery Liaison Committee shall consist of eight members who shall serve as consultants to the Board and who shall be appointed by the Board. The Committee shall include at least one certified nurse midwife, at least one certified professional midwife, at least one certified midwife, and two other midwives, all of whom shall hold licensure from the Board. The Committee shall also include one certified nurse midwife who is a member of the Board and two physicians, one of whom shall be a member of the Board of Medical Examiners and one of whom shall be Board-certified by either the American Board of Obstetrics and Gynecology, the American Osteopathic Board of Obstetrics and Gynecology or any other certification organization with comparable standards.

(b) The Board shall appoint each member for a term of three years. Committee members may be reappointed.

(c) Functions of the Committee shall include the following:

1. Advising and assisting the Board in the evaluation of applicants for midwifery licensure and certified nurse midwife applicants for prescriptive authorization;
2. Investigating complaints against licensees and unlawful conduct by licensees;
3. Approving professional education programs; and
4. Advising and assisting the Board in drafting and reviewing rules to govern midwifery practice.

New Rule, R.2003 d.210, effective May 19, 2003.

See: 34 N.J.R. 3433(a), 35 N.J.R. 2227(a).

Former N.J.A.C. 13:35-2A.3, Minimum conditions of practice, recodified to N.J.A.C. 13:35-2A.6.

#### 13:35-2A.4 Application for licensure

(a) An applicant for licensure as a midwife shall submit to the Committee:

1. A completed application for licensure requesting information regarding the applicant's address, telephone number, date of birth and social security number;
2. Proof that the applicant is 18 years old or older;
3. An official transcript from a midwifery program, accredited by the American College of Nurse-Midwives (ACNM) or the Midwifery Education Accreditation Council (MEAC), or their successors;
4. A notarized copy of Certification from either ACNM, ACC, NARM, or their successors;
5. The applicant's curriculum vitae;
6. Three photographs of the applicant, signed, dated and notarized; and
7. The application fee pursuant to N.J.A.C. 13:35-6.13.

(b) Once the applicant has been approved, he or she shall submit the initial license fee pursuant to N.J.A.C. 13:35-6.13.

Repeal and New Rule, R.2003 d.210, effective May 19, 2003.

See: 34 N.J.R. 3433(a), 35 N.J.R. 2227(a).

Section was "Normal antepartum management".

Amended by R.2005 d.120, effective April 18, 2005.

See: 36 N.J.R. 4633(a), 37 N.J.R. 1203(a).

In (a)7 and (b), amended the N.J.A.C. references.

#### 13:35-2A.5 Independent practice

(a) Certified nurse midwife and certified midwife practice shall include the provision of maternity care and well woman care within a health care system which provides for consultation, referral and collaboration, and:

1. For licensees without prescriptive authority, administering or dispensing those medications listed in the clinical guidelines; or
2. For licensees with prescriptive authority pursuant to N.J.A.C. 13:35-2A.14, prescribing, ordering, administering or dispensing medications.

(b) Certified nurse midwives and certified midwives shall conduct their practice pursuant to standards set forth by the ACNM in Standards for the Practice of Nurse-Midwifery (1993), as amended and supplemented, available from the American College of Nurse-Midwives, 818 Connecticut Ave., Suite 900, Washington, DC 20006, which is incorporated herein by reference as part of this rule.

(c) Certified professional midwife practice shall include the provision of maternity care within a health care system which provides for consultation, referral and collaboration with a licensed physician and the administration or dispensing of those medications listed in the clinical guidelines.

(d) Certified professional midwives shall conduct their practice pursuant to standards set forth by the NARM in the Midwifery Model of Care (2000), as amended and supplemented, available from North American Registry of Midwives, 5257 Rosestone Drive, Lilburn, GA 30047, which is incorporated herein by reference as part of this rule.

Repeal and New Rule, R.2003 d.210, effective May 19, 2003.

See: 34 N.J.R. 3433(a), 35 N.J.R. 2227(a).

Section was "Normal intrapartum management".

#### 13:35-2A.6 Affiliated physicians; clinical guidelines

(a) Prior to beginning practice as a midwife, a licensee shall enter into an affiliation with a physician who is licensed in New Jersey and who:

1. Holds hospital privileges in operative obstetrics/gynecology;
2. Has a binding agreement with a physician who holds operative privileges in operative obstetrics/gynecology; or
3. Holds hospital privileges in gynecology, if a licensee limits his or her practice to non-obstetrical.

(b) The licensee shall establish written clinical guidelines with the affiliated physician which outlines the licensee's scope of practice.

(c) The clinical guidelines shall set forth:

1. An outline of routine care;
2. Procedures the licensee will perform or provide;
3. Procedures to follow if one of the risk factors from N.J.A.C. 13:35-2A.9 and 2A.11 are encountered;
4. The circumstances under which consultation, collaborative management, referral and transfer of care of women between the licensee and the affiliated physician are to take place, and the manner by which each is to occur;
5. If the licensee is a certified nurse midwife with prescriptive authority pursuant to N.J.A.C. 13:35-2A.12, a formulary listing the categories of drugs, which may include controlled dangerous substances, the certified nurse midwife may order, prescribe, administer or dispense;
6. If the licensee does not hold prescriptive authority pursuant to N.J.A.C. 13:35-2A.14, a list of all medications the licensee may dispense or administer pursuant to the directions of the affiliated physician;
7. A mechanism for determining the availability of the affiliated physician, or a substitute physician, for consulta-

tion and emergency assistance or medical management when needed; and

8. The manner by which emergency care for newborns will be provided.

(d) Prior to beginning practice, a licensee shall file with the Board a notice identifying the affiliated physician, the physician's telephone number and business address and the effective date of the clinical guidelines. In the event of any change of affiliated physician, the licensee shall notify the Board in writing within 30 days of the change.

(e) Clinical guidelines shall be made available to the Board upon request.

(f) The clinical guidelines shall include provisions for periodic conferences with the affiliated physician for review of patient records and for quality improvements.

(g) A licensee who practices without establishing clinical guidelines with an affiliated physician commits professional misconduct as proscribed by N.J.S.A. 45:1-21(e).

Recodified from N.J.A.C. 13:35-2A.3 and amended by R.2003 d.210, effective May 19, 2003.

See: 34 N.J.R. 3433(a), 35 N.J.R. 2227(a).

Rewrote the section. Former N.J.A.C. 13:35-2A.6, Postpartum and well-woman health care, repealed.

**13:35-2A.7 Licensure; biennial license renewal; license suspension; reinstatement of suspended license; inactive status; return from inactive status**

(a) All licenses issued by the Board shall be issued for a two-year biennial licensure period. A licensee who seeks renewal of the license shall submit a completed renewal application and the renewal fee as set forth in N.J.A.C. 13:35-6.13 prior to the expiration date of the license.

(b) The Board shall send a notice of renewal to each licensee at the address registered with the Board at least 60 days prior to the expiration of the license. 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) If a licensee does not renew the license prior to its expiration date, the licensee may renew the license within 30 days of its expiration by submitting a renewal application, a renewal fee and a late fee, as set forth in N.J.A.C. 13:35-6.13. During this 30-day period, the license shall be valid, and the licensee shall not be deemed to be practicing without a license.

(d) A license that is not renewed within 30 days of its expiration shall be automatically suspended. An individual who continues to practice with a suspended license shall be deemed to be engaged in unlicensed practice and shall be subject to the penalties prescribed by N.J.S.A. 45:9-22 for practicing without a license.

(e) A licensee whose license has been automatically suspended for five years or less for failure to renew pursuant to (d) above may be reinstated by the Board upon completion of the following:

1. Payment of the reinstatement fee and all past delinquent biennial renewal fees pursuant to N.J.A.C. 13:35-6.13; and

2. Submission of an affidavit of employment listing each job held during the period of suspended license which includes the name, address, and telephone number of each employer.

(f) In addition to the fulfilling the requirements set forth in (e) above, a licensee whose license has been automatically suspended for more than five years who wishes to return to practice shall reapply for licensure and shall demonstrate that he or she has maintained proficiency. An applicant who fails to demonstrate to the satisfaction of the Board that he or she has maintained proficiency while suspended may be subject to an examination or other requirements as determined by the Board prior to reinstatement of his or her license.

(g) Renewal applications shall provide the licensee with the option of either active or inactive status. A licensee electing inactive status shall pay the inactive license fee set forth in N.J.A.C. 13:35-6.13 and shall not engage in practice.

(h) A licensee who elected inactive status and has been on inactive status for five years or less may be reinstated by the Board upon completion of the following:

1. Payment of the reinstatement fee; and

2. Submission of an affidavit of employment listing each job held during the period the licensee was on inactive status which includes the name, address, and telephone number of each employer.

(i) In addition to the fulfilling the requirements set forth in (h) above, a licensee who has been on inactive status for more than five years who wishes to return to practice shall reapply for licensure and shall demonstrate that he or she has maintained proficiency. An applicant who fails to demonstrate to the satisfaction of the Board that he or she has maintained proficiency while on inactive status may be subject to an examination or other requirements as determined by the Board prior to reinstatement of his or her license.

New Rule, R.2003 d.210, effective May 19, 2003.

See: 34 N.J.R. 3433(a), 35 N.J.R. 2227(a).

Former N.J.A.C. 13:35-2A.7, Management of antepartum women at risk, recodified to N.J.A.C. 13:35-2.9.

Repeal and New Rule, R.2005 d.120, effective April 18, 2005.

See: 36 N.J.R. 4633(a), 37 N.J.R. 1203(a).

Section was "Biennial renewal".

**13:35-2A.8 Antepartum management**

(a) A licensee's scope of practice during antepartum stages includes:

1. Ordering medical, therapeutic and diagnostic measures in accordance with clinical guidelines; and
2. Identifying women with medical, obstetrical or gynecological risk factors outlined in N.J.A.C. 13:35-2A.9.

Repeal and New Rule, R.2003 d.210, effective May 19, 2003.  
See: 34 N.J.R. 3433(a), 35 N.J.R. 2227(a).

Section was "Care of intarpartum women at risk".

**13:35-2A.9 Management of antepartum women at increased risk**

(a) A licensee may participate in the management of antepartum patients at increased risk under the following conditions:

1. The affiliated physician and licensee shall have agreed to include the woman at increased risk in the caseload;
2. The affiliated physician and licensee shall have established and documented a management plan for all women identified as at increased risk, which shall delineate the role of both the affiliated physician and the licensee in the care of the woman. The management plan shall set forth the following:
  - i. Frequency of physician visits;
  - ii. Timing of indicated diagnostic and evaluative procedures;
  - iii. Specific parameters for consultation; and
  - iv. A proposed plan for the birth, including the type, place and provider.
3. The management plan shall be reviewed periodically by the licensee and the affiliated physician and revised when necessary.

(b) The following are risk factors that require management as outlined in (a) above:

1. Maternal health status:
  - i. Acute and/or chronic hypertension;
  - ii. Congenital or acquired heart disease;
  - iii. Anti-phospholipid syndrome;
  - iv. HIV positive or AIDS;
  - v. Chronic renal disease;
  - vi. Seizure disorder requiring medications;
  - vii. Chronic anemia and/or hemoglobinopathy;
  - viii. Diabetes mellitus;
  - ix. Drug addiction;

- x. Psychosis;
  - xi. Asthmatic on daily oral medication;
  - xii. Any connective tissue disorder;
  - xiii. Multiple sclerosis;
  - xiv. History of cerebrovascular accident; or
  - xv. History of cancer.
2. Maternal reproductive health history:
    - i. Incompetent cervix;
    - ii. Two or more second or third trimester fetal losses;
    - iii. Preterm labor and/or delivery;
    - iv. Parity of six or more;
    - v. Previous cesarean delivery;
    - vi. Surgery involving the uterine wall;
    - vii. Previous placental abruption;
    - viii. Previous postpartum blood transfusion;
    - ix. Previous cervical surgeries including Loop Electrosurgical Excision Procedures (LEEP), cone biopsies or three or more surgical cervical dilations; or
      - x. Intra-uterine growth restriction and/or delivery of an infant weighing less than 2,500 grams at 36 weeks or more.
  3. Current maternal obstetrical status:
    - i. Obstructive uterine myomata;
    - ii. Polyhydramnios or oligohydramnios;
    - iii. Isoimmunization;
    - iv. Multiple gestation;
    - v. Intrauterine growth restriction;
    - vi. Current evidence of fetal chromosome disorder confirmed by amniocentesis and/or congenital anomaly;
    - vii. Gestational diabetes;
    - viii. Maternal age less than 14 years or more than 40 years;
    - ix. PAP smear indicating dysplasia;
    - x. Placenta previa;
    - xi. Medicated pre-term labor; or
    - xii. Preeclampsia.

Recodified from N.J.A.C. 13:35-2A.7 and amended by R.2003 d.210, effective May 19, 2003.

See: 34 N.J.R. 3433(a), 35 N.J.R. 2227(a).

Rewrote the section. Former N.J.A.C. 13:35-2A.9, Certified Nurse Midwife Liaison Committee, repealed.

**13:35-2A.10 Intrapartum management**

(a) A licensee's scope of practice during intrapartum stages includes:

1. Managing labor and birth for women not classified as being at increased risk pursuant to N.J.A.C. 13:35-2A.11, in accordance with clinical guidelines;
2. Performing immediate screening of the newborn and resuscitation of the newborn when necessary. The licensee shall refer newborns with acute medical conditions to a physician trained in the care of a newborn;
3. Performing an episiotomy;
4. Repairing first and second degree episiotomies and lacerations; and
5. Using local anesthesia.

(b) Every licensee shall ensure that at the birth site:

1. There is a person who is certified in Basic Life Support (BLS) and in Neonatal Resuscitation Program (NRP) by the American Academy of Pediatrics; and
2. The following equipment is present:
  - i. Oxygen;
  - ii. A neonatal bag and mask;
  - iii. An adult oxygen mask;
  - iv. Suction equipment;
  - v. IV fluids; and
  - vi. Oxytoxics.

(c) In addition to the tasks outlined in (a) above, a Certified Nurse Midwife (CNM) or Certified Midwife (CM) may:

1. Repair third degree lacerations upon the direction of the affiliated physician;
2. Repair fourth degree lacerations under the direct supervision of a physician who has hospital obstetrical privileges; and
3. Administer pudendal anesthesia in a licensed healthcare facility, which includes birthing centers. No licensee shall administer pudendal anesthesia in any other setting.

Repeal and New Rule, R.2003 d.210, effective May 19, 2003.  
See: 34 N.J.R. 3433(a), 35 N.J.R. 2227(a).

Section was "Limited privileges and conditions of practice permitted for a graduate midwife pending results of certifying examination and licensure".

**13:35-2A.11 Management of intrapartum women at increased risk**

(a) If a woman receiving care from a licensee evidences any of the following conditions, the licensee shall only participate in the birth if it takes place in a licensed hospital:

1. Pre-term labor less than 37 weeks. If pre-term labor is less than 34 weeks, an affiliated physician shall be present at the birth;
2. Premature rupture of membranes more than 24 hours before onset of regular contractions;
3. Assessment of infant weight less than 2,500 grams or more than 4,500 grams;
4. Vaginal birth after previous cesarean delivery;
5. The need for prescriptive medication to induce or augment labor;
6. Post-datism (greater than 42 weeks completed gestation);
7. Multiple gestation;
8. Malpresentation; or
9. Evidence of chorioamnionitis.

(b) If a woman receiving care from a licensee evidences the following during the intrapartum phase the licensee shall arrange for the presence of an affiliated physician at the hospital; or, if the woman is not in a hospital, arrange for the immediate transfer of the woman to a hospital obstetric unit:

1. Development of hypertension or preeclampsia;
2. Non-reassuring fetal heart pattern, unresponsive to conservative measures;
3. Prolapse of cord;
4. Intrapartum hemorrhage;
5. Multiple gestation;
6. Malpresentation; or
7. Any condition requiring operative intervention.

New Rule, R.2003 d.210, effective May 19, 2003.

See: 34 N.J.R. 3433(a), 35 N.J.R. 2227(a).

Former N.J.A.C. 13:35-2A.11, Prescriptive authorization, recodified to N.J.A.C. 13:35-2A.14.

**13:35-2A.12 Postpartum care**

(a) A licensee's scope of practice during the postpartum stage includes:

1. Assessment and treatment; and
2. Contraceptive services.

New Rule, R.2003 d.210, effective May 19, 2003.

See: 34 N.J.R. 3433(a), 35 N.J.R. 2227(a).

**13:35-2A.13 Well woman care**

(a) A certified nurse midwife or certified midwife may provide well woman care throughout the life cycle which shall include:

1. Gynecological and primary health care screening, assessment and treatment; and
2. Contraceptive services.

New Rule, R.2003 d.210, effective May 19, 2003.  
See: 34 N.J.R. 3433(a), 35 N.J.R. 2227(a).

#### 13:35-2A.14 Prescriptive authorization

(a) A CNM who is currently registered with the Board of Medical Examiners may apply for authorization to prescribe drugs (as used within this section, the term "drugs" shall include drugs, medicine and devices). The CNM shall make application on forms prescribed by the Board and shall demonstrate:

1. Current registration with the Board;
2. A.C.N.M. or A.C.C. certification in good standing; and
3. Evidence of satisfactory completion of a minimum of 30 contact hours (as defined by the National Task Force on the Continuing Education Unit) in pharmacology or a pharmacology course offered by a college or university accredited by an accrediting association recognized by the U.S. Department of Education. The pharmacology course shall include instruction in fundamentals of pharmacology and therapeutics including principles and terminology of pharmaco-dynamics and pharmaco-kinetics. The pharmacology course shall have been completed within the two years immediately preceding the date on which the application is made.

(b) Notwithstanding (a) above, a CNM who holds prescriptive authorization in another state shall be authorized to prescribe drugs in New Jersey, even if the pharmacology course was completed more than two years prior to the date on which the certified nurse midwife makes application for authorization to prescribe drugs in New Jersey, if the CNM submits proof to the Committee that he or she:

1. Holds current prescriptive authorization, without disciplinary restrictions, in another state;
2. Is a registered professional nurse in New Jersey;
3. Is licensed as a CNM in New Jersey; and
4. Has completed 30 contact hours in a pharmacology course offered by a college or university accredited by an accrediting association recognized by the U.S. Department of Education.

(c) A CNM who is authorized to prescribe drugs may prescribe only those drugs which are categorized in the formulary of drugs established in the clinical guidelines.

(d) A CNM's authorization to prescribe drugs, medicine, or devices may, upon notice and an opportunity for a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq., be revoked or otherwise limited by the Board if the CNM:

1. Fails to maintain current licensure and registration with the Board;
2. Fails to maintain certification in good standing with the ACNM or ACC, or their successors;
3. Uses prescriptive authorization for other than therapeutic purposes; or
4. Uses prescriptive authorization to prescribe substances or devices not included in the formulary of drugs established in the CNM's clinical guidelines.

(e) Prescriptions written by a CNM shall conform to the dictates of N.J.S.A. 45:14-14 et seq. and N.J.A.C. 13:35-7.2.

Recodified from N.J.A.C. 13:35-2A.11 and amended by R.2003 d.210, effective May 19, 2003.  
See: 34 N.J.R. 3433(a), 35 N.J.R. 2227(a).  
Rewrote the section.

#### 13:35-2A.15 Limited ultrasound examination

(a) A licensee who has completed a course as required in (b) below may perform a limited ultrasound examination. For purposes of this section, "limited ultrasound" shall mean the use of ultrasound to assess any of the following: fetal number, fetal cardiac activity, fetal position and presentation, placental location, amniotic fluid parameters, biophysical profile parameters, uterine position, uterine size, the number and size of early gestational sac and the presence and length of embryonic poles.

(b) A licensee who wishes to perform limited ultrasound shall complete a 12-hour course given by a college or university accredited by an accrediting association recognized by the U.S. Department of Education or an organization which grants ACNM, American College of Obstetrics and Gynecology (ACOG), American Osteopathic Association (AOA) or American Medical Association-Physicians Recognition Award (AMA-PRA) category one continuing education credits.

(c) Limited ultrasound course instruction shall include:

1. Ultrasound instrumentation;
2. Accountability of the licensee;
3. Components of informed consent;
4. Principles of anatomy and physiology relevant to limited ultrasound examinations;
5. Elements of antepartum and intrapartum fetal surveillance;
6. Components of ultrasound examination:
  - i. Fetal number;
  - ii. Fetal cardiac activity;
  - iii. Fetal position and presentation;
  - iv. Placental location;

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 may assign physician assistants under his or her supervision to a physician designee, who shall be responsible for the practice of the physician assistant during the assignment.

Amended by R.2000 d.349, effective August 21, 2000.

See: 31 N.J.R. 2132(a), 32 N.J.R. 3174(a).

In (b)4ii, inserted an exception.

Amended by R.2005 d.120, effective April 18, 2005.

See: 36 N.J.R. 4633(a), 37 N.J.R. 1203(a).

In (b), inserted "or physician designee" following "The supervising physician" in the introductory paragraph of 4; rewrote (d).  
Petition for Rulemaking.

See: 42 N.J.R. 859(b).

### 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. Any orders for tests or consultations and the results thereof;
6. Diagnosis or medical impression; and
7. 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.

Amended by R.2005 d.120, effective April 18, 2005.

See: 36 N.J.R. 4633(a), 37 N.J.R. 1203(a).

In (a), deleted former 5 and recodified former 6 through 8 as 5 through 7.

### 13:35-2B.12 Requirements for issuing prescriptions for medications; special requirements for issuance of CDS

(a) A physician assistant may issue prescriptions for medications only in accordance with the requirements contained in this section.

(b) A physician assistant shall provide the following on all prescription blanks:

1. The physician assistant's full name, professional identification ("PA-C"), license number, address and telephone number. This information shall be printed on all prescription blanks;
2. The supervising physician's full name, printed or stamped;
3. 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;
4. The full name, age and address of the patient;
5. The date of issuance of the prescription;
6. The name, strength and quantity of drug or drugs to be dispensed and route of administration;
7. Adequate instruction for the patient. A direction of "p.r.n." or "as directed" alone shall be deemed an insufficient direction;
8. The number of refills permitted or time limit for refills, or both;
9. The signature of the prescriber, hand-written;
10. 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 required by (b)9 above; and
11. The physician assistant's Drug Enforcement Administration (DEA) registration number, if the physician assistant is authorized to issue CDS.

(c) A physician assistant may order or prescribe controlled dangerous substances (CDS) if:

1. A supervising physician has authorized a physician assistant to order or prescribe Schedule II, III, IV or V controlled dangerous substances in order to:

i. Continue or reissue an order or prescription for a controlled dangerous substance issued by the supervising physician;

ii. Adjust the dosage of an order or prescription for a controlled dangerous substance originally ordered or prescribed by the supervising physician, provided there is prior consultation with the supervising physician;

iii. Initiate an order or prescription for a controlled dangerous substance for a patient, provided there is prior consultation with the supervising physician if the order or prescription is not pursuant to iv below; or

iv. Initiate an order or prescription for a controlled dangerous substance as part of a treatment plan for a patient with a terminal illness, which for the purposes of this subparagraph means a medical condition that results in a patient's life expectancy being 12 months or less as determined by the supervising physician; and

2. The physician assistant has registered with and obtained authorization to order or prescribe controlled dangerous substances from the appropriate State and Federal agencies.

(d) Only one controlled dangerous substance shall appear on a prescription blank.

(e) Written prescriptions shall be issued only on New Jersey Prescription Blanks (NJPB), secured from an approved vendor and subject to the required security mandates of the prescription blank program pursuant to N.J.S.A. 45:14-14.

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

In (a), deleted a former 1, and recodified former 2 and 3 as 1 and 2.  
Amended by R.2005 d.120, effective April 18, 2005.  
See: 36 N.J.R. 4633(a), 37 N.J.R. 1203(a).

In (a), added 3.  
Amended by R.2008 d.135, effective June 2, 2008.  
See: 39 N.J.R. 2201(a), 40 N.J.R. 3316(a).

Section was "Requirements for issuing prescriptions for medications; memorialization of verbal orders for CDS given by physicians". In the introductory paragraph of (a), inserted "for medications" and substituted "requirements contained in this section" for "following conditions:"; added (b); recodified former (a)1 as the introductory paragraph of (c) and rewrote (c); deleted former (a)2 through (a)3; and added (d) and (e).

### 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. A temporary license holder may write orders for medication, treatment, or testing consistent with the provisions of N.J.A.C. 13:35-2B.15.

(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).  
Amended by R.2005 d.120, effective April 18, 2005.  
See: 36 N.J.R. 4633(a), 37 N.J.R. 1203(a).  
In (a), added the last sentence.

### 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, physician designee or a designated physician assistant:

i. Is continuously present on-site; and

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

2. In the event that the countersignature in (a)1 above is that of a designated physician assistant, the supervising physician or physician designee, within the appropriate conditions set in N.J.A.C. 13:35-2B.10(b) 4, shall:

i. Personally review all charts and patient records and the temporary license holder's entry in the chart and record; and

ii. Countersign any order for medication, treatment, or testing written by the temporary licensee.

New Rule, R.1995 d.423, effective August 7, 1995.  
See: 27 N.J.R. 1526(a), 27 N.J.R. 2959(a).  
Amended by R.2005 d.120, effective April 18, 2005.  
See: 36 N.J.R. 4633(a), 37 N.J.R. 1203(a).  
Rewrote (a).

prohibition on use of testimonials, discounts and offering of free services.

Added new (c)11 and 12, deleting old (c)11.

Added new (g)1-8 and new (m) and (n), recodifying old “n” as new “o”.

Amended by R.1994 d.329, effective July 5, 1994.

See: 26 N.J.R. 1219(b), 26 N.J.R. 2795(c).

Amended by R.1994 d.522, effective October 17, 1994.

See: 26 N.J.R. 2526(a), 26 N.J.R. 4195(a).

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

See: 31 N.J.R. 1742(a), 31 N.J.R. 3117(a).

In (a)5, added a reference to the Internet.

Amended by R.2005 d.120, effective April 18, 2005.

See: 36 N.J.R. 4633(a), 37 N.J.R. 1203(a).

Rewrote (m).

Petition for Rulemaking.

See: 42 N.J.R. 859(b).

**Case Notes**

Abstention; action by podiatrist association challenging constitutionality of regulation restricting medical professionals’ advertising of board certification. *American Institute of Foot Medicine v. New Jersey State Bd. of Medical Examiners*, D.N.J.1992, 807 F.Supp. 1170.

Former N.J.A.C. 13:35-4.1 and 13:35-6.13 requiring degree designations on licenses and regulating advertising, respectively, held invalid as outside Board’s authority under the Medical Practices Act. *Eatough v. Bd. of Medical Examiners*, 191 N.J.Super. 166, 465 A.2d 934 (App.Div.1983).

**13:35-6.11 Excessive fees**

(a) The Board of Medical Examiners shall review information and complaints concerning allegations of excessive fees charged by licensees of the Board and may establish Excessive Fee Review Committees to perform various aspects of the review function. This regulation is not intended to impinge upon the strong public policy in favor of a competitive, free enterprise economy embodied in the antitrust laws of the United States and of this State. Excessive Fee Review Committees shall consider comparable fees charged by licensees not under inquiry only to the minimum extent necessary to render a determination as to whether a fee is excessive.

(b) A licensee of the Board of Medical Examiners shall not charge an excessive fee for services. A fee is excessive when, after a review of the facts, a licensee of ordinary prudence would be left with a definite and firm conviction that the fee is so high as to be manifestly unconscionable or overreaching under the circumstances.

(c) Factors which may be considered in determining whether a fee is excessive include, but are not limited to, the following:

1. The time and effort required;
2. The novelty and difficulty of the procedure or treatment;
3. The skill required to perform the procedure or treatment properly;
4. Any requirements or conditions imposed by the patient or by the circumstances;

5. The nature and length of the professional relationship with the patient;

6. The experience, reputation and ability of the licensee performing the services;

7. The nature and circumstances under which services are provided. Unless services are provided during an emergency or other circumstances where opportunity, custom and practice will preclude discussion prior to the rendition of such services, the licensee shall, in advance of providing services, specify or discuss and agree with the patient, the fee or basis for determination of the fee to be charged.

(d) Charging an excessive fee in violation of (b) above shall constitute professional misconduct subjecting the licensee to disciplinary action by the Board of Medical Examiners.

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

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

(c)4 deleted, 5-8 recodified to 4-7.

**Case Notes**

Physician found guilty by New York Board of Regents properly had New Jersey medical license revoked. In the Matter of the Suspension or Revocation of the License of Del Gizzo, 94 N.J.A.R.2d (BDS) 1.

**13:35-6.12 (Reserved)**

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

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

Superfluous language deleted from (f).

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 “Excessive fee review committees”.

**13:35-6.13 Fee schedule**

(a) The following fees shall be charged by the Board of Medical Examiners:

1. Medicine and Surgery (M.D. or D.O. license)
  - i. Initial application fee \$325.00
  - ii. Initial license fee
    - (1) If paid during the first year of a biennial renewal period 580.00
    - (2) If paid during the second year of a biennial renewal period 290.00
  - iii. N.J.S.A. 45:9-21(n)—exemption 225.00
  - iv. N.J.S.A. 45:9-21(b)—temporary license 50.00
  - v. Endorsement 225.00
  - vi. Biennial license 580.00
  - vii. Biennial license for licensee over 65 without health care facility or HMO affiliation 125.00
  - viii. Permit 50.00
2. Podiatry (license)
  - i. Application fee \$125.00
  - ii. Examination \$150.00
  - iii. Initial license fee
    - (1) If paid during the first year of a biennial renewal period 580.00
    - (2) If paid during the second year of a biennial renewal period 290.00

|  |  |        |   |
|--|--|--------|---|
| iv.  | Endorsement  | 150.00 | Amended by R.1985 d.223, effective May 6, 1985.   |
| v.   | Biennial license   | 580.00 | See: 17 N.J.R. 562(a), 17 N.J.R. 1132(a).   |
| vi.  | Biennial license for licensee over 65 without health care facility or HMO affiliation    | 85.00  | Substantially amended.  |
| vii.   | Permit   | 50.00  | Amended by R.1987 d.201, effective May 4, 1987.<br>See: 19 N.J.R. 353(a), 19 N.J.R. 772(a).   |
| 3. Bioanalytical laboratory directorship, plenary or specialty license |  |        |   |
| i.   | Application fee  | 125.00 | Both components raised from \$300.00 to \$425.00; Component I raised from \$200.00 to \$250.00 and Component II raised from \$225.00 to \$300.00. |
| ii.  | Examination  | 350.00 | Amended by R.1987 d.371, effective September 8, 1987.<br>See: 19 N.J.R. 1054(a), 19 N.J.R. 1648(a).   |
| iii.   | Exemption  | 150.00 | Increased the biennial registration fee.  |
| iv.  | Initial license fee  |        | Amended by R.1989 d.532, effective October 16, 1989.  |
| (1)  | If paid during the first year of a biennial renewal period                               | 390.00 | See: 21 N.J.R. 2226(b), 21 N.J.R. 3307(a).  |
| (2)  | If paid during the second year of a biennial renewal period                              | 195.00 | Biennial registration fee decreased from \$120 to \$60 and endorsement fee set at \$60.   |
| v.   | Biennial license   | 390.00 | Amended by R.1990 d.525, effective November 5, 1990.<br>See: 22 N.J.R. 1988(a), 22 N.J.R. 3384(a).  |
| 4. Midwifery (license)   |  |        |   |
| i.   | Application fee  | 125.00 | Medicine and surgery examination fees increased.  |
| ii.  | Examination  | 50.00  | Amended by R.1991 d.286, effective June 3, 1991.  |
| iii.   | Endorsement  | 50.00  | See: 23 N.J.R. 833(a), 23 N.J.R. 1815(a).   |
| iv.  | Initial license fee  |        | Added (a)1viii and (a)2v.   |
| (1)  | If paid during the first year of a biennial renewal period                               | 270.00 | Deleted (a)2 [Chiropractic (license) ]; redesignated existing (a)3 through 11 as (a)2 through 10.   |
| (2)  | If paid during the second year of a biennial renewal period                              | 135.00 | Changed fees in (a)1 through 8.   |
| v.   | Biennial license   | 270.00 | Amended by R.1993 d.91, effective February 16, 1993.<br>See: 24 N.J.R. 4011(a), 25 N.J.R. 708(a).   |
| vi.  | Biennial prescriptive authorization (Certified Nurse Midwife)                            | 50.00  | Revised (a)1 through 4.   |
| 5. Physician assistant (license)                                       |  |        |   |
| i.   | Application fee  | 125.00 | Amended by R.1993 d.92, effective February 16, 1993.  |
| ii.  | Temporary license fee  | 50.00  | See: 24 N.J.R. 4334(a), 25 N.J.R. 709(a).   |
| iii.   | Initial license fee  |        | Added new (a)10; redesignated old (a)10 to (a)11.   |
| (1)  | If paid during the first year of a biennial renewal period                               | 220.00 | Amended by R.1993 d.260, effective June 7, 1993.  |
| (2)  | If paid during the second year of a biennial renewal period                              | 110.00 | See: 25 N.J.R. 1058(a), 25 N.J.R. 2487(a).  |
| iv.  | License renewal fee, biennial  | 220.00 | Amended by R.1993 d.299, effective June 21, 1993.   |
| v.   | Late renewal fee   | 100.00 | See: 24 N.J.R. 4013(a), 25 N.J.R. 2689(c).  |
| vi.  | Reinstatement fee  | 175.00 | Amended by R.1994 d.170, effective April 4, 1994.   |
| vii.   | Duplicate license fee  | 40.00  | See: 25 N.J.R. 4583(a), 26 N.J.R. 1520(a).  |
| viii.  | Duplicate wall certificate   | 50.00  | Administrative Correction.  |
| 6. General   |  |        |   |
| i.   | Recording of name change and issuance of replacement license                             | 50.00  | See: 26 N.J.R. 2589(b).   |
| ii.  | Replacement of lost engrossed copy/certified true copy/biennial registration certificate | 50.00  | Amended by R.1994 d.522, effective October 17, 1994.  |
| iii.   | Preparation of certification papers for applicants to other states                       | 50.00  | See: 26 N.J.R. 2526(a), 26 N.J.R. 4195(a).  |
| iv.  | Late renewal fee   | 100.00 | Amended by R.1995 d.330, effective June 19, 1995.   |
| v.   | Reinstatement fee  | 175.00 | See: 27 N.J.R. 640(a) (see also, 27 N.J.R. 1746(a)), 27 N.J.R. 2410(a).   |
| vi.  | Inactive license fee (to be determined by Director by regulation)                        |        | Increased some of the fees.   |

New Rule, R.1983 d.510, effective November 7, 1983.

See: 15 N.J.R. 784(a), 15 N.J.R. 1865(c).

Deleted old fee schedule and added new fee schedule.

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

Added Physician Assistant temporary license fee at (a)8.ii.  
Administrative correction.

See: 33 N.J.R. 1411(a).

Amended by R.2005 d.120, effective April 18, 2005.  
See: 36 N.J.R. 4633(a), 37 N.J.R. 1203(a).

Rewrote the section.  
Amended by R.2005 d.175, effective June 6, 2005.  
See: 37 N.J.R. 206(a), 37 N.J.R. 1203(a), 37 N.J.R. 2041(b).

In (a), increased the fees in lii(1), lii(2), lvi, 2iii(1), 2iii(2), 2v, 3iv(1), 3iv(2), 3v, 5iv(1), 5iv(2) and 5v.  
Administrative correction.  
See: 37 N.J.R. 2553(a).

Amended by R.2005 d.378, effective November 7, 2005.  
See: 37 N.J.R. 1918(a), 37 N.J.R. 4281(a).

Increased fees in (a).

#### Case Notes

Degree designation on license. *Eatough v. Albano*, 673 F.2d 671 (1982) certiorari denied 102 S.Ct. 2931, 457 U.S. 1119, 73 L.Ed.2d 1331, see: dissenting opinion.

Preliminary injunction against rule. *Davis v. Board of Medical Examiners*, 497 F. Supp. 525 (1980).

treatment and health monitoring records shall apply to persons receiving care or evaluation in this setting.

iii. The corporation is a non-profit corporation sponsored by a union, social or religious or fraternal-type organization providing health care services to members only.

iv. The corporation is an accredited educational institution which maintains a medical clinic for health care service to students and faculty.

v. The corporation is licensed by the State Department of Insurance as an insurance carrier offering coverage for medical treatment and the licensee is employed to perform quality assurance services for the insurance carrier.

5. A licensee may also have an equity or employment interest in a professional practice (including a professional service corporation or limited liability company) which is a limited partner to a general business corporation which, in turn, has a contractual agreement with the professional service entity, in the following circumstances only. The general business corporation may contract to provide the professional practice with services exclusively of a non-professional nature such as, but not limited to, routine office management, hiring of non-professional staff, provision of office space and/or equipment and servicing thereof, and billing services. The licensee shall nevertheless be responsible, at all times except as excused by (g) below, to assure that an appropriate licensed health care professional determines and carries out all services and medical care policies set forth in (b) and (c) above, including retention of sole discretion regarding establishment of patient fees and modification or waiver thereof in an individual case. The licensee shall assure, as a condition of such contractual arrangement, that the general business corporation makes no representations to the public of offering, under its own corporate name, health care services which require licensure.

(g) A licensee employed or having a significant beneficial interest in any of the practice forms listed in (f) above shall terminate such employment or sever professional affiliation upon acquiring personal knowledge that the entity regularly fails to provide or observe the quality control/assurance mechanisms listed in (b) and (c) above and refuses, upon request, to implement such mechanisms. A licensee terminating employment or affiliation with a general business corporation as described in (f)4 above for reasons required by this section shall so notify the Board.

(h) In addition to the practice forms set forth above, a licensee may participate in organized managed health care plans including, but not limited to, those involving wholly or partially pre-paid medical services. By way of example, this includes plans commonly described as health maintenance organizations, preferred provider organizations, competitive medical plans, individual practice associations, or other simi-

lar designations. Such plans typically cover certain types of health care services but only when the services are rendered by licensees who are provider-members of the plan; or the patient has been referred to a specialist or admitted to a hospital by a provider-member and has secured the advance approval of the plan administration. Such plans usually permit coverage for referrals in situations of emergency or other special conditions. A licensee may participate in any such plan which complies with the following professional requirements:

1. The licensee retains authority at all times to exercise professional judgment within accepted standards of practice regarding care, skill and diligence in examinations, diagnosis and treatment of each patient.

2. The licensee retains authority at all times to inform the patient of appropriate referrals to any other health care providers:

i. Whether or not those persons are provider-members of the plan; and

ii. Whether or not the plan covers the cost of service by such non-member providers to the patient.

3. Plan patients are informed that they may be personally responsible for the cost of treatment by a provider who is not a member-provider within the plan, or for treatment not having the approval of the plan administration.

4. Provisions for remuneration to the licensee shall not be inconsistent with the principles listed in N.J.A.C. 13:35-6.17(f).

(i) The following pertain to laboratory service:

1. A Board-licensed physician having a financial interest in a laboratory for the performance of bioanalytical tests may prescribe and/or perform such tests on the physician's primary medical office premises solely for the patients of the prescribing licensee. The licensee is responsible for establishing and maintaining a protocol for quality and cost control and for compliance with the provisions of the Clinical Laboratory Improvement Act, N.J.S.A. 45:9-42.26 et seq. Billing shall be done only in the name of the practitioner's medical office and in compliance with N.J.S.A. 45:1-10.

2. A Board-licensed physician having a financial interest in a laboratory offering services only to patients of the owning licensee(s) but conducted at a site other than the office premises of the owners shall assure that such laboratory has a director and that the laboratory is licensed under the New Jersey Clinical Laboratory Improvement Act. The physician shall assure compliance with N.J.S.A. 45:1-10 and with N.J.S.A. 45:9-22.4 as amended, and the name of the laboratory shall be accompanied at all times by the name(s) of the owning licensee(s) except as authorized for media advertising pursuant to N.J.A.C. 13:35-6.10(l). Petition may be made for exemption on billing forms for

good cause shown. Patient referral may be made only by a licensee holding such financial interest prior to July 31, 1991.

3. A Board licensee having a financial interest in a laboratory which accepts referrals from physicians who are not owners/investors shall assure that such laboratory is licensed under the New Jersey Clinical Laboratory Improvement Act and is directed by a bioanalytical laboratory director licensed pursuant to N.J.S.A. 45:9-42 et seq. who shall establish and maintain quality and cost control. The physician shall assure compliance with N.J.S.A. 45:1-10 and with N.J.S.A. 45:9-22.4, as amended, and the name of the laboratory shall be accompanied at all times by the name(s) of the owning licensee(s), except as authorized for media advertising pursuant to N.J.A.C. 13:35-6.10(l). Petition may be made for exemption on billing forms for good cause shown. Patient referral may be made only by a licensee holding such financial interest prior to July 31, 1991.

(j) The following pertain to physical therapy:

1. A physician may perform and/or prescribe physical therapy to be administered in the physician's office. Billing shall be done only in the name used by the physician's office. A bill for services of a physician's employees, which were rendered by licensed professionals authorized to provide services without medical supervision, shall identify the provider of service by name and degree.

2. A physician having a financial interest in a physical therapy entity at a location other than the physician's office, whether conducted under the physician's name or under another name, shall establish quality control/assurance provisions as required by (b) and (c) above. The physician shall assure compliance with service provider identification in (j)1 above, and with N.J.S.A. 45:9-22.4, as amended, and the name of the entity shall be accompanied at all times by the name(s) of the owning licensee(s) except as authorized for media advertising pursuant to N.J.A.C. 13:35-6.10(l). Petition may be made for exemption on billing forms for good cause shown. Patient referral may be made only by a licensee holding such financial interest prior to July 31, 1991.

(k) The following pertain to radiology:

1. A physician may prescribe and/or perform radiologic services on the physician's office premises. Billing shall be done only in the name of the prescriber or office. Where reading of film is done by an outside consultant, see N.J.A.C. 13:35-6.17(c)3.

2. A physician having a financial interest in a radiologic service facility at a location other than the physician's fixed office premises, whether conducted under the physician's name or under another name, shall establish quality control/assurance provisions as required by (b) and (c) above. The physician shall assure compliance with N.J.S.A. 45:9-22.4, as amended, and the name of the

facility shall be accompanied at all times by the name(s) of the licensee(s) except as authorized for media advertising by N.J.A.C. 13:35-6.10(l). Petition may be made for exemption on billing forms for good cause shown. Patient referral may be made only by a licensee holding such financial interest prior to July 31, 1991, or by a licensee having a financial interest in a facility offering radiation therapy pursuant to an oncological protocol.

(l) The following pertain to ophthalmology:

1. A physician may prescribe eyeglasses or external contact lenses and may offer to sell the devices. Billing shall be done only in the name of the physician or office. A bill for services of a physician's employees, which were rendered by licensed professionals authorized to provide services without medical supervision, shall identify the provider of service by name and degree.

2. A physician having a financial interest in a service entity for the selling of eyewear at a location other than the physician's office, conducted under the physician's name or another name, shall establish quality control/assurance provisions as required by (b) and (c) above. The physician shall assure compliance with service provider identification in (l)1 above, and with N.J.S.A. 45:9-22.4, as amended, and the name of the entity shall be accompanied at all times by the name(s) of the owning licensee(s) except as authorized for media advertising pursuant to N.J.A.C. 13:35-6.10(l). Patient referral may be made only by a licensee holding such financial interest prior to July 31, 1991.

(m) The provisions of this rule shall be operative on April 15, 1992, except that the requirements of managed health care plans in (h) above, and requirements of a director of laboratory in (i)2 and 3 above shall be operative April 15, 1993. Licensees who have been providing professional services in a business format which does not comply with the present codification of Board interpretation of permissible practice formats shall complete a transfer to an acceptable format as soon as possible but no later than October 15, 1992.

New Rule, R.1992 d.75, effective February 18, 1992 (operative April 15, 1992, except as noted).

See: 23 N.J.R. 161(a), 23 N.J.R. 1063(a), 24 N.J.R. 626(a).

Amended by R.2005 d.193, effective June 20, 2005.

See: 36 N.J.R. 3499(a), 37 N.J.R. 2210(a).

In (f), rewrote 2 and inserted "or limited liability company" following "professional service corporation" in 5.

Petition for Rulemaking.

See: 38 N.J.R. 848(a), 1246(b), 1608(b), 4762(a), 5419(b).

Petition for Rulemaking.

See: 42 N.J.R. 859(b).

#### Law Review and Journal Commentaries

Examiners' Board Hits Physician Referrals. 133 N.J.L.J. No. 4, 11 (1993).

Rules Changes Target Medical Group Practices. Theodosia A. Tamborlane, 136 N.J.L.J. No. 11, 10 (1994).

Joint Physician-Chiropractor Practice in New Jersey. Markley S. Roderick, 154 N.J.L.J. 966 (1998).

(d) All examinations and re-examinations will be offered only during the regularly scheduled examination session except for the re-examination of the law and regulation section.

Recodified from 13:35-8.15 by R.1994 d.595, effective December 5, 1994.

See: 26 N.J.R. 1301(b), 26 N.J.R. 4780(b).

Recodified from N.J.A.C. 13:35-8.16 by R.1998 d.372, effective July 20, 1998.

See: 30 N.J.R. 1191(a), 30 N.J.R. 2633(a).

Former N.J.A.C. 13:35-8.17, Violation of the Rules, was recodified to N.J.A.C. 13:35-8.18.

Amended by R.2005 d.120, effective April 18, 2005.

See: 36 N.J.R. 4633(a), 37 N.J.R. 1203(a).

Rewrote (b); in (c), deleted the first sentence; in (d), inserted "except for the re-examination of the law and regulation section" following "scheduled examination session".

**13:35-8.18 Violation of the Rules**

(a) Failure to comply with any provision of N.J.S.A. 45:9A-1 et seq., or this subchapter shall be deemed a violation of the Hearing Aid Dispensers Act and may result in disciplinary action pursuant to N.J.S.A. 45:1-21 and 45:1-22.

(b) The notice of proposed suspension or revocation shall inform the licensed individual of the right to request a hearing. The hearing shall be pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq. and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1 et seq.

Recodified from 13:35-8.16 by R.1994 d.595, effective December 5, 1994.

See: 26 N.J.R. 1301(b), 26 N.J.R. 4780(b).

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

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

Recodified from N.J.A.C. 13:35-8.17 by R.1998 d.372, effective July 20, 1998.

See: 30 N.J.R. 1191(a), 30 N.J.R. 2633(a).

Former N.J.A.C. 13:35-8.18, Fee schedule, was recodified to N.J.A.C. 13:35-8.19.

**13:35-8.19 Fee schedule**

(a) The fee schedule for the Hearing Aid Dispensers Examining Committee of the State Board of Medical Examiners, in the Division of Consumer Affairs in the Department of Law and Public Safety, shall be as follows:

|   |                          |
|---|--------------------------|
| 1. Application fee  | \$50.00 (non-refundable) |
| 2. Temporary licenses   | \$50.00                  |
| 3. Training permits   | \$50.00                  |
| 4. Examination  |                          |
| i. Written  | \$50.00                  |
| ii. Practical   | \$25.00                  |
| 5. Initial License Fee  |                          |
| i. If paid during the first year of a biennial renewal period   | \$180.00                 |
| ii. If paid during the second year of a biennial renewal period | \$90.00                  |
| 6. Endorsement  |                          |
| i. Review of credentials  | \$30.00                  |
| ii. Endorsement fee   |                          |
| During the first year of a biennial renewal period              | \$110.00                 |

|  |   |          |
|--|---|----------|
|  | During the second year of a biennial renewal period | \$55.00  |
| 7. Biennial license renewal  |   | \$180.00 |
| 8. Renewal or Extension of Temporary License and Training Permit       |   | \$20.00  |
| 9. Late fee  |   | \$50.00  |
| 10. Reinstatement, Biennial License                                    |   | \$100.00 |
| 11. Inactive license fee . . . . .                                     | (to be determined by the Director by regulation)    |          |
| 12. Duplicate or replacement of biennial registration certificate      |   | \$25.00  |
| 13. Preparation of certification papers for applicants to other states |   | \$25.00  |

(b) The Committee will refund the examination fee only if the application is rejected by the Committee or withdrawn by the applicant within 14 days after the Committee's receipt of the application.

(c) An applicant who fails to sit for an examination for which payment has been submitted may, one time only, have the fee credited toward the next scheduled examination. If the applicant fails to sit for such next scheduled examination, the fee will be forfeited.

R.1977 d.7, effective January 17, 1977.

See: 8 N.J.R. 425(a), 9 N.J.R. 94(c).

Amended by R.1987 d.370, effective September 8, 1987.

See: 19 N.J.R. 1055(a), 19 N.J.R. 1649(a).

Biennial registration raised from \$50.00 to \$80.00; (a)6 and 7 added.

Recodified by R.1988 d.112, effective March 7, 1988.

See: 19 N.J.R. 1949(a), 20 N.J.R. 538(a).

Recodified from 8.25.

Amended by R.1991 d.458, effective September 3, 1991.

See: 23 N.J.R. 1895(a), 23 N.J.R. 2651(a).

In (a), substantial alteration of fee schedule. Added (b) and (c).

Recodified from 13:35-8.17 by R.1994 d.595, effective December 5, 1994.

See: 26 N.J.R. 1301(b), 26 N.J.R. 4780(b).

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

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

Increased some of the fees.

Recodified from N.J.A.C. 13:35-8.18 by R.1998 d.372, effective July 20, 1998.

See: 30 N.J.R. 1191(a), 30 N.J.R. 2633(a).

Former N.J.A.C. 13:35-8.19, License renewal; continuing education requirement, was recodified to N.J.A.C. 13:35-8.20.

Amended by R.2005 d.120, effective April 18, 2005.

See: 36 N.J.R. 4633(a), 37 N.J.R. 1203(a).

In (a), added a new 11 and recodified former 11 and 12 as 12 and 13.

Amended by R.2005 d.175, effective June 6, 2005.

See: 37 N.J.R. 206(a), 37 N.J.R. 1203(a), 37 N.J.R. 2041(b).

In (a), increased the fees in 1, 5, 7 and 9, and substituted references to license for references to registration in the introductory paragraph of 5, 7 and 10.

**13:35-8.20 License renewal; continuing education requirement**

(a) No license renewal shall be issued by the Director unless the applicant confirms on his or her renewal application to the Hearing Aid Dispensers Examining Committee that during the two calendar years preceding application for renewal he or she participated in courses of continuing education of the type and number of credits specified in this section. Such continuing education is a mandatory requirement for license renewal. Licensees shall be solely responsible for obtaining and maintaining documentation on his or her completion of the required continuing education courses

during the registration period. Such documentation shall be submitted to the Committee upon request, and will be surveyed on a random basis. The provisions of this subsection shall not apply to licensees renewing their licenses for the first time.

(b) Evidence of 20 documented course hours of continuing education shall be required of each applicant as a condition of biennial license renewal.

(c) The number of creditable course hours and course contents must be accepted and approved by the National Institute for Hearing Instruments Studies (NIHIS), the educational arm of the International Hearing Society (IHS), and the Committee. A licensee who completes a three or more credit course in hearing aid dispensing at an accredited college or university shall upon the approval of the Committee receive credit for 10 continuing education course hours.

(d) Acceptable continuing education courses shall be in any area which will update and refresh the clinical skills or knowledge of a hearing aid dispenser. Notwithstanding that the continuing education course meets the requirements, the Committee at its discretion may at any time examine and review any course claimed for credit. If, in the opinion of the Committee, such course does not clearly meet the requirements of this section, the course shall be disallowed for credit toward the required 20 continuing education credits.

(e) In the event that a candidate for license renewal shall complete in two years a number of hours in excess of the number of hours required by this section, the documented hours in excess of those required shall not be credited toward license renewal for subsequent years.

New Rule, R.1989 d.548, effective November 6, 1989.  
See: 21 N.J.R. 1648(a), 21 N.J.R. 3474(a).  
Recodified from 13:35-8.18 by R.1994 d.595, effective December 5, 1994.  
See: 26 N.J.R. 1301(b), 26 N.J.R. 4780(b).  
Recodified from N.J.A.C. 13:35-8.19 by R.1998 d.372, effective July 20, 1998.  
See: 30 N.J.R. 1191(a), 30 N.J.R. 2633(a).  
Amended by R.2005 d.120, effective April 18, 2005.  
See: 36 N.J.R. 4633(a), 37 N.J.R. 1203(a).  
Rewrote (c).

## SUBCHAPTER 9. ACUPUNCTURE

### 13:35-9.1 Purpose and scope

(a) The rules of this subchapter are established pursuant to N.J.S.A. 45:2C-1 et seq. ("The Acupuncture Act") and set forth requirements for the practice of acupuncture in the State of New Jersey.

(b) These rules shall apply to all persons certified as acupuncturists by the State of New Jersey, applicants for such certification, guest acupuncturists granted temporary permission by the Board to perform acupuncture pursuant to N.J.A.C. 13:35-9.12, students participating in an approved course of study, school or tutorial program in acupuncture and persons licensed as physicians and surgeons or dentists who practice acupuncture, provided that their courses of training have included acupuncture.

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

### 13:35-9.2 Definitions

For purposes of this subchapter, the following terms shall have the following meanings:

"Acupuncture" means the stimulation of a certain point or points on or near the surface of the body by the insertion of special needles to prevent or modify the perception of pain or to normalize physiological functions including pain control and for the treatment of certain diseases or dysfunctions of the body. "Acupuncture" includes the techniques electroacupuncture, mechanical stimulation and moxibustion.

"Acupuncture tutorial" means an acupuncture tutorial program which has been approved by the Acupuncture Examining Board and which provides applicants who successfully complete the program with the requirements to sit for the examination for certification as an acupuncturist.

"Apprentice" means a person who is registered with the Board in order to participate in an acupuncture tutorial under a supervising acupuncturist.

"Board" means the Acupuncture Examining Board established by N.J.S.A. 45:2C-1 et seq.

"Certified," "certification," and "certificate" mean Board-issued authorization that an individual possesses the qualifications to engage in the profession of acupuncture. Such terms are synonymous with licensure.

"Electroacupuncture" means the therapeutic use of weak electric currents at acupuncture loci to diagnose or to treat diseases or conditions.

"Experience" means proof that an applicant has accrued full-time independent acupuncture practice experience consisting of at least 750 patient treatment sessions annually for any three-year period prior to January 18, 1986.

"Guest acupuncturist" means an acupuncturist from another state or country who is not a certified acupuncturist in this State and is the invited guest of a professional acupuncture association, scientific acupuncture foundation, or an acupuncture training program approved by the Board.

“Mechanical stimulation” means stimulation of a certain acupuncture point or points on or near the surface of the body by means of apparatus or instrument.

“Moxibustion” means the therapeutic use of thermal stimulus at acupuncture loci by burning artemisia alone or artemisia formulations.

“Sterilize” or “sterilization” means the use of a physical or chemical procedure to destroy all microbial life including highly resistant bacterial endospores.

“Supervising acupuncturist” or “supervisor” means a certified acupuncturist who is approved by the Board to provide an acupuncture tutorial to a trainee.

“Surface stimulation” means the application of purposeful stimuli to the surface of the body.

“Training agreement” means the written tutorial agreement between the supervisor and the trainee.

“Training plan” means the written tutorial plan that is filed with and approved by the Board.

“Training program” means and encompasses the agreement and the plan.

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

See: 31 N.J.R. 1742(a), 31 N.J.R. 3117(a).

Rewrote the section.

### 13:35-9.3 Credentials required for certification

(a) At the time of application, an applicant shall provide the following credentials:

1. Proof of having attained the age of 21, in the form of a certified copy of birth record;
2. Affidavits from two persons, unrelated to the applicant, attesting to the applicant’s moral character. The signatures on any affidavits emanating from foreign jurisdictions shall be authenticated as required by (a)5i(2) below;
3. Proof of possession of a baccalaureate degree as established by (a)3i and ii below;
  - i. If the candidate has been awarded a baccalaureate degree from a college or university within the United States, a certified transcript shall be forwarded directly to the Board from the educational institution, which shall have been accredited by a regional accreditation agency recognized by the Commission on Recognition of Post-Secondary Accreditation or the United States Department of Education;
  - ii. If the candidate has been awarded a baccalaureate degree from a school located outside the United States, which is recognized by the World Health Organization or any similar credentialing organization, the applicant shall submit to the Board an original of the applicant’s

transcript showing that a degree was awarded, and an evaluation of credits earned as determined by a Board-approved credential evaluation service. A list of such credential evaluation services shall be provided by the Board to an applicant upon request;

4. Applicants presenting a baccalaureate degree shall also provide evidence of graduation from a course of study or program at a school of acupuncture accredited by the Accreditation Commission for Acupuncture and Oriental Medicine or by the Commission on Recognition of Post-Secondary Accreditation or the United States Department of Education. Evidence shall consist of a certified transcript from that school confirming that a diploma was awarded to the applicant. A list of approved acupuncture schools shall be maintained by the Board and provided to an applicant upon request.

5. As an alternative to (a)3 and 4 above, an applicant shall provide evidence of either successful completion of a tutorial program in acupuncture which meets the requirements set forth in N.J.A.C. 13:35-9.13 or experience as defined in N.J.A.C. 13:35-9.2 acquired prior to January 18, 1986.

i. Acceptable proof of experience shall include letters from past or present employers written to the Board on professional letterhead, which must be sent directly to the Board from the employer or the appropriate official at that office or institution. Such letters must clearly establish that the business existed and was offering acupuncture service during the period of time in question.

(1) When a letter from an employer, office or institution does not clearly and credibly indicate the required experience, the Board may at its discretion require that the applicant submit patient records of 750 treatment sessions or such other proof as the Board deems necessary.

(2) The signature(s) on letters of documentation emanating from foreign jurisdictions must be properly notarized and authenticated by an appropriate governmental official.

ii. If the applicant was self-employed, original patient records which clearly indicate the required 750 patient treatment sessions shall be submitted to the Board; such records shall be legible and well-organized. The Board may require records to be translated into English at the expense of the applicant; and

6. If the applicant is a physician or surgeon, the applicant shall submit, in addition to the documentation required by (a)1 and 2 above, proof that the applicant holds a current plenary license and registration to practice medicine or surgery.

(b) Any credentials required to be submitted pursuant to (a) above which are written in a language other than English

shall be accompanied by an English translation prepared by a Board-approved translation service at the applicant's expense. A list of such translation services shall be provided by the Board to an applicant upon request. Translations by any other services or persons shall not be accepted.

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

**13:35-9.4 Examination requirements**

(a) An applicant shall pass the comprehensive written examination (CWE) and the clean needle technique (CNT) examination, written in English, developed by the National Certification Commission for Acupuncture and Oriental Medicine ("NCCAOM").

(b) An applicant shall pass a practical examination administered by the Board.

(c) All applicants who have received their acupuncture education at a school taught in a language other than English shall pass a test of spoken English (TSE) examination administered by the Education Testing Service (ETS). The applicant shall attain a score of 50.

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

**13:35-9.5 Prohibited titles**

(a) A person who has not met the requirements of the Acupuncture Act, N.J.S.A. 45:2C et seq., or this subchapter shall not practice as, or hold himself or herself out as, an acupuncturist.

(b) Acupuncturists shall not use the designations "DOM" (doctor of Oriental medicine), "OMD" (Oriental medical doctor), or "DTCM" (Doctor of traditional Chinese medicine).

(c) Physicians, surgeons, or dentists approved for the practice of acupuncture pursuant to the Act and this subchapter shall not use the title "acupuncturist," "certified acupuncturist," or "CA."

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

**13:35-9.6 Fee schedule; refunds**

(a) The Board shall charge the following fees:

|   |          |
|---|----------|
| 1. Application Fee  | \$ 50.00 |
| 2. Examination, Oral/Practical                                  | \$225.00 |
| 3. Examination, Written   | \$350.00 |
| 4. Initial Certification Fee                                    |          |
| i. If paid during the first year of a biennial renewal period   | \$270.00 |
| ii. If paid during the second year of a biennial renewal period | \$135.00 |
| 5. Biennial Certification                                       | \$270.00 |

|  |  |
|--|--|
| 6. Duplicate or replacement of biennial certificate                    | \$ 25.00                                     |
| 7. Late Fee (biennial certification)                                   | \$ 50.00                                     |
| 8. Inactive Certificate Fee  | (to be determined by Director by regulation) |
| 9. Reinstatement Fee   | \$150.00                                     |
| 10. Tutorials:   |  |
| i. Supervisor:   |  |
| (1) Application Fee  | \$ 50.00                                     |
| (2) Initial Registration   | \$125.00                                     |
| (3) Renewal, Annually  | \$125.00                                     |
| (4) Delinquency Fee  | \$ 50.00                                     |
| ii. Trainee:   |  |
| (1) Application Fee  | \$ 25.00                                     |
| (2) Initial Registration   | \$ 60.00                                     |
| 11. Preparation of certification papers for applicants to other states | \$ 25.00                                     |

(b) The examination fee will be refunded only if the application is rejected by the Board or withdrawn by the candidate within 14 days of receipt of the application by the Board.

(c) After the 14-day period in (b) above, an applicant who fails to sit for an examination for which payment has been submitted may, one time only, have the fee credited toward the next scheduled examination. The fee will be entirely forfeited if the applicant fails to sit for the succeeding examination.

(d) The application fee is non-refundable.

Amended by R.1995 d.330, effective June 19, 1995.  
See: 27 N.J.R. 640(a) (see also 27 N.J.R. 1746(a)), 27 N.J.R. 2410(a).  
Increased some of the fees.  
Amended by R.1999 d.356, effective October 18, 1999.  
See: 31 N.J.R. 1742(a), 31 N.J.R. 3117(a).  
In (a), rewrote the introductory paragraph, and substituted a reference to late fees for a reference to delinquency fees in 7.  
Amended by R.2005 d.120, effective April 18, 2005.  
See: 36 N.J.R. 4633(a), 37 N.J.R. 1203(a).  
Rewrote the section.  
Amended by R.2005 d.175, effective June 6, 2005.  
See: 37 N.J.R. 206(a), 37 N.J.R. 1203(a), 37 N.J.R. 2041(b).  
In (a), increased the fees in 4 and 5.  
Administrative correction.  
See: 37 N.J.R. 2553(a).

**13:35-9.7 Biennial certificate renewal; certificate suspension; reinstatement of suspended certificate; inactive status; return from inactive status; display of certificate**

(a) All certificates to practice acupuncture issued by the Board shall be issued for a two-year biennial certification period. A certificate holder who seeks renewal of the certificate shall submit a renewal application and the renewal fee set forth in N.J.A.C. 13:35-9.6 prior to the expiration date of the certificate.

(b) The Board shall send a notice of renewal to each licensee at the address registered with the Board at least 60 days prior to the expiration of the license. 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) If a certificate holder does not renew the certificate prior to its expiration date, the certificate holder may renew the certificate within 30 days of its expiration by submitting a renewal application, a renewal fee and a late fee, as set

forth in N.J.A.C. 13:35-9.6. During this 30-day period, the certificate shall be valid, and the certificate holder shall not be deemed to be engaged in unauthorized practice.

(d) A certificate that is not renewed within 30 days of its expiration shall be automatically suspended. An individual who continues to practice with a suspended certificate shall be deemed to be engaged in unauthorized practice.

(e) A certificate holder whose certificate has been automatically suspended for five years or less for failure to renew pursuant to (d) above may be reinstated by the Board upon completion of the following:

1. Payment of the reinstatement fee and all past delinquent biennial renewal fees pursuant to N.J.A.C. 13:35-9.6;
2. Completion of the continuing education units required for each biennial registration period for which the certificate holder was suspended; and
3. Submission of an affidavit of employment listing each job held during the period of suspended certificate which includes the name, address, and telephone number of each employer.

(f) In addition to the fulfilling the requirements set forth in (e) above, a certificate holder whose certificate has been automatically suspended for more than five years who wishes to return to have his or her certificate reinstated shall reapply for certification and shall demonstrate that he or she has maintained proficiency. An applicant who fails to demonstrate to the satisfaction of the Board that he or she has maintained proficiency while suspended may be subject to an examination or other requirements as determined by the Board prior to reinstatement of his or her certificate.

(g) Renewal applications shall provide the certificate holder with the option of either active or inactive status. A certificate holder electing inactive status shall pay the inactive certificate fee set forth in N.J.A.C. 13:35-9.6 and shall not engage in the practice of acupuncture.

(h) A certificate holder who elected inactive status and has been on inactive status for five years or less may be reinstated by the Board upon completion of the following:

1. Payment of the reinstatement fee;
2. The completion of the continuing education units required for each biennial certification period for which the certificate holder was on inactive status; and
3. Submission of an affidavit of employment listing each job held during the period the certificate holder was on inactive status which includes the name, address, and telephone number of each employer.

(i) In addition to the fulfilling the requirements set forth in (h) above, a certificate holder who has been on inactive status for more than five years who wishes to return to practice shall reapply for certification and shall demonstrate that he or she has maintained proficiency. An applicant who fails to demonstrate to the satisfaction of the Board that he or she has maintained proficiency while on inactive status

may be subject to an examination or other requirements as determined by the Board prior to reinstatement of his or her certificate.

(j) The certificate shall be posted in a conspicuous location in the office of the acupuncturist. If the acupuncturist has more than one office, he or she shall obtain from the Board duplicate certificates for each location.

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

Rewrote the section.

Repeal and New Rule, R.2005 d.120, effective April 18, 2005.

See: 36 N.J.R. 4633(a), 37 N.J.R. 1203(a).

Section was "Term of lawful practice; biennial registration".

### 13:35-9.8 Referral; informed consent

(a) A certified acupuncturist may perform initial acupuncture treatment only on presentation by the patient of a referral by or diagnosis from a licensed physician. The referring or diagnosing physician shall provide to the treating acupuncturist a diagnosis and preevaluation of the patient.

(b) The acupuncturist shall fully explain to the patient the acupuncture procedures to be performed and inform the patient of the possible complications that may result from acupuncture treatment. The acupuncturist shall obtain informed written consent from the patient before beginning acupuncture treatment.

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

See: 31 N.J.R. 1742(a), 31 N.J.R. 3117(a).

Rewrote the section.

### 13:35-9.9 Accepted equipment and devices; procedures

(a) Certificate holders may use any of the following to effect the stimulation of acupuncture points and channels: needles, moxa, cupping, thermal methods, herbal applications, magnetic stimulation, gwa-sha scraping techniques, acupatches, acuform, teishin (pressure needles), manual acutotement (defined as stimulation by an instrument that does not pierce the skin), acupressure, electroacupuncture (whether utilizing electrodes on the surface of the skin or current applied to inserted needles), laser bio-stimulation in accordance with relevant Federal law including United States Food and Drug Administration rules and regulations, and ultrasonic stimulation of acupuncture points and channels.

(b) The needles used in acupuncture shall include: solid filiform needles, dermal needles, plum blossom needles, press needles, prismatic needles and disposable lancets.

(c) The use of intra-dermal needles, staples or hypodermic needles in the practice of acupuncture is prohibited.

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

See: 31 N.J.R. 1742(a), 31 N.J.R. 3117(a).

In (b), deleted ", but not be limited to" following "include"; and in (c), inserted a reference to intra-dermal needles.

Amended by R.2005 d.120, effective April 18, 2005.

See: 36 N.J.R. 4633(a), 37 N.J.R. 1203(a).

In (a), substituted "Certificate holders" for "Licensees".

### 13:35-9.10 Precautionary and sterilization procedures

(a) All non-disposable needles and acupuncture equipment that comes into contact with the patient's blood or bodily fluids or penetrates the skin, and equipment used to handle or store needles or other acupuncture equipment that comes into contact with the patient's blood or bodily fluids or penetrates the skin, shall be sterilized prior to each use. Prior to sterilization, all equipment to be sterilized shall be thoroughly cleaned with a disinfectant or cleansing solution.

(b) Sterilization shall be accomplished before use by one of the following methods:

1. Steam autoclave at 250 degrees Fahrenheit (120 degrees Celsius) and 15 pounds per square inch of pressure for 30 minutes;
2. Equivalent dry heat; or
3. Ethylene oxide gas sterilization.

(c) Sterilization equipment shall be used and maintained strictly in accordance with the guidelines of the manufacturer of the equipment, and shall be monitored regularly in accordance with the manufacturer's guidelines to determine whether the equipment is functioning properly.

(d) The following methods of sterilization are prohibited: boiling acupuncture equipment, soaking acupuncture equipment in alcohol or other antiseptic solution, or glass bead sterilization.

(e) Acupuncture needles shall be placed in a rigid, puncture-proof, sealed container. The container shall be labeled as a disposal container and shall contain the following warning: "CONTAMINATED CONTENTS—USE PRECAUTIONS." The disposal container shall be wiped with a disinfectant if blood or other bodily fluids are spilled on the outside of the container. The acupuncturist shall dispose of the container pursuant to the requirements of the Department of Environmental Protection implementing the Comprehensive Regulated Medical Waste Management Act, N.J.S.A. 13:1E-48.1 et seq., and N.J.A.C. 7:26-3A. The acupuncturist may delegate the responsibility to dispose of the container to an agent approved by the Department of Environmental Protection. A list of such approved agents shall be supplied, upon request, by the Board.

(f) If a certificate holder learns that a patient has a blood-borne infectious disease, the certificate holder shall use only disposable needles in treating the patient.

(g) The acupuncturist shall ensure that personnel responsible for performing sterilization procedures pursuant to this rule are adequately trained and supplied with a written outline of sterilization procedures. A copy of the outline shall be maintained on the premises.

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

See: 31 N.J.R. 1742(a), 31 N.J.R. 3117(a).

In (c), substituted a reference to equipment for a reference to instruments; rewrote (d) and (e); in (f), deleted "in the course of treatment of a patient," following "If", and deleted "highly" following "blood-borne"; and in (g), substituted "The acupuncturist shall" for "It shall be the responsibility of the certified acupuncturist to" at the beginning.

Amended by R.2005 d.120, effective April 18, 2005.

See: 36 N.J.R. 4633(a), 37 N.J.R. 1203(a).

In (f), substituted "certificate holder" for "licensee" throughout.

### 13:35-9.11 Preparation of patient records; computerized records; access to or release of information; confidentiality, transfer or disposal of records

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

1. "Authorized representative" means a person who has been designated by the patient or a court to exercise rights under this section. An authorized representative may be the patient's attorney or an employee of an insurance carrier with whom the patient has a contract which provides that the carrier be given access to records to assess a claim for monetary benefits or reimbursement. If the patient is a minor, a parent or guardian who has custody (whether sole or joint) shall be deemed to be an authorized representative.

2. "Patient" means any person who is the recipient of a professional service rendered by a certificate holder for purposes of treatment.

(b) Acupuncturists shall prepare contemporaneous, permanent professional treatment records. Acupuncturists shall also maintain records relating to billings made to patients and third-party carriers for professional services. All treatment records, bills and claim forms shall accurately reflect the treatment or services rendered. Treatment records shall be maintained for a period of seven years from the date of the most recent entry.

1. To the extent applicable, professional treatment records shall reflect:

- i. The dates of all treatments;
- ii. The patient complaint;
- iii. The history;
- iv. Progress notes; and
- v. Any orders for tests or consultations and the results thereof.

2. Corrections and/or additions may be made to an existing record, provided that each change is clearly identified as such, dated and initialed by the certificate holder;

3. A patient record which is prepared and maintained on a personal or other computer shall be prepared and maintained as follows:

i. The patient record shall contain at least two forms of identification, for example, name and record number or any other specific identifying information;

ii. The entry made by the acupuncturist shall be made contemporaneously with the treatment and shall contain the date of service, date of entry, and full printed name of the treatment provider. The acupuncturist shall finalize or "sign" the entry by means of a confidential personal code ("CPC") and include date of the "signing";

iii. The acupuncturist may dictate a dated entry for later transcription. The transcription shall be dated and identified as "preliminary" until reviewed, finalized and dated by the acupuncturist as provided in (b)3ii above;

iv. 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;

v. The computer system shall be designed in such manner that after "signing" by means of the CPC, the existing entry cannot be changed in any manner. Notwithstanding the permanent status of a prior entry, a new entry may be made at any time and may indicate correction to a prior entry;

vi. Where more than one acupuncturist is authorized to make entries into the computer file of any professional treatment record, the acupuncturist responsible for the acupuncture practice shall assure that each such person obtains a CPC and uses the file program in the same manner;

vii. A copy of each day's entry, identified as preliminary or final as applicable, shall be made available to a physician responsible for the patient's care, to a representative of the Board of Acupuncture Examiners, the Attorney General or the Division of Consumer Affairs no later than 10 days after notice, or to a patient within 30 days of the request, or promptly in the event of emergency.

viii. An acupuncturist wishing to continue a system of computerized patient records, which system does not meet the requirements of (b)3i through vii above, shall promptly initiate arrangements for modification of the system which shall be completed by October 18, 2000. In the interim, the acupuncturist shall assure that, on the date of the first treatment of each patient treated subsequent to October 18, 1999, the computer entry for that first visit shall be accompanied by a hard copy

printout of the entire computer-recorded treatment record. The printout shall be dated and initialed by the attending acupuncturist. Thereafter, a hard copy shall be prepared for each subsequent visit, continuing to the date of the changeover of computer program, with each page initialed by the treating acupuncturist. The initial printout and the subsequent hard copies shall be retained as a permanent part of the patient record.

(c) Acupuncturists shall provide access to professional treatment records to a patient or an authorized representative in accordance with the following:

1. No later than 30 days from receipt of a request from a patient or an authorized representative, the acupuncturist shall provide a copy of the professional treatment record, and/or billing records as may be requested. The record shall include all pertinent objective data including test results, as applicable, and subjective information.

2. Unless otherwise required by law, an acupuncturist may elect to provide a summary of the record in lieu of providing a photocopy of the actual record, so long as that summary adequately reflects the patient's history and treatment. An acupuncturist may charge a reasonable fee for the preparation of a summary which has been provided in lieu of the actual record, which shall not exceed the cost allowed by (c)3 below for that specific record.

3. Acupuncturist may require that a record request be 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 certificate holder elects to provide a summary in lieu of the actual record, the charge for the summary shall not exceed the cost that would be charged for the actual record.

4. If the patient or a subsequent treating health care professional is unable to read the treatment record, either because it is illegible or prepared in a language other than English, the acupuncturist shall provide a transcription at no cost to the patient.

5. The acupuncturist shall not refuse to provide a professional treatment record on the grounds that the patient owes the certificate holder an unpaid balance if the record is needed by another health care professional for the purpose of rendering care.

(d) Acupuncturists shall maintain the confidentiality of professional treatment records, except that:

1. The acupuncturist shall release patient records as directed by a subpoena issued by the Board of Acupuncture Examiners 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

patient names. To the extent that the record is illegible, the acupuncturist, upon request, shall provide a typed transcription of the record. If the record is in a language other than English, the acupuncturist shall also provide a translation.

2. The acupuncturist shall release information as required by law or regulation.

3. The acupuncturist, in the exercise of professional judgment and in the best interests of the patient (even absent the patient's request), may release pertinent information about the patient's treatment to another licensed health care professional who is providing or has been asked to provide treatment to the patient, or whose expertise may assist the acupuncturist in his or her rendition of professional services.

(e) Where the patient has requested the release of a professional treatment record or a portion thereof to a specified individual or entity, in order to protect the confidentiality of the records, the acupuncturist shall:

1. Secure and maintain a current written authorization, bearing the signature of the patient or an authorized representative;

2. Assure that the scope of the release is consistent with the request; and

3. Forward the records to the attention of the specific individual identified or mark the material "Confidential."

(f) If an acupuncturist ceases to engage in practice or it is anticipated that he or she will remain out of practice for more than three months, the acupuncturist or designee shall:

1. Establish a procedure by which patients can obtain a copy of the treatment records or acquiesce in the transfer of those records to another certificate holder who is assuming responsibilities of the practice. However, an acupuncturist shall not charge a patient, pursuant to (c)3 above, for a copy of the records when the records will be used for purposes of continuing treatment or care.

2. Publish a notice of the cessation and the established procedure for the retrieval of records in a newspaper of general circulation in the geographic location of the acupuncturist's practice, at least once each month for the first three months after the cessation; and

3. Make reasonable efforts to directly notify any patient treated during the six months preceding the cessation, providing information concerning the established procedure for retrieval of records.

Repeal and New Rule, R.1999 d.356, effective October 18, 1999.

See: 31 N.J.R. 1742(a), 31 N.J.R. 3117(a).

Section was "Patient records".

Amended by R.2005 d.120, effective April 18, 2005.

See: 36 N.J.R. 4633(a), 37 N.J.R. 1203(a).

Substituted "certificate holder" for "licensee" throughout.

### 13:35-9.12 Guest acupuncturist

(a) An acupuncturist from another state or country, who is not a certified acupuncturist or a physician approved for the practice of acupuncture in the State of New Jersey, and is the invited guest of a professional acupuncture association, scientific acupuncture foundation, an acupuncture training program or acupuncture school approved by the Board, may perform acupuncture in conjunction with such professional education for up to 30 days in a calendar year upon approval by the Board, as set forth in (b) below. The guest acupuncturist shall not open an office or appoint a place to meet patients or receive calls from patients or otherwise engage in the practice of acupuncture.

(b) The sponsoring organization shall request permission from the Board, in writing, for the guest acupuncturist no later than 60 days prior to the guest acupuncturist's initial presentation in New Jersey. A resume or summary of the guest acupuncturist's credentials, written in English, shall accompany the request for approval.

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

See: 31 N.J.R. 1742(a), 31 N.J.R. 3117(a).

Rewrote (a).

### 13:35-9.13 Tutorial applications and design of tutorial program

(a) No person shall commence participation in a tutorial program in acupuncture in this State without prior approval of the Board.

(b) Tutorial applications shall be filed with the Board as follows:

1. Application as an acupuncture apprentice shall be filed on a form provided by the Board and accompanied by the tutorial apprentice application fee. The information to be provided on the application form shall include personal biographical and educational information and current resident status.

2. Applications for approval to supervise an acupuncture apprentice shall be filed on a form provided by the Board and accompanied by a copy of the written apprentice agreement, the tutorial supervision application fee, and any other pertinent documents required by the Board. The information to be provided on the application shall include personal biographic, educational and experiential requirements.

(c) Evidence of prior training and experience shall be submitted to the Board for its review with the applications for registration of the supervising acupuncturist and apprentice.

(d) The apprentice shall be at least 18 years of age and shall have a minimum of 120 credits at an institution of higher learning, which must be accredited by a regional accreditation agency recognized by the Commission on Recognition of Post-Secondary Accreditation or the United States Department of Education.

(e) Requirements for approval of an acupuncture tutorial program are as follows:

1. An acupuncture tutorial program shall be designed to be completed in no less than two nor more than four calendar years;

2. An acupuncture tutorial program shall be designed to provide an apprentice with a structured learning experience in all the basic skills and knowledge necessary for the independent practice of acupuncture, and shall prepare the apprentice for the Board's examination for certification;

3. Acupuncture tutorial programs may be full-time or part-time relationships; the training plan and proposed supervision shall be contained in a written agreement between the supervisor and apprentice, pursuant to (g) below;

4. An acupuncture tutorial shall provide formal clinical training with supplemental theoretical and didactic instruction which may be obtained in a post-secondary educational institution which is accredited by a regional accreditation agency recognized by the Commission on Recognition of Post-Secondary Accreditation, or the United States Department of Education;

5. The clinical training shall consist of a minimum of 1650 hours in the following areas:

- i. Practice observation;
- ii. Patient history and physical examination, including traditional Oriental medical diagnostic procedures;
- iii. Therapeutic treatment planning;
- iv. Preparation of the patient;
- v. Sterilization, use and maintenance of equipment;
- vi. Moxibustion;
- vii. Electroacupuncture;
- viii. Body and auricular acupuncture;
- ix. Treatment of emergencies, including certification in cardiopulmonary resuscitation ("CPR");
- x. Pre and post-treatment and instructions to the patient;
- xi. Contraindications and precautions; and
- xii. Optional: Shiatsu, Acupressure, TaiChi-Chuan and Qi Gong; and

6. The theoretical and didactic training shall consist of a minimum of 600 hours in the following areas:

- i. Traditional Oriental medicine;
- ii. Acupuncture anatomy and physiology;
- iii. Acupuncture techniques;
- iv. Survey of clinical medicine;

v. History of Chinese medicine; and

vi. Study of medical terminology and general sciences in anatomy, physiology and pathology, which training shall be obtained in a post-secondary educational setting approved by a regional accreditation agency recognized by the Commission on Recognition of Post-Secondary Accreditation, or the United States Department of Education, provided that each of the courses is for at least three academic credits.

(f) No apprentice shall be authorized to render acupuncture services to any patient unless the patient has been informed that such services will be rendered by an apprentice. The patient, on each occasion of treatment, shall be informed of the procedure to be performed by the apprentice under the supervision of the supervising acupuncturist, and shall have consented in writing prior to the initial rendering of the acupuncture procedure by the apprentice. The requirements of this subsection do not apply to those instances wherein the apprentice merely assists the supervisor in the rendering of acupuncture services.

(g) The acupuncture tutorial training program shall be set forth in a written agreement signed by the supervisor and the apprentice which shall be submitted for approval to the Board, with the application. The agreement shall include:

1. The training plan;
2. The length of training time;
3. The method of providing the theoretical and didactic training;
4. Guidelines for supervision of the acupuncture services rendered by the apprentice;
5. Tuition fees to be paid by the apprentice for participation in the program;
6. The location of the training; and
7. Any termination agreements included in the agreement between the supervisor and apprentice.

(h) An acupuncture tutorial program shall be available to all apprentices regardless of the apprentice's sex, race, religion, creed, or color and regardless of physical handicap.

Amended by R.1994 d.522, effective October 17, 1994.

See: 26 N.J.R. 2526(a), 26 N.J.R. 4195(a).

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

See: 31 N.J.R. 1742(a), 31 N.J.R. 3117(a).

Rewrote the section.

#### 13:35-9.14 Responsibilities of supervising acupuncturist

(a) No acupuncturist shall supervise any person in an approved tutorial program in acupuncture in this State without prior approval of the Board. Board approval shall be contingent upon submission of proof satisfactory to the Board that the supervising acupuncturist is certified to

practice in New Jersey and has at least seven years of experience practicing acupuncture.

(b) The supervising acupuncturist shall have the following duties and responsibilities:

1. The supervisor shall train no more than two apprentices at one time;
2. The supervisor shall at all times be responsible for and provide supervision of the work performed by the apprentice as required in this subchapter;
3. The supervisor shall assign only those patient treatments which are unlikely to endanger the health and welfare of patients receiving such services and can be safely and effectively performed by the apprentice. The acupuncture services assigned to the apprentice shall be consistent with the level of training received by the apprentice. The supervisor shall provide continuous direction and immediate supervision of the apprentice when patient services are being provided. For purposes of this paragraph, "continuous direction and immediate supervision" means that the supervisor shall be in the same facility where the apprentice is rendering services, and shall be readily available at all times to provide advice, instruction and assistance to the apprentice and the patient;
4. The supervisor shall assure that prior to performance of any procedure, a verbal explanation is given and the patient's written informed consent to the procedure and its performance by the apprentice is obtained;
5. The supervisor shall assure that the objectives of the training plan submitted to the Board are provided and met by the apprentice;
6. The supervisor shall notify the Board in writing within 10 days of the termination of any training agreement. At the time of such notification, the registration of the apprentice shall be cancelled;
7. If the apprentice plan of the acupuncture tutorial is substantially modified, the supervisor shall file with the Board a report of such modifications within 10 days;
8. The supervisor shall assure that the apprentice complies with accepted standards of practice, this subchapter, and the statutory requirements of N.J.S.A. 45:2C-5;
9. The supervisor shall file a progress report with the Board within 30 days of completion by each apprentice of each year of an approved acupuncture tutorial. The supervisor shall file a final report within 30 days of completion of the training; and
10. The supervisor shall assure that when rendering services or otherwise engaging in professional activity, the apprentice shall always identify himself or herself as an acupuncture apprentice.

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

See: 31 N.J.R. 1742(a), 31 N.J.R. 3117(a).  
Rewrote (b).

### 13:35-9.15 Responsibilities of the acupuncture apprentice

(a) The acupuncture apprentice shall have the following duties and responsibilities:

1. The apprentice shall not provide acupuncture services independently or without the required supervision, and shall not provide any services for which he or she is not trained or undergoing training;
2. The apprentice shall satisfactorily meet the objectives of the training plan submitted to the Board including the necessary theoretical training;
3. The apprentice shall comply with the standards of practice in these rules as well as all applicable statutory requirements;
4. The apprentice shall always identify himself or herself as an acupuncture apprentice when rendering services or otherwise engaging in professional activity;
5. The apprentice shall report to the Board any delay, interruption or termination of the acupuncture tutorial within 10 days; and
6. At the completion of the tutorial, the apprentice may file an application for examination.

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

In (a), substituted references to apprentices for references to trainees throughout, substituted "undergoing training" for "being trained to competently perform" at the end of 1, and substituted "within 10 days" for "not reported by the supervisor" following "tutorial" in 5.

### 13:35-9.16 Training required of a physician or dentist

(a) No physician holding a plenary license from the New Jersey Board of Medical Examiners or dentist licensed by the New Jersey Board of Dentistry shall be prevented from practicing acupuncture provided his or her course of training has included:

1. Graduation from a school approved by the Accreditation Commission of Acupuncture and Oriental Medicine (ACAOM); or
2. Courses of training approved by the Board, as set forth in (b) below.

(b) The course of training shall be for a minimum of 300 hours, which shall include a clinical training program of at least 150 hours. Such United States or foreign training shall include:

1. Traditional Oriental medicine which includes a survey of the theory and practice of traditional diagnostic and therapeutic procedures;

2. Acupuncture anatomy and physiology which includes fundamentals of acupuncture including point location, the meridian system, special and extra loci, and auriculotherapy; and

3. Acupuncture techniques such as instruction in the use of needling techniques, moxibustion and electroacupuncture, including precautions such as sterilization of needles, contraindications and complications.

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See: 25 N.J.R. 3243(a), 25 N.J.R. 4338(b).

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

See: 31 N.J.R. 1742(a), 31 N.J.R. 3117(a).

In (a), substituted a reference to the Accreditation Commission of Acupuncture and Oriental Medicine for a reference to the National Accreditation Commission of Schools and Colleges of Acupuncture and Oriental Medicine in 1, deleted a former 2, and rewrote former 3 as 2; and in (b), inserted "which includes" following "medicine" in 1, inserted "which includes" following "physiology" in 2, and inserted "such as" following "techniques" in 3.

**13:35-9.17 Continuing professional education requirements**

(a) The provisions of this section shall apply to all acupuncturists applying for biennial certificate renewal except those seeking renewal for the first time.

(b) No certificate renewal shall be issued by the Board unless the acupuncturist confirms on his or her renewal application that during the biennial period preceding application for renewal the acupuncturist participated in courses or activities of continuing education of the type and number of credits specified in this section. Evidence of 20 documented hours of continuing education is a mandatory requirement for certificate renewal, except for initial renewal.

1. "Documented" means that the applicant obtains:
  - i. A certificate of participation;
  - ii. A signed document by the instructor indicating attendance; or
  - iii. An official transcript from an accredited local, state or national organization or learning institution, as set forth in (d) below.

2. A licensee shall obtain and maintain, for a period of three years, documentation on his or her completion of the required continuing education courses. Such documentation shall be submitted to the Board upon request, and will be surveyed from time to time.

(c) Credit for continuing professional education shall be granted as follows for each two-year period:

1. Publication in a national professional journal of an article on acupuncture: three hours per article to a maximum of six hours;
2. Attendance at seminars and conferences: one hour per contact hour;

3. Successful completion of graduate course work taken beyond that required for professional certificate; one hour per credit hour; and

4. Teaching courses or seminars related to the practice of acupuncture: one hour per contact hour to a maximum of six hours.

(d) Acceptable continuing professional education courses or activities shall be in any subject area which will update and refresh the clinical skills or knowledge of an acupuncturist. However, courses must be accredited by ACAOM, the New Jersey Department of Higher Education, a regional accreditation agency recognized by the Commission on Recognition of Post-Secondary Accreditation, or the United States Department of Education. Seminars and conferences must be accredited or sponsored by a local, State, or national professional organization; a local, State or Federal education or health agency; or a local, State or national medical, psychological, dental or similar professional organization.

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

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

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

See: 31 N.J.R. 1742(a), 31 N.J.R. 3117(a).

Rewrote the section.

Amended by R.2005 d.120, effective April 18, 2005.

See: 36 N.J.R. 4633(a), 37 N.J.R. 1203(a).

In (a), substituted "certificate" for "registration"; in (b), substituted "biennial period" for "two calendar years" preceding "preceding application" and substituted "certificate" for "registration" and "license" in the first and second sentences respectively in the introductory paragraph; in (c), substituted "certificate" for "license" in 3; in (e), substituted "certificate" for "registration".

**APPENDIX A**

**(RESERVED)**

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

See: 31 N.J.R. 1742(a), 31 N.J.R. 3117(a).

**SUBCHAPTER 10. ATHLETIC TRAINERS**

**13:35-10.1 Scope and purpose**

(a) This subchapter is promulgated by the New Jersey State Board of Medical Examiners, pursuant to N.J.S.A.

45:9-37.35 et seq., providing for the licensure and regulation of athletic trainers within the State of New Jersey.

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

Amended by R.2004 d.273, effective July 19, 2004.  
See: 35 N.J.R. 2834(a), 36 N.J.R. 3400(a).

In (a), substituted "licensure" for "registration" preceding "and regulation"; in (b), inserted "and applicants for licensure" following "athletic trainers within this State".

### 13:35-10.2 Definitions

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

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

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

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

"Athletic training" means the practice of physical conditioning and reconditioning of athletes, the prevention of injuries incurred by athletes and at the direction of a physician licensed in the State of New Jersey, the application of physical treatment modalities to athletes as recommended by the Advisory Committee and defined in N.J.A.C. 13:35-10.4(c).

"Board" means the State Board of Medical Examiners.

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

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

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

Amended by R.2004 d.273, effective July 19, 2004.  
See: 35 N.J.R. 2834(a), 36 N.J.R. 3400(a).  
Rewrote "Athletic training".

### 13:35-10.3 Application for licensure

(a) An applicant for athletic trainer licensure shall submit to the Board:

1. A completed application form;
2. Proof that the applicant has completed a program of education, training and experience which is approved by the National Athletic Trainers' Association Board of Certification, Inc., or its successor;
3. Proof that the applicant has passed the examination administered by the National Athletic Trainers' Association Board of Certification, Inc., or its successor, or an equivalent examination as adopted by the Board; and
4. The application fee pursuant to N.J.A.C. 13:35-10.6.

Amended by R.2004 d.273, effective July 19, 2004.  
See: 35 N.J.R. 2834(a), 36 N.J.R. 3400(a).  
Rewrote the section.

### 13:35-10.4 Licensure; biennial license renewal; license suspension; reinstatement of suspended license; inactive status; return from inactive status

(a) All licenses issued by the Board shall be issued for a two-year biennial licensure period. A licensee who seeks renewal of the license shall submit a completed renewal application and the renewal fee as set forth in N.J.A.C. 13:35-10.7 prior to the expiration date of the license.

(b) The Board shall send a notice of renewal to each licensee at the address registered with the Board at least 60 days prior to the expiration of the license. 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) If a licensee does not renew the license prior to its expiration date, the licensee may renew the license within 30 days of its expiration by submitting a renewal application, a renewal fee and a late fee, as set forth in N.J.A.C. 13:35-10.7. During this 30-day period, the license shall be valid, and the licensee shall not be deemed to be practicing without a license.

(d) A license that is not renewed within 30 days of its expiration shall be automatically suspended. An individual who continues to practice with a suspended license shall be deemed to be engaged in unlicensed practice and shall be subject to penalties for practicing without a license.