

activity between physicians and patients is almost always damaging to the patient.

(v) **Public Trust in the Profession.** In order to maintain the community perception of the integrity of the medical profession, personal boundaries must be maintained.

(vi) **Sexual or Romantic Relationships with Former Patients.** Sexual activity with a former patient may also be inappropriate if the patient has been unduly influenced by the prior professional relationship or if the physician utilizes trust, knowledge, or emotions derived from the previous professional relationship. The clearest example of this phenomenon is known as “transference” between a patient and psychotherapist, which may last for many years following the conclusion of therapy.

B. Recommendations and Guidelines for Conduct.

(i) **Licensee Responsibility**—The physician or other licensee is always responsible to ensure that the boundaries of the professional relationship are maintained. Licensees should therefore avoid verbal or physical behavior which might be interpreted as inviting a romantic or sexual relationship. Even if the patient encourages such behavior, it is the licensee’s responsibility to maintain a professional manner.

(ii) **Maintaining Boundaries in Psychotherapeutic Relationships**—A licensee bears an even greater responsibility to establish and maintain boundaries between physician and patient in psychotherapeutic relationships. In furtherance of that obligation, a licensee should ensure that to the greatest extent possible, treatment should take place during the licensee’s usual working hours in a professional setting, unless the specific therapy mandates otherwise (i.e. home visits for the housebound, in vivo desensitization as part of behavioral therapy). A licensee should not engage in economic dealings with psychotherapy patients.

(iii) **Explanation of Procedures, Tests and Need for Examinations**—This will ensure that patients do not misunderstand the appropriateness of the exposure of their bodies or the touching that occurs.

(iv) **Patient Privacy**—Examination conditions should ensure that patients are not embarrassed. To that end, licensees should provide privacy while a patient is removing or replacing undergarments and should provide examination gowns or draping cloths which limit exposure of the patient to the field of clinical interest.

(v) **Chaperon**—Pursuant to N.J.A.C. 13:35-6.23, a licensee shall provide notice to a patient, or any other person who is to be examined, of the right to have a chaperon present during breast and pelvic examinations of females and during genitalia and rectal examinations of both males and females. In all other instances, consistent with promoting patient privacy, licensees should inform patients of the option of having a chaperon present during examination

and should provide a chaperon when requested by a patient.

(vi) **Avoidance of Discussion of Personal Matters**—While it is appropriate for a licensee to discuss for example his or her training and qualifications with patients, in furtherance of the maintenance of appropriate boundaries, licensees should avoid any discussion of their own intimate personal problems or disclosure of details of their sexual lives.

¹ “. . . I will come for the benefit of the sick, remaining free . . . of all mischief and in particular of sexual relations with both female and male persons . . .”.

² “sexual or romantic interactions between physicians and patients detract from the goals of the physician patient relationship, may exploit the vulnerability of the patient, may obscure the physician’s objective judgment concerning the patient’s health care, and ultimately may be detrimental to the patient’s well being . . . at a minimum, a physician’s ethical duties include terminating the physician patient relationship before initiating a dating, romantic or sexual relationship with a patient . . . sexual or romantic relationships with former patients are unethical if the physician uses or exploits trust, knowledge, emotions or influence derived from the previous professional relationship.”

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

Deleted reference to specific statute.

Amended by R.1990 d.291, effective June 4, 1990.
See: 22 N.J.R. 905(a), 22 N.J.R. 1738(a).

Included podiatric physicians as those who can countersign orders and prescriptions written by a podiatric trainee.
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 “Countersigning of order and prescriptions of unlicensed physicians.”

New Rule, R.1996 d.242, effective May 20, 1996.

See: 28 N.J.R. 65(a), 28 N.J.R. 2560(a).

Amended by R.2004 d.135, effective April 5, 2004.

See: 35 N.J.R. 3262(a), 36 N.J.R. 1814(a).

In the appendix, rewrote B(v).

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

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

In (c), rewrote the introductory paragraph.

Case Notes

Decision of the New Jersey State Board of Medical Examiners granting a doctor his requested medical license in the State but contemporaneously reprimanding him for sexual misconduct involving a patient that was not misconduct in the State of California wherein the complaint had been filed against him was upheld on appeal. The reviewing court found that the Board’s exercise of discretion by imposing a condition to the grant of licensure rather than the more severe denial of licensure, was not arbitrary, capricious or unreasonable as the Board appropriately balanced the public interest against the need for the continued services of an otherwise qualified medical doctor. In re Kim, 403 N.J. Super. 378, 958 A.2d 485, 2008 N.J. Super. LEXIS 219 (App.Div. 2008).

In a professional and sexual misconduct case, evidence supported revocation of a physician’s license where: (1) testimony of disinterested witnesses and documentary evidence corroborated testimony of the victim patient; (2) the patient’s testimony with regard to the actual touching, a phone call by the physician to the patient’s home, and sighting of the physician near her home was credible; (3) several of the physician’s witnesses continued having a working relationship with the physician, which bears on the witnesses’ credibility; (4) the physician’s witnesses also had an interest because the working conditions at their place of employment could be adversely affected if the physician were to leave; (5) two of the physician’s witnesses used the physician as their own personal physician; and (6) the patient’s testimony regarding a

telephone call and sighting the physician outside the patient's home did not waver throughout the pendency of the proceeding and was consistent with and supported by the patient's prior statements to other people. In re Suspension or Revocation of License of Joachim, OAL Dkt. No. BDS 7297-03, 2007 N.J. AGEN LEXIS 173, Initial Decision (April 5, 2007).

Since there was no justification for a limb length discrepancy examination in the record where a victim patient was being examined without a chaperone for a toe injury, and the surrounding circumstances showed that it was only a pretext to get the patient to disrobe, the physician's conduct constituted sexual misconduct and sexual harassment, and therefore was in violation of N.J.S.A. 45:1-21(h). In re Suspension or Revocation of License of Hakimi, OAL Dkt. No. BDS 11873-04, 2006 N.J. AGEN LEXIS 148, Initial Decision (February 24, 2006).

During years before adoption of regulation prohibiting licensee from engaging in sexual contact with a patient with whom he or she had a patient-physician relationship, it was not per se violation of the Medical Practices Act for a physician to engage in consensual sexual relations with patient. In the Matter of the Suspension or Revocation of the License of Costino, Jr. to Practice Medicine and Surgery in the State of New Jersey, 1998 N.J. AGEN LEXIS 1, N.J. Adm., Feb 24, 1998, (OAL DKT. NO. BDS 10628-94).

Psychiatrist's engaging in sexual relations with patient warrants suspension of medical license. In the Matter of the Suspension or Revocation of the License of Tricarico, 96 N.J.A.R.2d (BDS) 18.

Florida's revocation of physician's license for sexual misconduct supports New Jersey's license revocation. In the Matter of Vatakencherry, 96 N.J.A.R.2d (BDS) 1.

Sexually abusing patients while conducting gynecological examinations warranted revocation of license and imposition of fine. In Matter of Suspension or Revocation of License of Chunmuang, 93 N.J.A.R.2d (BDS) 27.

No proof of alleged sexual molestation by doctor. In Matter of Suspension and Revocation of License of Prada, 93 N.J.A.R.2d (BDS) 1.

Podiatrist's improper touching of female patients and relative of one patient constituted professional misconduct; license revoked and civil penalties imposed. In Matter of Suspension or Revocation of License of Schulman, 92 N.J.A.R.2d (BDS) 16.

13:35-6.4 Delegation of administration of subcutaneous and intramuscular injections to certified medical assistants

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

1. "Physician" means a doctor of medicine (M.D.), a doctor of osteopathic medicine (D.O.), or a doctor of podiatric medicine.

2. "Certified medical assistant" means a graduate of a post-secondary medical assisting education program accredited by the National Healthcare Association (NHA), or its successor, The Committee on Allied Health Education and Accreditation of the American Medical Association (CAHEA), or its successor; Accrediting Bureau of Health Education Schools (ABHES), or its successor; or any accrediting agency recognized by the U.S. Department of Education. The educational program shall include, at a minimum, 600 clock hours of instruction and shall encompass training in the administration of intramuscular and

subcutaneous injections and instruction and demonstration in: pertinent anatomy and physiology appropriate to injection procedures; choice of equipment; proper technique, including sterile technique; hazards and complications; and emergency procedures. The medical assistant must also maintain current certification from the Certifying Board of the American Association of Medical Assistants (AAMA), the National Center for Competency Testing (NCCT) or registration from the American Medical Technologists (AMT), or any other recognized certifying body approved by the Board.

(b) A physician may direct a certified medical assistant employed in the medical practice in which the physician practices medicine, to administer to the physician's patients an intradermal, intramuscular or subcutaneous injection in the limited circumstances set forth in this section, without being in violation of the pertinent professional practice act implemented by the Board, to the extent such conduct is permissible under any other pertinent law or rule administered by the Board or any other State agency.

(c) A physician may direct the administration of an injection by a certified medical assistant only where the following conditions are satisfied:

1. The physician has determined and documented that the certified medical assistant has the qualifications set forth in (a)2 above and has attained a satisfactory level of comprehension and experience in the administration of intramuscular and subcutaneous injection techniques.

2. The physician shall examine the patient to ascertain the nature of the trauma, disease or condition of the patient; to determine the appropriate treatment of the patient including administration of an injection; to assess the risks of such injection for a given patient and the diagnosed injury, disease or condition; and to determine that the anticipated benefits are likely to outweigh those risks.

3. The physician shall determine all components of the precise treatment to be given, including the type of injection to be utilized, dosage, method and area of administration, and any other factors peculiar to the risks, such as avoidance of administration sites on certain parts of the body. The physician shall assure that this information shall be written on the patient's record and made available at all times to the medical assistant carrying out the treatment instructions, who shall also be identified by name and credentials in the patient record on each occasion that an injection is administered.

4. The physician shall remain on the premises at all times that treatment orders for injections are being carried out by the assistant and shall be within reasonable proximity to the treatment room and available to observe, assess and take any necessary action regarding effectiveness, adverse reaction or any emergency.

2. Where compensation has been paid to a testimonial giver, the fact of such compensation shall be conspicuously disclosed in a legible and readable manner in any advertisement in the following language: "COMPENSATION HAS BEEN PROVIDED FOR THIS TESTIMONIAL."

3. A licensee who advertises through the use of testimonials shall maintain documentation relating to such testimonials for a period of three years from the date of the last use of the testimonial. Such documentation shall include, at a minimum, the name, address and telephone number of the individual in the advertisement, the type and amount or value of compensation.

4. The testimonial shall not guarantee any specific results from any treatment.

13:35-12.22 Fee schedule

(a) The following fees shall be charged by the Committee:

1. Application fee:
 - i. Electrologist\$100.00
 - ii. Electrology instructor\$ 75.00
 - iii. Office premises\$200.00
2. Initial license fee:
 - i. Electrologist:
 - (1) First year of the biennial period\$200.00
 - (2) Second year of the biennial period\$100.00
 - ii. Electrology Instructor:
 - (1) First year of the biennial period\$100.00
 - (2) Second year of the biennial period\$ 50.00
 - iii. Office premises:
 - (1) First year of the biennial period\$350.00
 - (2) Second year of the biennial period\$175.00
3. Biennial license renewal fee:
 - i. Electrologist\$200.00
 - ii. Electrology instructor\$100.00
 - iii. Office premises\$350.00
4. Duplicate license\$ 25.00
5. Duplicate wall certificate\$ 40.00
6. Reinstatement fee\$150.00
7. Late fee\$ 50.00
8. Jurisprudence examination\$ 50.00
9. Comity license\$ 75.00
10. Continuing education sponsor fee\$100.00
11. License verification fee\$ 40.00
12. Inactive license fee(Reserved)

SUBCHAPTER 13. PERFUSIONISTS ADVISORY COMMITTEE

13:35-13.1 Purpose and scope

(a) This subchapter implements the Perfusionist Licensing Act, N.J.S.A. 45:9-37.94 et seq., and shall apply to all

applicants seeking licensure as a perfusionist and all perfusionists licensed in the State of New Jersey.

(b) This subchapter shall not apply to any person:

1. Licensed to practice under any other law and who is engaging in the practice for which he or she is licensed, registered or certified;
2. Enrolled as a student in a bona fide perfusion training program recognized by the Committee in performing those duties which are necessary for the student's course of study, provided the duties are performed under the supervision and direction of a licensed perfusionist;
3. Practicing perfusion within the scope of his or her official duties when employed by an agency, bureau or division of the Federal government, serving in the Armed Forces or the Public Health Service of the United States, or employed by the Veterans Administration; or
4. Performing autotransfusion or blood conservation techniques under the supervision of a licensed physician.

13:35-13.2 Definitions

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

"Act" means the Perfusionist Licensing Act, N.J.S.A. 45:9-37.94 et seq.

"Address of record" means an address designated by a licensee which is part of the public record and which may be disclosed upon request made to the Committee. "Address of record" may be a licensee's home, business, mailing address, or a post office box.

"Board" means the State Board of Medical Examiners.

"Committee" means the Perfusionists Advisory Committee established pursuant to section 4 of P.L. 1999, c.126 (N.J.S.A. 45:9-37.97 et seq.)

"Licensee" means an individual holding a license issued by the Perfusionist Advisory Committee under the State Board of Medical Examiners.

"Extracorporeal circulation" means the diversion of a patient's blood through a heart-lung machine or a similar device that assumes the functions of the patient's heart, lungs, kidney, liver or other organs.

"Perfusionist" means a person who is licensed to practice perfusion pursuant to the provisions of P.L. 1999, c.126 (N.J.S.A. 45:9-37.94 et seq.).

"Perfusion" means the functions necessary for the support, treatment, measurement or supplementation of the cardiovascular, circulatory or respiratory system or other organs, or a combination of those activities, and to ensure

the safe management of physiologic functions by monitoring and analyzing the parameters of the systems under an order and under the supervision of a licensed physician, including:

1. The use of extracorporeal circulation, long-term cardiopulmonary support techniques including extracorporeal carbon-dioxide removal and extracorporeal membrane oxygenation, and associated therapeutic and diagnostic technologies;

2. Counterpulsation, ventricular assistance, autotransfusion, blood conservation techniques, myocardial and organ preservation, extracorporeal life support and isolated limb perfusion;

3. The use of techniques involving blood management, advanced life support and other related functions;

4. In the performance of the activities described above, the administration of:

i. Pharmacological and therapeutic agents;

ii. Blood products or anesthetic agents through the extracorporeal circuit or through an intravenous line as ordered by a physician;

5. In the performance of the activities described above, the performance and use of:

i. Anticoagulation monitoring and analysis;

ii. Physiologic monitoring and analysis;

iii. Blood gas and chemistry monitoring and analysis;

iv. Hematologic monitoring and analysis;

v. Hypothermia;

vi. Hyperthermia;

vii. Hemoconcentration and hemodilution;

viii. Modified extracorporeal circulatory hemodialysis; and

6. The observation of signs and symptoms related to perfusion services, the determination of whether the signs and symptoms exhibit abnormal characteristics and the implementation of appropriate reporting, perfusion protocols, or changes in or the initiation of emergency procedures.

13:35-13.3 Office of the Committee

The office of the Committee shall be maintained at 124 Halsey Street, Newark, New Jersey. The mailing address of the Committee is PO Box 45049, Newark, New Jersey 07101.

13:35-13.4 Notification of change of address and record

(a) Licensees shall notify the Committee in writing of any change of the licensee's address of record from the address filed with the Committee and shown on the most recently issued certificate. Such notice shall be sent to the Committee no later than 30 days following the date on which the address of record is changed. If a PO Box is used as the address of record, the licensee must also provide the committee with another address which includes a street, city, state and zip code.

(b) Failure to notify the Committee of any change of the address of record pursuant to (a) above may result in disciplinary action in accordance with N.J.S.A. 45:1-21(h).

(c) Service of an administrative complaint or other Board or Committee-initiated process at the licensee's address of record on file with the Committee shall be deemed adequate notice for the purposes of N.J.A.C. 1:1-7.1 and the commencement of any disciplinary proceedings.

13:35-13.5 Licensure under grandfathering

(a) Upon submission of an application provided by the Committee for licensure as a perfusionist and payment of the application fee set forth at N.J.A.C. 13:35-13.17, the Committee shall issue a license to any person who applies for licensure by September 3, 2005 and submits documentation demonstrating that the applicant has at least five years experience immediately preceding the submission of the application for licensure, operating cardiopulmonary bypass systems for cardiac surgical patients as the applicant's primary function in a licensed health care facility.

1. An applicant who is certified by the American Board of Cardiovascular Perfusion (the "ABCP") shall be deemed to have demonstrated that he or she has the requisite experience operating cardiopulmonary bypass systems for cardiac surgical patients as his or her primary function in a health care facility provided that the applicant submits evidence that he or she has performed not less than 40 perfusion procedures per calendar year.

2. An applicant who is not ABCP certified shall be deemed to have demonstrated that he or she has the requisite experience operating cardiopulmonary bypass systems for cardiac surgical patients as his or her primary function in a health care facility provided that the applicant submits evidence that he or she has performed not less than 75 perfusion procedures per calendar year.