

## 53 N.J.R. 366(a)

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### RULE ADOPTIONS

#### Reporter

53 N.J.R. 366(a)

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#### Agency

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LAW AND PUBLIC SAFETY > DIVISION OF CONSUMER AFFAIRS > STATE BOARD OF MEDICAL EXAMINERS

#### Administrative Code Citation

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**Adopted Amendments: N.J.A.C. 13:35-2A.10 and 2A.12**

#### Text

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##### **Nitrous Oxide for Pain Relief**

Proposed: July 20, 2020, at 52 N.J.R. 1392(a).

Adopted: October 14, 2020, by the State Board of Medical Examiners, Scott E. Metzger, M.D., President.

Filed: February 3, 2021, as R.2021 d.018, **with a non-substantial change** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 45:9-2.

Effective Date: March 1, 2021.

Expiration Date: April 3, 2025.

**Summary** of Public Comments and Agency Responses:

The official comment period ended September 18, 2020. The State Board of Medical Examiners (Board) received comments from the following individuals:

1. Robert A. Graebe, MD, Chair and Program Director, Department of Ob-Gyn, Monmouth Medical Center;
2. Grace Fimbel CNM, MS; and
3. AJ Sabath, Advocacy and Management Group.

1. COMMENT: A commenter supports the proposed amendments at N.J.A.C. 13:35-2A.10 and 2A.12, as she believes offering nitrous oxide to laboring and immediate postpartum women would be a great benefit.

RESPONSE: The Board thanks the commenter for her support.

2. COMMENT: A commenter contends that certified nurse midwives (CNMs) have prescriptive authority and that certified midwives (CMs) do not. The commenter recommends that the proposed amendments at N.J.A.C. 13:35-2A.10 and 2A.12 be amended upon adoption, so that administering or facilitating the administration of nitrous oxide for pain relief would be limited to CNMs, as they are licensed registered professional nurses with training in pharmacology.

RESPONSE: The Board points out that not every CNM has prescriptive authority, only those who apply for it pursuant to N.J.A.C. 13:35-2A.14. The Board believes that all licensed midwives, CNMs, CMs, and Certified Professional Midwives (CPMs), have the education to safely and effectively administer, or facilitate the administration of, nitrous oxide for pain relief in health care facilities licensed by the Department of Health. The Board does not believe it is appropriate to change N.J.A.C. 13:35-2A.10 and 2A.12 as the commenter recommends.

3. COMMENT: A commenter contends that the Centers for Medicare and Medicaid Services (CMS) designates the chief of anesthesiology as the responsible entity for all anesthesia/sedation policies and recognizes that policies or protocol may allow a midwife to initiate nitrous oxide for labor analgesia with obstetric provider orders. The commenter recommends that N.J.A.C. 13:35-2A.10 and 2A.12 be amended upon adoption, so that the administration of nitrous oxide for pain relief could only be performed by a midwife if there are orders from the obstetric provider.

RESPONSE: The Board points out that a licensed midwife is an obstetric provider and the administration of nitrous oxide for pain relief by a licensed midwife is under the authority of the licensed midwife as the obstetric provider.

4. COMMENT: A commenter recommends that N.J.A.C. 13:35-2A.10 and 2A.12 be amended upon adoption to require the administration of nitrous oxide for pain relief comply with policies and written protocols developed by a health care facility. Additionally, such administration should only occur where pulse oximetry and gas scavenging systems are available.

RESPONSE: The Board requires that the administration or facilitation of the administration of nitrous oxide by a licensed midwife be in a licensed health care facility. This requirement is imposed with the understanding that any procedures performed in such a facility are performed pursuant to that facility's policies and written protocols. The Board also understands that a licensed health care facility would only allow the administration of nitrous oxide when it is safe to do so, which includes all appropriate measures to ensure safety, such as where pulse oximetry and gas scavenging systems are available along with any other measures that are appropriate. The Board does not believe it is necessary to change N.J.A.C. 13:35-2A.10 and 2A.12 as the commenter recommends.

#### **Federal Standards Statement**

A Federal standards analysis is not required because there are no Federal laws or standards applicable to the adopted amendments.

**Full text** of the adoption follows (addition to proposal indicated in boldface with asterisks **\*thus\***; deletion from proposal indicated in brackets with asterisks \*[thus]\*):

#### SUBCHAPTER 2A. LIMITED LICENSES: MIDWIFERY

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

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

1.-3. (No change.)

4. Repairing first- and second-degree episiotomies and lacerations;

5. Using local anesthesia; and

6. In a health care facility licensed by the Department of Health, administering or facilitating the administration of nitrous oxide for pain relief.

(b)-(c) (No change.)

\*[13:35A]\*      **\*13:35\***-2A.12                      Postpartum care

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

1. Assessment and treatment;
2. Contraceptive services; and
3. In a health care facility licensed by the Department of Health, administering or facilitating the administration of nitrous oxide for pain relief.

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