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RULE ADOPTION
LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF MEDICAL EXAMINERS
CONTINUING MEDICAL EDUCATION

Adopted New Rule: N.J.A.C. 13:35-6.15

Proposed: February 2, 2004 at 36 N.J.R. 607(a).

Adopted: May 12, 2004 by the State Board of Medical Examiners, David M. Wallace, M.D., President.

Filed: May 26, 2004 as R.2004 d.232, without change.

Authority: N.J.S.A. 45:9-2, 45:9-7.1 and 45:1-15.1.

Effective Date: June 21, 2004.

Expiration Date: September 20, 2004.

Summary of Public Comments and Agency Responses:

The Board received comments on the proposal from the following:

1. Joseph P. Costabile, M.D., President, Camden County Medical Society;
2. Mark T. Olesnicky, M.D., President, Medical Society of New Jersey;
3. Joseph A. Komosinski, State Registrar, Bureau of Vital Statistics and Registration, State of New Jersey Department of Health and Senior Services;
4. Ray Saputelli, CAE, Executive Vice President, New Jersey Academy of Family Physicians;
5. Shishir G. Vidwans, M.D., Medical Director, State of New Jersey Department of Human Services, Division of Developmental Disabilities;
6. Peter Blumenthal, M.D., President, Essex County Medical Society;
7. Laurie A. Clark, Director of Government and Public Affairs, New Jersey Association of Osteopathic Physicians and Surgeons; and
8. Akshay Patel.

1. COMMENT: Joseph P. Costabile, M.D., on behalf of the Camden County Medical Society, objected to the proposed new rule as burdensome to practicing physicians and unnecessary. The commenter noted that currently, a physician needs to complete 150 hours of continuing medical education credits every three years in order to renew his or her State license. The commenter believes that changing the timing of continuing medical education requirements will confuse physicians and that requiring practicing physicians to report continuing medication credits every two years, instead of every three years, will be burdensome.

RESPONSE: Prior to the enactment of N.J.S.A. 45:9-7.1 in 2002, physicians were not required to complete any

continuing medical education for purposes of maintaining their State licenses. N.J.S.A. 45:9-7.1 requires all persons licensed by the Board as physicians and podiatrists to complete 100 credits of continuing medical education in each biennial renewal period in order to qualify for license renewal. The commenter's statement that physicians are currently required to complete 150 hours of continuing medical education over a three-year period in order to qualify for State license renewal, therefore, is incorrect. The Board disagrees with the commenter's suggestion that the requirements in new rule N.J.A.C. 13:35-6.15 are burdensome and unnecessary, and notes that the requirements in the new rule are consistent with the requirements imposed upon licensees pursuant to N.J.S.A. 45:9-7.1.

2. COMMENT: Mark T. Olesnicky, M.D., on behalf of the Medical Society of New Jersey, commended the Board for recognizing the importance of continuing medical education. The commenter expressed support for the requirement in the new rule that 40 credits of the required 100 credits be obtained in AMA Category 1 courses, noting that this requirement strikes an appropriate balance between defined medical education course work, and other educational activities. This approach will provide licensees with greater flexibility in satisfying the 100 credit hour requirement. The Medical Society, however, expressed concern regarding subsection (g) of N.J.A.C. 13:35-6.15, which provides that the Board may delineate specific topics that may be addressed as part of a licensee's continuing medical education. The Medical Society recommended that the Board exercise such authority judiciously, and only after consultation with representatives from the medical community. The commenter recommended that the Board consult with the advisory committee, created pursuant to the statute upon which the new rule is based, prior to making any decisions regarding mandatory continuing medical education topics.

RESPONSE: The Board thanks the Medical Society of New Jersey for its support of the new rule and notes that the Board intends to exercise the authority set forth in N.J.A.C. 13:35-6.15(g), to delineate specific, required topics of continuing medical education, in a judicious manner. The Board notes that new rule N.J.A.C. 13:35-6.15 was promulgated only after consultation with members of the medical community through the advisory committee, created pursuant to N.J.S.A. 45:9-7.1b(4), and that the Board will continue to seek input from the advisory committee in the future if the Board determines that advice is warranted on a particular topic.

3. COMMENT: Joseph A. Komosinski, on behalf of the Bureau of Vital Statistics and Registration in the Department of Health and Senior Services, requested that the Board amend N.J.A.C. 13:35-6.15(g) to require physicians to obtain three hours of continuing medical education on the topic of vital records documentation in each biennial renewal period. The commenter believes that continuing education on this topic is necessary in light of physicians' legal obligation to complete vital records documents and the fact that data collected from such documents is analyzed by the Centers for Disease Control for emerging diseases and health trends. The commenter also requested that N.J.A.C. 13:35-6.15(c), which exempts from continuing education requirements for the initial biennial licensure period persons who have completed accredited graduate medical education programs within 12 months of licensure, be amended to require such persons to complete three credits of continuing medical education in vital records documentation during the biennial renewal period.

RESPONSE: The Board thanks the Bureau of Vital Statistics and Registration for its comment and will take the commenter's suggestion under advisement. At this time, however, the Board is not prepared to require all licensees to take three credits of continuing medical education per biennial renewal period in vital records documentation. As noted above in Response to the Comment submitted by the Medical Society of New Jersey, the Board believes that decisions regarding mandatory continuing medical education topics should be made judiciously, in consultation with members of the medical community, through the advisory committee created pursuant to N.J.S.A. 45:9-7.1b(4). The Board, therefore, declines to amend N.J.A.C. 13:35-6.15(g) as suggested by the commenter at this time. In addition, the Board notes that the commenter's suggested amendment to N.J.A.C. 13:35-6.15(c) to require persons who have completed accredited graduate medical education programs within 12 months of licensure to complete three credits of continuing education in vital records documentation would violate N.J.S.A. 45:9-7.1(h), which exempts such persons from all continuing medical education requirements for their initial biennial renewal period.

4. COMMENT: Ray Saputelli, on behalf of the New Jersey Academy of Family Physicians, recommended that the definition of "Category I" and "Category II" in N.J.A.C. 13:35-6.15 be amended to include those categories of medical education courses recognized by the American Academy of Family Physicians (AAFP). The commenter noted that AAFP continuing medical education courses have been deemed equivalent to AMA Category I credit for purposes of

the AMA Physician Recognition Award.

RESPONSE: The Board does not believe that the amendment suggested by the commenter is necessary. AAFP continuing medical education courses which have been recognized by the AMA as equivalent to AMA courses credited toward the Physician Recognition Award fall within the current definition of Category I and Category II courses set forth in N.J.A.C. 13:35-6.15(a).

5. COMMENT: Shishir G. Vidwans, M.D., on behalf of Division of Developmental Disabilities in the Department of Human Services, requested that the Board consider allowing proof of current valid AMA or American Osteopathic Association (AOA) continuing medical education certificates to satisfy the requirements of new rule N.J.A.C. 13:35-6.15. The commenter noted that the AMA certificate is accepted by numerous state medical boards for fulfillment of physician continuing medical education requirements.

RESPONSE: New rule N.J.A.C. 13:35-6.15 does not require a licensee to produce documentation verifying continuing medical education on a biennial basis. Pursuant to subsection (d) of the new rule, a licensee must attest to the completion of the required number of continuing education credits on his or her biennial renewal application. Paragraph (h)2 of N.J.A.C. 13:35-6.15 requires a licensee to maintain verification evidence of continuing medical education requirements for a period of six years after completion of the credits, which must be presented to the Board upon request. The Board notes that the proposed new rule does not preclude a licensee from producing an AMA or AOA continuing education certificate for documentation purposes, if documentation of continuing education credits is requested by the Board. The Board notes, however, that such certificates alone may not establish satisfaction of its continuing education requirements. In light of the fact that biennial license renewal cycles and AMA and AOA certificate cycles may not coincide, the onus would be on the licensee to demonstrate that the continuing education credits necessary for the AMA or AOA certificate were obtained in the period of State biennial licensure in question.

6. COMMENT: Peter Blumenthal, M.D., on behalf of the Essex County Medical Society, noted that requiring physicians to complete 50 credits of continuing medical education per year is reasonable. The commenter, however, believes that the new rule's requirement that 20 of the 50 credit hours be obtained at accredited meetings is onerous, especially for handicapped or elderly physicians. The commenter also noted that registering for most accredited courses is expensive. In order to make the new rule less burdensome, the commenter requested that website education be permitted to be counted as Category I education.

RESPONSE: New rule N.J.A.C. 13:35-6.15 does not mandate that 20 credits of continuing medical education be obtained at accredited meetings, as suggested by the commenter. The new rule requires that of the 100 credits that must be obtained in a biennial renewal period, 40 of the credits must be in Category I courses. Category I credits recognized by the relevant associations and entities referenced in the rule include attendance at national conferences, local workshops, and seminars, but may also include printed, recorded, audio, video, and electronic activities, provided the activities satisfy Category I requirements imposed by the associations or entities. As such, the Board notes that website-based activities may be counted as Category I courses, provided the activities have received such designation by the relevant associations or entities.

7. COMMENT: Laurie A. Clark, on behalf of the New Jersey Association of Osteopathic Physicians and Surgeons, expressed support for the new rule.

RESPONSE: The Board thanks the New Jersey Association of Osteopathic Physicians and Surgeons for its support of the new rule.

8. COMMENT: Akshay Patel requested clarification regarding whether physicians who are board certified may apply the continuing medical education hours they obtain as a result of recertification toward satisfaction of the continuing medical education requirements of the new rule.

RESPONSE: Category 1 credit will be granted for American Board of Medical Specialties member board certification and recertification by the relevant associations or entities referenced in the new rule. Continuing education credits earned as a result of such activities, therefore, could be used by a licensee to satisfy the continuing medical education requirements imposed pursuant to N.J.A.C. 13:35-6.15.

Federal Standards Statement

A Federal standards analysis is not required because the adopted new rule is governed by N.J.S.A. 45:9-1 et seq., and is not subject to any Federal standards or requirements.

Full text of the adoption follows:

<< NJ ADC 13:35-6.15 >>

13:35-6.15 Continuing medical education

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

"Category I" and "Category II" mean the categories of medical education courses recognized by the American Medical Association as credited toward the Physician Recognition Award, and those categories of medical education courses recognized by the American Osteopathic Association or the American Podiatric Medical Association.

"Licensee" means a physician or podiatrist licensed and subject to regulation by the Board of Medical Examiners (the "Board").

(b) Except as provided in (b)1 and 2 and (c) below, a licensee applying for a biennial license renewal shall complete, in each biennial renewal period commencing with the biennial renewal period beginning on July 1, 2003, 100 continuing medical education credits in Category I or Category II courses, of which at least 40 of such credits shall be in Category I.

1. A licensee shall be required to complete 50 continuing medical education credits for the biennial renewal period beginning on July 1, 2003, if this section becomes effective on or before July 1, 2004, of which at least 20 credits shall be in Category I courses.

i. A licensee who completes credits in excess of the 50 continuing medical education credits required pursuant to (b)1 above may apply no more than 25 of the excess credits to the continuing medical education requirements for the following biennial period only.

2. A licensee shall be exempt from the continuing medical education requirements for the biennial renewal period beginning on July 1, 2003, if this section becomes effective after July 1, 2004.

(c) An applicant for initial licensure who has completed an accredited graduate medical education program within 12 months prior to licensure shall be exempt from the continuing medical education requirements of this section for the initial biennial period of licensure. Notwithstanding such exemption from the continuing medical education requirements, the applicant, once licensed by the Board, shall complete, within 24 months of becoming licensed, an orientation course which is presented or approved by the Board.

(d) A licensee shall certify on the application for biennial licensure renewal that he or she has completed the required number of continuing medical education credits. The Board may conduct random audits to determine licensee compliance with the continuing medical education requirements of this section.

(e) A licensee who completes credits in excess of the 100 continuing medical education credits required pursuant to this section may apply no more than 25 of the excess credits to the continuing medical education requirements for the following biennial period only.

(f) Licensees holding an inactive or retired license shall be exempt from continuing medical education requirements, except that any licensee holding an inactive or retired license, or whose license is suspended or revoked, who applies to resume practice shall provide proof of having attained 50 credits of continuing medical education for each year out

of practice in New Jersey. At least 50 credits shall have been obtained in the year preceding the application to resume practice. At the time of application to resume practice, the licensee shall provide proof of the completed continuing medical education during the period while out of practice in New Jersey. The Board may accept such continuing medical education credits or require additional credits as a condition to return to practice.

(g) The Board may delineate specific topics of medical education which the Board deems necessary to address a particular issue or problem. Notification of the specific topic(s) shall be through the Board newsletter, the Division of Consumer Affairs website or by direct communication to licensees.

(h) To report continuing medical education credits, a licensee shall:

1. Certify, on the application for biennial renewal, completion of the required number of continuing medical education credits; and
2. Maintain all evidence of verification of continuing medical education requirements for a period of six years after completion of the credits and submit such documentation to the Board upon request.

(i) The Board may extend the time period for completion of continuing medical education requirements or may waive continuing medical education requirements on an individual basis for reasons of hardship, such as severe illness, disability or military service, consistent with the following:

1. A licensee seeking an extension and/or waiver of the continuing medical education requirements shall apply to the Board in writing and set forth in specific detail the reasons for requesting the extension and/or waiver. The licensee shall submit to the Board all documentation in support of the extension and/or waiver;
2. A licensee shall apply for an extension and/or waiver within 60 days of the expiration of the biennial renewal period. All requests shall be sent to the Board office, by certified mail, return receipt requested; and
3. An extension and/or waiver granted pursuant to this section shall be effective for the biennial licensure period in which the extension and/or waiver is granted. If the condition(s) which necessitated the extension and/or waiver continues into the next biennial period, the licensee shall apply to the Board for the renewal of such extension and/or waiver for the new biennial period.

(j) A licensee shall provide verification and proof of compliance with continuing medical education requirements for the prior biennial renewal period when appearing before an investigative committee of the Board or the Medical Practitioner Review Panel, or when required to do so pursuant to a Board Order, Directive or request.

(k) Failure to complete continuing medical education requirements or falsification of any information submitted on a renewal application shall provide cause for penalties and/or license suspension pursuant to N.J.S.A. 45:1-21.