

**NEW JERSEY REGISTER
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RULE ADOPTIONS
LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF PHARMACY**

39 N.J.R. 3774(b)

Adopted Amendments: N.J.A.C. 13:39-1.2, 1.3, 6.3, 6.6, 6.15 and 7.8

Adopted New Rules: N.J.A.C. 13:39-6.6 through 6.14

Definitions; Fee Schedule; Identification Tag; Pharmacy Technician Registration and Pharmacy Technician Applicants; Authorization to Practice as a Pharmacy Technician; Display of Registration; Replacement of Technician Registration; Technician Change of Name; Technician Change of Address of Record; Service of Process; Verification of Technician Registration; Reproduction of Technician Registration Prohibited; Biennial Technician Registration Renewal; Administrative Suspension; Reinstatement from Administrative and Disciplinary Suspensions of a Pharmacy Technician's Registration; Pharmacy Technician Duties and Pharmacist-Technician Ratios; Transfer of Prescriptions Between Pharmacies

Proposed: August 7, 2006 at 38 N.J.R. 3137(a).

Adopted: May 9, 2007 by the Board of Pharmacy, Edward G. McGinley, R.P., President.

Filed: August 6, 2007 as R.2007 d.283, with substantive and technical changes not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 45:14-47, 45:14-48 and 45:14-80.

Effective Date: September 4, 2007.

Expiration Date: December 10, 2009.

Summary of Agency Initiated Changes:

The Board is making a technical amendment to the definition of pharmacy technician contained in N.J.A.C. 13:39-39-1.2 on adoption in order to correct the current cross-reference to N.J.A.C. 13:39-6.6 in that definition. N.J.A.C. 13:39-6.6 was recodified as N.J.A.C. 13:39-6.15 as part of this proposal. The cross-reference in the definition of pharmacy technician is being amended to refer to N.J.A.C. 13:39-6.15.

Federal Standards Statement

A Federal standards analysis is not required because the adopted amendments and new rules are governed by N.J.S.A. 45:14-40 et seq. The adopted amendments and new rules are not subject to any Federal requirements or standards.

Full text of the adoption follows (additions to proposal indicated in boldface with asterisks *thus* deletions from proposal indicated in brackets with asterisks *[thus]*):

13:39-1.2 Definitions

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

"Address of record" means an address designated by a licensee or registrant. "Address of record" may be a licensee's

or registrant's home, business or mailing address, but shall not be a post office box unless the licensee or registrant also provides another address which includes a street, city, state and zip code.

"Pharmacy technician" means an individual employed by a pharmacy whose responsibilities do not require professional judgment in the preparation and distribution of medications and who works under the immediate personal supervision of a pharmacist in compliance with N.J.A.C. 13:39-*[6.6]* *6.15*. For purposes of this definition, interns, externs, cashiers, stocking and clerical help are not pharmacy technicians.

13:39-1.3 Fee schedule

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

1.-2. (No change.)

3. For pharmacy technicians as follows:

i. Application for registration..... \$ 50.00;

ii. Initial registration fee:

(1) If paid during the first year of a biennial renewal period. \$ 70.00;

(2) If paid during the second year of a biennial renewal period \$ 35.00;

iii. Biennial registration renewal..... \$ 70.00;

iv. Replacement biennial registration..... \$ 25.00;

v. Late renewal fee..... \$ 25.00;

vi. Verification of registration..... \$ 25.00;

and

vii. Reinstatement fee:

(1) Disciplinary suspension..... \$ 125.00;

(2) Administrative suspension (To be determined by future rulemaking).

13:39-6.3 Identification tag

All personnel working in the pharmacy shall wear an identification tag which shall include at least the person's first name and job title. The identification tag of any employee in training shall reflect the status of the employee as a trainee.

13:39-6.6 Pharmacy technician registration and pharmacy technician applicants

(a) A person wishing to be registered with the Board as a pharmacy technician shall:

1. Be 18 years of age or older;

2. Possess a high school diploma or its equivalent;

3. *[Be proficiency]* *Submit a certification attesting to the fact that he or she is proficient* in written and spoken English;

4. Apply to the Board for registration and submit the application fee set forth in N.J.A.C. 13:39-1.3;

5. Submit his or her name, address and fingerprints for purposes of a criminal history background check pursuant to N.J.S.A. 45:1-28 et seq., (P.L. 2002, c. 104) to determine whether criminal history record information exists which may disqualify the applicant from being registered by the Board; and

6. Submit, as part of the application for registration, evidence of good moral character which is an ongoing requirement for registration, and evidence that he or she:

i. Is not presently engaged in drug or alcohol use that is likely to impair the ability to practice as a pharmacy

technician with reasonable skill and safety. For purposes of this section, the term "presently" means at the time of application or any time within the previous 365 days;

ii. Has not been convicted of violating any law of this State or any other state of the United States relating to controlled dangerous substances or other habit-forming drugs;

iii. Has not been convicted of violating any law relating to the practice of pharmacy;

iv. Has not been convicted of a crime involving moral turpitude; and

v. Has not had his or her authority to engage in the activity regulated by the Board suspended or revoked as a result of any administrative or disciplinary proceedings in this or any other jurisdiction which determined the applicant to be in violation of any laws, rules or regulations pertaining to the practice of pharmacy, and that the applicant is not currently under suspension or revocation.

(b) *[Within 180 days from (the effective date of this rule)]* *By March 2, 2008*, a pharmacy shall only employ a person registered with the Board as a pharmacy technician pursuant to (a) above, or a pharmacy technician applicant, consistent with (c) below, to perform pharmacy technician functions.

(c) *[Within 180 days from (the effective date of this rule)]* *By March 2, 2008*, any person who is hired as a pharmacy technician who is not registered with the Board shall be designated a pharmacy technician applicant. A person may only be considered a pharmacy technician applicant one time and only for a maximum of 180 consecutive days. During the first 10 days of employment, the pharmacy technician applicant shall file an application with the Board to begin the pharmacy technician registration process. The applicant shall retain proof of filing the application until he or she receives his or her registration. If at the conclusion of the 180 day period, the pharmacy technician applicant has not completed the pharmacy technician registration process, consistent with (a) above, the applicant shall cease performing pharmacy technician functions in the pharmacy.

(d) All persons who are employed as pharmacy technicians on *[the effective date of this section]* *September 4, 2007* shall be registered with the Board *[within 180 days from (the effective date of this rule)]* *by March 2, 2008*. Such persons shall satisfy the requirements set forth in (a) above, except that such persons shall be exempt from satisfying the requirement established in (a)2 above. Such persons shall present proof of employment to the Board which establishes that they have been practicing as pharmacy technicians prior to *[the effective date of this rule]* *September 4, 2007*.

(e) If an applicant for registration as a pharmacy technician is being investigated for any alleged violation of the New Jersey Pharmacy Practice Act, N.J.S.A. 45:14-1 et seq., or the pharmacy laws, rules or regulations of any other jurisdiction, the Board in its discretion may deny the applicant the opportunity to register as a pharmacy technician.

(f) A pharmacy shall not employ as a pharmacy technician applicant any person who was previously employed as a pharmacy technician applicant at a pharmacy in the State and who failed to complete the pharmacy technician registration process or any person who has been the subject of disciplinary action by the Board.

13:39-6.7 Authorization to practice as a pharmacy technician; display of registration

(a) An applicant for registration as a pharmacy technician who has successfully satisfied all Board requirements for registration and has been approved by the Board to be registered shall, upon payment of the initial registration fee set forth in N.J.A.C. 13:39-1.3, receive an authorization signed by the Executive Director of the Board granting the applicant the right to practice as a pharmacy technician in the State of New Jersey until such time as an initial registration may be issued. The registrant shall maintain such authorization on his or her person at all times while engaging in the practice of pharmacy as a pharmacy technician until the initial registration is issued.

(b) Upon issuance, the current biennial renewal registration shall be conspicuously displayed in the registered pharmacy technician's principal place of employment.

(c) A registered pharmacy technician who is employed by more than one licensed pharmacy in the State shall maintain the wallet-sized registration issued by the Board on his or her person when he or she is working at a location where his or her current biennial renewal registration is not on display.

13:39-6.8 Replacement of technician registration

A replacement initial registration or renewal registration shall be issued by the Board upon payment of a fee as prescribed in N.J.A.C. 13:39-1.3 and upon submission of proof of the applicant's identity and reasonable proof of the loss or destruction of the initial registration or renewal registration, or upon return of the damaged initial registration or renewal registration to the Board.

13:39-6.9 Technician change of name

If a registered pharmacy technician legally changes the name under which he or she has been practicing as a pharmacy technician, the pharmacy technician shall notify the Board within 30 days of such change. The registered pharmacy technician shall submit original proof of the change of name or a certified copy of the court order or marriage certificate which shall be retained by the Board. When a replacement registration is issued, the initial registration shall be returned for cancellation and the pharmacy technician shall remit the required fee as prescribed in N.J.A.C. 13:39-1.3.

13:39-6.10 Technician change of address of record; service of process

(a) A registered pharmacy technician shall notify the Board in writing of any change in his or her address of record within 30 days of such change.

(b) Failure to notify the Board of any change in a registered pharmacy technician's address of record pursuant to (a) above may result in disciplinary action in accordance with N.J.S.A. 45:1-21(h) and N.J.A.C. 13:45C-1.3, and the imposition of penalties set forth in N.J.S.A. 45:1-25.

(c) Service of any administrative complaint or other Board-initiated process at a registered pharmacy technician's address of record shall be deemed adequate notice for the purposes of N.J.A.C. 1:1-7.1 and the commencement of any disciplinary proceedings.

13:39-6.11 Verification of technician registration

A verification that the registration of a pharmacy technician is in good standing shall be supplied by the Board upon written request and upon payment of the fee set forth in N.J.A.C. 13:39-1.3.

13:39-6.12 Reproduction of technician registration prohibited

The initial registration, biennial registration or wallet-sized registration issued by the Board to any pharmacy technician shall not be reprinted, photographed, photostated, duplicated or reproduced by any other means either in whole or in part, except as provided in N.J.A.C. 13:39-6.8.

13:39-6.13 Biennial technician registration renewal; administrative suspension

(a) A pharmacy technician shall renew his or her registration for a period of two years from the last expiration date. The pharmacy technician shall submit a renewal application to the Board, along with the renewal fee set forth in N.J.A.C. 13:39-1.3, prior to the date of registration expiration. A pharmacy technician who submits a renewal application within 30 days following the date of registration expiration shall submit the renewal fee, as well as the late fee set forth in N.J.A.C. 13:39-1.3. A pharmacy technician who fails to submit a renewal application within 30 days of registration expiration shall have his or her registration suspended without a hearing. Such suspension shall be deemed an administrative suspension.

(b) A pharmacy technician who continues to perform the functions of a pharmacy technician with a suspended

registration shall be deemed to be engaging in unauthorized practice as a pharmacy technician and shall be subject to the penalties set forth in N.J.S.A. 45:1-25 et seq.

(c) The Board shall send a notice of renewal to each pharmacy technician, at least 60 days prior to the expiration of his or her registration. If the notice to renew is not sent 60 days prior to the expiration date, no monetary penalty or fines shall apply to the pharmacy technician for any unauthorized practice during the period following the registration expiration, not to exceed the number of days short of 60 before the renewal was issued.

13:39-6.14 Reinstatement from administrative and disciplinary suspensions of a pharmacy technician's registration

(a) A pharmacy technician who has had his or her registration administratively suspended pursuant to N.J.A.C. 13:39-6.13 may apply to the Board for reinstatement following the date of registration expiration. A pharmacy technician applying for reinstatement shall submit:

1. A reinstatement application, including an affidavit of employment listing each job held during the period of registration suspension, including the names, addresses, and telephone numbers of each employer;
2. All past due renewal fees set forth in N.J.A.C. 13:39-1.3;
3. A reinstatement fee set forth in N.J.A.C. 13:39-1.3; and
4. Any outstanding penalties imposed by the Board.

(b) A pharmacy technician who has had his or her registration suspended pursuant to disciplinary action taken by the Board may apply to the Board for reinstatement of his or her registration at the conclusion of the suspension period. A pharmacy technician applying for reinstatement from a disciplinary suspension shall submit:

1. A renewal application, including an affidavit of employment listing each job held during the period of registration suspension, including the names, addresses, and telephone numbers of each employer;
2. A reinstatement fee set forth in N.J.A.C. 13:39-1.3;
3. The applicable renewal fee(s) set forth in N.J.A.C. 13:39-1.3; and
4. Evidence of having met all conditions imposed by the Board pursuant to the disciplinary and/or reinstatement order(s).

13:39-6.15 Pharmacy technician duties and pharmacist-technician ratios

(a) In addition to externs and interns, only pharmacy technicians and pharmacy technician applicants may assist the registered pharmacist in performing the following tasks:

- 1.-4. (No change.)

(b) Pharmacy technicians and pharmacy technician applicants may accept authorization from a patient for a prescription refill, or from a physician or his or her agent for a prescription renewal, provided that the prescription remains unchanged. The pharmacy technician or pharmacy technician applicant shall identify himself or herself as a pharmacy technician when accepting authorization from a physician or his or her agent. For purposes of this section, "prescription refill" means the dispensing of medications pursuant to a prescriber's authorization provided on the original prescription. For purposes of this section, "prescription renewal" means the dispensing of medications pursuant to a practitioner's authorization to fill an existing prescription that has no refills remaining.

(c) Pharmacy technicians and pharmacy technician applicants shall not:

- 1.-9. (No change.)

(d) A pharmacy shall require all pharmacy technicians and pharmacy technician applicants employed by the pharmacy to sign a patient confidentiality statement. Such statements shall be maintained on-site by the pharmacy.

(e) Except as provided in (f) below, a pharmacist shall not supervise more than two pharmacy technicians at any given time. The pharmacist shall provide immediate personal supervision, as defined in N.J.A.C. 13:39-1.2, of all pharmacy technicians he or she supervises. Those personnel who do computer processing of prescriptions are to be included in the 1 to 2 ratio. A registered pharmacy technician or a pharmacy technician applicant who is receiving in-service training, which shall not exceed 210 days, shall be excluded from the 1 to 2 ratio during such training. A pharmacist shall not supervise more than two persons receiving in-service training at the same time.

(f) A pharmacy that employs a registered pharmacist to pharmacy technician ratio greater than 1:2 shall:

1. Establish written job descriptions, task protocols, and policies and procedures that pertain to the duties performed by the pharmacy technicians;

2. Ensure and document that all pharmacy technicians who are working when the ratio exceeds 1:2 have:

i. Passed the Pharmacy Technician Certification Board's Pharmacy Technician Certification Examination and have fulfilled the requirements to maintain this status;

ii. Passed a Board-approved certification program and have fulfilled the requirements to maintain this status; or

iii. Completed a program which includes a testing component which has been approved by the Board as satisfying the criteria set forth in (g) below. Completion of a program with a Board-approved testing component shall qualify the pharmacy technician to work only for the specific pharmacy and/or corporation for which the pharmacy technician was employed when the training was obtained. If the pharmacy technician becomes employed by another pharmacy and/or corporation, the pharmacy technician shall be required to complete the new employer's training program;

3. Ensure that all pharmacy technicians are knowledgeable in the established job descriptions, task protocols, and policies and procedures in the pharmacy setting in which the technicians are to perform their duties;

4. Ensure that the duties assigned to any pharmacy technician do not exceed the established job descriptions, task protocols, and policies and procedures, nor involve any of the prohibited tasks in (c) above;

5. Ensure that all pharmacy technicians receive in-service training before the pharmacy technicians assume their responsibilities and maintain documentation thereof. A registered pharmacy technician or a pharmacy technician applicant who is receiving in-service training, which shall not exceed 210 days, shall be excluded from the 1 to 2 ratio during such training. A pharmacist shall not supervise more than two persons receiving in-service training at the same time;

Recodify existing 7.-8. as 6.-7. (No change in text.)

Recodify existing (f)-(g) as (g)-(h) (No change in text.)

(i) When pharmacy technicians and pharmacy technician applicants are engaged in any permitted activities, the registered pharmacist(s) shall be responsible for all the activities of the pharmacy technicians and the pharmacy technician applicants.

13:39-7.8 Transfer of prescriptions between pharmacies

(a)-(e) (No change.)

(f) A prescription may be transferred by telephone between pharmacies for the purpose of refill dispensing provided that:

1.-2. (No change.)

3. The *[receiving]* pharmacist, intern*,* *[or]* extern*,* *or technician at the receiving pharmacy* informs the patient or caregiver that the original prescription has been cancelled at the sending pharmacy.