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NEW JERSEY ADMINISTRATIVE CODE
TITLE 13
LAW AND PUBLIC SAFETY
CHAPTER 39A
STATE BOARD OF PHYSICAL THERAPY

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**SUBCHAPTER 1.
AGENCY ORGANIZATION AND ADMINISTRATION**

13:39A-1.1 ELECTION OF OFFICERS

The membership of the State Board of Physical Therapy Examiners shall once each year elect a chairperson, vice chairperson and a secretary. The chairperson shall have the responsibility to conduct all meetings unless, in his or her discretion, a delegation of that responsibility is made. In the absence of the chairperson and an express delegation of responsibility, the vice chairperson shall assume all of the duties of chairperson.

13:39A-1.2 DELEGATION OF AUTHORITY TO ACT ON EMERGENT APPLICATIONS

The chairperson shall be authorized to hear and decide emergent applications by the Attorney General made pursuant to N.J.S.A. 45:1-22 for the temporary suspension of any license. The chairperson may also undertake such other interim action as may be required by circumstances arising prior to the next meeting date of the Board, provided that said action is subsequently presented to the Board for its review and ratification. Any decision made by the chairperson pursuant to this section shall be placed on the agenda of the Board at its next regularly scheduled meeting for the purpose of its review and ratification. Insofar as it is practicable, the Board shall be provided with a transcript of the record made before the chairperson and the parties will be permitted to supplement the record with written submissions.

13:39A-1.3 FEES AND CHARGES

a) The following fees shall be charged by the State Board of Physical Therapy Examiners:

1) Application Fee for Licensed Physical Therapist and Licensed Physical Therapist Assistant..... \$125.00

2) Initial licensure fee, Licensed Physical Therapist:

i) If paid during first year of biennial renewal period: \$110.00

ii) If paid during second year of biennial renewal period: \$55.00

Initial licensure fee, Licensed Physical Therapy Assistant

iii) If paid during first year of biennial renewal period: \$100.00

- iv) If paid during second year of biennial renewal period:..... \$50.00
- 3) Biennial renewal fee:

 - i) Licensed Physical Therapist..... \$110.00
 - ii) Licensed Physical Therapist Assistant \$100.00

- 4) Late renewal fee: \$100.00
- 5) Reinstatement fee..... \$150.00
- 6) Temporary visiting license pursuant to N.J.S.A. 45:9-37.29(b) to practice on a temporary basis to assist in a medical emergency or to engage in a special project or teaching assignment \$100.00
- 7) Duplicate certificate of registration \$25.00
- 8) Duplicate wall license \$40.00
- 9) Certification of licensure status \$40.00
- 10) Change of name and/or address with new certificate of registration fee \$25.00
- 11) Continuing education provider submission fee \$100.00
- 12) Inactive license fee(to be established by Director by rule)

13:39A-1.4 (RESERVED)

**SUBCHAPTER 2.
PRACTICE AS A LICENSED PHYSICAL THERAPIST AND LICENSED
PHYSICAL THERAPIST ASSISTANT**

13:39A-2.1 DEFINITIONS

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

"Clinically supported" means that a licensee, prior to selecting, performing or ordering the administration of a diagnostic test, has:

1. Personally performed a physical examination, making an assessment of any current and/or historical subjective complaints, observations, objective findings, neurological indications;
2. Considered any and all previously performed tests relating to the patient's medical condition and the results; and
3. Documented in the patient record positive and negative findings, observations and medical indications to justify the test.

"Diagnostic testing" means a medical service utilizing biomechanical, neurological, neurodiagnostic, radiological, vascular or any means, other than bioanalysis, intended to assist in establishing a physical therapy diagnosis, for the purpose of recommending a course of treatment for the tested patient to be performed consistent with the Physical Therapy Practice Act, N.J.S.A. 45:9-37.11 et seq., and this chapter.

"Direct supervision" means the presence of the supervising licensed physical therapist on site, available to respond to any consequence occurring during any treatment procedure.

"Disability" means the inability to engage in age specific, gender related, or sex specific roles in a particular social context and physical environment.

"Functional limitations" means restrictions of the ability to perform a physical action, activity or task in an efficient, typically expected or competent manner.

"Impairment" means the loss or abnormality of physiological, psychological, or anatomical structure or function.

"Physical therapy diagnosis" means a description placed on a group of signs and symptoms that are identified as a result of the examination and evaluative process. The purpose of the diagnostic determination is to allow the licensed physical therapist to select the appropriate physical therapy interventions) to initiate the most effective care for the purpose of achieving the patient's goals.

"Physical therapy evaluation" means a review exclusively by a licensed physical therapist based on data and information collected during the examination and before any intervention. The evaluation reflects the chronicity and severity of the current patient problem and the possibility of multisystem and multisite involvement that may coexist with preexisting systemic conditions or diseases. The evaluation considers the level of the current impairment(s), functional limitation(s) and disability(ies), the living environment, potential discharge destination(s) and social support(s). A "physical therapy evaluation" does not include examining any person for the purpose of diagnosing any disease or organic condition.

"Physical therapy examination" means an inquiry conducted by a licensed physical therapist into the patient history, relevant systems review, and tests and measurements, which is conducted prior to any intervention. The history is an account of past and current health status. The system review is an examination that provides information about the general health of the patient that helps the licensed physical therapist determine physical therapy diagnosis, a prognosis and a plan of care. Tests and measurements are performed by the licensed physical therapist after review of the patient's history and systems reviewed to elicit additional information.

"Physical therapy instruction" means the act of providing consultative, educational or advisory services to one or more individuals for the purpose of preventing or reducing physical dysfunction and disability that may lead to reduced functional abilities.

"Physical therapy and physical therapy practice" mean the identification of physical impairment or movement-related functional limitation that occurs as a result of injury or congenital or acquired disability or other physical dysfunction through examination, evaluation and diagnosis of the physical impairment or movement-related functional limitation and the establishment of a prognosis, which includes the establishment of the plan of care and all interventions, for the resolution or amelioration thereof and treatment of the physical impairment or movement-related functional limitation, which shall include, but is not limited to, the alleviation of pain, physical impairment and movement-related functional limitation by physical therapy intervention, including treatment by means of:

1. Manual therapy techniques and massage;
2. Electro-therapeutic modalities;

3. The use of physical agents, mechanical modalities, hydrotherapy, therapeutic exercises with or without assistive devices;
4. Neurodevelopmental procedures;
5. Joint mobilization;
6. Movement-related functional training in self-care;
7. Providing assistance in community and work integration or reintegration;
8. Providing training in techniques for the prevention of injury, impairment, movement-related functional limitation, or dysfunction;
9. Providing consultative, educational, other advisory services; and
10. Collaboration with other health care providers in connection with patient care.

"Physical therapy intervention" means the interaction of the licensed physical therapist with the patient using various physical therapy procedures and techniques to produce changes in the condition consistent with the patient's dysfunction, disability, or level of function and consistent with the patient's projected outcome as a result of physical therapy intervention. When physical therapy instruction is provided to an individual as part of his or her therapeutic interventions, the instruction must be considered part of physical therapy intervention.

"Physical therapy prognosis" means the determination of the predicted level of optimal improvement that may be attained through intervention and the amount of time required to reach that level.

"Plan of care" means the specific physical therapy interventions to be used and their timing and frequency.

"Referral" means the forwarding of a patient for professional services by one health care professional to another health care professional or health care entity which provides or supplies professional service, or the request for establishment of a plan of care by a health care professional, including the provision of professional services or other health care devices.

13:39A-2.2 AUTHORIZED PRACTICE BY A LICENSED PHYSICAL THERAPIST

- a) A licensed physical therapist may engage in physical therapy and physical therapy practice.
- b) The licensed physical therapist shall continually monitor the patient's response to care and modify the therapeutic intervention in a manner that is consistent with achieving the therapeutic goals.
- c) A licensed physical therapist may bill a patient or third party payor for a diagnostic test in connection with a physical therapy evaluation provided:
 - 1) The diagnostic testing is clinically supported and is specific to that individual patient's impairments, functional limitations, or disability;
 - 2) The data sought to be gathered by such tests is relevant to the patient's impairments, functional limitations, and disability, and will provide sufficient information to assist in the development of appropriate interventions, objectives and goals;
 - 3) The appropriate documentation of the analysis of the data acquired from the testing, relevant to the patient impairment, functional limitation and/or disability, is recorded in the patient's record; and
 - 4) Any repeat or subsequent testing shall be for the purpose of substantiating the effectiveness of the physical therapy intervention. Testing intervals shall be determined by the licensed physical therapist and shall be consistent with the patient's diagnosis, disability and impairment.
- d) A licensed physical therapist shall not bill a patient or third party for diagnostic testing that lacks demonstrated medical value and a level of general acceptance by the relevant provider community and which fails to provide sufficient clinical data to alter the plan of care.
- e) The following acts and practices shall be among those deemed to be outside the scope of physical therapy and upon proof that a licensee is engaging in such conduct he or she may be subject to disciplinary action:
 - 1) The conducting of a breast examination;
 - 2) The conducting of a pelvic internal examination, except internal evaluation of the pelvic floor musculature;
 - 3) The taking of radiological studies; or

- 4) The representation of physical therapy treatment to be a cure or remedy for disease or organic condition unrelated to physical disability for which physical therapy services have been sought.

13:39A-2.3 AUTHORIZED ROLE OF A LICENSED PHYSICAL THERAPIST ASSISTANT

- a) A licensed physical therapist assistant may initiate physical therapy treatment only at the direction of and under the direct supervision of a licensed physical therapist. A licensed physical therapist assistant shall not initiate physical therapy treatment upon the direction of a physician or other authorized health care provider without the direct supervision of a licensed physical therapist.
- b) A licensed physical therapist assistant shall document treatments in the patient record. The supervising licensed physical therapist shall review and cosign contemporaneously the licensed physical therapist assistant's entries into the patient record.
- c) The licensed physical therapist assistant may participate in collecting data for the examination of the patient; however, any interpretation of the data or assessment shall be made by the supervising licensed physical therapist.
- d) A licensed physical therapist assistant shall not perform a physical therapy examination, evaluation, diagnosis or prognosis, develop a plan of care, modify a plan of care, or independently engage in physical therapy instruction.

13:39A-2.4 DELEGATION BY A LICENSED PHYSICAL THERAPIST TO UNLICENSED PERSONS

- a) Licensed physical therapists may delegate the following to unlicensed persons:
 - 1) Routine tasks relating to:
 - i) The cleanliness and maintenance of equipment and the physical plant; and
 - ii) The management of the business aspects of the practice, including scheduling appointments and filling out insurance forms; and
 - 2) Such other assignments with respect to patient care as may be specifically made by the licensed physical therapist, including:
 - i) Transporting the patient;

- ii) Positioning of the patient; and
 - iii) Assisting with the undressing and dressing of the patient.
- b) A licensed physical therapist shall not authorize or permit an unlicensed person to engage in the following activities:
- 1) Advise, teach, or instruct patients concerning their condition or disability;
 - 2) Carry out testing or evaluation procedures;
 - 3) Make any notations in documents regarding patient care or clinical treatment, which is not permitted by (a) above;
 - 4) Place or remove electrodes of any kind on the skin;
 - 5) Administer, apply, or remove any modalities;
 - 6) Instruct, perform, oversee, or supervise therapeutic exercise(s) and/ or therapeutic activity(s); and
 - 7) Provide therapeutic massage.

13:39A-2.5 REFERRAL OF PATIENTS AND CONSULTATION STANDARDS FOR LICENSED PHYSICAL THERAPISTS

- a) A licensed physical therapist shall refer a patient to a health care professional licensed to practice dentistry, podiatry or medicine and surgery in this State, or other appropriate licensed health care professional:
- 1) When the licensed physical therapist during the examination, evaluation or intervention has reason to believe that physical therapy is contraindicated or symptoms or conditions are present that require services outside the scope of practice of the licensed physical therapist; or
 - 2) When the patient has failed to demonstrate reasonable progress within 30 days of the date of the initial treatment.
- b) Not more than 30 days from the date of initial treatment of functional limitation or pain, a licensed physical therapist shall inform the patient's licensed health care professional of

record regarding the patient's plan of care. In the event there is no identified licensed health care professional of record, the licensed physical therapist shall recommend that the patient consult with a licensed health care professional of the patient's choice. In a school setting, the schedule of physical therapy services shall be reported to the child study team by the licensed physical therapist within 30 days of the date of initial treatment.

- c) A violation of this section shall be deemed professional misconduct pursuant to N.J.A.C. 13:39A-3.8.

13:39A-2.6 (RESERVED)

SUBCHAPTER 3. BUSINESS PRACTICES; PROFESSIONAL CONDUCT

13:39A-3.1 PATIENT RECORDS

- a) A licensed physical therapist shall prepare and maintain for each patient a contemporaneous, permanent patient record that accurately reflects the patient contact with the licensed physical therapist whether in an office, hospital or other treatment, evaluation or consultation setting.
- b) A licensed physical therapist shall not falsify a patient's record.
- c) The patient record shall include, in addition to personal identifying information, consents and disclosures, at least the following information:
- 1) The full name, as it appears on the license, of the licensee who rendered care, identification of licensure designation (PT or PTA), and license number. This information shall be legible and shall appear at least once on each page of the patient record, except as set forth at N.J.A.C. 13:39A-3.2(e);
 - 2) Dates of all examinations, evaluations, physical therapy diagnoses, prognoses including the established plans of care, and interventions;
 - 3) The findings of the examination including test results;
 - 4) The conclusion of the evaluation;
 - 5) The determination of the physical therapy diagnosis and prognosis;
 - 6) Documentation of health care practitioner referrals, if any;

- 7) A plan of care establishing measurable goals of the intervention with stated time frames, the type of intervention, and the frequency and expected duration of intervention;
 - 8) A note contemporaneous with each session, with the license number and signature or initials of the licensee who rendered care, that accurately represents the services rendered during the treatment sessions including, but not limited to, the components of intervention, the patient's response to intervention and current status. If the licensee chooses to sign by means of initials, his or her complete signature and license number shall appear at least once on every page;
 - 9) Progress notes in accordance with stated goals at a frequency consistent with physical therapy diagnosis, evaluative findings, prognosis and changes in the patient's conditions;
 - 10) Changes in the plan of care which shall be documented contemporaneously;
 - 11) Communication with other health professionals relative to the patient's care;
 - 12) A discharge summary which includes the reason for discharge from and outcome of physical therapy intervention relative to established goals at the time of discharge; and
 - 13) Pertinent legal document(s).
- d) When a licensed physical therapist provides training in techniques for the prevention of injury, impairment, movement-related functional limitation or dysfunction that is not specifically designed for an individual, the licensed physical therapist shall not be required to maintain records that comply with (c) above. A licensed physical therapist that provides such training shall maintain records that include:
- 1) The name and license number of the licensed physical therapist who provided the training;
 - 2) The date the training was provided;
 - 3) A summarization of the information that was provided; and
 - 4) Copies of any handouts provided.
- e) Patient records shall be maintained for at least seven years from the date of the last entry, unless another agency or entity requires the records to be kept for a longer time.

13:39A-3.2 USE OF PERSONAL OR OTHER COMPUTER TO PREPARE PATIENT RECORDS

- a) A licensee who prepares a patient record maintained solely on a personal or other computer shall use a write-protected program which:
 - 1) Contains an internal permanently activated date and time recordation for all entries;
 - 2) Automatically prepares a back-up copy of the file; and
 - 3) Is designed in such manner that, after the licensee "signs" by means of a confidential personal code ("CPC"), the entry cannot be changed in any manner.
- b) The licensee shall include in the patient record at least two forms of identification; for example, name and record number of the patient or any other specific identifying information.
- c) The licensee shall finalize or "sign" the entry by means of a CPC. Where more than one individual is authorized to make entries into the computer file of any patient record, the licensee responsible for the entity shall assure that each such person obtains a CPC and uses the program in the same manner.
- d) The licensee shall generate a hard copy of the complete patient record, or a portion thereof, upon request.
- e) Notwithstanding N.J.A.C. 13:39A-3.1(c)1, a licensee who maintains a patient record solely on a personal or other computer shall not be required to include his or her name and license number on every page of a patient record; however, the name and license number shall appear at least once on the patient record.
- f) A licensee who generates a hard copy of a patient record pursuant to (d) above shall ensure that the hard copy is paginated with each page being a specified number of the total number of pages in the record.

13:39A-3.3 RELEASE OF PATIENT RECORD

- a) A licensed physical therapist shall provide one copy of the patient's record of physical therapy treatment within 15 days of a written request by the patient or any person whom the patient has designated to receive that record.

- b) Licensed physical therapists may require a record request to 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 record requested is less than 10 pages, the licensee may charge up to \$10.00 to cover postage and the miscellaneous costs associated with retrieval of the record.) If the patient requests 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.
- c) 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 licensed physical therapist shall provide a transcription at no cost to the patient or the person requesting the record.
- d) 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 licensed physical therapist 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 or entity identified and mark the material "Confidential."
- e) A licensed physical therapist shall not withhold or delay providing a record because the patient failed to pay for services rendered.

13:39A-3.4 FINANCIAL ARRANGEMENTS WITH CLIENTS AND THIRD PARTY PAYORS

- a) Fees for physical therapy services shall be reasonable and commensurate with fees of licensed physical therapists offering like services or intervention in the geographic area and shall be in accordance with the provisions of N.J.A.C. 13:39A-3.6 prohibiting excessive fees.
- b) Prior to the initiation of physical therapy, the licensed physical therapist or the licensed physical therapist's designee shall explain to the patient in an understandable manner the financial arrangements. The information provided to the patient shall include, but not be limited to:
 - 1) The fee for services or the basis for determining the fee to be charged;

- 2) Whether the licensee will accept installment payments or assignment of benefits from a third party payor;
 - 3) That insurance coverage may not be available in all circumstances; and
 - 4) The financial consequences, if any, of missed sessions.
- c) A licensed physical therapist shall not require a patient or a third party payor to pay:
- 1) A fee for preparing an insurance claim form;
 - 2) Interest on an unpaid account unless the patient has been notified of this policy, in writing, prior to the initiation of physical therapy treatment;
 - 3) A full or partial fee for unkept appointments unless the patient has been notified of this policy, in writing, prior to the initiation of physical therapy treatment;
 - 4) A fee for any physical therapy examination, evaluation, intervention or other services not documented in a patient's permanent record in a manner consistent with N.J.A.C. 13:39A-3.1(a); or
 - 5) A fee for any free services offered pursuant to N.J.A.C. 13:39A-7.2.
- d) A licensed physical therapist shall provide a copy of a written fee schedule to any interested person upon request.
- e) A licensed physical therapist shall include on all bills submitted to a patient or third party payor the licensee's license number.

13:39A-3.5 DISPLAY OF NOTICE OF LICENSURE; NOTIFICATION OF AVAILABILITY OF FEE INFORMATION

- a) Every licensee shall conspicuously display his or her original, current certificate of registration and the following notices in a public area in all offices and health care facilities at which the licensee practices physical therapy:
- 1) "Physical therapists and physical therapist assistants are licensed by the State Board of Physical Therapy Examiners, an agency of the Division of Consumer Affairs. Any member of the public may notify the Board of any complaint relative to the practice conducted by a physical therapist or physical therapist assistant. The Board address is:

Division of Consumer Affairs, State Board of Physical Therapy Examiners, Post Office Box 45014, 124 Halsey Street, Newark, New Jersey 07101, Tel: (973) 504-6455."

- 2) "INFORMATION ON PROFESSIONAL FEES IS AVAILABLE TO YOU ON REQUEST."
- b) A licensee shall not alter, deface or obscure the information on the certificate of registration in any manner including, but not limited to, the licensee's address.

13:39A-3.6 PROHIBITION ON EXCESSIVE FEES; OVERUTILIZATION

- a) A licensee shall not charge an excessive fee for services. A price is excessive when, after review of the facts, a licensee of ordinary prudence would be left with a definite and firm conviction that the price is so high as to be manifestly unconscionable or overreaching under the circumstances.
- b) Factors which may be considered in determining whether a price is excessive include, but are not limited to, the following:
 - 1) The time and effort required;
 - 2) The novelty and difficulty of the professional intervention;
 - 3) The skill required to perform the intervention 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 nature and circumstances under which the services were provided (for example, emergency, home visit).
- c) A licensed physical therapist shall not provide intervention or conduct testing which in light of the patient's history and findings are unwarranted and unnecessary.
- d) A licensed physical therapist shall not charge a fee to a patient or a third party payor for an intervention or other physical therapy which is unwarranted and unnecessary.
- e) Charging an excessive fee shall constitute professional misconduct within the meaning of N.J.S.A. 45:1-21(e) and may subject the licensee to disciplinary action.

13:39A-3.7 NOTIFICATION OF CHANGE OF ADDRESS; SERVICE OF PROCESS

- a) All licensees shall notify the Board, in writing, within 30 days of any change in the address on file with the Board and shall specify whether the address is a residence or employment address.
- b) Service of an administrative complaint or other process initiated by the Board, the Attorney General or the Division of Consumer Affairs at the address on file with the Board shall be deemed adequate notice for the commencement of any inquiry or disciplinary proceeding.
- c) All licensees shall, within 30 days of receiving a notice of disciplinary action taken against the licensee in another jurisdiction, report to the Board in writing his or her receipt of such notification.

13:39A-3.8 VIOLATIVE ACTS; PROFESSIONAL MISCONDUCT

- a) The following acts or practices shall be among those deemed to be violative of N.J.S.A. 45:9-37.11 et seq. and to constitute professional misconduct pursuant to N.J.S.A. 45:1-21.e:
 - 1) Accepting, or agreeing to accept, from any person, firm or corporation any fee, commission, rebate, gift or other form of remuneration for prescribing, ordering or promoting the sale of a device, appliance or other item or service; except that nothing in this section shall preclude a licensed physical therapist from accepting a product or commodity which can be used as a sample by patients, provided that the licensed physical therapist does not charge the patient for such items;
 - 2) Charging any patient a fee for making a referral to a physician or other health care professional authorized to direct the initiation of physical therapy, for the purpose of obtaining clearance for physical therapy. Nothing in this section shall preclude a licensed physical therapist from charging a patient for a physical therapy examination and evaluation conducted prior to referral;
 - 3) Using, or permitting the use of, his or her professional education degree, title, or license in connection with the rendition of services which are outside the scope of physical therapy practice;
 - 4) Representing services as therapeutic, or permitting the representation of services as therapeutic, when, although the services are within the licensee's scope of practice, no therapeutic outcome is expected;
 - 5) Rendering an intervention when, in the exercise of his or her professional judgment, the licensed physical therapist may deem such intervention to be unnecessary. When

appropriate, the licensed physical therapist shall notify the referring professional in writing that the intervention is to be terminated and the reason(s) for such termination;

- 6) Aiding or abetting the unlicensed practice of physical therapy;
- 7) Falsifying or altering any patient records for the purpose of obtaining payment for services which were not rendered;
- 8) Authorizing the submission of any bill for professional services which were not rendered, or which were rendered only for the purpose of obtaining additional reimbursement;
- 9) Failure by a licensed physical therapist to assure that any bills for services rendered under his or her professional license accurately represents the services rendered and that charges submitted for services rendered by a licensed physical therapist or licensed physical therapist assistant are based solely upon the services reflected in the patient record;
- 10) Failure to produce a hard copy of a complete patient record upon request; or
- 11) Failure to refer a patient to another licensed health care professional as required by N.J.A.C. 13:39A-2.5.

13:39A-3.9 IDENTIFICATION OF LICENSEES

All licensees shall conspicuously wear a name tag using the term "physical therapist" or "physical therapist assistant," as appropriate, whenever acting in that capacity. The letters on the tag shall be at least one-quarter inch in size.

13:39A-3.10 SEXUAL MISCONDUCT

- a) The purpose of this section is to identify for licensees of the State Board of Physical Therapy Examiners conduct which shall be deemed sexual misconduct.
- b) As used in this section, the following terms have the following meanings unless the context clearly indicates otherwise:

"Licensee" means any person licensed to engage in practice as a physical therapist or physical therapist assistant as regulated by the State Board of Physical Therapy Examiners.

"Patient" means any person who is the recipient of physical therapy examination, evaluation, instruction or treatment rendered by a licensee.

"Patient-therapist relationship" means a relationship between a licensed physical therapist or a licensed physical therapist assistant and a patient wherein the licensee owes a continuing duty to the patient to render physical therapy services consistent with his or her training and experience.

"Sexual contact" means the knowing touching of a person's body directly or through clothing, where the circumstances surrounding the touching would be construed by a reasonable person to be motivated by the licensee's own prurient interest or for sexual arousal or gratification. "Sexual contact" includes, but is not limited to, the imposition of a part of the licensee's body upon a part of the patient's body, sexual penetration, or the insertion or imposition of any object or any part of a licensee or patient's body into or near the genital, anal or other opening of the other person's body. "Sexual contact" does not include the touching of a patient's body which is necessary during the performance of a generally accepted and recognized physical therapy procedure.

"Sexual harassment" means solicitation of any sexual act, physical advances, or verbal or non-verbal conduct that is sexual in nature, and which occurs in connection with a licensee's activities or role as a provider of physical therapy services, and that either: is unwelcome, is offensive to a reasonable person, or creates a hostile workplace environment, and the licensee knows, should know, or is told this; or is sufficiently severe or intense to be abusive to a reasonable person in that context. "Sexual harassment" may consist of a single extreme or severe act or of multiple acts and may include, but is not limited to, conduct of a licensee with a patient, co-worker, employee, student or supervisee whether or not such individual is in a subordinate position to the licensee.

"Spouse" means the husband, wife or fiancée of the licensee or an individual involved in a long-term committed relationship with the licensee. For purposes of the definition of "spouse," a long-term committed relationship means a relationship which is at least six months in duration.

- c) A licensee shall not engage in sexual contact with a patient with whom he or she has a patient-therapist relationship. The patient-therapist relationship is ongoing for purposes of this section, unless:
- 1) Physical therapy is terminated by way of written notice to the patient and is documented in the patient record; and
 - 2) The last physical therapy provided by that licensee was rendered more than three months ago.

- d) A licensee shall not seek or solicit sexual contact with a patient with whom he or she has a patient-therapist relationship and shall not seek or solicit sexual contact with any person in exchange for professional services.
- e) A licensee shall not engage in any discussion of an intimate sexual nature with a patient, unless that discussion is directly related to a proper physical therapy purpose. Such discussion shall not include disclosure by the licensee of his or her own sexual relationships.
- f) A licensee shall provide privacy and examination conditions which prevent the exposure of the unclothed body of the patient. Appropriate draping measures shall be employed to protect patient privacy.
- g) A licensee shall not engage in sexual harassment either within or outside of the professional setting.
- h) A licensee shall not engage in any other activity which would lead a reasonable person to believe that the activity serves the licensee's personal prurient interests or which is for the sexual arousal, or sexual gratification of the licensee or patient or which constitutes an act of sexual abuse.
- i) Violation of any of the prohibitions or directives set forth in (c) through (h) above shall constitute professional misconduct pursuant to N.J.S.A. 45:1-21 (e).
- j) Nothing in this section shall be construed to prevent a licensee from rendering physical therapy to a spouse, providing that the rendering of such physical therapy is consistent with accepted standards of physical therapy and that the performance of physical therapy is not utilized to exploit the patient spouse for the sexual arousal or sexual gratification of the licensee.
- k) It shall not be a defense to any action under this section that:
 - 1) The patient solicited or consented to sexual contact with the licensee; or
 - 2) The licensee is in love with or held affection for the patient.

SUBCHAPTER 4. UNLICENSED PRACTICE

13:39A-4.1 ACTS AMOUNTING TO UNLICENSED PRACTICE

- a) For the purpose of the Board's construction of N.J.S.A. 45:9-37.10, the following acts or practices shall be deemed to be the unlicensed practice of physical therapy:
- 1) Offering physical therapy examination, evaluation, instruction or intervention by means of advertisement or solicitation by any person who does not hold a license as a physical therapist, a physical therapist assistant, M.D., D.O., D.P.M., D.D.S. or D.M.D. (to the extent authorized by N.J.S.A. 45:5-7), even if that person has been instructed or directed to offer that treatment or render that treatment by a licensed physical therapist, licensed physical therapist assistant, M.D., D.O., D.P.M., D.D.S. or D.M.D.;
 - 2) The use of the words physical therapy, physical therapist, physiotherapy, physiotherapist or such similar words or their related abbreviations in connection with the offering of physical therapy agents, measures and services which are utilized in the rendition of physical therapy intervention by any person who does not hold a license as a physical therapist, a physical therapist assistant, an M.D., D.O., D.P.M., D.D.S. or D.M.D. even if that person has been instructed or directed to use such terminology by a licensed physical therapist, licensed physical therapist assistant, M.D., D.O., D.P.M., D.D.S. or D.M.D.;
 - 3) Billing any patient or third party payor for "physical therapy" or "physiotherapy" in connection with the use of physical therapy agents, measures or services, if the individual who personally rendered the services does not hold a license to practice physical therapy, medicine, surgery, dentistry or podiatry; or
 - 4) Offering physical therapy agents, measures or services by means of advertisement or solicitation by a limited licensee of the Board of Medical Examiners unless the context of such offering or advertisement reveals that such services are directly related to the practice authorized by the Board of Medical Examiners and the wording of the offering would not lead members of the general public to assume that the advertiser is authorized to practice physical therapy or physiotherapy without limitation.

13:39A-4.2 AIDING AND ABETTING UNLICENSED PRACTICE

It shall be unlawful for a licensee to aid or assist any unlicensed person engaging in any of the practices identified at N.J.A.C. 13:39A-4.1.

SUBCHAPTER 5. CREDENTIALING OF APPLICANTS

13:39A-5.1 LICENSING REQUIREMENTS FOR A PHYSICAL THERAPIST

- a) To be eligible for licensure as a physical therapist in New Jersey, an applicant shall:
- 1) Be at least 18 years of age;
 - 2) Be of good moral character;
 - 3) Have completed a program in physical therapy from an accredited college or university physical therapy program approved for the education and training of physical therapists by an accrediting agency recognized by the United States Department of Education, Office of Postsecondary Education;
 - 4) Possess a minimum of a master's degree in physical therapy from an accredited college or university except for an applicant who prior to January 1, 2003, graduated from an accredited physical therapy program and possessed a minimum of a bachelor's degree in physical therapy or a bachelor's degree and a certificate in physical therapy from an accredited college or university;
 - 5) Have completed all clinical education requirements necessary for graduation from a physical therapy program approved for the education and training of physical therapists by an accrediting agency recognized by the United States Department of Education, Office of Postsecondary Education; and
 - 6) Have successfully completed the written examination as set forth in N.J.A.C. 13:39A-5.3.
- b) In addition to meeting the requirements of (a)1 and 2 above, an applicant for licensure who is a graduate of a foreign school of physical therapy shall:
- 1) Furnish evidence to the Board that the applicant has completed a course of study in physical therapy which is substantially equivalent to that provided in a physical therapy program approved for the education and training of physical therapists by an accrediting agency recognized by the Council on Post Secondary Accreditation and the United States Department of Education;
 - 2) Be a graduate of a college or university which is recognized by that country's Ministry of Education/Health for the education of physical therapists;

- 3) Pass a test of English competency as set forth in N.J.A.C. 13:39A-5.7; and
 - 4) Successfully complete a written examination as set forth in N.J.A.C. 13:39A-5.3.
- c) Proof of eligibility for licensure in the foreign country where the requisite education was obtained shall be submitted to the Board by the credentialing agency on behalf of all foreign educated applicants seeking licensure in this State.

13:39A-5.2 LICENSING REQUIREMENTS FOR A PHYSICAL THERAPIST ASSISTANT

- a) To be eligible for licensure as a physical therapist assistant in New Jersey an applicant shall:
- 1) Be at least 18 years of age;
 - 2) Be of good moral character;
 - 3) Have completed at least an Associate in Arts degree from an accredited college or university;
 - 4) Have completed a two-year physical therapist assistant program from an accredited college or university approved for the education and training of physical therapist assistants by an accrediting agency recognized by the United States Department of Education, Office of Postsecondary Education;
 - 5) Have completed all clinical education requirements necessary for graduation from a physical therapist assistant program approved for the education and training of physical therapist assistants by an accrediting agency recognized by the United States Department of Education, Office of Postsecondary Education; and
 - 6) Have successfully completed the written examination as set forth in N.J.A.C. 13:39A-5.3.

13:39A-5.3 EXAMINATION STANDARDS FOR APPLICANTS FOR LICENSURE AS PHYSICAL THERAPISTS AND PHYSICAL THERAPIST ASSISTANTS

- a) Applicants for licensure as physical therapists and physical therapist assistants submitting satisfactory proof of educational credentials as set forth in N.J.A.C. 13:39A-5.1 and 5.2, respectively, shall be approved to take the National Physical Therapy Examination for Physical Therapists or for Physical Therapist Assistants administered by the Federation of State Boards of Physical Therapy and the State jurisprudence examination.

- b) Upon satisfactory passage of the National Physical Therapy Examination for Physical Therapists or for Physical Therapist Assistants and the State jurisprudence examination, an applicant shall be deemed eligible for licensure provided the applicant meets all other requirements for licensure.
- c) Passing examination scores shall be as follows:
 - 1) National Physical Therapy Examination for Physical Therapists or for Physical Therapist Assistants: 600 based on a scale of 200 to 800.
 - 2) State jurisprudence examination: 80.
- d) An applicant who does not pass the National Physical Therapy Examination for Physical Therapists or for Physical Therapist Assistants within two years from the date of taking the initial examination shall update his or her application for licensure filed with the Board.

13:39A-5.4 (RESERVED)

13:39A-5.5 ENDORSEMENT

Applicants possessing a valid license issued by another state may be deemed eligible for licensure in New Jersey without examination if the criteria for licensure in the other state are deemed by the Board to be substantially equivalent to those required in New Jersey.

13:39A-5.6 RECOGNITION OF SCORES ON STANDARDIZED EXAMINATIONS ADMINISTERED IN OTHER STATES

The Board will recognize standardized examination scores obtained as a result of an examination administered in another state or jurisdiction in satisfaction of its examination requirement provided that the applicant has obtained a score of at least 600 on a scale of 200 to 800 and has passed all portions of the examination at the same sitting.

13:39A-5.7 LANGUAGE COMPREHENSION REQUIREMENTS

- a) An applicant for licensure as a physical therapist or a physical therapist assistant who has received his or her physical therapy training in a country other than the United States of America, the United Kingdom, the Republic of Ireland, Canada except Quebec Province, Australia, or New Zealand shall submit to the Board evidence of attainment of a passing score on the Test of English as a Foreign Language (TOEFL) examination or Test of English as a Foreign Language Internet Based Test (TOEFL IBT) examination, which test shall have

been taken within the two years immediately preceding the filing of the application for licensure in New Jersey.

- b) A passing score on the TOEFL examination shall be a score of at least 220. A passing score on the TOEFL IBT examination shall be a score of at least 24 on the writing portion, at least 26 on the speaking portion, at least 18 on the listening portion and at least 21 on the reading portion.
- c) The TOEFL examination score shall be submitted with the application for licensure.

13:39A-5.8 RE-EXAMINATION OF APPLICANTS FOR LICENSURE AS PHYSICAL THERAPISTS AND PHYSICAL THERAPIST ASSISTANTS

An examinee who fails the examination on the first attempt, may retake the examination without filing another application, provided the examinee is rescheduled for the examination within two years of the initial date of application. If any examinee fails the examination on the second attempt, in the Board's discretion, the examinee may be required to re-submit an application before being rescheduled for another examination.

13:39A-5.9 NON-APPEARANCE AT EXAMINATION

Failure to appear at any scheduled examination shall be deemed a failure of the examination unless, in the Board's discretion, good cause such as health, accident, disability or military service has been shown for the applicant's failure to appear.

13:39A-5.10 CREDIT TOWARDS LICENSURE FOR EDUCATION, TRAINING, AND EXPERIENCE RECEIVED WHILE SERVING AS A MEMBER OF THE ARMED FORCES

- a) An applicant for a license as a physical therapist assistant who has served in the Armed Forces of the United States (Armed Forces) and who does not meet all of the training, education, and experience requirements for licensure under N.J.A.C. 13:39A-5.2 may apply to the Board for recognition of the applicant's training, education, or experience received while serving as a member of the Armed Forces, which the Board shall consider, together with any training, education, and experience obtained outside of the Armed Forces, for determining substantial equivalence to the training, education, and experience required for licensure.
- b) The Board shall issue a physical therapist assistant license to the applicant, if the applicant presents evidence to the Board that:
 - 1) The applicant has been honorably discharged from active military service;

- 2) The relevant training, education, and experience the applicant received in the military, together with any training, education, and experience obtained outside of the Armed Forces, is substantially equivalent in scope and character to the training, education, and experience required for licensure under N.J.A.C. 13:39A-5.2.
 - i) An applicant seeking credit for military training and experience shall submit to the Board the applicant's Verification of Military Experience and Training (VMET) Document, DD Form 2586.
 - ii) An applicant seeking credit for education courses and/or training completed while in the military shall submit to the Board a Joint Services Transcript of his or her education/training for a determination that the education courses and/or training completed are substantially equivalent in level, scope, and intent to the program required for licensure or certification under N.J.A.C. 13:39A-5.2. For the purpose of determining substantial equivalence of the applicant's military education and/or training, the Board shall consider only those education courses and/or training relevant to the physical therapist assistant practice that have been evaluated by the American Council on Education for substantial equivalence to civilian physical therapy education; and
 - 3) The applicant complies with all other requirements for licensure, including successful completion of the National Physical Therapy Examination for Physical Therapists and Physical Therapist Assistants and the State jurisprudence examination.
- c) It is the applicant's responsibility to provide timely and complete evidence of the training, education, and experience gained in the military for review and consideration.
 - d) If the applicant's military training, education, and experience, or a portion thereof, is not deemed to be substantially equivalent to that required for licensure as a physical therapist assistant, the Board shall credit whatever portion of the military training, education, and experience that is substantially equivalent towards meeting the requirements under N.J.A.C. 13:39A-5.2 for the issuance of the physical therapist assistant license.
 - e) Satisfactory evidence of such training, education, and experience will be assessed on a case-by-case basis.

**SUBCHAPTER 5A.
LICENSE RENEWAL**

13:39A-5A.1 BIENNIAL LICENSE RENEWAL; INACTIVE STATUS

- a) All licenses issued by the Board shall be issued for a biennial renewal period. A licensee who seeks renewal of the license shall submit a license renewal application and the license renewal fee set forth in N.J.A.C. 13:39A-1.3 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) Renewal applications shall provide the applicant 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. 13:39A-1.3 and shall not engage in the practice of physical therapy during the period of inactive status.
- d) If the 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. 13:39A-1.3. During this 30-day period, the license shall be valid, and the licensee shall not be deemed to be practicing without a license.
- e) 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.

13:39A-5A.2 CHANGE OF LICENSURE STATUS: INACTIVE TO ACTIVE

- a) A licensee, upon application to the Board, may change from inactive to active status upon payment of the renewal fee as set forth in N.J.A.C. 13:39A-1.3.
- b) A person who seeks to reactivate his or her license shall complete 30 credits of continuing education per biennial renewal period that the licensee has been on inactive status up to a maximum of 60 credits. Of the continuing education required under this subsection, 30 credits must be taken within two years immediately preceding reactivation and the remainder must be taken within four years immediately preceding reactivation.

13:39A-5A.3 REINSTATEMENT OF SUSPENDED LICENSE

- a) An individual whose license has been automatically suspended for failure to renew pursuant to N.J.A.C. 13:39A-5A.1(d) may be reinstated by the Board, provided the applicant otherwise qualifies for licensure pursuant to N.J.A.C. 13:39A-5 and submits a completed reinstatement application and one of the following to the Board:
- 1) Certification of licensure or certification in good standing from any other state or jurisdiction in which the applicant has practiced physical therapy during the period the license was suspended in this State;
 - 2) Certification by the applicant stating that he or she has practiced physical therapy in a state or jurisdiction which does not require licensure, during the period the license was suspended in this State; or
 - 3) Certification stating that the applicant has not practiced physical therapy, in this or any other jurisdiction during the period the license was suspended in this State.
- b) An individual who has practiced physical therapy in the manner described in (a)1 or 2 above shall submit written verification, on a form provided by the Board, from all of the applicant's employers. The verification shall document dates of employment from the date the New Jersey license was suspended to the date of application for reinstatement, and the name, address and telephone number of each employer.
- c) An individual whose license has been automatically suspended for failure to renew pursuant to N.J.A.C. 13:39A-5A. 1(d) shall complete 30 credits of continuing education per biennial renewal period that the licensee has been suspended up to a maximum of 60 credits. Of the continuing education required under this subsection, 30 credits must be taken within two years immediately preceding reinstatement and the remainder must be taken within four years immediately preceding reinstatement.
- d) An individual whose license has been automatically suspended for failure to renew pursuant to N.J.A.C. 13:39A-5A.1(d) for a period of five or more years shall successfully complete the examination required for initial licensure as set forth in N.J.A.C. 13:39A-5.3.
- e) Prior to reinstatement, an applicant shall pay a reinstatement fee and all past delinquent biennial renewal fees pursuant to N.J.A.C. 13:39A-1.3.

SUBCHAPTER 6.
TEMPORARY LICENSES FOR VISITING PHYSICAL THERAPISTS AND
PHYSICAL THERAPIST ASSISTANTS

13:39A-6.1 TEMPORARY VISITING LICENSED PHYSICAL THERAPISTS AND
TEMPORARY VISITING LICENSED PHYSICAL THERAPIST ASSISTANTS

- a) Any person having made application to the Board pursuant to N.J.S.A. 45:9-37.29.b for the issuance of a temporary license to practice as a physical therapist or physical therapist assistant in this State on a temporary basis to assist in a medical emergency, in an American Physical Therapy Association approved residency or fellowship, or to engage in a special project or teaching assignment relating to the practice of physical therapy, may be issued a temporary visiting license without examination, which shall remain valid for a period not to exceed one year, provided that said person can demonstrate to the Board that he or she is licensed, registered or otherwise authorized to engage in the practice of physical therapy in another state or jurisdiction and that permitting his or her practice in this State would not be inconsistent with the public interest.

- b) A temporary visiting license, upon its expiration, may be renewed, at the discretion of the Board, for an additional year. Any holder of a temporary visiting license shall advise the Board if his or her authority to engage in the practice of physical therapy is revoked, suspended or otherwise limited by any state, agency or authority.

13:39A-6.2 RESPONSIBILITIES OF A TEMPORARY VISITING LICENSED PHYSICAL
THERAPIST ASSISTANT

- a) A temporary visiting licensed physical therapist assistant shall not render care unless the temporary visiting license holder receives direct supervision from his or her designated supervising licensed physical therapist.

- b) A temporary visiting licensed physical therapist assistant shall obtain the signature of the supervising licensed physical therapist indicating that the supervising licensed physical therapist reviewed the plan of care with the temporary visiting licensed physical therapist assistant and the date when that review took place. The supervising licensed physical therapist's signature in the patient record shall serve as evidence that the plan of care has been reviewed with the temporary visiting licensed physical therapist assistant by the supervising licensed physical therapist.

- c) At least once every 30 days after the initial review of a new or revised plan of care with the supervising licensed physical therapist, the temporary visiting licensed physical therapist assistant shall document in the patient record that the patient's progress and plan of care has been reviewed with the supervising licensed physical therapist, including the dates when those reviews took place. Such documentation may be incorporated into progress notes or

treatment notes written by the supervising licensed physical therapist and the temporary visiting licensed physical therapist assistant and does not require separate or additional notes.

13:39A-6.3 (RESERVED)

13:39A-6.4 (RESERVED)

**SUBCHAPTER 7.
SUPERVISION OF LICENSED PHYSICAL THERAPIST ASSISTANTS**

13:39A-7.1 SUPERVISION REQUIREMENT; LICENSED PHYSICAL THERAPIST ASSISTANT

- a) A licensed physical therapist assistant shall work only under the direct supervision of a licensed physical therapist pursuant to the provisions of this subchapter.
- b) The maximum licensed physical therapist to licensed physical therapist assistant ratio shall be one licensed physical therapist to two licensed physical therapist assistants at any one time.
- c) The supervising licensed physical therapist shall retain responsibility for the physical therapy care of the patient being treated by the licensed physical therapist assistant. The licensed physical therapist assistant shall be responsible for patient care within the limits of his or her scope of practice.
- d) In the event of a change of the supervising licensed physical therapist, the subsequent supervisor shall assume responsibility for the ongoing supervision of any licensed physical therapist assistant(s) providing care to the patient and shall become the designated supervisor.
- e) In an emergency situation which causes the unanticipated absence of the supervising licensed physical therapist, a licensed physical therapist assistant may continue to render services to only those patients for which the licensed physical therapist assistant has previously participated in the intervention for established plans of care not to exceed the regularly scheduled operational hours of that particular day.
- f) Every effort shall be made by the licensed physical therapist and/or the licensed physical therapist assistant to obtain direct supervision in the care described in (e) above.

13:39A-7.2 RESPONSIBILITIES OF DESIGNATED LICENSED PHYSICAL THERAPIST SUPERVISOR

- a) The licensed physical therapist supervisor shall be in the same building or, where physical therapy is rendered in several contiguous buildings, in one of the contiguous buildings, while the licensed physical therapist assistant is rendering care. The licensed physical therapist supervisor shall be constantly available through electronic communications for consultation or for recall to the area where the licensed physical therapist assistant is rendering care.
- b) The supervising licensed physical therapist's professional judgment shall ultimately determine the safe provision of physical therapy services being rendered by the licensed physical therapist assistant(s).
- c) The supervising licensed physical therapist shall cosign the licensed physical therapist assistant's notes contemporaneously with the services rendered.
- d) The supervising licensed physical therapist shall review the plan of care with the licensed physical therapist assistant:
 - 1) Before a licensed physical therapist assistant provides care to a patient for the first time;
 - 2) Before the licensed physical therapist assistant implements a new or revised plan of care; and
 - 3) On or before the patient's next visit in the event of a change in the designated supervisor.
- e) At least once every 30 days after initial review of a new or revised plan of care with the licensed physical therapist assistant, the supervising licensed physical therapist shall document in the patient record that he or she has reviewed the patient's progress and plan of care with the assistant, including the dates when those reviews took place. Such documentation may be incorporated into progress notes written by the licensed physical therapist and the licensed physical therapist assistant and need not require separate or additional notes.

13:39 A-7.3 RESPONSIBILITIES OF LICENSED PHYSICAL THERAPIST ASSISTANT

- a) A licensed physical therapist assistant shall not render nor continue to render care unless he or she has obtained ongoing direction from his or her designated supervisor.
- b) A licensed physical therapist assistant shall obtain the signature of the designated licensed physical therapist supervisor indicating that the designated supervisor reviewed the plan of

care and the date when that review took place. The supervising licensed physical therapist's signature in the record shall serve as evidence that the plan of care has been reviewed by the supervising licensed physical therapist.

- c) At least once every 30 days after the initial review of a new or revised plan of care with the supervising licensed physical therapist, the licensed physical therapist assistant shall document in the patient record that the patient's progress and plan of care were reviewed with the supervising licensed physical therapist including the dates when those reviews took place. Such documentation may be incorporated into progress notes or treatment notes written by the licensed physical therapist and the licensed physical therapist assistant and need not require separate or additional notes.

**SUBCHAPTER 7A.
(RESERVED)**

**SUBCHAPTER 7B.
(RESERVED)**

**SUBCHAPTER 8.
ADVERTISING**

13:39A-8.1 ADVERTISING AND SOLICITATION PRACTICES

- a) The following words and terms, when used in this section, shall have the following meanings unless the context clearly indicates otherwise.
- 1) The term "advertisement" means any attempt directly or indirectly by publication, dissemination, or circulation in print or electronic media which directly or indirectly induces or attempts to induce any person or entity to purchase or enter into an agreement to purchase services, treatment, or goods related thereto from a Board licensee.
 - 2) "Board licensee" means any individual holding a valid license issued by the New Jersey Board of Physical Therapy.

- 3) The term "clinical specialist" means a licensed physical therapist who has demonstrated advanced clinical knowledge and skills by successfully completing an American Board of Physical Therapy Specialties (ABPTS) clinical specialist program and has passed a written examination in one of the physical therapy specialty areas.
 - 4) The term "electronic media" shall include, but not be limited to, radio, television, telephone, facsimile machine, or computer.
 - 5) The term "fee schedule" refers to the fees charged for services or goods offered by a licensed physical therapist.
 - 6) The term "graphic representation" means the use of drawings, animations, clinical photographs, dramatizations, music or lyrics.
 - 7) The term "print media" shall refer to newspapers, magazines, periodicals, professional journals, telephone directories, circulars, handbills, fliers or other publications, the content of which is disseminated by means of the printed word.
 - 8) "Routine professional service" refers to a service which a licensed physical therapist, licensed physical therapist assistant or professional association routinely performs.
- b) A licensee may provide information to the public by advertising in print or electronic media.
- c) A licensee who engages in the use of advertising which contains any of the following shall be deemed to have engaged in professional misconduct:
- 1) Any statement, claim or format including, but not limited to, a graphic representation which is false, fraudulent, misleading or deceptive;
 - 2) Any misrepresentation of a material fact;
 - 3) The suppression, omission or concealment of any material fact under circumstances which the licensee knows or should have known is improper or prevents a prospective patient from making a full and informed judgment on the basis of the information set forth in the advertisement;
 - 4) Any claim that the service performed or the materials used are superior to that which is ordinarily performed or used in the profession;

- 5) Any promotion of professional service that the licensee knows or should know is beyond the licensee's ability to perform;
 - 6) A technique or communication which appears to intimidate, exert undue pressure or to unduly influence a prospective patient or consumer;
 - 7) Any personal testimonial attesting to the quality or competence of service or treatment by a licensee involving medical or technical assessments that are beyond the patient's competency to assess, or any testimonial not in compliance with N.J.A.C. 13:39A-8.3;
 - 8) The communication of any fact, data or information that may personally identify a patient without the patient's signed written permission obtained in advance;
 - 9) An offer to pay, give or accept a fee or other consideration to or from a third party for the referral of a patient;
 - 10) Any print, language or format that directly or indirectly obscures a material fact; or
 - 11) Any guarantee of results from any procedure.
- d) Any violations of (e) through (i) below shall be deemed professional misconduct.
- e) The Board may require a licensed physical therapist to substantiate the truthfulness of any assertion or representation set forth in an advertisement.
- f) A licensee shall not engage, either directly or through the use of any agent, employee or representative, in solicitation of a prospective patient or a consumer. This subsection shall not prohibit a licensed physical therapist from offering services through materials provided to a community service organization which makes known the availability of all professional services listed; nor shall it prohibit the offering of services by a licensed physical therapist to any bona fide representative of prospective patients including, but not limited to, employers, labor union representatives or insurance carriers.
- g) Advertising making reference to or setting forth fees shall be limited to that which contains a stated fee schedule for specifically described routine professional services or goods offered by licensees.
- 1) A licensee who advertises a fee shall disclose all relevant and material variables and considerations that are ordinarily included in such a service so that the fee will be clearly understood by prospective patients or consumers.

- 2) In the absence of such disclosure referred to in (g)1 above, the stated fees shall be presumed to include everything ordinarily required for such a service. No additional charges shall be made for an advertised service unless the advertisement specifically delineates the additional services contemplated and the fee to be charged therefor.
- h) The time period during which an advertised fee will remain in effect shall be set forth on the face of the advertisement. In the absence of such disclosure, the effective period shall be deemed to be 30 days from the date of the advertisement's final publication.
- i) Any licensed physical therapist advertising certification in a specialty area shall possess certification by a certifying entity and shall maintain documentary proof of certification from the entity as part of his or her records. A licensed physical therapist who advertises a specialty certification shall include the full name of the certification and the certifying entity in any advertisements and, except as provided in (j) below, shall not use initials or acronyms for the certification or certifying entity. For example, except as provided in (j) below, a licensee may indicate in advertisements that he or she is an Orthopaedic Clinical Specialist certified by the American Board of Physical Therapy Specialties but shall not indicate that he or she is an OCS certified by the ABPTS.
- j) A licensed physical therapist who has included the full name of a certification and certifying entity in an advertisement pursuant to (i) above may use initials or acronyms for that certification immediately following its full name. For example, a licensed physical therapist who indicates that he or she is an Orthopaedic Clinical Specialist certified by the American Board of Physical Therapists in an advertisement may use the acronyms OCS and ABPTS after these full names (Orthopaedic Clinical Specialist (OCS) by the American Board of Physical Therapists (ABPTS)).

13:39A-8.2 ADVERTISING FREE OR DISCOUNTED SERVICES; REQUIRED DISCLOSURES

- a) An advertisement offering a fee reduction shall state the reduced fee and the licensed physical therapist's usual fee for each service for which a reduction is advertised. The usual fee shall be the fee charged for the advertised service for a period of not less than 90 days prior to the advertised reduction.
- b) All offers of free services or discounts shall include a statement of the specific charges for all associated or reasonably anticipated services which are not included in the offer of free or discounted services. If the discount or free service does not apply to all services to be rendered, the advertisement shall specify any associated or reasonably anticipated services which are not included.

- c) Except for those services specifically excluded in the advertisement offering free services, the licensed physical therapist shall not charge for any service whatsoever rendered during a period of 72 hours from the time the free service was rendered.

13:39A-8.3 TESTIMONIAL ADVERTISING

- a) All testimonials involving a specific or identifiable procedure shall truthfully reflect the actual experience of the patient.
- b) The licensee shall be able to substantiate any objective, verifiable statement of fact appearing in a testimonial. The failure to do so, if required by the Board, may be deemed professional misconduct.
- c) Where an advertiser directly or indirectly provides compensation to a testimonial giver, the fact of such compensation shall be conspicuously disclosed in a clear, legible and readable manner in any advertisement as follows: "COMPENSATION HAS BEEN PROVIDED FOR THIS TESTIMONIAL."

13:39A-8.4 MINIMUM CONTENT

- a) A licensee shall include the following in all advertisements and professional representations (other than an office entry sign), including advertisements in a classified directory, business cards and professional stationery:
 - 1) The name, identification of licensure and license number of at least one principal of the corporation; and
 - 2) The street address and telephone number of the practice.

13:39A-8.5 USE OF PROFESSIONAL CREDENTIALS AND CERTIFICATIONS

- a) A licensee shall accurately and objectively represent his or her competence, education, training and experience.
- b) A licensee shall use the designation "physical therapist" or "physical therapist assistant" or the abbreviation "PT" or "PTA" in conjunction with the use of his or her name and license number. Academic degree designations, including initials, may be placed after the name and the title.
- c) An advertisement that includes information on professional credentials shall contain the academic degrees attained related to the practice of physical therapy and shall refer only to degrees obtained from accredited academic institutions.

13:39A-8.6 ADVERTISING BY A BUSINESS ENTITY OFFERING PHYSICAL THERAPY SERVICES

- a) A licensee who uses or participates in the use of any form of public communication relating to a business entity offering physical therapy services shall include in that communication the name of the person holding an ownership interest in the advertising entity and the professional license held by that person. If the entity is owned by more than four persons, the notice need only include the names of officers in that entity and the licenses they hold.
- b) The responsibility for the form and content of any advertisement offering services or goods by a licensee shall be jointly and severally that of each licensed physical therapist who is a principal, partner or officer of the firm or entity identified in the advertisement.

13:39A-8.7 ADVERTISING RECORD RETENTION

- a) The licensee shall retain, for a period of three years from the date of initial publication or dissemination, a copy of every advertisement appearing in print media, a video or audio tape of every advertisement communicated by electronic media, and a computer record of any advertisement posted on the internet. The licensee shall indicate on all advertisements in his or her possession the date and place of publication.
- b) Documentation relating to the use of testimonials shall be retained for a period of three years from the date of last use of the testimonial. Documentation shall include, but not be limited to, the name, address and telephone number of the testimonial giver and the type and amount or value of compensation, if any.

**SUBCHAPTER 9.
CONTINUING EDUCATION**

13:39A-9.1 LICENSURE RENEWAL: CONTINUING EDUCATION REQUIREMENT

- a) A licensee applying for biennial licensure renewal shall complete, during the preceding biennial period, the continuing education requirement as specified in N.J.A.C. 13:39A-9.2.
- b) Upon biennial license renewal, a licensee shall attest that he or she has completed the continuing education requirement of the types and number of credits specified in N.J.A.C. 13:39A-9.3. Falsification of any information submitted on the renewal application may require an appearance before the Board and may result in disciplinary action.

13:39A-9.2 CREDIT HOUR REQUIREMENTS

- a) Except as provided in (b) below, each applicant for biennial license renewal as a licensed physical therapist and as a licensed physical therapist assistant shall complete during the

preceding biennial period a minimum of 30 credits of continuing education, which shall include four credits of jurisprudence and professional ethics.

- b) An applicant for biennial license renewal as a licensed physical therapist or as a licensed physical therapist assistant who receives an initial license in the first year of a biennial period shall complete a minimum of 15 of the 30 required credits of continuing education during that biennial renewal period. An applicant for biennial license renewal as a licensed physical therapist or as a licensed physical therapist assistant who receives an initial license in the second year of a biennial period shall be exempt from completing continuing education credits during that biennial renewal period.
- c) For the purposes of this subchapter, an hour of continuing education means 60 minutes of instructional time spent in learning activities, exclusive of breaks, meals, pre-tests, or vendor exhibits.
- d) Any continuing education courses, programs or seminars directed or ordered by the Board to be taken by a licensee as all or part of a disciplinary or remedial measure or to remediate a deficiency in continuing education credits for a prior biennial renewal period shall not qualify to fulfill the mandatory continuing education requirements required for biennial renewal.

13:39A-9.3 ACCEPTABLE COURSE OFFERINGS; CREDIT HOUR CALCULATION

- a) The Board shall grant continuing education credit, at a rate of one credit for each hour of attendance unless otherwise specified in this section, only for courses, programs or seminars that have been successfully completed and have significant educational or practical content, which deal with matters related to the practice of physical therapy or with the professional responsibilities or ethical obligations of licensees, such as the following:
 - 1) Patient/client management;
 - 2) Appropriate standard of physical therapy care;
 - 3) Patient safety;
 - 4) Application of new technology to physical therapy practice;
 - 5) Patient communication;
 - 6) Promotion of ethical practices;
 - 7) Knowledge of the changing health care system;

- 8) Clinical instructor credentialing; and
 - 9) Physical therapy practice management, administration and professional issues.
- b) All courses, programs or seminars offered by the following sources and providers are pre-approved and a licensee shall be allowed the number of credits as follows:
- 1) Successful completion of a post-graduate course in a physical therapy program leading to a Doctor of Physical Therapy (DPT) degree for the licensed physical therapist or a three-credit course in an entry level physical therapy program for the licensed physical therapist assistant. Such programs must be in institutions of higher learning, which are accredited by the United States Department of Education, Office of Postsecondary Education or their approved agencies: 15 credits for each course credit awarded; or
 - 2) Successful completion of a course in an academic program related to the practice of physical therapy provided that such course is not part of the physical therapy program completed by the licensee to meet the educational requirements for initial licensure under N.J.A.C. 13:39A-5.1 or 5.2: 15 credits for each course credit awarded; or
 - 3) Successful completion of a continuing education course sponsored by the American Physical Therapy Association (APTA), or the American Physical Therapy Association of New Jersey (APTANJ): one credit for each hour of the course.
- c) The Board shall grant a maximum of 10 of the mandatory 30 continuing education credits required in a biennial renewal period of licensed physical therapists and licensed physical therapist assistants from any or all of the following:
- 1) Successful completion of videotape, audiotape, computer media, Internet, journal, or correspondence courses, programs or seminars: a maximum of 10 credits per course, program or seminar. The course, program or seminar shall include an examination at its end. Credit for correspondence and other individual study courses or programs shall be provided only in the renewal period in which the course is completed with a successful final examination;
 - 2) Successful completion of courses, programs or seminars consisting of hands-on demonstrations of instrumentation when accompanied by didactic lectures: one-half credit for each hour of attendance;
 - 3) Preparation and presentation of a Board-approved continuing professional education course, program or seminar: two credits for each hour of a new presentation up to a maximum of 10 credits. For purposes of this subsection, "new" means a course, program

- or seminar that the licensee has not taught previously in any educational setting. One credit for each hour of a presentation shall be given for subsequent sessions involving substantially identical subject matter up to a maximum of 10 credits, provided the original material has been updated and subject to the credit limits of N.J.A.C. 13:39A-9.3;
- 4) Preparation of an educational or scientific article authored and published in a professional refereed journal: three credits per article as approved by the Board;
 - 5) Courses, programs or seminars in physical therapy practice management: one credit for each hour of attendance;
 - 6) Writing a chapter of a published textbook related to physical therapy: three credits per chapter up to a maximum of 10 credits; or
 - 7) Editing a published textbook related to physical therapy: five credits per book up to a maximum of 10 credits.
- d) A licensed physical therapist who becomes certified or recertified in a clinical specialty by the American Board of Physical Therapy Specialties shall receive 15 continuing education credits for the biennial licensure period in which it takes place.
 - e) A licensed physical therapist who successfully completes a residency or fellowship approved by the American Physical Therapy Association (APTA) shall receive 15 continuing education credits for the biennial licensure period in which the residency takes place.
 - f) A licensed physical therapist who completes the Federation of State Boards of Physical Therapy (FSBPT) Practice Review Tool (PRT) shall receive 10 continuing education credits for the biennial licensure period in which the PRT is taken.
 - g) A licensed physical therapist or licensed physical therapist assistant who provides clinical instruction to a student in a clinical facility that is affiliated with a physical therapy program that is approved for the education and training of physical therapists or licensed physical therapist assistants by an accrediting agency recognized by the United States Department of Education, Office of Postsecondary Education shall receive one credit for each 40 hours of clinical instruction up to a maximum of four credits per biennial period.
 - h) The Board shall maintain a list of Board-approved courses, programs and seminars submitted for approval pursuant to N.J.A.C. 13:39A-9.6.
 - i) The Board may review and approve courses, programs and seminars, which are not pre-approved pursuant to (b) above, when such courses, programs and seminars are submitted

for approval by a licensee for continuing professional education credit. The licensee shall submit, on a form approved by the Board, the title, date and location of the course, program or seminar for which approval is being sought and the information required of a continuing professional education provider pursuant to N.J.A.C. 13:39A-9.6(a)1.

- j) Continuing education courses, programs and seminars shall be offered on a nondiscriminatory basis. Membership organizations may discount the cost of attending continuing education courses, programs and seminars for dues-paying members.

13:39A-9.4 DOCUMENTATION OF CONTINUING EDUCATION CREDIT

- a) Each licensee shall maintain a record of all continuing education activity completed and shall submit evidence of completion of the credit requirements to the Board upon request. Each licensee shall obtain from the continuing education course, program or seminar provider and retain for a period of at least four years following the license renewal a record of attendance which shall include, at a minimum, the following:
- 1) The participant's name and State Board of Physical Therapy Examiners' license number;
 - 2) The title and, if the title does not adequately describe the educational content, subject matter of the course, program or seminar;
 - 3) The name of the instructor;
 - 4) The course, program or seminar provider;
 - 5) The date and location of the course, program or seminar;
 - 6) The number of continuing education credits awarded; and
 - 7) The signature of a course, program or seminar official or other verification of successful completion by the course, program or seminar provider.
- b) A licensee shall verify completion of academic course work by an official transcript from the educational institution.
- c) A licensee who completes a videotape, audiotape, computer media, Internet, journal or correspondence course or program shall retain the certification of the successful final examination completed at the end of the course, program or seminar.

- d) A licensee who passes the Federation of State Boards of Physical Therapy (FSBPT) Practice Review Tool (PRT) shall retain documented proof from the FSBPT of completion.
- e) A licensee who attends a conference that has concurrent sessions, at which attendance is not taken at each session and attendance certificates are not issued to attendees for each session, shall document attendance by having a conference official sign or stamp the session description in the program book.
- f) The Board shall monitor compliance with the mandatory continuing education requirement by conducting a random audit of licensees, who, upon request, shall provide proof of successful completion of continuing education credits.
- g) A licensee who writes a chapter of, or edits, a textbook shall retain a copy of the published textbook.
- h) A licensee who provides clinical instruction to a student shall retain documentary proof from the student's school that indicates the period of time during which the licensee provided clinical instruction.
- i) During the audit performed pursuant to (f) above, the Board shall review any course that has not been pre-approved pursuant to N.J.A.C. 13:39A-9.3(b) and shall approve the course if it meets the requirements of N.J.A.C. 13:39A-9.3(a) and the provider meets the requirements of N.J.A.C. 13:39A-9.6.

13:39A-9.5 WAIVER OF CONTINUING EDUCATION REQUIREMENTS

- a) The Board may waive, extend or otherwise modify the time period for completion of the continuing education requirements on an individual basis for reasons of hardship, such as illness, disability or active service in the military.
- b) A licensee who seeks a waiver, extension or modification of the time period for the completion of the continuing education requirements shall provide to the Board in writing, no less than two months prior to the end of the licensure period, the specific reasons for requesting the waiver, extension or modification and such additional information as the Board may require in support of the request.

13:39A-9.6 RESPONSIBILITIES OF CONTINUING EDUCATION PROVIDERS

- a) All providers of continuing education not included in N.J.A.C. 13:39A-9.3(b) shall:
 - 1) At least 45 days prior to the date of the course, program or seminar, submit the following for each course, program or seminar offered for evaluation by the Board:

- i) A detailed descriptive outline of course content, the estimated starting and ending time of the course and any break time provided during the course, program or seminar;
 - ii) The curriculum vitae of each lecturer, including specific background which qualifies the individual as a lecturer in the area of instruction;
 - iii) Course objectives that are both behavioral objectives, which are learning outcomes stated in terms that indicate what the student will be able to do or demonstrate after the course, and measurable objectives, which are learning outcomes indicating the level of the student's performance; and
 - iv) A bibliography supporting the content of the course, program or seminar that includes at least five peer-reviewed journal articles published within the last five years;
- 2) Obtain Board approval prior to representing that any course, program or seminar fulfills the requirements of N.J.A.C. 13:39A-9.1;
 - 3) Monitor the attendance at each approved course, program or seminar and furnish to each enrollee a verification of attendance, which shall include at least the following information:
 - i) The title, date and location of the course, program or seminar offering;
 - ii) The name and license number of the attendee;
 - iii) The number of credits awarded;
 - iv) The name and signature of the sponsor and the seal of the organization;
 - 4) Maintain attendance sheets, which include the time when a licensee arrives at and leaves the course, program or seminar with the licensee's signature next to each time entry;
 - 5) Evaluate course offerings. Evaluations shall be solicited from both the attendees and the instructors; and
 - 6) Submit a fee pursuant to N.J.A.C. 13:39A-1.3 for each submission of a new course, program or seminar reviewed by the Board during the biennial licensing period.