

## 55 N.J.R. 2136(a)

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### RULE ADOPTIONS

#### Reporter

55 N.J.R. 2136(a)

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#### Agency

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

#### Administrative Code Citation

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**Adopted Repeal and New Rule: N.J.A.C. 13:35-3.2**

**Adopted Amendment: N.J.A.C. 13:35-3.14**

**Adopted New Rules: N.J.A.C. 13:35-3.14A and 3.14B**

**Adopted Repeal: N.J.A.C. 13:35-3.3**

#### Text

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##### License Renewal

Proposed: October 3, 2022, at 54 N.J.R. 1900(a).

Adopted: January 11, 2023, by the State Board of Medical Examiners, Otto F. Sabando, D.O., President.

Filed: August 28, 2023, as R.2023 d.113, **without change**.

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

Effective Date: October 2, 2023.

Expiration Date: April 3, 2025.

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

The official comment period ended December 2, 2022. The Board of Medical Examiners (Board) received comments from the following individuals:

1. Robert G. Coates, MD, MMM, CPE, FAAFP, FAAPL, Interim Chief Medical Officer, Hunterdon Medical Center

2. Christine Stearns, Chief Government Relations Officer, New Jersey Hospital Association

1. COMMENT: The commenters support new N.J.A.C. 13:35-3.2, which allows individuals licensed in other states to obtain a license in New Jersey. One of the commenter contends that it can take several months to obtain a license and believes that allowing for licensure through reciprocity will help speed up this process. Another commenter believes that the rule will help address the health care workforce shortage in New Jersey.

RESPONSE: The Board thanks the commenters for their support.

2. COMMENT: A commenter points out that the notice of proposal stated that the Board could require an applicant to pass an examination, complete a refresher course, or meet another requirement if the Board determines that there is reason to believe that the applicant would not be able to practice safely in New Jersey. The commenter asks that the Board provide guidance as to why it would make such a determination.

RESPONSE: The provision the commenter refers to addresses the reactivation and reinstatement of licenses. N.J.A.C. 13:35-3.14A(c) and 3.14B(c) set forth the factors that the Board will consider when determining whether an applicant for reactivation or reinstatement could not practice safely in New Jersey.

### **Federal Standards Statement**

A Federal standards analysis is not required because the adopted amendments, repeals, and new rules do not involve any Federal laws or standards.

**Full text** of the adoption follows:

SUBCHAPTER 3. LICENSING EXAMINATIONS AND ENDORSEMENTS, LIMITED EXEMPTIONS FROM LICENSURE REQUIREMENTS; POST-GRADUATE TRAINING

13:35-3.2 Licensure by reciprocity

(a) Upon receipt of a completed application, application fee, consent to a criminal history record background check, and requisite fee for such a check, the Board shall issue a license to any person who holds a valid, current license in good standing issued by another state, if:

1. The Board determines that the state that issued the license has, or had at the time of issuance, education, training, and examination requirements for licensure substantially equivalent to the current Board standards;

2. The applicant has been practicing medicine or surgery or podiatry for a period of at least two years within the five years prior to the date of application; and

3. The requirements at (b) below are satisfied.

(b) Prior to the issuance of the license, the Board shall have received:

1. Documentation from any state in which the applicant is, or was ever, licensed that the applicant's license(s) is in good standing;

2. Results of a criminal history record background check of the files of the Criminal Justice Information Services Division in the Federal Bureau of Investigation and the State Bureau of Identification in the Division of State Police that do not disclose a conviction for a disqualifying crime; and

3. Designation of an agent in New Jersey for service of process, if the applicant is not a New Jersey resident and does not have an office in New Jersey.

(c) For purposes of this section, "good standing" means that:

1. No action has been taken against the applicant's license by any licensing board;

2. No action adversely affecting the applicant's privileges to practice medicine or surgery or podiatry has been taken by any out-of-State institution, organization, or employer;

3. No disciplinary proceeding is pending that could affect the applicant's privileges to practice medicine or surgery or podiatry;

4. All fines levied by any out-of-State board have been paid; and

5. There is no pending or final action by any criminal authority for violation of law, rule, or regulation, or any arrest or conviction for any criminal or quasi-criminal offense under the laws of the United States, New Jersey, or any other state, including: criminal homicide; aggravated assault; sexual assault, criminal sexual contact, or lewdness; or any offense involving any controlled dangerous substance or controlled dangerous substance analog.

(d) For purposes of this section, "substantially equivalent" examination requirements need not be identical to the current examination requirements of New Jersey, but such examination requirements shall be nationally recognized and of comparable scope and rigor.

(e) The Board will consider an applicant's experience to compensate for disparity in substantial equivalence in education and examination requirements at (a) above.

(f) The Board may grant a license to an applicant seeking reciprocity who does not meet the good standing requirements at (a) due to any of the following, provided the alleged conduct of the applicant does not demonstrate a serious inability to practice medicine or surgery or podiatry; did not adversely affect the public health, safety, or welfare; did not result in economic or physical harm to a person; and did not create a significant threat of such harm or adverse effect:

1. A pending action by a licensing board;
2. A pending action by an out-of-State institution, organization, or employer affecting the applicant's privileges to practice;
3. A pending disciplinary proceeding; or
4. A pending criminal charge or arrest for a crime.

(g) If, within six months after the issuance of the license, the Board has not received documentation verifying the person's education, training, and examination results, the Board shall, after the licensee has been given notice and an opportunity to be heard, revoke the license.

(h) The Board, after the licensee has been given notice and an opportunity to be heard, may revoke any license determined by the Board to have been issued based on licensure obtained in another state through fraud, deception, or misrepresentation.

13:35-3.3 (Reserved)

13:35-3.14 Biennial license renewal

(a) (No change.)

(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. The notice of renewal shall explain inactive renewal and advise the licensee of the option to renew as inactive. 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, provided that the license is renewed within 60 days from the date the notice is sent [page=2137] or within 30 days following the date of license expiration, whichever is later.

(c) Licensees may renew their license by choosing inactive status. Licensees electing to renew as inactive shall not engage in the practice of medicine or surgery or podiatry or hold themselves out as eligible to engage in the practice of medicine or surgery or podiatry in New Jersey until such time as the license is returned to active status.

(d) (No change in text.)

(e) A licensee who fails to submit a renewal application within 30 days of license expiration shall have the license suspended without a hearing.

(f) A licensee who continues to engage in the practice of medicine or surgery or podiatry with a suspended license shall be deemed to be engaging in the unlicensed practice of medicine or surgery or podiatry and shall be subject to action consistent with N.J.S.A. 45:1-14 et seq., even if no notice of suspension has been provided to the individual.

#### 13:35-3.14A License reactivation

(a) A licensee who holds an inactive license pursuant to N.J.A.C. 13:35-3.14(c) may apply to the Board for reactivation of an inactive license. A licensee seeking reactivation of an inactive license shall submit:

1. A renewal application;
2. A certification of employment listing each job held during the period of inactive license which includes the name, address, and telephone number of each employer;
3. The active renewal fee set forth at N.J.A.C. 13:35-6.13;
4. Evidence of having completed all continuing education credits for the current biennial registration period, consistent with the requirements set forth at N.J.A.C. 13:35-6.15; and
5. A completed Criminal History Certification of Authorization form.

(b) An applicant seeking reactivation of an inactive New Jersey license who holds a valid, current license in good standing issued by another state to engage in the practice of medicine or surgery or podiatry and submits proof of having satisfied that state's continuing education requirements, shall be deemed to have satisfied the requirements at (a)4 above. If the other

state does not have any continuing education requirements, the requirements at (a)4 above shall apply.

(c) If the Board's review of an application establishes a basis for concluding that there may be practice deficiencies in need of remediation prior to reactivation, the Board may require the applicant to submit to and successfully pass an examination or an assessment of skills, or other requirements as determined by the Board prior to reactivation of the license. If that examination, assessment, or other requirement identifies deficiencies or educational needs, the Board may require the applicant as a condition of reactivation of licensure to take and successfully complete education or training, or to submit to supervision, monitoring, or limitations, as the Board determines necessary, to ensure that the applicant practices with reasonable skill and safety. In making its determination whether there are practice deficiencies requiring remediation, the Board may consider the following:

1. Length of time license was inactive;
2. Employment history;
3. Professional history;
4. Disciplinary history and any action taken against the applicant's license or registration by any professional or occupational board;
5. Actions affecting the applicant's privileges taken by any institution, organization, or employer related to the practice of medicine or surgery, podiatry, or other professional or occupational practice in New Jersey, any other state, the District of Columbia, or any other jurisdiction;
6. Pending proceedings against a professional or occupational license issued to the licensee by a professional or occupational board in New Jersey, any other state, the District of Columbia, or any other jurisdiction; and
7. Civil litigation related to the practice of medicine or surgery, podiatry, or other professional or occupational practice in New Jersey, any other state, the District of Columbia, or any other jurisdiction.

13:35-3.14B License reinstatement

(a) A licensee who has had a license suspended pursuant to N.J.A.C 13:35-3.14(e) who seeks reinstatement shall submit:

1. A reinstatement application;

2. A certification of employment listing each job held during the period of suspended license that includes the name, address, and telephone number of each employer;

3. The renewal fee set forth at N.J.A.C. 13:35-6.13 for the biennial period for which reinstatement is sought;

4. The past due renewal fee for the biennial period immediately preceding the renewal period for which reinstatement is sought;

5. The reinstatement fee set forth at N.J.A.C. 13:35-6.13;

6. Evidence of having completed all continuing education credits for the current biennial registration period, consistent with the requirements set forth at N.J.A.C. 13:35-6.15; and

7. A completed Criminal History Certification of Authorization form.

(b) An applicant who holds a valid, current license in good standing issued by another state to engage in the practice of medicine or surgery or podiatry and submits proof of having satisfied that state's continuing education requirements, shall be deemed to have satisfied the requirements at (a)6 above. If the other state does not have any continuing education requirements, the requirements at (a)6 above shall apply.

(c) If the Board's review of an application establishes a basis for concluding that there may be practice deficiencies in need of remediation prior to reinstatement, the Board may require the applicant to submit to and successfully pass an examination or an assessment of skills, or other requirements as determined by the Board prior to reinstatement of the license. If that examination, assessment, or other requirement identifies deficiencies or educational needs, the Board may require the applicant, as a condition of reinstatement of licensure to take and successfully complete education or training requirements, or to submit to supervision, monitoring, or limitations, as the Board determines necessary to ensure that the applicant practices with reasonable skill and safety. In making its determination whether there are practice deficiencies requiring remediation, the Board may consider the following:

1. Length of time the license was suspended;

2. Employment history;

3. Professional history;

4. Disciplinary history and any action taken against the applicant's license by any professional or occupational board;

5. Actions affecting the applicant's privileges taken by any institution, organization, or employer related to the practice of medicine or surgery, podiatry, or other professional or occupational practice in New Jersey, any other state, the District of Columbia, or any other jurisdiction;

6. Pending proceedings against a professional or occupational license issued to the licensee by a professional or occupational board in New Jersey, any other state, the District of Columbia, or any other jurisdiction; and

7. Civil litigation related to the practice of medicine or surgery, podiatry, or other professional or occupational practice in New Jersey, any other state, the District of Columbia, or any other jurisdiction.

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