

## 51 N.J.R. 894(a)

VOLUME 51, ISSUE 11, JUNE 3, 2019

### RULE ADOPTIONS

#### Reporter

51 N.J.R. 894(a)

*NJ - New Jersey Register > 2019 > JUNE > JUNE 3, 2019 > RULE ADOPTIONS > LAW AND PUBLIC SAFETY -- DIVISION OF CONSUMER AFFAIRS*

#### Agency

---

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

#### Administrative Code Citation

---

Adopted Amendments: N.J.A.C. 13:39A-2.1, 2.3, 3.5, 7.1, 7.2, 7.3, 9.1 through 9.6

Adopted New Rule: N.J.A.C. 13:39A-2.2A

#### Text

---

##### Wound Debridement and Supervision Standards

Proposed: October 1, 2018, at 50 N.J.R. 2044(a).

Adopted: January 22, 2019, by the State Board of Physical Therapy Examiners, Beth Sarfaty, P.T., Chairperson, State Board of Physical Therapy Examiners.

Filed: May 6, 2019 as R.2019 d.056, **without change**.

Authority: N.J.S.A. 45:9-37.18 and P.L. 2017, c. 121.

Effective Date: June 3, 2019.

Expiration Date: November 15, 2020.

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

The official comment period ended November 30, 2018. The State Board of Physical Therapy Examiners (Board) received four comments from the following individuals:

1. Nancy Mingelgreen, PT, DPT, CLT, Assistant Director of Clinical Education, Assistant Professor, DPT Program (Newark), School of Health Professions, Rutgers, The State University of New Jersey.
2. Judith Schmidt, MSN, DHA (c), RN, CCRN, CEO New Jersey State Nurses Association.
3. Gretchen E. Munnelly, BSN, RN, CCM, Director of Regulatory Affairs and Professional Development/Education, Director of Emergency Preparedness, Home Care & Hospice Association of NJ.
4. Michael Forminsano, PT, DPT, OCS, Senior Physical Therapist Englewood Hospital, Adjunct Professor Dominican College.

1. COMMENT: A commenter questions if the change of the term "continuing education credits" to "continuing education competency credits" imposes additional requirements on organizations that provide continuing education. The commenter asks if attendees must now pass a post-test for every course.

RESPONSE: The change in terms does not impose additional requirements on continuing education providers. The amendments do not require continuing education attendees to complete post-tests.

2. COMMENT: A commenter points out that N.J.A.C. 13:39A-2.2A requires a physical therapist to communicate with a patient's physician or podiatric physician. The commenter contends that advanced practice nurses can order physical therapy and care for patients with wounds. The commenter recognizes that the statute does not include advanced practice nurses, but contends that advanced practice nurses should be included at N.J.A.C. 13:39A-2.2A, so that they do not have to refer patients to physicians if they want a physical therapist to provide wound debridement.

RESPONSE: P.L. 2017, c. 121, establishes that wound debridement may be performed by a physical therapist in conjunction with a physician or podiatric physician. The statute does not authorize a physical therapist to perform wound debridement in conjunction with an advanced practice nurse and the Board does not have the authority to change N.J.A.C. 13:39A-2.2A as the commenter recommends.

3. COMMENT: A commenter recommends that the definition of "general supervision" at N.J.A.C. 13:39A-2.1 and 7.2(c)3 be amended to replace the term "at all times" with "during working hours when treating patients."

RESPONSE: P.L. 2017, c. 121 defines "general supervision" and uses the term "at all times" in that definition. The Board will not change the definition of "general supervision" at N.J.A.C. 13:39A-2.1 as the commenter recommends. The Board points out that N.J.A.C. 13:39A-7.2(c)3 requires a supervising licensed physical therapist to be available at all times while the licensed physical therapist assistant is treating patients.

4. COMMENT: A commenter contends that permitting licensed physical therapist assistants to provide services under general supervision is a major change in policy. The commenter contends that there will be a negative social impact from this change as licensed physical therapist assistants will be able to provide services without direct supervision. The commenter questions where supervising licensed physical therapists will be and points out that the regulations do not set forth a specific time frame for a supervising licensed physical therapist to respond to questions from a licensed physical therapist assistant. The commenter also requests that the Board provide data as to the economic impact of the rulemaking and contends that the impact will be great in that it is less expensive for companies to employ licensed physical therapist assistants. The commenter also contends that the regulatory flexibility statement was incorrect in that it refers to licensed physical therapists as small businesses. The commenter contends the licensed physical therapists are health care professionals, like physicians and nurses, who make medical decisions not business decisions.

RESPONSE: The Board agrees that permitting licensed physical therapist assistants to provide services under general supervision is a major change in policy. This change was established by P.L. 2017, c. 121. The Board does not believe that licensed physical therapist assistants providing services under general supervision will have a negative social impact. The Board does not have data as to the economic impact of licensed physical therapist assistants providing services under general supervision. The Board believes that the commenter's contention that the amendments will have a great economic impact is speculative. The regulatory flexibility statement was not incorrect, as that statement addresses whether a licensee may be considered a small business as the term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The statement did not indicate that physical therapists are not health care professionals.

5. COMMENT: A commenter contends that a physical therapist assistant need not be present when a supervising physical therapist makes an on-site visit and recommends that N.J.A.C. 13:39A-7.2 be amended to reflect this.

RESPONSE: N.J.A.C. 13:39A-7.2 does not require a licensed physical therapist assistant to be present during an on-site visit and it is not necessary to change the rule as the commenter recommends.

6. COMMENT: A commenter contends that it is not possible for a supervising licensed physical therapist to co-sign a licensed physical therapist assistant's notes prior to the next provision of physical therapy. The commenter recommends that N.J.A.C. 13:39A-7.2(e) be amended to require a supervising licensed physical therapist to co-sign notes within one week of the note being made.

RESPONSE: The Board disagrees that it is not possible for a supervising licensed physical therapist to co-sign a licensed physical therapist assistant's notes prior to the next provision of services. More importantly, having a licensed physical therapist co-sign such notes prior to the next provision of services ensures that the supervisor is appropriately supervising the licensed physical therapist assistant and is knowledgeable as to the status of the patient. This will protect the health, safety, and welfare of patients receiving physical therapy services. The Board points out that, if physical therapy services are provided less often than once a week, the commenter's recommended amendment would be more onerous than the existing requirement in N.J.A.C. 13:39A-7.2(e).

7. COMMENT: A commenter contends that some electronic documentation systems do not allow for dual signatures and that N.J.A.C. 13:39A-7.3 should be amended to include a provision that states: "If an electronic documentation system is not capable of dual signatures, a physical therapist may enter a separate note within the same documentation system. This note shall reference the date(s) of the note(s) reviewed with documentation referencing the review." The commenter contends that this is the standard in Ohio.

RESPONSE: N.J.A.C. 13:39A-7.3 does not require a dual signature, it requires a signature in the record from a supervising licensed physical therapist. N.J.A.C. 13:39A-7.2(e) does require a supervisor to co-sign a licensed physical therapist assistant's notes. The Board does not believe that either requirement dictates that records be kept on systems that allow for dual signatures. The Board will propose amendments to N.J.A.C. 13:39A at a future date to clarify this policy.

[page=895] **Federal Standards Statement**

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

## **Regulations**

---

**Full text** of the adoption follows:

**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.

...

"General supervision" means supervision by a physical therapist in which the supervising physical therapist is available at all times by telecommunications but is not required to be on-site for direction and supervision. The supervising physical therapist shall assess, on an ongoing basis, the ability of the physical therapist assistant to perform the selected interventions as directed.

...

"Physical therapy and physical therapy practice" mean the identification of physical impairment, movement-related functional limitation, or balance disorder 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.-2. (No change.)

3. Wound debridement and care pursuant to N.J.A.C. 13:39A-2.2A;

Recodify existing 3.-10. as 4.-11. (No change in text.)

"Physical therapy and physical therapy practice" also includes the screening, examination, evaluation, and application of interventions for the promotion, improvement, and maintenance of fitness, health, wellness, and prevention services in populations of all ages exclusively related to physical therapy practice.

...

"Wound debridement and care" means the removal of loosely adhered necrotic and nonviable tissue by a physical therapist to promote healing, done in conjunction with a physician or podiatric physician as required by N.J.A.C. 13:39A-2.2A.

13:39A-2.2A Wound debridement

- (a) A licensed physical therapist shall perform wound debridement only after communicating with the patient's licensed physician or licensed podiatric physician.
- (b) A licensed physical therapist shall maintain documentation of the communication required by (a) above as part of his or her patient records.

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 or general 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 or general supervision of a licensed physical therapist.
- (b) - (d) (No change.)

**SUBCHAPTER 3. BUSINESS PRACTICES; PROFESSIONAL CONDUCT**

13:39A-3.5 Display of notice of licensure; notification of availability of fee information

- (a) Every licensee shall conspicuously display the following notices in a public area in all offices and health care facilities at which the licensee practices physical therapy:
  - 1.-2. (No change.)
- (b) In addition to the requirements of (a) above, a licensee shall conspicuously display the following notice in a public area in all offices and health care facilities at which the licensee practices physical therapy: "A physical therapist or a physical therapist assistant is required to show a patient his or her license upon request."
- (c) A licensee shall either:
  - 1. Maintain his or her original or duplicate biennial registration in all offices and health care facilities at which the licensee practices physical therapy; or
  - 2. Have his or her original or duplicate biennial registration in his or her possession while providing physical therapy services.
- (d) A licensee shall provide his or her name, professional designation, and license number to any patient upon request.

**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 or general supervision of a licensed physical therapist pursuant to the provisions of this subchapter.
- (b) - (e) (No change.)
- (f) Every effort shall be made by the licensed physical therapist and/or the licensed physical therapist assistant to obtain supervision in the care described in (e) above.
- (g) A licensed physical therapist shall not provide general supervision of a licensed physical therapist assistant until the licensed physical therapist has practiced, either in New Jersey or in another state, for at least one year. A licensed physical therapist shall ensure that a licensed physical therapist assistant has worked, either in New Jersey or in another state, for at least one year prior to providing general supervision of that licensed physical therapist assistant.

13:39A-7.2 Responsibilities of designated supervising licensed physical therapist

- (a) When providing direct supervision, a supervising licensed physical therapist 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 supervising licensed physical therapist 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) When providing direct supervision, a supervising licensed physical therapist shall, at least once every 30 days after initial review of a new or revised plan of care with the licensed physical therapist assistant, 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 or the licensed physical therapist assistant and need not require separate or additional notes.
- (c) When providing general supervision, a licensed physical therapist shall:

1. Make an on-site visit and participate in the treatment of the patient at least every six patient visits or every 14 days, whichever occurs first. During this on-site visit, the licensed physical therapist shall review the plan of care in order to determine the need for revisions to the plan or for the completion of the episode of care;
  2. In addition to the on-site visits required by (c)1 above, a licensed physical therapist shall make an on-site visit:
    - i. If the licensed physical therapist assistant requests a reexamination of the patient;
    - ii. If a change in the plan of care is needed;
    - iii. Prior to the planned completion of an episode of care; and
    - iv. When the patient's medical status has changed;
  3. Be accessible by telecommunications to the licensed physical therapist assistant at all times while the physical therapist assistant is treating patients; and
- [page=896] 4. Meet or communicate with the licensed physical therapist assistant regarding patients, as frequently as the licensed physical therapist determines is necessary based on the needs of the patient and of the licensed physical therapist assistant. Such meeting or communication shall be documented in the patient's record.

(d) (No change in text.)

(e) The supervising licensed physical therapist shall cosign the licensed physical therapist assistant's notes prior to the next provision of physical therapy services to that patient.

(f) The supervising licensed physical therapist shall review the plan of care with the licensed physical therapist assistant:

1.-2. (No change.)

3. On or before the patient's next visit in the event of a change in supervising licensed physical therapist.

13:39A-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 supervising licensed physical therapist.

- (b) A licensed physical therapist assistant shall obtain the signature of the designated supervising licensed physical therapist 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 and discussed with the physical therapist assistant.
- (c) When providing physical therapy services under direct supervision, a licensed physical therapist assistant shall, at least once every 30 days after the initial review of a new or revised plan of care with the supervising licensed physical therapist, 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 or the licensed physical therapist assistant and need not require separate or additional notes.
- (d) When providing physical therapy services under direct supervision, a licensed physical therapist assistant shall provide services only when the supervising licensed physical therapist is in the same building or, where physical therapy is rendered in several contiguous buildings, in one of the contiguous buildings and when the supervising licensed physical therapist is constantly available through electronic communications for consultation or for recall to the area where the licensed physical therapist assistant is rendering care.
- (e) When providing physical therapy services under general supervision, a licensed physical therapist assistant shall provide services only when the supervising physical therapist makes an on-site visit:
1. At least every six patient visits or every 14 days, whichever occurs first;
  2. If the licensed physical therapist assistant requests a reexamination of the patient;
  3. If a change in the plan of care is needed;

4. Prior to the planned completion of an episode of care; or
5. When the patient's medical status has changed.

(f) When providing physical therapy services under general supervision, a licensed physical therapist assistant shall provide services only when the supervising physical therapist is accessible by telecommunications to the licensed physical therapist assistant at all times while the physical therapist assistant is treating patients.

(g) A licensed physical therapist assistant shall review the plan of care with the supervising licensed physical therapist:

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 supervising licensed physical therapist.

#### **SUBCHAPTER 9. CONTINUING EDUCATION AND COMPETENCY**

13:39A-9.1 Licensure renewal: continuing education and competency requirement

(a) A licensee applying for biennial licensure renewal shall complete, during the preceding biennial period, the continuing education and competency 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 and competency requirement of the types and number of credits specified in N.J.A.C. 13:39A-9.3. Submission of any false information 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 and competency, 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 and competency 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 and competency credits during that biennial renewal period.
- (c) For the purposes of this subchapter, an hour of continuing education and competency means 60 minutes of instructional time spent in learning activities, exclusive of breaks, meals, pre-tests, or vendor exhibits.
- (d) Any continuing education and competency 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 and competency credits for a prior biennial renewal period shall not qualify to fulfill the mandatory continuing education and competency requirements required for biennial renewal.

13:39A-9.3 Acceptable course offerings; credit hour calculation

- (a) The Board shall grant continuing education and competency 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.-9. (No change.)
  - (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.-2. (No change.)
    3. Successful completion of a continuing education and competency 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 and competency credits required in a biennial renewal period of licensed physical therapists and licensed physical therapist assistants from any or all of the following:

1.-2. (No change.)

3. Preparation and presentation of a Board-approved continuing professional education and competency 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 this section;

[page=897] 4.-7. (No change.)

(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 and competency 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 and competency 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) oPTion shall receive three continuing education and competency credits for the biennial licensure period in which the oPTion is taken.

(g) - (h) (No change.)

(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 and competency 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 and competency provider pursuant to N.J.A.C. 13:39A-9.6(a)1.

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

13:39A-9.4 Documentation of continuing education and competency credits

- (a) Each licensee shall maintain a record of all continuing education and competency 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 and competency 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.-5. (No change.)

6. The number of continuing education and competency credits awarded; and

7. (No change.)

(b) - (e) (No change.)

- (f) The Board shall monitor compliance with the mandatory continuing education and competency requirements by conducting a random audit of licensees, who, upon request, shall provide proof of successful completion of continuing education and competency credits.

(g) - (i) (No change.)

13:39A-9.5 Waiver of continuing education and competency requirements

- (a) The Board may waive, extend, or otherwise modify the time period for completion of the continuing education and competency 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 and competency 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 and competency providers

(a) All providers of continuing education and competency not included in N.J.A.C. 13:39A-9.3(b) shall:

1.-6. (No change.)