

53 N.J.R. 1500 (b)

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RULE ADOPTIONS

Reporter

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Agency

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

Administrative Code Citation

Readoption with Amendments: N.J.A.C. 13:39A

Adopted Repeals and New Rules: N.J.A.C. 13:39A-5.5 and 5A

Adopted New Rules: N.J.A.C. 13:39A-4.3 and 5.2A

Text

Rules of the State Board of Physical Therapy Examiners

Proposed: January 19, 2021, at 53 N.J.R. 114(a).

Adopted: April 27, 2021, by the State Board of Physical Therapy Examiners, David Bertone, P.T., Chairperson.

Filed: August 5, 2021, as R.2021 d.096, **with non-substantial changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.6).

Authority: N.J.S.A. 45:9-37.18.

Effective Dates: August 5, 2021, Readoption;

September 7, 2021, Amendments, New Rules, and Repeals.

Expiration Date: August 5, 2028.

Summary of Public Comment and Agency Response:

The official comment period ended March 20, 2021. **No comments were received.**

Summary of Agency-Initiated Change Upon Adoption:

N.J.S.A. 45:1-7.5 establishes standards for licensure by reciprocity. One of the provisions in this statute defines "good standing" with regards to a license issued by another state. This definition states that a license is in good standing if: "there is no pending or final action by any criminal authority for violation of law or regulation, or any arrest or conviction for any criminal or quasi-criminal offense under the laws of the United States, this State, or any other state including, but not limited to: criminal homicide; aggravated assault; sexual assault, criminal sexual contact, or lewdness; or an offense involving any controlled dangerous substance or controlled dangerous substance analog."

On May 11, 2021, P.L. 2021, c. 81, was enacted. This statute revises standards for denying licensure based on conduct constituting a crime or offense. The new standards have direct implications for the interpretation and implementation at N.J.S.A. 45:1-7.5 with regards to the definition of "good standing" and pending or final actions by a criminal authority and will require changes to the proposed language. It is, thus, inappropriate to adopt new N.J.A.C. 13:39A-5.5 that addresses the definition of "good standing" with regards to pending or final actions by a criminal authority in its entirety. Accordingly, the Board is not adopting N.J.A.C. 13:39A-5.5(c)5, in light of P.L. 2021, c. 81.

Federal Standards Statement

A Federal standards analysis is not required because there are no Federal laws or standards applicable to the rules readopted with amendments, new rules, and repeals.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 13:39A.

Full text of the adopted amendments and new rules follows (additions to proposal indicated in boldface with asterisks ***thus***; deletions from proposal indicated in brackets with asterisks *[thus]*):

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. [page=1501] 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. In the absence of the chairperson and vice chairperson, and in the absence of an express delegation of responsibility, the secretary shall assume all of the duties of chairperson.

SUBCHAPTER 3. BUSINESS PRACTICES; PROFESSIONAL CONDUCT

13:39A-3.1 Patient records

(a)-(b) (No change.)

(c) The patient record shall include, in addition to personal identifying information, consents, and disclosures, at least the following information:

1.-8. (No change.)

9. Home exercise programs, if provided to the patient;

Recodify existing 9.-13. as 10.-14. (No change in text.)

(d)-(e) (No change.)

13:39A-3.4 Financial arrangements with clients and third party payors

(a) (No change.)

(b) Prior to the initiation of physical therapy, the licensed physical therapist or the licensed physical therapist's designee shall, in an understandable manner, provide, in writing, the financial arrangements prior to initiation of treatment. The licensed physical therapist or licensed physical therapist's designee shall have the patient sign a copy of the written financial arrangements and maintain the signed copy as part of the patient's record. The information provided to the patient shall include, but not be limited to:

1.-4. (No change.)

(c)-(e) (No change.)

SUBCHAPTER 4. UNLICENSED PRACTICE

13:39A-4.3 License requirements and exemptions

(a) No person shall practice physical therapy or act as a physical therapist or physical therapist assistant, unless the person holds a

license from the Board or is exempt from licensing requirements pursuant to (b) below.

(b) A person shall be exempt from the licensure requirement of (a) above, if he or she is:

1. A student enrolled in a school or post-graduate course of physical therapy or in a course of study for training as a physical therapist assistant that is approved or recognized by the Board and is performing physical therapy or acting as a physical therapist assistant as part of his or her course of study or as part of a pro bono community-based service project under the supervision of a physical therapist licensed by the Board;

2. Licensed to practice in New Jersey and is engaging in the practice for which he or she is licensed and he or she does not represent himself or herself as a physical therapist or physical therapist assistant;

3. Employed by an agency, bureau, or division of the Federal government and is practicing physical therapy within the scope of his or her official duties;

4. Licensed as a physical therapist in another jurisdiction of the United States or credentialed to practice physical therapy in another country and he or she is teaching, demonstrating, or providing physical therapy services in connection with teaching or participating in an educational seminar for no more than 30 days in a calendar year, or he or she is licensed or certified as a physical therapist assistant in a jurisdiction of the United States and is assisting such a physical therapist;

5. Licensed as a physical therapist in a jurisdiction of the United States or credentialed in another country and he or she, by contract or employment, is providing physical therapy to patients affiliated with, or employed by, established athletic teams, athletic organizations, or performing arts companies temporarily practicing, competing, or performing in the State for no more than 30 days in a calendar year, or he or she is licensed or certified as a physical therapist assistant in a jurisdiction of the United States and is assisting such a physical therapist;

6. Licensed as a physical therapist in another jurisdiction of the United States and he or she is providing physical therapy in New Jersey during a declared local, State, or national disaster or emergency, for no longer than 30 days following the declaration of the emergency, and he or she has notified the Board of his or her intent to practice, or he or she is licensed or certified as a physical therapist assistant in

a jurisdiction of the United States and is assisting such a physical therapist;

7. Licensed as a physical therapist in another jurisdiction of the United States and is forced to leave his or her residence or place of employment due to a declared local, State, or national disaster or emergency and, due to such displacement, he or she seeks to practice physical therapy, for no more than 30 days following the declaration of the emergency, and he or she has notified the Board of his or her intent to practice; or

8. Licensed to practice medicine and surgery in New Jersey and is rendering a utilization management decision that limits, restricts, or curtails a course of physical therapy care.

SUBCHAPTER 5. CREDENTIALING OF APPLICANTS

13:39A-5.2A Abandonment of application for licensure

(a) An application for a license submitted to the Board will be deemed abandoned if:

1. The individual applying for the license has not submitted to the Board all the information and documentation required to obtain a license pursuant to N.J.A.C. 13:39A-5.1, 5.2, or 5.5; and

2. One year has elapsed since the last notice to the applicant was sent by the Board informing him or her that the Board had not received all of the information and documentation required for licensure.

(b) If an application for licensure is deemed abandoned pursuant to (a) above, the Board shall administratively close the application without notice to the applicant and shall dispose of any information or documentation submitted by the applicant pursuant to the Division of Consumer Affairs' record retention plan.

(c) An individual whose application for licensure has been administratively closed by the Board pursuant to (a) above may reapply for licensure pursuant to N.J.A.C. 13:39A-5.1, 5.2, or 5.5.

13:39A-5.5 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 documents that he or she holds a valid, current corresponding 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 as a licensed physical therapist or licensed physical therapist assistant for a period of at least one year within the five years prior to the date of application; and

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

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

1. Documentation that the applicant's license in the other state is in good standing;

2. The 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 does 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 physical therapy 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 physical therapy; ***and***

4. All fines levied by any out-of-State board have been paid*[*; and]*
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[5. There is no pending or final action by any criminal authority for violation of law or regulation, or any arrest or conviction for any criminal [page=1502] or quasi-criminal offense under the laws of the United States, New Jersey, or any other state, including but not limited to: 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, a "substantially equivalent" examination need not be identical to the current examination requirements of this State, but such examination shall be nationally recognized and of comparable scope and rigor.

(e) The Board, after the licensed physical therapist or licensed physical therapist assistant has been given notice and an opportunity to be heard, may revoke any license based on a license issued by another state obtained through fraud, deception, or misrepresentation.

(f) An applicant shall successfully complete the online jurisprudence assessment module.

(g) The Board may grant a license without examination to an applicant seeking reciprocity who holds a corresponding license from another state who does not meet the good standing requirement of (a) above due to a pending action by a licensing board, a pending action by an out-of-State institution, organization, or employer affecting the applicant's privileges to practice, a pending disciplinary proceeding, or a pending criminal charge or arrest for a crime, provided the alleged conduct of the applicant that is the subject of the action, proceeding, charge, or arrest does not demonstrate a serious inability to practice physical therapy, adversely affect the public health, safety, or welfare, or result in economic or physical harm to a person, or create a significant threat of such harm.

13:39A-5.7 Language comprehension requirements

(a) (No change.)

(b) A passing score on the TOEFL examination shall be the same as that established by the Federation of State Boards of Physical Therapy.

(c) (No change.)

SUBCHAPTER 5A. LICENSE RENEWAL

13:39A-5A.1 Biennial license renewal; inactive status

(a) The Board shall send a notice of renewal to each licensed physical therapist or licensed physical therapist assistant at least 60 days prior to the expiration of the license. The notice of renewal shall explain inactive renewal and advise the licensed physical therapist or licensed physical therapist assistant of the option to renew as inactive. If the notice to renew is not sent 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 or within 30 days following the date of license expiration, whichever is later.

(b) A licensed physical therapist or licensed physical therapist assistant shall renew his or her license for a period of two years from the last expiration date. The licensed physical therapist or licensed physical therapist assistant shall submit a renewal application to the Board, along with the renewal fee set forth at N.J.A.C. 13:39A-1.3, prior to the date of license expiration.

(c) A licensed physical therapist or licensed physical therapist assistant may renew his or her license by choosing inactive status. A licensed physical therapist or licensed physical therapist assistant electing to renew as inactive shall not engage in the practice of physical therapy, or hold himself or herself out as eligible to engage in the practice of physical therapy in New Jersey, until such time as the license is returned to active status.

(d) If a licensed physical therapist or licensed physical therapist assistant does not renew the license prior to its expiration date, the licensed physical therapist or licensed physical therapist assistant 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 at N.J.A.C. 13:39A-1.3. During this 30-day period, the license shall be valid and the licensed physical therapist or licensed physical therapist assistant shall not be deemed practicing without a license.

(e) A licensed physical therapist or licensed physical therapist assistant who fails to submit a renewal application within 30 days of license expiration shall have his or her license suspended without a hearing.

(f) A licensed physical therapist or licensed physical therapist assistant who continues to engage in the practice of physical therapy with a suspended license shall be deemed to be engaging in the unlicensed practice of physical therapy 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.

13:39A-5A.2 License reactivation

(a) A licensed physical therapist or licensed physical therapist assistant who holds an inactive license pursuant to N.J.A.C. 13:39A-5A.1(c) may apply to the Board for reactivation of an inactive license. A licensed physical therapist or licensed physical therapist assistant seeking reactivation of an inactive license shall submit:

1. A renewal application;

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

3. The renewal fee for the biennial period for which reactivation is sought as set forth at N.J.A.C. 13:39A-1.3; and

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. 13:39A-9.2.

(b) An applicant who holds a valid, current license in good standing issued by another state to engage in the practice of physical therapy and submits proof of having satisfied that state's continuing education requirements, shall be deemed to have satisfied the requirements of (a)4 above. If the other state does not have any continuing education requirements, the requirements of (a)4 above shall apply.

(c) To the extent that specific courses are required to satisfy the continuing education requirement for, or are required to have been satisfied prior to, the biennial period for which reactivation is sought, the Board will allow applicants to take the courses within 12 months following reactivation.

(d) If a Board 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, a refresher course, or other requirements as determined by the Board prior to reactivation of the license. If that examination or assessment 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 assure that the applicant practices with reasonable skill and safety. The Board may restore the license subject to the applicant's completion of training within a period of time prescribed by the Board following the restoration of the license. 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 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 physical therapy or other professional or occupational practice in New Jersey, any other state, the District of Columbia, or in any other jurisdiction;

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

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

13:39A-5A.3 Reinstatement of suspended license

(a) A licensed physical therapist or licensed physical therapist assistant who has had his or her license suspended pursuant to N.J.A.C. 13:39A-5A.1(e) may apply to the Board for reinstatement. A licensed physical therapist or licensed physical therapist assistant applying for reinstatement shall submit:

1. A reinstatement application;

[page=1503] 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. 13:39A-1.3 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. 13:39A-1.3; and

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. 13:39A-9.2.

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

(c) To the extent that specific courses are required to satisfy the continuing education requirement for, or are required to have been satisfied prior to, the biennial/triennial period for which reinstatement is sought, the Board will allow applicants to take the courses within 12 months following reinstatement.

(d) If a Board 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, a refresher course, or other requirements as determined by the Board prior to reinstatement of the license. If that examination or assessment 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, or to submit to supervision, monitoring, or limitations, as the Board determines necessary to assure that the applicant practices with reasonable skill and safety. The Board may restore the license subject to the applicant's completion of training within a period of time prescribed by the Board following the restoration of the license. In making its determination whether there are practice deficiencies requiring remediation, the Board may consider the following:

1. Length of time 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 physical therapy or other professional or occupational practice in New Jersey, any other state, the District of Columbia, or in any other jurisdiction;
6. Pending proceedings against a professional or occupational license issued to the licensed physical therapist or licensed physical therapist assistant by a professional or occupational board in New Jersey, any other state, the District of Columbia, or in any other jurisdiction; and
7. Civil litigation related to the practice of physical therapy or other professional or occupational practice in New Jersey, any other state, the District of Columbia, or in any other jurisdiction.

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

(a)-(b) (No change.)

(c) If a licensed physical therapist or licensed physical therapist assistant leaves a course, program, or seminar approved pursuant to (b) above prior to the end of the course, program, or seminar, the provider shall assign partial credit for the course, program, or seminar, based on the amount of time the licensed physical therapist or licensed physical therapist assistant attended the course, program, or seminar, as indicated by attendance sheets maintained by the sponsor pursuant to N.J.A.C. 13:39A-9.6(a).

Recodify existing (c)-(j) as (d)-(k) (No change in text.)

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. At least 45 business 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. (No change.)

ii. The curriculum vitae of each instructor that indicates the lecturer has met the requirements of (b) below;

iii.-iv. (No change.)

2.-6. (No. change.)

(b) In order to be qualified to instruct a continuing education course, an instructor shall:

1. If licensure is required to practice his or her profession, hold a current license to practice;

2. Maintain a list of continuing education coursework completed and taught by the instructor for the last five years; and

3. Have:

i. Been employed in the topic area of the course within the past five years;

ii. Published an article for peer reviewed journals in the topic area of the course within the past five years; or

iii. Written a chapter for academic textbooks in the topic area of the course within the past five years.

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