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NEW JERSEY ADMINISTRATIVE CODE

TITLE 13

LAW AND PUBLIC SAFETY

CHAPTER 35

SUBCHAPTER 2B

LIMITED LICENSES: PHYSICIAN ASSISTANTS

SUBCHAPTER 2C

TELEMEDICINE AND TELEHEALTH:

PHYSICIAN ASSISTANTS

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**SUBCHAPTER 2B.  
LIMITED LICENSES: PHYSICIAN ASSISTANTS**

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**13:35-2B.1 PURPOSE AND SCOPE**

- a) The rules in this subchapter implement the provisions of the Physician Assistant Licensing Act, P.L. 1991, c. 378, as amended by P.L. 1992, c.102 and P.L. 2015, c. 224.
- b) This subchapter shall apply to all physician assistants licensed pursuant to the provisions of this subchapter and to anyone within the jurisdiction of the Physician Assistant Advisory Committee.

**13:35-2B.2 DEFINITIONS**

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicated otherwise:

"Board" means the State Board of Medical Examiners.

"Committee" means the Physician Assistant Advisory Committee.

"Director" means the Director of the Division of Consumer Affairs.

"Licensee" means a physician assistant licensed pursuant to this subchapter.

"Licensed personnel" means health care practitioners licensed in the State of New Jersey to perform specific duties in the health care field.

"Physician" means a person, either an M.D. or D.O., who holds a current, valid license to practice medicine and surgery in this State.

"Physician assistant" means a health professional who meets the qualifications under P.L. 1991, c. 378 (N.J.S.A. 45:9-27.10 et seq.), and holds a current, valid license to practice as a physician assistant in this State.

"Physician designee" means a plenary licensed physician who is assigned by the supervising physician in case of his or her temporary absence and whose scope of practice encompasses the duties assigned to a physician assistant.

"Supervising physician" means a plenary licensed physician in good standing who, pursuant to N.J.S.A. 45:9-27.18, engages in the supervision of physician assistants whose duties shall be encompassed by the supervising physician's scope of practice.

### **13:35-2B.3 PRACTICE REQUIREMENTS**

- a) A licensee may engage in clinical practice in any medical care setting provided that:
- 1) The licensee performs medical services within the physician assistant's education, training, and experience under the supervision of a physician pursuant to the provisions of N.J.A.C. 13:35-2B.10;
  - 2) The licensee limits his or her practice to those procedures authorized pursuant to N.J.A.C. 13:35-2B.4 and any other procedures that are delegated to the physician assistant by the supervising physician pursuant to the provisions of N.J.A.C. 13:35-2B.10;
  - 3) Upon initial involvement in a patient's course of care or treatment, the licensee or the supervising physician advises the patient that authorized procedures are to be performed by the physician assistant;
  - 4) The licensee conspicuously wears an identification tag using the term "physician assistant" or the designation "PA-C" or "PA" whenever acting in that capacity; and
  - 5) The licensee complies with the recordkeeping requirements set forth in N.J.A.C. 13:35-2B.11.
- b) The licensee shall file with the Committee a notification of his or her supervising physician(s) and the supervising physician's license number. The licensee shall report to the Committee any change in the supervising physician within 30 days of the change.
- 1) Submission to the Committee of the delegation agreement, in accordance with N.J.A.C. 13:35-2B.10(f), will satisfy the notification requirements of this subsection if the delegation agreement contains the name and license number of the supervising physician.

**13:35-2B.4 SCOPE OF PRACTICE**

- a) A licensee who has complied with the provisions of N.J.A.C. 13:35-2B.3 may perform the following procedures on a discretionary and routine basis:
- 1) Approaching a patient to elicit a detailed and accurate history, perform an appropriate physical examination, identify problems, record information, interpret and present information to the supervising physician, determine and implement therapeutic plans jointly with the supervising physician and compile and record pertinent narrative case summaries;
  - 2) Suturing and follow up care of wounds including removing sutures and clips and changing dressings, except for facial wounds, traumatic wounds requiring suturing in layers and infected wounds;
  - 3) Providing patient counseling services and patient education consistent with directions of the supervising physician;
  - 4) Assisting a physician in an inpatient setting by conducting patient rounds, recording patient progress notes, determining and implementing therapeutic plans jointly with the supervising physician and compiling and recording pertinent narrative case summaries;
  - 5) Assisting a physician in the delivery of services to patients requiring continuing care in a private home, nursing home, extended care facility, private office practice, or other setting, including the review and monitoring of treatment and therapy plans; and
  - 6) Referring patients to, and promoting their awareness of, health care facilities and other appropriate agencies and resources in the community.
- b) A licensee who has complied with the provisions of N.J.A.C. 13:35-2B.3 may perform the following procedures when performance of the procedure is delegated to the physician assistant by the supervising physician as authorized under (c) below or, in the absence of a delegation agreement, only when directed, ordered, or prescribed by the supervising physician:
- 1) Performing non-invasive laboratory procedures and related studies or assisting licensed personnel in the performance of invasive laboratory procedures and related studies;
  - 2) Giving injections, administering medications and ordering diagnostic studies;

- 3) Suturing and caring for facial wounds, traumatic wounds requiring suturing in layers and infected wounds;
  - 4) Writing prescriptions or ordering medications in an inpatient or outpatient setting in accordance with N.J.A.C. 13:35-2B.12;
  - 5) Prescribing the use of patient restraints; and
  - 6) In the operating room, assisting a supervising surgeon as a first assistant or as a second assistant when deemed necessary by the supervising surgeon and when a qualified assistant physician is not required by N.J.A.C. 13:35-4.1.
- c) A physician assistant may perform medical services beyond those explicitly authorized in this section, when such services are delegated by a supervising physician with whom the physician assistant has signed a delegation agreement pursuant to N.J.A.C. 13:35-2B.10. The procedures delegated to a physician assistant shall be limited to those customary to the supervising physician's specialty and within the supervising physician's and the physician assistant's competence and training.
- d) Notwithstanding (c) above, a physician assistant shall not be authorized to measure the powers or range of human vision, determine the accommodation and refractive states of the human eye, or fit, prescribe, or adapt lenses, prisms, or frames for the aid thereof. Nothing in this subsection shall be construed to prohibit a physician assistant from performing a routine visual screening.

### **13:35-2B.5 ELIGIBILITY FOR LICENSURE**

- a) An applicant for licensure shall submit to the Board, with the completed application form, a Certification and Authorization Form for a Criminal History Background Check, and the required fee, evidence that the applicant:
- 1) Is at least 18 years of age;
  - 2) Is of good moral character, evidence of which shall require the applicant for licensure to respond to such inquiry as the Board deems appropriate regarding past and present fitness to practice, and issues pertinent thereto;
  - 3) Has successfully completed an education program for physician assistants that is accredited by the Accreditation Review Commission on Education for the Physician Assistant, Inc. (ARC-PA), or its predecessor or successor; and

- 4) Has passed the examination administered by the National Commission on Certification of Physician Assistants (NCCPA), or its successor.
- b) An applicant who submits satisfactory proof that he or she holds a current license, certification or registration to practice as a physician assistant in a state that has standards substantially equivalent to those of this State shall be deemed to satisfy the requirements set forth in (a)1 through 4 above.

### **13:35-2B.6 REFUSAL TO ISSUE, SUSPENSION OR REVOCATION OF LICENSE**

- a) The Board may refuse to issue or may suspend or revoke any license issued by the Board for any of the reasons set forth in N.J.S.A. 45:1-21.
- b) Prior to any license suspension or revocation, the licensee shall be afforded the opportunity for a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

### **13:35-2B.7 LICENSE RENEWAL, CONTINUING EDUCATION REQUIREMENT**

- a) The Board shall not issue a biennial license renewal unless the applicant submits, with the renewal application, proof that he or she completed courses of continuing professional education of the types and number of credits specified in N.J.A.C. 13:35-2B.8.
- b) Falsification of any information submitted with the renewal application may result in an appearance before the Board or a duly appointed Committee thereof and, after due notice to the licensee and the opportunity for a hearing pursuant to the Administrative Procedure Act and the Uniform Administrative Procedure Rules, penalties and/or suspension or revocation of the license.
- c) The Board will, from time to time, conduct inquiries among licensees on a random basis to determine compliance with continuing education requirements.

### **13:35-2B.8 CREDIT-HOUR REQUIREMENTS**

- a) Each applicant for a biennial license renewal shall be required to complete, during the preceding biennial period, a minimum of 50 continuing education credit hours in category 1 courses approved by the American Medical Association, the American Academy of Physician Assistants, the American Academy of Family Physicians, the American Osteopathic Association or the Accreditation Council on Continuing Medical Education. The Board reserves the right to review and approve continuing education courses offered by entities other than those set forth above.

- b) Commencing with the biennial renewal period beginning on September 1, 2017, one of the 50 continuing education credits required by (a) above shall, pursuant to P.L. 2017, c. 28, be in programs or topics concerning prescription opioid drugs, including responsible prescribing practices, alternatives to opioids for managing and treating pain, and the risks and signs of opioid abuse, addiction, and diversion.
- c) Fifteen credits may be carried over into a succeeding biennial period only if earned during the last six months of the preceding biennial period.

### **13:35-2B.9 WAIVER OF CONTINUING EDUCATION REQUIREMENT**

- a) The Board may, in its discretion, temporarily waive continuing education requirements on an individual basis for a period of time designated by the Committee for reasons of hardship, such as illness or disability, or other good cause.
- b) Any licensee seeking a waiver of the continuing education requirements must apply to the Board in writing and set forth with specificity the reasons for requesting the waiver. The licensee shall also provide the Board with such additional information as it may reasonably request in support of the application.

### **13:35-2B.10 SUPERVISION**

- a) A physician assistant shall engage in practice only under the direct supervision of a physician.
- b) Supervision of a physician assistant shall be continuous but shall not be construed as necessarily requiring the physical presence of the supervising physician, provided that the supervising physician and physician assistant maintain contact through electronic or other means of communication.
- c) The supervisory ratio shall be no more than four physician assistants to one physician at any one time. Upon application to the Board, the Board may alter the supervisory ratios.
  - 1) The supervisory ratio shall not limit the number of physician assistants with whom a supervising physician may enter into a delegation agreement.
- d) A supervising physician may assign physician assistants under his or her supervision to a physician designee, who shall be responsible for the practice of the physician assistant during the assignment.
- e) It is the obligation of each supervising physician and physician assistant to ensure that:



- 1) The physician assistant's scope of practice is identified;
  - 2) Delegation of medical tasks is appropriate to the physician assistant's level of competence;
  - 3) The relationship of, and access to, the supervising physician is defined; and
  - 4) A process for evaluation of the physician assistant's performance is established.
- f) A physician assistant shall sign a separate written delegation agreement with each supervising physician who delegates medical services in accordance with the provisions of N.J.A.C. 13:35-2B.4(c).
- 1) A written delegation agreement may be executed by a single-specialty physician practice, provided it is signed by all of the delegating physicians supervising the physician assistant.
  - 2) In the case of a multi-specialty physician practice, a written delegation agreement may be executed for each physician specialty within the practice, provided it is signed by all of the delegating physicians supervising the physician assistant in that specialty area. Nothing in this section shall authorize the execution of a global written delegation agreement between a physician assistant and a multi-specialty physician practice.
  - 3) The delegation agreement shall:
    - i) State that the physician will exercise supervision over the physician assistant in accordance with the provisions of P.L. 1991, c. 378 (N.J.S.A. 45:9-27.10 et seq.), and this subchapter;
    - ii) Be signed and dated annually by the physician and the physician assistant and updated as necessary to reflect any changes in the practice or the physician assistant's role in the practice;
    - iii) Be kept on file at the practice site, be provided to the Physician Assistant Advisory Committee, and be kept on file by the Committee; and
    - iv) At a minimum, include the following provisions:
      - (1) The physician assistant's role in the practice, including any specific aspects of care that require prior consultation with the supervising physician;

- (2) A determination of whether the supervising physician requires personal review of all charts and records of patients and countersignature by the supervising physician of all medical services performed under the delegation agreement, including prescribing and administering medication as authorized under N.J.A.C. 13:35-2B.12. This provision shall state the specified time period in which a review and countersignature shall be completed by the supervising physician. If no review and countersignature is necessary, the agreement must specifically state such provision; and
- (3) The locations of practice where the physician assistant may practice under the delegation agreement, including licensed facilities in which the physician authorizes the physician assistant to provide medical services.
- 4) Notwithstanding this subsection, a supervising physician, in his or her discretion, may require a written delegation agreement with the physician assistant for all delegated medical services.

### **13:35-2B.11 RECORDKEEPING**

- a) Licensees shall make contemporaneous, permanent entries into professional treatment records that shall accurately reflect the treatment or services rendered. To the extent applicable, professional treatment records shall reflect:
  - 1) The dates and times of all treatments;
  - 2) The patient complaint;
  - 3) The history;
  - 4) Findings on appropriate examination;
  - 5) Any orders for tests or consultations and the results thereof;
  - 6) Diagnosis or medical impression; and
  - 7) Treatment ordered. If medications are ordered, the patient record shall include:
    - i) Specific dosages, quantities and strengths of medications;
    - ii) The physician assistant's full name, printed or stamped, and the license number; and

- iii) The supervising physician's full name, printed or stamped.
- b) If the information required pursuant to (a)8iii and iv appears at least once in the patient record, it need not be repeated each time a medication order is entered in the patient record.
- c) The physician assistant shall sign each entry in the patient record and record the designation "PA-C," "PA," or use the term "physician assistant" following his or her signature.
- d) To the extent a physician assistant is charged with independent responsibility for the provision of information used to prepare bills and claims forms, such information shall accurately reflect the treatment or services rendered.

**13:35-2B.12 REQUIREMENTS FOR ISSUING PRESCRIPTIONS FOR MEDICATIONS;  
SPECIAL REQUIREMENTS FOR ISSUANCE OF CDS**

- a) A physician assistant may order, prescribe, dispense, and administer medications and medical devices to the extent delegated by a supervising physician only in accordance with the requirements contained in this section.
- b) A physician assistant shall provide the following on all prescription blanks:
  - 1) The physician assistant's full name, professional identification ("PA-C," "PA," or "physician assistant"), license number, address, and telephone number. This information shall be printed on all prescription blanks;
  - 2) The full name, age and address of the patient;
  - 3) The date of issuance of the prescription;
  - 4) The name, strength and quantity of drug or drugs to be dispensed and route of administration;
  - 5) Adequate instruction for the patient. A direction of "p.r.n." or "as directed" alone shall be deemed an insufficient direction;
  - 6) The number of refills permitted or time limit for refills, or both;
  - 7) The signature of the prescriber, hand-written;

- 8) The words "substitution permissible" and "do not substitute" and shall contain space for the physician assistant's initials next to the chosen option, in addition to the space required for the signature required by (b)9 above; and
  - 9) The physician assistant's Drug Enforcement Administration (DEA) registration number, if the physician assistant is authorized to issue CDS.
- c) A physician assistant may order or prescribe controlled dangerous substances (CDS) if:
- 1) A supervising physician has authorized a physician assistant to order or prescribe Schedule II, III, IV, or V controlled dangerous substances in order to:
    - i) Continue or reissue an order or prescription for a controlled dangerous substance issued by the supervising physician;
    - ii) Adjust the dosage of an order or prescription for a controlled dangerous substance originally ordered or prescribed by the supervising physician, provided there is prior consultation with the supervising physician;
    - iii) Initiate an order or prescription for a controlled dangerous substance for a patient, provided there is prior consultation with the supervising physician if the order or prescription is not pursuant to iv below; or
    - iv) Initiate an order or prescription for a controlled dangerous substance as part of a treatment plan for a patient with a terminal illness, which for the purposes of this subparagraph means a medical condition that results in a patient's life expectancy being 12 months or less as determined by the supervising physician;
  - 2) The physician assistant has registered with and obtained authorization to order or prescribe controlled dangerous substances from the Federal Drug Enforcement Administration and any other appropriate State and Federal agencies; and
  - 3) The physician assistant complies with all of the requirements and limitations as set forth in N.J.A.C. 13:35-7.6 and 13:45H.
- d) Only one controlled dangerous substance shall appear on a prescription blank.
- e) Written prescriptions shall be issued only on New Jersey Prescription Blanks (NJPB), secured from an approved vendor and subject to the required security mandates of the prescription blank program pursuant to N.J.S.A. 45:14-55.

- f) The dispensing of medication or a medical device by a physician assistant shall comply with relevant Federal and State rules and regulations, and shall occur only if:
  - 1) Pharmacy services are not reasonably available;
  - 2) It is in the best interest of the patient; or
  - 3) The physician assistant is rendering emergency medical assistance.
- g) A physician assistant may request, receive, and sign for prescription drug samples and may distribute those samples to patients.

**13:35-2B.13 (RESERVED)****13:35-2B.14 LICENSE RENEWAL**

- a) The Board shall send a notice of renewal to each licensee, 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 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 licensee shall renew his or her license for a period of two years from the last expiration date. The licensee shall submit a renewal application to the Board, along with the renewal fee set forth in N.J.A.C. 13:35-6.13, prior to the date of license expiration.
- c) A licensee may renew his or her license by choosing inactive status. A licensee electing to renew his or her license as inactive shall not engage in the practice of a physician assistant, or hold herself or himself out as eligible to engage in the practice of a physician assistant, in New Jersey until such time as the license is returned to active status.
- d) If a 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. 13:35-6.13. During this 30-day period, the license shall be valid and the licensee shall not be deemed practicing without a license.
- e) A licensee 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 licensee who continues to engage in the practice of a physician assistant with a suspended license shall be deemed to be engaging in the unauthorized practice of a physician assistant and shall be subject to action consistent with N.J.S.A. 45:1-14 et seq. and N.J.S.A. 45:9-22, even if no notice of suspension has been provided to the individual.

### **13:35-2B.15 LICENSE REACTIVATION**

- a) A licensee who holds an inactive license pursuant to N.J.A.C. 13:35-2B.14(c) may apply to the Board for reactivation of the 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 the license was inactive, which 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 in N.J.A.C. 13:35-6.13.
    - i) If the renewal application is sent during the first year of the biennial period, the applicant shall submit the renewal fee as set forth in N.J.A.C. 13:35-6.13.
    - ii) If the renewal application is sent during the second year of the biennial period, the applicant shall submit one-half of the renewal fee as set forth in N.J.A.C. 13:35-6.13; and
  - 4) Evidence of having completed all continuing education credits that were required to be completed during the biennial period immediately prior to the renewal period for which reactivation is sought, consistent with the requirements set forth in N.J.A.C. 13:35-2B.8.
    - i) An applicant who holds a valid, current license in good standing issued by another state to engage in the practice of a physician assistant and submits proof of having satisfied that state's continuing education requirements for that license, 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 apply.
- b) 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 any education or training or to submit to any supervision, monitoring, or limitations as the Board determines is necessary to assure that the applicant practices with reasonable skill and safety. The Board, in its discretion, may restore the license subject to the applicant's completion of the 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 shall consider the following non-exhaustive issues:

- 1) Length of duration license was inactive;
- 2) Employment history;
- 3) Professional history;
- 4) Disciplinary history and any action taken against the applicant's license by any licensing board;
- 5) Actions affecting the applicant's privileges taken by any institution, organization, or employer related to the practice of a physician assistant 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 board in New Jersey, any other state, the District of Columbia, or any other jurisdiction; and
- 7) Civil litigation related to the practice of a physician assistant or other professional or occupational practice in New Jersey, any other state, the District of Columbia, or any other jurisdiction.

### **13:35-2B.16 LICENSE REINSTATEMENT**

- a) A licensee who has had his or her license suspended pursuant to N.J.A.C. 13:36-2B.14(e) above may apply to the Board for reinstatement. A licensee applying for reinstatement shall submit:
  - 1) A reinstatement application;
  - 2) A certification of employment listing each job held during the period of suspended license, which includes the names, addresses, and telephone numbers of each employer;
  - 3) The renewal fee 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 in N.J.A.C. 13:35-6.13; and
- 6) Evidence of having completed all continuing education credits that were required to be completed during the biennial period immediately prior to the renewal period for which reinstatement is sought, consistent with the requirements set forth in N.J.A.C. 13:35-2B.8.
  - i) An applicant who holds a valid, current license in good standing issued by another state to engage in the practice of a physician assistant and submits proof of having satisfied that state's continuing education requirements for that license, 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.
- b) 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 any education or training or to submit to any supervision, monitoring, or limitations as the Board determines is necessary to assure that the applicant practices with reasonable skill and safety. The Board, in its discretion, may restore the license subject to the applicant's completion of the 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 shall consider the following non-exhaustive issues:
  - 1) Length of duration license was suspended;
  - 2) Employment history;
  - 3) Professional history;
  - 4) Disciplinary history and any action taken against the applicant's license by any licensing board;
  - 5) Actions affecting the applicant's privileges taken by any institution, organization, or employer related to the practice of a physician assistant 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 board in New Jersey, any other state, the District of Columbia, or any other jurisdiction; and
- 7) Civil litigation related to the practice of a physician assistant or other professional or occupational practice in New Jersey, any other state, the District of Columbia, or any other jurisdiction.

### **13:35-2B.17 MEDICAL MALPRACTICE COVERAGE; LETTER OF CREDIT**

- a) The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise:

"Authorized" means recognized by a governmental agency to offer medical malpractice insurance products.

"Covered" means ongoing maintenance of insurance in the sum of \$1 million per occurrence and \$3 million dollars per policy year, with extended reporting endorsement coverage for claims made (tail coverage) issued by a carrier or other entity authorized to write medical malpractice policies.

"Letter of credit" means a non-assignable, non-transferable, unexpired, continuous irrevocable obligation, liability bond, or other instrument issued by a bank or saving association authorized to do business in this State, payable to the physician assistant as the beneficiary within 30 days after a demand for payment and the presentation of a final judgment or settlement in a medical malpractice action.

"Not available" means that a physician assistant is unable to purchase medical malpractice insurance coverage from a carrier authorized to write medical malpractice insurance, including through programs relating to risk retention groups deemed eligible by the Department of Banking and Insurance, surplus lines registered with the Department of Banking and Insurance, self-insurance trusts, or captive insurance companies approved by the New Jersey Health Care Facilities Financing Authority in the Department of Health. "Not available" for purposes of this section does not mean "not affordable."

- b) A physician assistant licensed to practice in this State who engages in clinical practice shall be covered by medical malpractice liability insurance or, if medical malpractice liability insurance is not available, shall secure and maintain a letter of credit in the sum of at least \$500,000 or more.

- c) A physician assistant who is not covered by medical malpractice insurance shall present to the Board a true copy of the letter of credit required pursuant to (b) above and shall notify the Board, within seven days, whenever:
- 1) A demand for payment on the letter has been made; or
  - 2) The continuing viability of the letter has been affected, for whatever reason.
- d) A physician assistant who practices in violation of this rule shall be deemed to have engaged in professional misconduct within the meaning of N.J.S.A. 45:1-21.e and shall be subject to disciplinary action and civil penalties pursuant to N.J.S.A. 45:1-21, 45:1-22, and 45:1-25.

### **13:35-2B.18 SEXUAL MISCONDUCT**

- a) The purpose of this section is to identify for physician assistants licensed by the State Board of Medical 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:

"Patient" means any person who is the recipient of a professional service rendered by a physician assistant relating to treatment.

"Patient-physician assistant relationship" means a relationship between a physician assistant and a patient wherein the licensee owes a continuing duty to the patient to render physician assistant 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 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 physician assistant 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 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. "Sexual harassment" may also include conduct of a nonsexual nature if it is based on the sex of an individual.

"Spouse" means either the husband or wife of the licensee or an individual involved in a long-term committed relationship with the licensee.

- c) A licensee shall not engage in sexual contact with a patient with whom he or she has a patient-physician assistant relationship. The patient-physician assistant relationship is ongoing for purposes of this section, unless:
  - 1) Physician assistant services are actively terminated by way of written notice to the patient and is documented in the patient record; or
  - 2) The last physician assistant services were rendered more than one year ago.
- d) A licensee shall not seek or solicit sexual contact with a patient with whom he or she has a patient-physician assistant 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 related to legitimate patient needs. 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 unless necessary to the professional services rendered.
- g) A licensee shall not engage in sexual harassment whether in a professional setting such as an office, hospital, residence or health care facility, or outside of the professional setting.
- h) A licensee shall not engage in any other activity, such as, but not limited to, voyeurism or exposure of the genitalia of the licensee, which would lead a reasonable person to believe that the activity serves the licensee's personal prurient interest or is for the sexual arousal, the sexual gratification or the sexual abuse of the licensee or patient.
- i) Violation of any of the prohibitions or directives set forth in (c) through (h) above shall be deemed to constitute gross or repeated malpractice pursuant to N.J.S.A. 45:1-21(c) or (d) or 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 physician assistant services to a spouse, as defined in (b) above, providing that the rendering of such physician assistant services is consistent with accepted standards of physician assistants and that the performance of physician assistant services 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.

**13:35-2B.19 CREDIT TOWARDS LICENSURE FOR EDUCATION, TRAINING, AND EXPERIENCE RECEIVED WHILE SERVING AS A MEMBER OF THE ARMED FORCES**

a) An applicant 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.13:35-2B.5 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 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, experience, and education 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, experience, and education required for licensure under N.J.A.C. 13:35-2B.5.
  - 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 or a successor form, as amended and supplemented.
  - ii. An applicant seeking credit for education courses and/or training completed while in the military who has not successfully completed an education program for physician assistants that is approved by the Accreditation Review Commission on Education for the Physician Assistant, Inc. (ARC-PA), or its successor, 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 educational requirements under N.J.A.C. 13:35-2B.5. 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 practice of a physician assistant that have been evaluated by the American Council on Education for substantial equivalence to civilian postsecondary curricula; and

3) The applicant complies with all other requirements for licensure, including successful completion of the examination administered by the National Commission on Certification of Physician Assistants (NCCPA), or its successor, as set forth in N.J.A.C. 13:35-2B.5.

c) It is the applicant's responsibility to provide timely and complete evidence of the education, training, and/or service gained in the military for review and consideration.

d) If the applicant's military training, education, or experience, or a portion thereof, is not deemed to be substantially equivalent to that required for licensure, the Board shall credit whatever portion of the military training, education, or experience that is substantially equivalent towards meeting the requirements under N.J.A.C. 13:35-2B.5 for the issuance of the license.

e) Satisfactory evidence of such education, training, or service shall be assessed on a case-by-case basis.

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## **SUBCHAPTER 2C. TELEMEDICINE AND TELEHEALTH; PHYSICIAN ASSISTANTS**

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### **13:35-2C.1 PURPOSE AND SCOPE**

a) The purpose of this subchapter is to implement the provisions of P.L. 2017, c. 117 (N.J.S.A. 45:1-16 et seq.), which authorizes healthcare providers to engage in telemedicine and telehealth.

b) This subchapter shall apply to all persons who are licensed by the Board as physician assistants.

c) Pursuant to N.J.S.A. 45:1-62, a physician assistant must hold a license issued by the Board if he or she:

1) Is located in New Jersey and provides healthcare services to any patient located in or out of New Jersey by means of telemedicine or telehealth; or

2) Is located outside of New Jersey and provides healthcare services to any patient located in New Jersey by means of telemedicine or telehealth.

d) Notwithstanding N.J.S.A. 45:1-62 and (c) above, a healthcare provider located in another state who consults with a licensee in New Jersey through the use of information and communications technologies, but does not direct patient care, will not be considered as providing healthcare services to a patient in New Jersey consistent with N.J.S.A. 45:9-1 et seq., and will not be required to obtain licensure in New Jersey in order to provide such consultation.

### **13:35-2C.2 DEFINITIONS**

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

“Asynchronous store-and-forward” means the acquisition and transmission of images, diagnostics, data, and medical information either to or from an originating site or to or from the licensee at a distant site, which allows for the patient to be evaluated without being physically present.

“Board” means the Board of Medical Examiners.

“Cross-coverage” means a licensee engages in a remote medical evaluation of a patient, without in-person contact, at the request of another licensee who has established a proper licensee-patient relationship with the patient.

“Distant site” means a site at which a licensee is located while providing healthcare services by means of telemedicine or telehealth.

“Licensee” means an individual licensed by the Board as a physician assistant.

“On-call” means a licensee is available, where necessary, to physically attend to the urgent and follow-up needs of a patient for whom the licensee has temporarily assumed responsibility, as designated by the patient’s primary care licensee or other healthcare provider of record.

“Originating site” means a site at which a patient is located at the time that healthcare services are provided to the patient by means of telemedicine or telehealth.

“Proper licensee-patient relationship” means an association between a licensee and patient wherein the licensee owes a duty to the patient to be available to render professional services consistent with his or her training and experience, which is established pursuant to the requirements at N.J.A.C. 13:35-2C.4.

“Telehealth” means the use of information and communications technologies, including telephones, remote patient monitoring devices, or other electronic means, to support clinical healthcare, provider consultation, patient and professional health-related education, public health, health administration, and other services in accordance with the provisions of P.L. 2017, c. 117 (N.J.S.A. 45:1-61 et seq.).

“Telemedicine” means the delivery of a healthcare service, including supportive mental health services, using electronic communications, information technology, or other electronic or technological means to bridge the gap between a healthcare licensee who is located at a distant site and a patient who is located at an originating site, either with or without the assistance of an intervening licensee, and in accordance with the provisions of P.L. 2017, c. 117 (N.J.S.A. 45:1-61 et seq.). “Telemedicine” does not include the use, in isolation, of audio-only telephone conversation, electronic mail, instant messaging, phone text, or facsimile transmission.

### **13:35-2C.3 STANDARD OF CARE**

- a) Prior to providing services through telemedicine or telehealth, a licensee shall determine whether providing those services through telemedicine or telehealth would be consistent with the standard of care applicable for those services when provided in-person.
- b) If a licensee determines, either before or during the provision of healthcare services, that services cannot be provided through telemedicine or telehealth in a manner that is consistent with in-person standards of care, the licensee shall not provide services through telemedicine or telehealth.
  - 1) A licensee working under supervision shall be responsible for determining whether healthcare services can be provided through telemedicine or telehealth in a manner that is consistent with in-person standards of care.
- c) A licensee who determines that services cannot be provided through telemedicine or telehealth pursuant to (b) above shall advise the patient to obtain services in-person.

- d) A licensee who provides a diagnosis, treatment, or consultation recommendation, including discussions regarding the risk and benefits of a patient's treatment options, through telemedicine or telehealth shall be held to the same standard of care or practice standards as are applicable to in-person settings.

### **13:35-2C.4 LICENSEE-PATIENT RELATIONSHIP**

- a) Prior to providing services through telemedicine or telehealth, a licensee shall establish a licensee-patient relationship by:
  - 1) Identifying the patient with, at a minimum, the patient's name, date of birth, phone number, and address. A licensee may also use a patient's assigned identification number, Social Security number, photo, health insurance policy number, or other identifier associated directly with the patient; and
  - 2) Disclosing and validating the licensee's identity, license, title, and, if applicable, specialty and board certifications.
- b) Prior to initiating contact with a patient for the purpose of providing services to the patient using telemedicine or telehealth, a licensee shall:
  - 1) Review the patient's medical history and any available medical records;
  - 2) Determine, as to each unique patient encounter, whether he or she will be able to provide the same standard of care using telemedicine or telehealth as would be provided if the services were provided in-person; and
  - 3) Provide the patient the opportunity to sign a consent form which authorizes the licensee to release medical records of the encounter to the patient's primary care licensee or other healthcare provider identified by the patient.
- c) Notwithstanding (a) and (b) above, healthcare services may be provided through telemedicine or telehealth without a proper licensee-patient relationship if the provision of healthcare services is:
  - 1) For informal consultations with another healthcare provider performed by a licensee outside the context of a contractual relationship, or on an irregular or infrequent basis, without the expectation or exchange of direct or indirect compensation;
  - 2) During episodic consultations by a medical specialist located in another jurisdiction who provides consultation services, upon request, to a licensee in this State;



3) Related to medical assistance provided in response to an emergency or disaster, provided that there is no charge for the medical assistance; or

4) Provided by a substitute licensee acting on behalf and at the designation of an absent licensee in the same specialty on an on-call or cross-coverage basis.

### **13:35-2C.5 PROVISION OF HEALTHCARE SERVICES THROUGH TELEMEDICINE OR TELEHEALTH**

- a) As long as a licensee has satisfied the requirements at N.J.A.C. 13:35-2C.4, a licensee may provide healthcare services to a patient through the use of telemedicine and may engage in telehealth to support and facilitate the provision of healthcare services to patients.
- b) Prior to providing services through telemedicine or telehealth, a licensee shall determine the patient's originating site and record this information in the patient's record.
- c) A licensee providing healthcare services through telemedicine shall use interactive, real-time, two-way communication technologies, which shall include, except as provided at (e) below, a video component that allows a licensee to see a patient and the patient to see the licensee during the provision of healthcare services.
- d) A licensee providing services through telemedicine or telehealth may use asynchronous store-and-forward technology to allow for the electronic transmission of:
- 1) Images;
  - 2) Diagnostics;
  - 3) Data; and
  - 4) Medical information.
- e) If, after accessing and reviewing the patient's medical records, a licensee determines that he or she is able to meet the standard of care for such services if they were being provided in-person without using the video component described at (c) above, the licensee may use interactive, real-time, two-way audio in combination with asynchronous store-and-forward technology, without a video component.
- f) Prior to providing services through telemedicine or telehealth, a licensee shall review any medical history or medical records provided by a patient as follows:

- 1) For an initial encounter with a patient, medical history and medical records shall be reviewed prior to the provision of healthcare services through telemedicine or telehealth; and
  - 2) For any subsequent interactions with a patient, medical history and medical records shall be reviewed either prior to the provision of healthcare services through telemedicine or telehealth or contemporaneously with the encounter with the patient.
- g) During and after the provision of healthcare services through telemedicine or telehealth, a licensee, or another designated licensee, shall provide his or her name, professional credentials, and contact information to the patient. Such contact information shall enable the patient to contact the licensee for at least 72 hours following the provision of services, or for a longer period if warranted by the patient's circumstances and accepted standards of care.
  - h) After the provision of healthcare services through telemedicine or telehealth, a licensee shall provide the patient, upon request, with his or her medical records reflecting the services provided.
  - i) A licensee shall provide, upon a patient's written request, the patient's medical information to the patient's primary care provider or to other healthcare providers.
  - j) A licensee engaging in telemedicine or telehealth shall refer a patient for follow-up care when necessary.

### **13:35-2C.6 PRESCRIPTIONS**

- a) Notwithstanding requirements for in-person interaction at N.J.A.C. 13:35-7, a licensee providing services through telemedicine or telehealth may issue a prescription to a patient, as long as the issuance of such a prescription is consistent with the standard of care or practice standards applicable to the in-person setting.
- b) A licensee shall not issue a prescription based solely on responses provided in an online questionnaire, unless the licensee has established a proper licensee-patient relationship pursuant to N.J.A.C. 13:35-2C.4.
- c) Notwithstanding (a) above, and except as provided at (d) below, a licensee shall not issue a prescription for a Schedule II controlled dangerous substance, unless the licensee has had an initial in-person examination of the patient and a subsequent in-person visit with the patient at least every three months for the duration of the time the patient is prescribed the Schedule II controlled dangerous substance.
- d) The prohibition of (c) above shall not apply when a licensee prescribes a stimulant for a patient under the age of 18 years, as long as the licensee is using interactive, real-time, two-way audio

and video technologies and the licensee has obtained written consent for a waiver of in-person examination requirements from the patient's parent or guardian.

### **13:35-2C.7 RECORDS**

A licensee who provides services through telemedicine or telehealth shall maintain a record of the care provided to a patient. Such records shall comply with the requirements of N.J.A.C. 13:35-2B.11, and all other applicable State and Federal statutes, rules, and regulations for recordkeeping, confidentiality, and disclosure of a patient's medical record.

### **13:35-2C.8 PREVENTION OF FRAUD AND ABUSE**

a) In order to establish that a licensee has made a good faith effort to prevent fraud and abuse when providing services through telemedicine or telehealth, a licensee must establish written protocols that address:

- 1) Authentication and authorization of users;
- 2) Authentication of the patient during the initial intake pursuant to N.J.A.C. 13:35-2C.4(a)1;
- 3) Authentication of the origin of information;
- 4) The prevention of unauthorized access to the system or information;
- 5) System security, including the integrity of information that is collected, program integrity, and system integrity;
- 6) Maintenance of documentation about system and information usage;
- 7) Information storage, maintenance, and transmission; and
- 8) Synchronization and verification of patient profile data.

### **13:35-2C.9 PRIVACY AND NOTICE TO PATIENTS**

a) Licensees who communicate with patients by electronic communications other than telephone or facsimile shall establish written privacy practices that are consistent with the Federal standards set forth at 45 CFR Parts 160 and 164, which are incorporated herein by reference, as amended and supplemented, relating to privacy of individually identifiable health information.

- b) Written privacy practices required at (a) above shall include privacy and security measures that assure confidentiality and integrity of patient-identifiable information. Transmissions, including patient email, prescriptions, and laboratory results must be password protected, encrypted electronic prescriptions, or protected through substantially equivalent authentication techniques.
- c) A licensee who becomes aware of a breach in confidentiality of patient information, as defined at 45 CFR 164.402, shall comply with the reporting requirements at 45 CFR 164.
- d) Licensees, or their authorized representatives, shall provide a patient, prior to evaluation or treatment, with copies of written privacy practices and shall obtain the patient's written acknowledgement of receipt of the notice.
- e) Licensees who provide services through telemedicine or telehealth, or their authorized representatives, shall, prior to providing services, give patients notice regarding telemedicine and telehealth, including the risks and benefits of being treated by telemedicine or telehealth and how to receive follow-up care or assistance in the event of an adverse reaction to the treatment, or in the event of an inability to communicate as a result of a technological or equipment failure. A licensee shall obtain a signed and dated statement indicating that the patient received this notice.
- f) When telemedicine or telehealth is unable to provide all pertinent clinical information that a licensee exercising ordinary skill and care would deem reasonably necessary to provide care to a patient, the licensee shall inform the patient of this prior to the conclusion of the provision of care through telemedicine or telehealth and shall advise the patient regarding the need for the patient to obtain an additional in-person medical evaluation reasonably able to meet the patient's needs.