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NEW JERSEY ADMINISTRATIVE CODE  
TITLE 13  
LAW AND PUBLIC SAFETY  
CHAPTER 44H  
ORTHOTICS AND PROSTHETICS BOARD OF  
EXAMINERS

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# CHAPTER TABLE OF CONTENTS

**SUBCHAPTER 1. PURPOSE AND SCOPE; DEFINITIONS..... 4**

13:44H-1.1 Purpose and scope ..... 4

13:44H-1.2 Definitions ..... 5

**SUBCHAPTER 2. SCOPE OF PRACTICE ..... 7**

13:44H-2.1 Scope of orthotist practice; orthotist assistant..... 7

13:44H-2.2 Scope of prosthetist practice; prosthetist assistant ..... 8

13:44H-2.3 Limited practice by certified pedorthists ..... 8

13:44H-2.4 Prohibited practice; practice as an orthotist assistant, prosthetist assistant or a prosthetist-orthotist assistant ..... 9

**SUBCHAPTER 3. CREDENTIALS REQUIRED FOR LICENSURE; TEMPORARY LICENSURE REQUIREMENTS; LICENSURE WITHOUT EXAMINATION; ORTHOTISTS AND PROSTHETISTS..... 9**

13:44H-3.1 Requirements for orthotists, prosthetists and prosthetists-orthotists ..... 9

13:44H-3.2 Requirements for licensure of certified pedorthist ..... 10

13:44H-3.3 Credit towards licensure for education, training, and experience received while serving as a member of the Armed Forces..... 10

13:44H-3.4 Requirements for temporary license for licensees of other jurisdictions ..... 11

13:44H-3.5 Licensure as a prosthetist assistant, orthotist assistant or prosthetist-orthotist assistant..... 12

13:44H-3.5A Abandonment of application for licensure ..... 13

13:44H-3.6 Supervision of an orthotist assistant, prosthetist assistant, prosthetist-orthotist assistant, student, or holder of a temporary license ..... 14

13:44H-3.7 Licensing..... 15

13:44H-3.8 Biennial renewal of licenses..... 15

**SUBCHAPTER 4. (RESERVED)..... 17**

**SUBCHAPTER 5. ORTHOTIC AND PROSTHETIC ESTABLISHED FACILITY REQUIREMENTS..... 17**

13:44H-5.1 Minimum requirement ..... 17

**SUBCHAPTER 6. GENERAL OBLIGATIONS OF LICENSEES AND CERTIFICATE HOLDERS; UNLICENSED PRACTICE ..... 19**

13:44H-6.1 Notification of change of address; service of process; duty to cooperate ..... 19

13:44H-6.2 Unlicensed practice of prosthetics, orthotics and prosthetics-orthotics..... 20

13:44H-6.3 Continuing education ..... 20

**SUBCHAPTER 7. BUSINESS PRACTICES; PROFESSIONAL CONDUCT ..... 25**

13:44H-7.1 Display of notice of licensure; notification of availability of fee information..... 25

13:44H-7.2 Excessive fees ..... 25

13:44H-7.3 Fees for services; client notification ..... 26

13:44H-7.4 Professional interactions with clients ..... 26

13:44H-7.5 Prohibition on solicitation; unlawful referrals and kickbacks ..... 26

13:44H-7.6 State office ..... 27

**SUBCHAPTER 8. ADVERTISING ..... 27**

13:44H-8.1 Definitions ..... 27

13:44H-8.2 Advertising; general requirements ..... 27

13:44H-8.3 Minimum content of advertisements and professional representations..... 28

13:44H-8.4 Use of professional credentials and certification ..... 28

13:44H-8.5 Advertisements regarding fees; required disclosures ..... 29

13:44H-8.6 Prohibited types or methods of advertising ..... 29

13:44H-8.7 Use of testimonials..... 30

13:44H-8.8 Retention of advertisements ..... 30

**SUBCHAPTER 9. CLIENT RECORDS ..... 31**

13:44H-9.1 Preparation and maintenance of client records ..... 31

13:44H-9.2 Release of client record..... 32

**SUBCHAPTER 10. FEES ..... 32**

13:44H-10.1 Fee schedule ..... 32

**SUBCHAPTER 11. TELEMEDICINE ..... 34**

13:44H-11.1 Purpose and scope ..... 34

13:44H-11.2 Definitions ..... 34

13:44H-11.3 Standard of care..... 36

13:44H-11.4 Licensee-patient relationship..... 36

13:44H-11.5 Provision of services through telemedicine or telehealth ..... 37

13:44H-11.6 Records..... 39

13:44H-11.7 Prevention of fraud and abuse ..... 39

13:44H-11.8 Privacy and notice to patients..... 40

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## SUBCHAPTER 1. PURPOSE AND SCOPE; DEFINITIONS

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### 13:44H-1.1 PURPOSE AND SCOPE

- a) The rules in this chapter implement the provisions of the Orthotist and Prosthetist Licensing Act (the Act), N.J.S.A. 45:12B-1 et seq. as amended by P.L. 1999, c.115, regulate the practice of orthotics and prosthetics, and offer licensure to certified pedorthists within this State.
  
- b) Except as set forth in (c) below, this chapter shall apply to all individuals who practice orthotics and prosthetics in New Jersey, and to those pedorthists certified by the American Board for Certification in Pedorthics who voluntarily obtain a license pursuant to N.J.S.A. 45:12B-18(d) and N.J.A.C. 13:44H-3.2.
  
- c) This chapter shall not apply to:
  - 1) Any person who is licensed to practice medicine and surgery, dentistry or podiatry in this State;
  
  - 2) A student, fellow or trainee in orthotics or prosthetics who is pursuing a course of study at a college or university accredited by an accrediting agency recognized by the United States Department of Education, or working in a training center or research facility which has a written affiliation agreement with a college or university accredited by an accrediting agency recognized by the United States Department of Education, to the extent that the activities and services performed are a part of the course of study under the supervision of a licensee pursuant to N.J.A.C. 13:44H-3.6;
  
  - 3) A student who, pursuant to N.J.A.C. 13:44H-3.5, is training to be a licensed prosthetist assistant, a licensed orthotist assistant or a licensed prosthetist-orthotist assistant to the extent that the activities and services are a part of the course of study under the supervision of a licensee pursuant to N.J.A.C. 13:44H-3.6;
  
  - 4) A licensed occupational therapist or licensed physical therapist when designing, modifying, fabricating or applying upper extremity adaptive equipment, finger splints and hand splints;
  
  - 5) A licensed physical therapist in providing corsets and soft cervical collars;

- 6) A licensed physical therapist in providing lower extremity orthotics made of fabric, canvas, neoprene or elastic with or without metal or plastic insertable or removable hinges or stays;
- 7) A licensed physical therapist in providing any lower extremity, low temperature splint or ankle foot orthotic when such bracing is for the evaluation or treatment of an adult patient for less than three months or for a pediatric patient for less than one year without the necessity to consult with a licensed orthotist and when the braces do not become the patient's property;
- 8) A licensed physical therapist in providing any off-the-shelf ankle foot orthosis made of fabric, canvas, neoprene or elastic and any low temperature posterior leaf ankle foot orthosis;
- 9) A licensed physical therapist in providing any high temperature posterior leaf ankle foot orthosis when the licensed physical therapist is conducting research at a college or university accredited by a regional or national accrediting agency recognized by the United States Department of Education;
- 10) A licensed physical therapist in managing lower extremity prosthetic volumetric changes, provided that the physical therapist consults with the dispensing prosthetist prior to implementing any non-reversible changes; and
- 11) A certified pedorthist whose activities are limited to the practice of orthotics and prosthetics for the ankle and below.

### **13:44H-1.2 DEFINITIONS**

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

"Ankle" means the proximal aspect of the medial malleoli.

"Brace" means any device which supports the trunk or limbs, limits or assists motion in any direction, or immobilizes, stabilizes and protects joints, trunk, head and neck.

"Established facility" means a facility that:

1. Is primarily devoted to the provision of orthotic or prosthetic devices;

2. Provides a dedicated area for the proper care, treatment and dignity of clients receiving such devices; such area shall be large enough to allow for extended and continuous ambulation; and
3. Is appropriately equipped to design, cast and measure, provide, service, adjust, maintain and replace (when necessary) orthotic and prosthetic devices.

"Orthotic appliance or orthosis" means a brace or support but does not include fabric and elastic supports, corsets, arch supports, trusses, elastic hose, canes, crutches, cervical collars, dental appliances or other similar devices carried in stock and sold by drug stores, department stores, corset shops or surgical supply facilities.

"Orthotist" means any person who practices orthotics and who is representing himself or herself to the public by title or by description of services, incorporating such terms as "orthotics," "orthotists," "orthotic" or "L.O." or any similar title or description of services, provided that the individual has met the eligibility requirements contained in N.J.S.A. 45:12B-11 and N.J.A.C. 13:44H-3.1, and has been licensed pursuant to N.J.S.A. 45:12B-1 et seq. and this chapter.

"Orthotist assistant" means a person licensed pursuant to the provisions of P.L. 1991, c.512 and N.J.A.C. 13:44H-3.5, and who assists, and practices under the supervision of, a licensed orthotist.

"Pedorthist" means a person who is certified by the American Board for Certification in Pedorthics, or its successor, in the design, manufacture, fit and modification of shoes and related foot appliances from the ankle and below as prescribed by a licensed doctor of medicine or podiatry for the amelioration of painful or disabling conditions of the foot.

"Prosthetic appliance" means any artificial device that is not surgically implanted and that is used to replace a missing limb, appendage, or any other external human body part including devices such as artificial limbs, hands, fingers, feet and toes, but excluding dental appliances and largely cosmetic devices such as artificial breasts, eyelashes, wigs and other devices which could not by their use have a significantly detrimental impact upon the musculoskeletal functions of the body.

"Prosthetist" means a person who practices prosthetics and who represents himself or herself to the public by title or by description of services, under a title incorporating such terms as "prosthetics," "prosthetist," "prosthetic" or "L.P." or any similar title or description of services,

provided that the individual has met the eligibility requirements contained in N.J.S.A. 45:12B-11 and N.J.A.C. 13:44H-3.1, and has been licensed pursuant to N.J.S.A. 45:12B-1 et seq. and this chapter.

"Prosthetist assistant" means a person who is licensed pursuant to the provisions of P.L. 1991, c.512 and N.J.A.C. 13:44H-3.5, and who assists, and practices under the supervision of, a licensed prosthetist.

"Prosthetist-orthotist" means any person who practices both disciplines of prosthetics and orthotics and who represents himself or herself to the public by title or by description of services, under any title incorporating such terms as "prosthetics-orthotics," "prosthetist-orthotist," "prosthetic-orthotic" or "L.P.O." or any similar title or description of services, provided that the individual has met the eligibility requirements contained in N.J.S.A. 45:12B-11 and N.J.A.C. 13:44H-3.1, and has been duly licensed in both disciplines of prosthetics and orthotics pursuant to N.J.S.A. 45:12B-1 et seq. and this chapter.

"Prosthetist-orthotist assistant" means a person who is licensed pursuant to the provisions of P.L. 1991, c.512 and N.J.A.C. 13:44H-3.5, and who assists, and practices under the supervision of, a licensed prosthetist-orthotist.

"Support" means a device to redistribute the load for, or make stable or secure, a weakened or injured limb, trunk, head or neck.

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## **SUBCHAPTER 2. SCOPE OF PRACTICE**

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### **13:44H-2.1 SCOPE OF ORTHOTIST PRACTICE; ORTHOTIST ASSISTANT**

- a) The scope of practice of a licensed orthotist shall include patient evaluation for orthotic appliances or orthoses, which are prescribed by a licensed physician, podiatrist, or dentist for the correction or alleviation of musculoskeletal diseases, injuries, or deformities and the development and implementation of an orthotic treatment plan that includes the measuring, designing, constructing, assembling, fitting, adjusting, and servicing of orthotic appliances or orthoses.
  
- b) A licensed orthotist assistant may provide services identified in (a) above under the close supervision of a licensed orthotist pursuant to N.J.A.C. 13:44H-3.6.



- c) A licensed orthotist assistant shall not:
- 1) Provide the initial evaluation of a patient;
  - 2) Develop or modify an orthotic treatment plan for a patient; or
  - 3) Provide the final fitting of an orthotic appliance or orthoses.

### **13:44H-2.2 SCOPE OF PROSTHETIST PRACTICE; PROSTHETIST ASSISTANT**

- a) The scope of practice of a licensed prosthetist shall include patient evaluation for any type of upper and lower extremity prosthetic appliance prescribed by a physician licensed to practice medicine or surgery or a licensed doctor of podiatric medicine and the development and implementation of a prosthetic treatment plan that includes the measuring, designing, constructing, assembling, fitting, adjusting, and servicing of upper and lower extremity prosthetic appliance.
- b) A licensed prosthetist assistant may provide services identified in (a) above under the close supervision of a licensed prosthetist pursuant to N.J.A.C. 13:44H-3.6.
- c) A licensed prosthetist assistant shall not:
- 1) Provide the initial evaluation of a patient;
  - 2) Develop or modify a prosthetic treatment plan for a patient; or
  - 3) Provide the final fitting of an upper or lower extremity prosthetic appliance.

### **13:44H-2.3 LIMITED PRACTICE BY CERTIFIED PEDORTHISTS**

The scope of practice of a certified pedorthist granted a license pursuant to N.J.A.C. 13:44H-3.2 shall be limited to the design, manufacture, fit and modification of shoes and related foot appliances which extend from the ankle and below and which are prescribed by a physician licensed to practice medicine or surgery or a licensed doctor of podiatric medicine for the amelioration of painful or disabling conditions of the foot. "Foot appliances" for the purposes of this section include prosthetic fillers and orthotic appliances for use from the ankle and below.

**13:44H-2.4 PROHIBITED PRACTICE; PRACTICE AS AN ORTHOTIST ASSISTANT, PROSTHETIST ASSISTANT OR A PROSTHETIST-ORTHOTIST ASSISTANT**

- a) No person may practice, attempt to practice, or hold oneself out as being able to practice orthotics, prosthetics or prosthetics-orthotics or hold oneself out as being able to act, or act, as an orthotist assistant, prosthetist assistant or a prosthetist-orthotist assistant without having obtained a license pursuant to N.J.S.A. 45:12B-1 et seq. and this chapter.
- b) No licensed orthotist, prosthetist or prosthetist-orthotist may employ a person to practice as an orthotist, prosthetist, prosthetist-orthotist, orthotist assistant, prosthetist assistant or a prosthetist-orthotist assistant unless that person has obtained a license pursuant to N.J.S.A. 45:12B— 1 et seq. and this chapter.

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**SUBCHAPTER 3.  
CREDENTIALS REQUIRED FOR LICENSURE; TEMPORARY LICENSURE  
REQUIREMENTS; LICENSURE WITHOUT EXAMINATION; ORTHOTISTS  
AND PROSTHETISTS**

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**13:44H-3.1 REQUIREMENTS FOR ORTHOTISTS, PROSTHETISTS AND PROSTHETISTS-ORTHOTISTS**

- a) A person who wishes to be licensed as an orthotist, prosthetist or prosthetist-orthotist shall successfully complete the examination given by the American Board for Certification in Orthotics and Prosthetics or its successor.
- b) An applicant for licensure as an orthotist, prosthetist or prosthetist-orthotist shall submit to the Board the following:
  - 1) A completed application which shall include:
    - i) An official transcript indicating that the applicant received a bachelor's degree or its equivalent from a college or university accredited by a regional or national accrediting agency recognized by the United States Department of Education which shall be forwarded to the Board by the college or university; and
    - ii) Notarized documentation which indicates that the applicant has completed a clinical internship in the professional area for which a license is sought of at least 1,900 hours under the supervision of a licensee pursuant to N.J.A.C. 13:44H-3.6;
  - 2) The application fee set forth in N.J.A.C. 13:44H-10.1; and

- 3) Proof that the applicant has successfully completed the licensing examination required by (a) above.
  
- c) Foreign-trained applicants shall obtain an evaluation of their professional educational and professional experience credentials from a credentialing agency recognized by the American Board for Certification in Orthotics and Prosthetics, its successor or the International Society of Prosthetists and Orthotists. The Board shall accept only an evaluation which is sent to the Board by the credentialing agency. Upon receipt of the evaluation by the Board, the Board shall review the evaluation and determine whether the applicant's education and experience credentials are substantially equivalent to those required in (b)1 above.

### **13:44H-3.2 REQUIREMENTS FOR LICENSURE OF CERTIFIED PEDORTHIST**

- a) A certified pedorthist who seeks licensure shall submit to the Board the following:
  - 1) A completed and notarized application form;
  - 2) The application fee set forth in N.J.A.C. 13:44H-10.1; and
  - 3) Proof of certification by the American Board for Certification of Pedorthists or its successor sent to the Board by the American Board for Certification of Pedorthists.

### **13:44H-3.3 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. 13:44H-3.1, 3.2, or 3.5 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, education, and experience the applicant received in the military, together with any training, education, and experience obtained outside of the Armed

Forces, is substantially equivalent in scope and character to the training, education, and experience required for licensure under N.J.A.C. 13:44H-3.1, 3.2, or 3.5.

- 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.
  - ii) An applicant seeking credit for education courses and/or training completed while in the military shall submit to the Board a Joint Services Transcript of his or her education/training for a determination that the education courses and/or training completed are substantially equivalent in level, scope, and intent to the program required for licensure under N.J.A.C. 13:44H-3.1, 3.2, or 3.5. For the purpose of determining substantial equivalence of the applicant's military education or training, the Board shall consider only those education or training courses relevant to the practice of orthotics and/or prosthetics that have been evaluated by the American Council on Education for substantial equivalence to civilian orthotics and/or prosthetics education; and
- 3) The applicant complies with all other requirements for licensure, including successful completion of the licensing examination.
- c) It is the applicant's responsibility to provide timely and complete evidence of the training, education, and experience gained in the military for review and consideration.
  - d) If the applicant's military training, education, and experience, or a portion thereof, is not deemed to be substantially equivalent to that required for licensure, the Board shall credit whatever portion of the military training, education, and experience that is substantially equivalent towards meeting the requirements under N.J.A.C. 13:44H-3.1, 3.2, or 3.5 for the issuance of the license.
  - e) Satisfactory evidence of such training, education, and experience shall be assessed on a case-by-case basis.

#### **13:44H-3.4 REQUIREMENTS FOR TEMPORARY LICENSE FOR LICENSEES OF OTHER JURISDICTIONS**

- a) The Board shall issue a temporary license to an individual licensed in another state which has licensing standards equivalent to those in this State if the individual:
  - 1) Has applied for licensure as an orthotist, prosthetist or prosthetist-orthotist, in the State of New Jersey; and

- 2) Is a licensee in good standing in any state in which he or she is licensed.
- b) The temporary license shall authorize its holder to practice in the field in which the holder was licensed in the other state. For example, an individual licensed in another state as an orthotist may only practice as an orthotist in this State pursuant to a temporary license.
- c) The holder of a temporary license shall be supervised by a licensee pursuant to N.J.A.C. 13:44H-3.6(d).
- d) A temporary license shall be issued for a one-year period. The holder of a temporary license shall take the first available licensing examination administered after receipt of the temporary license. An applicant who does not take the next administered examination for reasons of hardship such as illness, disability or other good cause may take the examination offered after the next administered examination. At the end of the one-year period, the Board may renew the temporary license if the holder has taken the first scheduled examination, shows good cause for the renewal and if the renewal of the temporary license would serve the well-being and interests of the clients of the establishment in which the holder practices. The holder of a renewed temporary license shall be supervised pursuant to N.J.A.C. 13:44H-3.6(c).
- e) An application for renewal of the temporary license shall be sent to the Board at least 90 days before the temporary license expires. The holder of a renewed temporary license shall take the next available examination after the temporary license is renewed. The renewed temporary license shall expire immediately after the results of the second licensing examination are issued.
- f) A person whose temporary license has expired shall cease working as an orthotist, prosthetist or prosthetist-orthotist, but may continue to take the licensing examination. If the person passes the licensing examination he or she shall, within 60 days, apply for licensure pursuant to N.J.A.C. 13:44H-3.1.

### **13:44H-3.5 LICENSURE AS A PROSTHETIST ASSISTANT, ORTHOTIST ASSISTANT OR PROSTHETIST-ORTHOTIST ASSISTANT**

- a) An applicant for licensure as a prosthetist assistant, orthotist assistant or prosthetist-orthotist assistant shall submit to the Board:
  - 1) A completed application form which shall include:
    - i) Proof that the applicant is at least 18 years of age;
    - ii) Proof of high school diploma or its equivalent;

- iii) Proof that the applicant has completed a course of training in orthotics or prosthetics of at least 40 hours for licensure as an orthotist assistant or a prosthetist assistant, or a course of training of at least 80 hours for licensure as a prosthetist-orthotist assistant, which includes a course in human anatomy, a course in medical terminology, and a course in general/fundamental physics from a college or university accredited by a regional or national accrediting agency recognized by the United States Department of Education;
  - iv) A certification from the applicant's supervising licensee stating that the applicant has completed 1,900 hours of clinical practice in the area of licensure sought under the supervision of a licensed orthotist or prosthetist;
- 2) Proof that the applicant has passed the American Board for Certification in Orthotics and Prosthetics Assistant examination; and
  - 3) An application fee as set forth in N.J.A.C. 13:44H-10.1.

### **13:44H-3.5A 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 of the information and documentation required to obtain a license; 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. 13:44H-3.1, 3.2, or 3.5.

**13:44H-3.6 SUPERVISION OF AN ORTHOTIST ASSISTANT, PROSTHETIST ASSISTANT, PROSTHETIST-ORTHOTIST ASSISTANT, STUDENT, OR HOLDER OF A TEMPORARY LICENSE**

- a) A licensed orthotist assistant, orthotist student or holder of a temporary orthotist license shall be supervised by a licensed orthotist. A licensed prosthetist assistant, prosthetist student or holder of a temporary prosthetist license shall be supervised by a licensed prosthetist. A licensed prosthetist-orthotist assistant, prosthetist-orthotist student or holder of a temporary prosthetist-orthotist license shall be supervised by a licensed prosthetist-orthotist.
- b) A licensed orthotist assistant, licensed prosthetist assistant, licensed prosthetist-orthotist assistant, student or holder of a temporary license shall not render nor continue to perform laboratory or clinical work unless he or she has obtained close or routine supervision from his or her supervising licensee. For purposes of this section, a "supervising licensee" is a licensed orthotist, licensed prosthetist or licensed prosthetist-orthotist who provides close or routine supervision in the same facility as, and who provides direction to a licensed orthotist assistant, licensed prosthetist assistant, licensed prosthetist-orthotist assistant, student or holder of a temporary license.
- c) A supervising licensee shall be responsible for the close supervision of a licensed orthotist assistant, licensed prosthetist assistant, licensed prosthetist-orthotist assistant, or student. For purposes of this section, "close supervision" means daily, face-to-face contact and observation of the performance of the laboratory and clinical work of the licensed orthotist assistant, licensed prosthetist assistant, licensed prosthetist-orthotist assistant or student at the location where his or her services are being performed.
- d) A supervising licensee shall be responsible for the routine supervision of the holder of a temporary license. For purposes of this section, "routine supervision" means face-to-face contact with and observation of the performance of the laboratory and clinical work of the holder of a temporary license at least once a week at the location where his or her services are being performed.
- e) The supervising licensee shall be personally responsible for the laboratory and clinical work of the licensed orthotist assistant, licensed prosthetist assistant, licensed prosthetist-orthotist assistant, student or holder of a temporary license.
- f) A supervising licensee shall not supervise more than three licensed orthotist assistants, licensed prosthetist assistants, licensed prosthetist-orthotist assistants, students or holders of a temporary license, or any combination thereof, at a time.
- g) The supervising licensee shall be physically present at both the initial evaluation of the patient and the final provision of the orthotic or prosthetic device by a student or holder of a temporary license to determine the appropriateness of the device delivered.

- h) The supervising licensee shall provide direction to the licensed orthotist assistant, licensed prosthetist assistant, licensed prosthetist-orthotist assistant, student or holder of a temporary license.
- i) A licensed orthotist assistant, licensed prosthetist assistant, licensed prosthetist-orthotist assistant, student or holder of a temporary license, shall maintain a daily record which shall contain the name and license number of the supervising licensee, the date when any services were performed and the clinical or laboratory services performed. The supervising licensee shall initial this record daily.
- j) The supervising licensee shall designate another licensee who shall perform the appropriate level of supervision, as detailed above, of licensed orthotist assistants, licensed prosthetist assistants, licensed prosthetist-orthotist assistants, students or holders of a temporary license in his or her absence.

### **13:44H-3.7 LICENSING**

Once the Board has determined that an applicant should be issued a license, it shall send notification to the applicant that he or she should send the Board the licensing fee pursuant to N.J.A.C. 13:44H-10.1(a)3, for orthotists, prosthetists and prosthetist-orthotists, or N.J.A.C. 13:44H-10.1(a)4, for orthotist assistants, prosthetist assistants or prosthetist-orthotist assistants. The Board shall send a license to the applicant upon receipt of this fee.

### **13:44H-3.8 BIENNIAL RENEWAL OF LICENSES**

- a) Licenses shall be renewed biennially on a form provided by the Board. Each applicant shall attest that the continuing education requirements of N.J.A.C. 13:44H-6.3 have been completed during the prior biennial period.
- b) The Board shall send a notice of renewal to each licensee, at least 60 days prior to the expiration of the license. If the notice to renew is not sent at least 60 days prior to the expiration date, no monetary penalties or fines shall apply to the holder for any unlicensed practice during the period following the licensure expiration, not to exceed the number of days short of the 60 before the renewals were issued.
- c) The licensee shall submit the renewal application and pay the renewal fee pursuant to N.J.A.C. 13:44H-10.1 prior to the date of expiration of the license. If the licensee does not renew the license prior to its expiration date, the licensee may renew it no later than 30 days after its expiration date by submitting a renewal application and paying a renewal fee and a late fee pursuant to N.J.A.C. 13:44H-10.1. A licensee who fails to renew the license within 30 days after the expiration date of the license shall be suspended without a hearing.



- d) Individuals who continue to practice or hold themselves out as licensed after being suspended shall be deemed to have violated N.J.S.A. 45:12B-17, even if no notice of suspension had been provided to the person.
- e) A person seeking reinstatement within five years following the suspension of a license under (c) above shall submit the following to the Board:
  - 1) A completed reinstatement application;
  - 2) Payment of all past delinquent renewal fees as set forth in N.J.A.C. 13:44H-10.1;
  - 3) Payment of a reinstatement fee as set forth in N.J.A.C. 13:44H-10.1;
  - 4) A certification verifying completion of the continuing education credits required pursuant to N.J.A.C. 13:44H-6.3 for the renewal of a license; and
  - 5) An affidavit of employment listing each job held during the period of suspension, which includes the names, addresses, and telephone numbers of each employer.
- f) A person seeking reinstatement after more than five years following the suspension of a license under (c) above shall satisfy the requirements of (e) above and shall successfully complete the examination required for initial licensure as set forth in N.J.A.C. 13:44H-3.1(a).
- g) Renewal applications for all licenses shall provide the licensee with the option of either active or inactive renewal. Licensees electing to renew as inactive shall not hold themselves out to the public or practice as licensees.
- h) A licensee who elected inactive status and has been on inactive status for five years or less may be reinstated by the Board upon completion of the following:
  - 1) A certification verifying completion of the continuing education hours required pursuant to N.J.A.C. 13:44H-6.3 for the renewal of a license;
  - 2) Submission of an affidavit of employment listing each job held during the period the licensee was on inactive status, which includes the name, address, and telephone number of each employer; and
  - 3) Payment of the reactivation fee and renewal fee as set forth in N.J.A.C. 13:44H-10.1.

- i) A licensee who has been on inactive status for more than five years who wishes to return to the practice of orthotics, prosthetics or prosthetic-orthotics shall satisfy the requirements of (h) above and shall successfully complete the examination required for initial licensure as set forth in N.J.A.C. 13:44H-3.1(a).

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**SUBCHAPTER 4.  
(RESERVED)**

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**SUBCHAPTER 5.  
ORTHOTIC AND PROSTHETIC ESTABLISHED FACILITY  
REQUIREMENTS**

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**13:44H-5.1 MINIMUM REQUIREMENT**

- a) Every established orthotic facility which utilizes centralized fabrication services shall, at a minimum, be equipped with the following:
- 1) A Trautman router (or similar);
  - 2) A machinist vise;
  - 3) A drill press;
  - 4) Compressed air;
  - 5) A sewing machine;
  - 6) A plaster modification area;
  - 7) Plaster tools;
  - 8) A work bench;
  - 9) A sanding machine;
  - 10) A band saw or alternate cutting device;

- 11) A heat gun;
  - 12) A cast cutter;
  - 13) Bending irons;
  - 14) One full length mirror; and
  - 15) One set of parallel bars at least seven feet long.
- b) Every established orthotic facility which engages in on-site fabrication shall, in addition to the equipment listed in (a) above, be equipped with the following:
- 1) An oven;
  - 2) Exhaust equipment;
  - 3) A molding station;
  - 4) A vacuum pump;
  - 5) Joint alignment tools;
  - 6) A shoe jack; and
  - 7) A sandblaster or polishing equipment.
- c) Every established prosthetic facility which utilizes centralized fabrication services shall, in addition to the equipment listed in (a) above, be equipped with the following:
- 1) A limb vise; and
  - 2) A sanding disc.
- d) Every established prosthetic facility which engages in on-site fabrication shall, in addition to the equipment listed in (a) above, be equipped with the following:
- 1) A limb transfer jig;

- 2) An oven;
  - 3) A molding station;
  - 4) A vacuum pump;
  - 5) Compressed air;
  - 6) A limb vise;
  - 7) A sanding disc; and
  - 8) Exhaust equipment.
- e) Every established pedorthic facility, wherein a licensed pedorthist engages in the practice of pedorthics, shall meet the facility accreditation requirements set forth by the American Board for Certification in Pedorthics ("BCP").

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**SUBCHAPTER 6.  
GENERAL OBLIGATIONS OF LICENSEES AND CERTIFICATE  
HOLDERS; UNLICENSED PRACTICE**

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**13:44H-6.1 NOTIFICATION OF CHANGE OF ADDRESS; SERVICE OF PROCESS;  
DUTY TO COOPERATE**

- a) Every licensee shall notify the Board of the licensee's office address. Each licensee shall notify the Board, in writing, within 30 days of any change in the office address on file with the Board.
- b) Service of an administrative complaint or other process initiated by the Board, the Attorney General or the Division of Consumer Affairs at the licensed practitioner's address on file with the Board shall be deemed adequate notice for the commencement of any inquiry or disciplinary proceeding against the licensed practitioner.
- c) Every licensee shall cooperate in any inquiry, inspection or investigation conducted by or on behalf of the Board or the Director pursuant to N.J.A.C. 13:45C.

**13:44H-6.2 UNLICENSED PRACTICE OF PROSTHETICS, ORTHOTICS AND PROSTHETICS-ORTHOTICS**

- a) The following acts or practices shall be deemed to be the unlicensed practice of prosthetics, orthotics and prosthetics-orthotics:
- 1) Offering or rendering orthotics or prosthetics services by any person other than a licensed orthotist, licensed prosthetist, licensed prosthetist-orthotist, certified pedorthist, pedorthist licensed to the practice of orthotics and prosthetics on the ankle and below, licensed orthotist assistant, a licensed prosthetist, a licensed prosthetist-orthotist assistant or by a licensed professional acting within his or her scope of practice and exempt pursuant to N.J.A.C. 13:44H-1.1(c).
  - 2) The use by any person other than a licensed orthotist, prosthetist or prosthetist-orthotist of:
    - i) Any title or designation which includes the words orthotist, prosthetist or prosthetist-orthotist which may mislead the public; or
    - ii) The abbreviations L.O., L.P., L.P.O. or any similar abbreviations.
- b) A licensee shall use only the title or designation corresponding to his or her license.

**13:44H-6.3 CONTINUING EDUCATION**

- a) Commencing with the 2007 renewal, upon biennial license renewal, a licensee shall attest that he or she has completed courses of continuing education of the types and number of credits specified in (c) below. Falsification of any information submitted on the renewal application may require an appearance before the Board and may result in penalties and/or suspension or revocation of the license pursuant to N.J.S.A. 45:1-21 through 45:1-25.
- b) Licensees applying for their first biennial renewal are exempt from this continuing education requirement.
- c) Applicants for biennial license renewal shall complete the following continuing education credits during the preceding biennial period:
- 1) For prosthetist-orthotists, a minimum of 40 credits in topics related to prosthetics and orthotics;
  - 2) For orthotists, a minimum of 30 credits in topics related to orthotics;

- 3) For prosthetists, a minimum of 30 credits in topics related to prosthetics;
  - 4) For prosthetist-orthotist assistants, a minimum of 16 credits in topics related to prosthetics and orthotics;
  - 5) For orthotist assistants, a minimum of 12 credits in topics related to orthotics; and
  - 6) For prosthetist assistants, a minimum of 12 credits in topics related to prosthetics.
- d) A licensee who completes more than the minimum continuing education credits set forth in (c) above in any biennial registration period may carry a portion of those additional credits into the succeeding biennial period. Licensees may carry:
- 1) For prosthetist-orthotist, a maximum of 20 credits;
  - 2) For orthotists and prosthetists, a maximum of 15 credits;
  - 3) For prosthetist-orthotist assistants, a maximum of eight credits; and
  - 4) For orthotist assistants and prosthetist assistants, a maximum of six credits.
- e) A licensee may obtain continuing education credits from the following:
- 1) Successful completion of continuing education courses or programs approved by the American Board for Certification in Orthotics and Prosthetics: one credit for each hour of attendance;
  - 2) Successful completion of a course related to orthotics or prosthetics given by a school accredited by the New Jersey Department of Education, a college or university accredited by the Commission on Higher Education or an agency of another state with requirements substantially similar to the requirements of the New Jersey Department of Education or the Commission on Higher Education: one credit for each course credit successfully completed;
  - 3) Successful completion of continuing education courses or programs related to the practice of orthotics or prosthetics that are pre-approved by the Board pursuant to (f) below, prior to the presentation of the course: one credit for each hour of attendance;

- 4) Successful completion of an American Academy of Orthotists and Prosthetists Online Learning Center course: one credit for each course credit;
  - 5) Teaching or developing the curriculum for a new continuing education program related to orthotics or prosthetics that is approved pursuant to (e)1 or 3 above. "New" means that the licensee has never taught or developed curriculum for that course or program in any educational setting: one credit for each hour taught;
  - 6) Teaching or developing the curriculum for a new course related to orthotics or prosthetics in a school accredited by the New Jersey Department of Education, a college or university accredited by the Commission on Higher Education or an agency of another state with requirements substantially similar to the requirements of the New Jersey Department of Education or Commission on Higher Education. "New" means that the licensee has never taught or developed curriculum for that course in any educational setting: one credit for each course credit taught;
  - 7) Authorship of a published article related to orthotics or prosthetics which has been refereed through peer review, in a professional refereed journal: 15 credits for an article, up to 15 credits per biennial period;
  - 8) Presenting a new seminar or lecture related to orthotics or prosthetics to professional peers or other health professional provided the seminar or lecture is at least one hour long. "New" means that the licensee has never taught or developed curriculum for that seminar or lecture in any educational setting: one credit for each 50 minutes of presentation; and
  - 9) Completion of a research project which has been approved by the Board pursuant to (g) below: five credits.
- f) Sponsors of continuing education programs or courses seeking Board approval shall obtain Board approval every biennial period prior to representing that any course, program or seminar fulfills the requirements of (e) above and shall:
- 1) At least 90 days prior to the date of the course, submit the following for each course, program or seminar offered for evaluation by the Board:
    - i) A detailed descriptive outline of course content and estimated hours of instruction; and
    - ii) The curriculum vitae of each lecturer, including specific background which qualifies the individual as a lecturer in the area of instruction;

- 2) Monitor the attendance at each approved course, program or seminar and furnish to each enrollee a written verification of attendance, which shall include at least the following information:
    - i) The title, date and location of the course, program or seminar offering;
    - ii) The name and license number of the attendee;
    - iii) The number of credits awarded; and
    - iv) The name and signature of the sponsor and the seal of the organization;
  - 3) Evaluate course offerings. Evaluations shall be solicited from both the attendees and the instructors; and
  - 4) Submit a fee pursuant to N.J.A.C. 13:44H-10.1(a)13 for each submission of new courses, programs or seminars reviewed by the Board during the biennial licensing period.
- g) A licensee who wishes to have a research project approved by the Board shall submit a written abstract on the project that includes:
- 1) The parameters of the research project;
  - 2) The results of the research project, if any;
  - 3) An indication of possible future publication, if any;
  - 4) An indication of whether the research project will lead to the production of a product after research; and
  - 5) The methodology used to evaluate the research.
- h) The Board shall perform audits on randomly selected licensees to determine compliance with continuing education requirements. A licensee shall maintain the following documentation for a period of four years after completion of the credits and shall submit the documentation to the Board upon request:
- 1) For attendance at programs or courses: a certificate of completion from the provider;



- 2) For publication of an article: the published item, including the date of publication;
  - 3) For developing curriculum or teaching a course or program: a copy of the curriculum: location, date and time of course; duration of course by hour; and letter from provider confirming that the licensee developed or taught the course or program;
  - 4) For presenting a lecture or seminar: the location, date and duration of the lecture or seminar; and
  - 5) For a research project: evidence of Board approval.
- i) The Board may waive the continuing education requirements of this section on an individual basis for reasons of hardship, such as severe illness, disability, or military service.
- 1) A licensee seeking a waiver of the continuing education requirements shall apply to the Board in writing at least 90 days prior to license renewal and set forth in specific detail the reasons for requesting the waiver. The licensee shall provide the Board with such supplemental materials as will support the request for waiver.
  - 2) A waiver of continuing education requirements granted pursuant to this subsection shall be effective only for the biennial period in which such waiver is granted. If the condition(s) which necessitated the waiver continue into the next biennial period, a licensee shall apply to the Board for the renewal of such waiver for the new biennial period.
- j) The Board may direct or order a licensee to successfully complete continuing education credits:
- 1) As part of a disciplinary or remedial measure in addition to the required credits of continuing education; or
  - 2) To correct a deficiency in the licensee's continuing education requirements.
- k) Any continuing education credits completed by the licensee in compliance with an order or directive from the Board as set forth in (j) above shall not be used to satisfy the minimum continuing education requirements as set forth in this section.

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**SUBCHAPTER 7.  
BUSINESS PRACTICES; PROFESSIONAL CONDUCT**

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**13:44H-7.1 DISPLAY OF NOTICE OF LICENSURE; NOTIFICATION OF AVAILABILITY OF FEE INFORMATION**

a) All licensed orthotists, prosthetists, prosthetist-orthotist, licensed orthotist assistants, licensed prosthetist assistants, licensed prosthetist-orthotist assistants and pedorthists licensed to practice orthotics and prosthetics to the ankle and below shall ensure that the following notices are prominently displayed in a waiting room or other area where they will be visible to patients to provide actual notice to the patient:

- 1) "ORTHOTISTS, PROSTHETISTS, PROSTHETIST-ORTHOTISTS, ORTHOTIST ASSISTANTS, PROSTHETIST ASSISTANTS AND PROSTHETIST-ORTHOTIST ASSISTANTS ARE LICENSED BY THE ORTHOTICS AND PROSTHETICS BOARD OF EXAMINERS, AN AGENCY OF THE DIVISION OF CONSUMER AFFAIRS. CERTIFIED PEDORTHISTS MAY OBTAIN VOLUNTARY LICENSURE TO PRACTICE ORTHOTICS AND PROSTHETICS TO THE ANKLE AND BELOW. ANY MEMBER OF THE PUBLIC MAY NOTIFY THE BOARD OF ANY COMPLAINT RELATIVE TO THE PRACTICE CONDUCTED BY AN ORTHOTIST, PROSTHETIST, PROSTHETIST-ORTHOTIST, ORTHOTIST ASSISTANT, PROSTHETIST ASSISTANT, PROSTHETIST-ORTHOTIST ASSISTANT OR A CERTIFIED PEDORTHIST LICENSED BY THE ORTHOTICS AND PROSTHETICS BOARD OF EXAMINERS. THE BOARD'S ADDRESS IS:

NEW JERSEY DIVISION OF CONSUMER AFFAIRS  
ORTHOTICS AND PROSTHETICS BOARD OF EXAMINERS  
PO BOX 45034  
124 HALSEY STREET  
NEWARK, NEW JERSEY 07101"

- 2) "INFORMATION ON PROFESSIONAL FEES IS AVAILABLE UPON REQUEST FROM THIS OFFICE."

**13:44H-7.2 EXCESSIVE FEES**

a) A licensee shall not charge an excessive fee for services. Factors which the Board may consider in determining whether a fee is excessive include the following:

- 1) The time and effort required to perform the service or treatment;
- 2) The skill required to properly perform the service or treatment;

- 3) The experience, reputation and expertise of the licensee performing the service;
- 4) The nature and circumstances under which the service is provided; and
- 5) Whether the fee was set by an institution or agency.

### **13:44H-7.3 FEES FOR SERVICES; CLIENT NOTIFICATION**

- a) A licensee providing orthotic, prosthetic or pedorthic services shall prepare and maintain a written list of current fees for standard services and, upon request, shall provide the list to clients.
- b) The licensee shall include all of the following information on the list:
  - 1) The current fees for standards services;
  - 2) Whether the licensee is a participating Medicare provider; and
  - 3) Insurance plans in which the licensee participates.
- c) Prior to providing services to a client or potential client, a licensee shall advise the patient of all potential costs associated with the services to be rendered.

### **13:44H-7.4 PROFESSIONAL INTERACTIONS WITH CLIENTS**

- a) A licensee shall advise the patient, in terms which the client can understand, of the nature and purpose of the services to be rendered.
- b) A licensee shall advise the patient of the techniques for use and care of a prescribed device.
- c) (Reserved)

### **13:44H-7.5 PROHIBITION ON SOLICITATION; UNLAWFUL REFERRALS AND KICKBACKS**

- a) A licensee shall not pay, offer to pay or receive any fee or other form of compensation for referral of a client for professional services or for the purchase of goods.
- b) A licensee shall not participate in the division of fees for professional services other than among other licensees engaged in a bona fide partnership or professional service corporation or employment relationship.

**13:44H-7.6 STATE OFFICE**

Pursuant to N.J.S.A. 45:12B-20, every licensee shall maintain an office in New Jersey.

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**SUBCHAPTER 8.  
ADVERTISING**

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**13:44H-8.1 DEFINITIONS**

For purposes of this subchapter, the following terms shall have the following meanings, unless the context clearly indicates otherwise:

"Advertisement" means any attempt, directly or indirectly, by publication, dissemination or circulation in print or electronic media which, directly or indirectly, induces or attempts to induce any person or entity to purchase or enter into an agreement to purchase services, treatment or goods related thereto from a Board licensee.

"Electronic media" includes, but is not limited to, radio, television, telephone, facsimile machine, computer or other electronic means of communication.

"Print media" includes, but is not limited to, business cards, newspapers, magazines, periodicals, professional journals, telephone directories, circulars, handbills, flyers, billboards, signs, direct mail, matchbook covers, and other items and publications, the context of which is disseminated by means of the printed word.

"Range of fees" means a statement of fees containing an upper and lower limit on the fees charged for services or goods offered by a licensee.

**13:44H-8.2 ADVERTISING; GENERAL REQUIREMENTS**

- a) A licensee shall be able to substantiate the truthfulness of any material, objective assertion or representation set forth in an advertisement when requested by the Board to do so.
  
- b) A licensee who is a principal, partner or officer of a firm or entity identified in an advertisement as offering services or goods shall be responsible for the form and content of any advertisement disseminated by or on behalf of a licensee affiliated with the firm.

- c) A licensee shall assure that an advertisement disseminated by or on behalf of the licensee does not misrepresent, mislead, suppress, deceive, omit or conceal a material fact.
- d) A licensee shall not omit, suppress or conceal a material fact, including, directly or indirectly, obscuring a material fact, under circumstances which the licensee knows, or should know is improper or prevents a prospective client from making a full and informed judgment on the basis of the information set forth in the advertisement.

### **13:44H-8.3 MINIMUM CONTENT OF ADVERTISEMENTS AND PROFESSIONAL REPRESENTATIONS**

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

### **13:44H-8.4 USE OF PROFESSIONAL CREDENTIALS AND CERTIFICATION**

- a) A licensee shall accurately and objectively represent his or her competence, education, training and experience.
- b) An advertisement which includes information on professional credentials shall contain the highest academic degrees or certifications attained related to the regulated practice of orthotics, prosthetics, or prosthetic-orthotics and shall refer only to degrees obtained from academic institutions accredited by a national or regional accrediting agency recognized by the United States Department of Education.
- c) An advertisement which includes information on orthotic, prosthetic, prosthetic-orthotic or pedorthic certification shall include the full name of the agency conferring the certification or the recognized name or abbreviation of the certification.
- d) In addition to the information required to appear pursuant to (b) and (c) above, letters or abbreviations which may appear immediately adjacent to the name of an orthotist, prosthetist, prosthetist-orthotist, orthotist assistant, prosthetist assistant, prosthetist-orthotist assistant or pedorthist shall be limited to those representing the following:
  - 1) The highest academic degrees earned related to the practice of orthotics, prosthetics, prosthetic-orthotics or pedorthics; and

- 2) Other licenses or certifications issued by another state or Federal agency.
- e) Nothing in this section shall preclude any truthful and non-deceptive statement in regard to education or experience in a particular area of orthotics, prosthetics, prosthetic-orthotics or pedorthics.

### **13:44H-8.5 ADVERTISEMENTS REGARDING FEES; REQUIRED DISCLOSURES**

- a) Advertisements regarding fees shall be limited to those which contain a fixed or a stated range of fees for specifically described professional services.
- b) A licensee shall include the following disclosures in advertisements referring to fees:
  - 1) All relevant and material variables and considerations which are ordinarily included in the advertised services so that the fee will be clearly understood by prospective clients. In the absence of such disclosures, the stated fees shall be presumed to include everything ordinarily required for the advertised services;
  - 2) Any additional services contemplated and the fee to be charged therefor. In the absence of such disclosures, the licensee shall be prohibited from charging an additional fee for the advertised service: and
  - 3) The period during which the advertised fee will remain in effect. In the absence of such disclosure, the advertisement shall be deemed to be effective for 30 days from the date of its initial publication.
- c) The advertisement of a fee shall not preclude the licensee from adjusting the fee downward or waiving a fee in individual circumstances.

### **13:44H-8.6 PROHIBITED TYPES OR METHODS OF ADVERTISING**

- a) A licensee shall not guarantee that satisfaction or a cure will result from the performance of professional services.
- b) A licensee shall not offer a professional service which the orthotist, prosthetist, prosthetist-orthotist, orthotist assistant, prosthetist assistant, prosthetist-orthotist assistant or pedorthist knows, or should know, is beyond his or her ability to perform.

**13:44H-8.7 USE OF TESTIMONIALS**

- a) An advertisement containing a lay or expert testimonial shall be based upon the testimonial-giver's personal knowledge or experience obtained from a client-provider relationship with the licensee.
- b) Prior to using the testimonial, the licensee shall obtain a signed, notarized statement and release indicating the testimonial-giver's willingness to have his or her testimonial used in the advertisement.
- c) A layperson's testimonial shall not attest or comment upon any technical matter beyond the layperson's competence.
- d) An expert testimonial shall be rendered only by an individual possessing specialized expertise sufficient to allow the rendering of a bona fide statement or opinion.
- e) A licensee shall be able to substantiate any objective, statement of fact appearing in a testimonial. The failure to do so, if required by the Board, may be deemed professional misconduct by the Board.
- f) Where an advertiser directly or indirectly provides compensation to a testimonial-giver, the fact of such compensation shall be conspicuously disclosed in a legible and readable manner in any advertisement in the following language or its substantial equivalent:

"COMPENSATION HAS BEEN PROVIDED FOR THIS TESTIMONIAL."

**13:44H-8.8 RETENTION OF ADVERTISEMENTS**

- a) A licensee shall retain, for a period of three years from the date of initial publication or dissemination, a copy of every advertisement appearing in print media as well as a video or audio tape of every advertisement communicated by telephonic or electronic media. The orthotist, prosthetist, prosthetist-orthotist, orthotist assistant, prosthetist assistant, prosthetist-orthotist assistant or pedorthist shall indicate on all advertisements in his or her possession the date, name and place of publication.
- b) Documentation relating to the use of testimonials shall be retained for a period of three years from the date of last use of the testimonial. Documentation shall include, but not be limited to:
  - 1) The name, address and telephone number of the testimonial-giver;
  - 2) The type and amount or value of compensation; and

- 3) The notarized statement and release required pursuant to N.J.A.C. 13:44H-8.7(b).

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## **SUBCHAPTER 9. CLIENT RECORDS**

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### **13:44H-9.1 PREPARATION AND MAINTENANCE OF CLIENT RECORDS**

- a) A licensee shall prepare and maintain for each client a contemporaneous, permanent client record which accurately reflects the client contact with the orthotist, prosthetist, prosthetist-orthotist, orthotist assistant, prosthetist assistant, prosthetist-orthotist assistant or pedorthist, whether in an office, hospital or other evaluation or consultation setting.
  
- b) A licensee shall include at least the following information in the client record:
  - 1) The client name (on each page of the record), address and telephone number;
  - 2) The location and dates of all treatment, evaluation or consultation settings;
  - 3) The identity of each provider of treatment, evaluation or consultation and the supervisor, if any;
  - 4) The presenting situation;
  - 5) The name and address of the referring physician, podiatrist or dentist;
  - 6) All prescriptions relevant to the client;
  - 7) A treatment or service plan;
  - 8) Contemporaneous progress notes for each session;
  - 9) Fees charged and paid unless a separate financial record is kept; and
  - 10) The name of the manufacturer of any device not made by the licensee.
  
- c) The licensee shall periodically review and update the treatment or service plan.
  
- d) The licensee shall retain the permanent client record for at least seven years from the date of last entry, unless otherwise provided by law.



- e) All licensees shall comply with this section notwithstanding an employer's recordkeeping requirements.

**13:44H-9.2 RELEASE OF CLIENT RECORD**

- a) A licensee shall provide the client record within 15 days of the request of, and directly to, the client, the client's guardian or any other party designated by the client or the client's guardian.
- b) A licensee may require that a record request be made in writing and may charge a fee for the reproduction of records, which shall be no greater than \$1.00 per page or \$100.00 for the entire record, whichever is less. (If the record requested is less than 10 pages, the licensee may charge up to \$10.00 to cover postage and the miscellaneous costs associated with retrieval of the record.)
- c) A licensee shall not charge a fee for completion of health insurance claim forms.
- d) A licensee may charge a reasonable fee for completion of reports required for third-party reimbursement of client treatment expenses or for use in judicial proceedings.
- e) When a report is needed to enable a client to receive ongoing care by another practitioner or for use in judicial proceedings, a licensee shall not require advance payment as a condition for releasing the report; except that a licensee may require advance payment for release of a report prepared by the licensee, for use by the licensee as an expert witness on behalf of the client.

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**SUBCHAPTER 10.  
FEES**

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**13:44H-10.1 FEE SCHEDULE**

- a) The following fees shall be charged by the Orthotics and Prosthetics Board of Examiners:
  - 1) Application fee ..... \$125.00
  - 2) Initial license fee for orthotist, prosthetist and prosthetist-orthotist:
    - i) If paid during the first year of the biennial renewal period ..... \$410.00
    - ii) If paid during the second year of the biennial renewal period ..... \$205.00

- 3) Initial license fee for orthotist assistant, prosthetist assistant and prosthetist-orthotist assistant:
  - i) If paid during the first year of the biennial renewal period ..... \$210.00
  - ii) If paid during the second year of the biennial renewal period ..... \$105.00
- 4) Initial license fee for pedorthists ..... \$150.00
- 5) Biennial license renewal for orthotist, prosthetist and prosthetist-orthotist. \$410.00
- 6) Biennial license renewal orthotist assistant, prosthetist assistant, and prosthetist-orthotist assistant ..... \$210.00
- 7) Biennial license renewal pedorthist..... \$150.00
- 8) Temporary license (one-year expiration)..... \$175.00
- 9) Late renewal ..... \$100.00
- 10) Reinstatement fee..... \$150.00
- 11) Written verification of licensure ..... \$25.00
- 12) Duplicate or replacement of renewal certificate..... \$25.00
- 13) Duplicate or replacement of wall license ..... \$40.00
- 14) Continuing education sponsor fee..... \$100.00
- 15) Inactive license fee ..... (to be established by the Board by rule)

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## SUBCHAPTER 11. TELEMEDICINE

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### 13:44H-11.1 PURPOSE AND SCOPE

- a) The purpose of this chapter is to implement the provisions of P.L. 2017, c. 117 (N.J.S.A. 45:1-61 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 orthotists, orthotist assistants, pedorthists, prosthetists, prosthetist assistants, prosthetist-orthotists, and prosthetist-orthotist assistants.
- c) Pursuant to N.J.S.A. 45:1-62, an orthotist, orthotist assistant, pedorthist, prosthetist, prosthetist assistant, prosthetist-orthotist, or prosthetist-orthotist assistant must hold a license or certificate issued by the Board if he or she:
  - 1) Is located in New Jersey and provides health care 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 health care 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 health care 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.

### 13:44H-11.2 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 Orthotics and Prosthetics Board of Examiners.

“Cross-coverage service” 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 health care services by means of telemedicine or telehealth.

“Licensee” means an individual licensed by the Board as an orthotist, orthotist assistant, prosthetist, prosthetist assistant, prosthetist-orthotist, or prosthetist-orthotist assistant, or an individual certified as a pedorthist.

“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 health care provider of record.

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

“Telehealth” means the use of information and communications technologies, including telephones, remote patient monitoring devices, or other electronic means, to support clinical health care, 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 (C.45:1-61 et seq.).

“Telemedicine” means the delivery of a health care service using electronic communications, information technology, or other electronic or technological means to bridge the gap between a health care 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 (C.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.

**13:44H-11.3 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 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.
- 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.

**13:44H-11.4 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 an initial contact with a patient for the purpose of providing services to the patient using telemedicine or telehealth, a licensee shall review the patient's history and any available records
- c) Prior to initiating contact with a patient for the purpose of providing services through telemedicine or telehealth, a licensee shall determine 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. The licensee shall make this determination prior to each unique patient encounter.

- d) Prior to initiating contact with a patient, a licensee shall provide the patient the opportunity to sign a consent form which authorizes the licensee to release records of the encounter to the patient's primary care licensee or other health care provider identified by the patient.
- e) Notwithstanding (a), (b), and (c) above, service may be provided through telemedicine or telehealth without a proper provider-patient relationship if:
  - 1) The provision of services is 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) The provision of services is during episodic consultations by a medical specialist located in another jurisdiction who provides consultation services, upon request, to a licensee in this State;
  - 3) A licensee furnishes medical assistance in response to an emergency or disaster, provided that there is no charge for the medical assistance; or
  - 4) A substitute licensee, who is acting on behalf of an absent licensee in the same specialty, provides health care services on an on-call or cross-coverage basis, provided that the absent licensee has designated the substitute licensee as an on-call licensee or cross-coverage service provider.

### **13:44H-11.5 PROVISION OF SERVICES THROUGH TELEMEDICINE OR TELEHEALTH**

- a) As long as a licensee has satisfied the requirements of N.J.A.C. 13:44H-11.4, a licensee may provide health care services to a patient through the use of telemedicine and may engage in telehealth to support and facilitate the provision of health care 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 in (e)

below, a video component which allows a licensee to see a patient and the patient to see the licensee during the provision of 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 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 in (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) During the provision of services through telemedicine or telehealth, and after the provision of services, 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.
- g) Prior to providing services through telemedicine or telehealth, a licensee shall review any history or records provided by a patient as follows:
  - 1) For an initial encounter with a patient, history and records shall be reviewed prior to the provision of services through telemedicine or telehealth; and
  - 2) For any subsequent interactions with a patient, history and records shall be reviewed either prior to the provision of services through telemedicine or telehealth or contemporaneously with the encounter with the patient.
- h) After the provision of services through telemedicine or telehealth, a licensee shall provide the patient, upon request, with his or her records created due to the services provided.

- i) A licensee shall provide, upon a patient's written request, the patient's information to the patient's primary care provider or to other health care providers.
- j) A licensee engaging in telemedicine or telehealth shall refer a patient for follow-up care when necessary.

### **13:44H-11.6 RECORDS**

A licensee who provides services through telemedicine or telehealth shall maintain a record of the care provide to a patient. Such records shall comply with the requirements of N.J.A.C. 13:44H-9, and all other applicable State and federal statutes and regulations for recordkeeping, confidentiality, and disclosure of a patient's record.

### **13:44H-11.7 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. 13:44H-11.4(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.



**13:44H-11.8 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 federal standards under 45 C.F.R. §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 by (a) above shall include privacy and security measures that assure confidentiality and integrity of patient-identifiable information. Transmissions, including patient e-mail, 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 in 45 C.F.R. §164.402, shall comply with reporting requirements of 45 C.F.R. §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 via 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 evaluation reasonably able to meet the patient's needs.