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NEW JERSEY ADMINISTRATIVE CODE  
TITLE 13  
LAW AND PUBLIC SAFETY  
CHAPTER 37  
NEW JERSEY BOARD OF NURSING

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## SUBCHAPTER 1. PROGRAMS IN NURSING EDUCATION

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### 13:37-1.1 ELIGIBILITY FOR ACCREDITATION

- a) For purposes of this subchapter, the term "accreditation" shall include the accreditation of professional nursing programs and the approval of practical nursing programs.
  
- b) The following educational institutions are eligible for accreditation to provide nursing programs:
  - 1) A school, division or department of nursing authorized to operate by its own charter, articles of incorporation or resolution of the governing board of its sponsoring institution; or
  
  - 2) Degree granting institutions licensed by the New Jersey Commission on Higher Education and accredited by a regional accrediting agency recognized by the United States Department of Education.
  
- c) The following educational programs, when offered by an institution that meets the requirements of (b) above, shall be considered eligible for accreditation by the Board as nursing programs:
  - 1) Generic doctoral degree programs: For purposes of this subchapter, a generic doctoral degree program means a program conducted by an educational institution with a program in nursing, which leads to a doctoral degree in nursing and makes a student eligible for licensure as a registered professional nurse. The educational institution shall be licensed by the New Jersey Commission on Higher Education for the purpose of granting doctoral degrees;
  
  - 2) Generic masters degree programs: For purposes of this subchapter, a generic masters degree program means a program conducted by an educational institution with a program in nursing, which leads to a masters degree in nursing and makes a student eligible for licensure as a registered professional nurse. The educational institution shall be licensed by the New Jersey Commission on Higher Education for the purpose of granting masters degrees;
  
  - 3) Generic baccalaureate degree programs: For purposes of this subchapter, a baccalaureate degree program is a program conducted by an educational institution with a program in nursing, which leads to a baccalaureate degree in nursing and makes a student eligible for licensure as a registered professional nurse. The educational

institution shall be licensed by the New Jersey Commission on Higher Education for the purpose of granting baccalaureate degrees;

- 4) Associate degree programs: For purposes of this subchapter, an associate degree program means a program conducted by an educational institution with a program which leads to an associate degree in nursing and makes a student eligible for licensure as a registered professional nurse. The educational institution shall be licensed by the New Jersey Commission on Higher Education for the purpose of granting associate degrees;
- 5) Diploma programs: For purposes of this subchapter, a diploma program means a program conducted by a nursing school under the sponsorship of a hospital or consortium of hospitals in the State of New Jersey, that leads to a diploma in nursing or, in collaboration with a college or university, grants an Associate in Applied Science degree or Associate in Science degree; and
- 6) Practical nursing programs: For purposes of this subchapter, a practical nursing program means a program conducted for the purposes of providing education in practical nursing, that leads to a diploma or certificate in practical nursing, and which is not operated by any local, county or State Board of Education in this State. A practical nursing program that is operated by a board of education is not under the jurisdiction of the Board pursuant to N.J.S.A. 45:11-24 and is not required to meet the requirements of this subchapter.

### **13:37-1.2 APPLICATION FOR ESTABLISHMENT OF A NEW PROGRAM IN NURSING**

- a) For purposes of this section, the term "calendar year" means a year beginning on January 1 and ending on December 31.
- b) An educational institution seeking to establish a new program in nursing shall submit in writing to the Board an application consisting of the following items:
  - 1) The type of program, for example, generic doctoral degree program or baccalaureate degree program;
  - 2) The philosophy/mission, student learning outcomes, and outcomes of the program in accordance with N.J.A.C. 13:37-1.5;
  - 3) Evidence of financial resources adequate for the planning, implementation and continuation of the program, including a projected five-year budget;
  - 4) A table of organization describing the lines of authority and the administrative structure of the program;

- 5) Curricula vitae for all faculty and consultants responsible for the development and administration of the program;
  - 6) A letter from the chief executive officer which reflects that he or she has secured initial and continued financial support for the program;
  - 7) A certificate of need; and
  - 8) The initial accreditation application fee set forth in N.J.A.C. 13:37-5.5(d)1.
- c) An application to establish a new program in nursing shall be submitted to the Board no later than 18 months prior to the proposed establishment of a new program.
- d) After reviewing the application, the Board shall either:
- 1) Grant permission to pursue the development of the proposed program. However, such permission does not ensure that provisional accreditation will be granted by the Board;
  - 2) Require revisions to the proposed program or to the materials submitted as required by (b) above or the submission of additional information. Revisions to the proposed program or to the application materials does not ensure that provisional accreditation will be granted by the Board; or
  - 3) Deny permission to establish a new program.
- e) The educational institution may request in writing an appearance before the Board for reconsideration of the revisions or denial based upon (d)2 or 3 above within 30 days of written notification of the required revisions or denial.
- f) After receiving permission to pursue the development of a new program, the educational institution shall submit to the Board the following items no later than 12 months prior to the anticipated start date of the program:
- 1) The number of students to be admitted to each of the first four graduating classes after establishment of the program, which shall be limited to no more than 40 students per calendar year;
  - 2) The projected maximum student enrollment;
  - 3) Admission, progression, retention and dismissal policies;

- 4) Appeals policy for any disciplinary matter;
  - 5) A description of student services;
  - 6) A plan for increases in faculty commensurate with increased student enrollment;
  - 7) The curriculum plan, including course objectives for all nursing courses;
  - 8) A written statement describing the support staff;
  - 9) A written statement recognizing that a program administrator shall have at least three years of nursing education experience or 12 college credits in education as required at N.J.A.C. 13:37-1.6(b);
  - 10) A preliminary agreement with clinical facilities at which students will obtain clinical education;
  - 11) A written agreement between the educational institution and a fully accredited nursing education program documenting that, if the educational institution fails to obtain accreditation and loses its provisional accreditation, the accredited nursing program will accept any nursing students that are enrolled in the educational institution at the time it loses provisional accreditation; and
  - 12) A written plan for evaluating the governance, faculty, resources, curriculum, and program outcomes of the nursing program. The plan shall identify the communities of interest, which include any person or group who is interested in the quality of graduates from a nursing program, and shall include:
    - i) The responsible party for evaluating the components;
    - ii) Methods for evaluating components; and
    - iii) Actions resulting from the collection and analysis of data.
- g) After reviewing the materials required at (f) above, the Board shall either:
- 1) Grant provisional accreditation to the program;

- 2) Require revisions to the program or the program materials required at (f) above or the submission of additional information. Revisions to the program or program materials do not ensure that provisional accreditation will be granted by the Board; or
  - 3) Deny permission to establish a new program.
- h) The educational institution may request, in writing, an appearance before the Board for reconsideration of the revisions or denial based upon (g)2 or 3 above within 30 days of written notification of the required revisions or denial.

### **13:37-1.3 PROVISIONAL ACCREDITATION**

- a) For purposes of this section, the term “calendar year” means a year beginning on January 1 and ending on December 31.
- b) A nursing program that has been granted provisional accreditation pursuant to N.J.A.C. 13:37-1.2 may admit students.
- c) A nursing program that has provisional accreditation shall inform applicants that:
  - 1) The nursing program has provisional accreditation; and
  - 2) If the nursing program does not obtain accreditation, it will cease operation regardless of whether all of the students in the nursing program have completed their education.
- d) The program administrator for a nursing program that has provisional accreditation shall have at least three years of full-time experience working in an accredited or approved nursing education program in a position that includes responsibility for development, implementation, and evaluation of nursing curriculum.
- e) A nursing program on provisional accreditation shall only graduate one class per calendar year.
- f) A nurse education program granted provisional accreditation shall not admit more than 40 students per calendar year.
- g) A nursing program that has been granted provisional accreditation shall not be granted accreditation until:
  - 1) The first class has graduated;

- 2) Within either the first or second calendar year after the first graduates complete the program, 75 percent of the graduates who take the examination in each calendar year pass the examination the first time it is taken by the student. This means that students who graduate in the first year, but do not take the exam until the second year will be counted in the results of the second year exam; and
  - 3) A self-study report is submitted to the Board, three months from when the nursing program receives the examination results of the first graduating class, that shows the nursing program is in compliance with the requirements of N.J.A.C. 13:37-1.4 through 1.11.
- h) The Board may conduct a survey of the program, through its designee, to assure compliance with N.J.A.C. 13:37-1.4 through 1.11.
- i) A program that does not meet the requirements of (g) above shall remain on provisional accreditation status. A program may remain on provisional accreditation status for no more than two years from the date the first class graduates. A program that has not met the requirements of (g) above in that two-year period shall cease to admit students and shall be placed on probation until the last student enrolled in the program graduates or otherwise leaves the program. Once the last student has left the program, the program shall lose its provisional accreditation. A program that has lost provisional accreditation pursuant to this subsection, or any officer, director, owner, or principal of such a program, shall not be permitted to reapply for accreditation for three years from the date provisional accreditation has been lost.

### **13:37-1.4 MAINTAINING ACCREDITATION: ORGANIZATION AND ADMINISTRATION OF A NURSING PROGRAM**

- a) A nursing program shall have:
- 1) A written organizational and administrative plan describing the internal organization of the program, lines of authority, procedures for providing communication with the governing body and clinical agencies, and the role of any advisory committee associated with the program;
  - 2) Stable financial resources which are allocated to adequately support the program's educational activities;
  - 3) A program administrator who meets the requirements of N.J.A.C. 13:37-1.6 and has direct authority for the fiscal and academic administration of the program. The administrator shall be responsible to the governing body of the sponsoring institution;

- 4) Written criteria for faculty promotion and faculty retention;
- 5) Written criteria for student admission, promotion, retention, and completion of the program; and
- 6) Written policies on grading and graduation requirements.

### **13:37-1.5 FACULTY RESPONSIBILITY FOR PHILOSOPHY/MISSION, AND STUDENT LEARNING OUTCOMES**

- a) The faculty shall develop, and revise as necessary, a statement of philosophy/mission, and student learning outcomes, and program outcomes which are consistent with the definition of nursing as set forth at N.J.S.A. 45:11-23(b).
- b) The nursing program shall incorporate competencies required for the successful entry of the nursing graduate into practice.
- c) The faculty shall develop and maintain the written Systematic Plan for Program Evaluation.
- d) The faculty shall be able to show that the philosophy/mission, student learning outcomes, and program outcomes have been integrated into the total program of learning.
- e) The philosophy/mission, student learning outcomes, and program outcomes shall be communicated to students, cooperating affiliates, advisory committees, and communities of interest as outlined in the plan required pursuant to N.J.A.C. 13:37-1.2(f)11.
- f) Faculty shall have input in determining whether the nursing program needs admission requirements in addition to those required by the institution and shall have input in developing those additional requirements.
- g) Grading or educational requirement policies shall either be congruent with institutional policies and mission or, if not congruent, be justified by the nursing program.
- h) The faculty, in collaboration with the program administrator, shall construct, implement, teach and evaluate the curriculum. The administrator shall maintain records that indicate the curriculum has been evaluated pursuant to the Systematic Plan for Program Evaluation.
- i) Nursing programs shall inform students in writing if any grading or educational requirements are changed while students are enrolled in the nursing program.

**13:37-1.6 MAINTAINING ACCREDITATION; QUALIFICATIONS OF PROGRAM ADMINISTRATORS**

- a) Every nursing program shall have a program administrator.
- b) A program administrator who began his or her current employment position after January 18, 2022, shall have completed either:
  - 1) At least three years of full-time experience working in an accredited or approved nursing education program; or
  - 2) At least 12 credits in education from a college or university approved by the New Jersey Secretary of Higher Education or an agency of another state with requirements substantially similar to the requirements of the New Jersey Secretary of Higher Education.
- c) An administrator of a generic doctoral degree program, a generic masters degree program, or a baccalaureate degree program shall, in addition to the qualifications contained in N.J.A.C. 13:37-1.7, hold a doctoral degree in nursing or a masters degree in nursing with an earned doctoral degree.
- d) An administrator of an associate degree program or a diploma program shall, in addition to the qualifications contained in N.J.A.C. 13:37-1.7, hold a masters degree in nursing.
- e) An administrator of a practical nursing program shall, in addition to the requirements at N.J.A.C. 13:37-1.7, hold a master's degree in nursing. An administrator for a practical nursing program who began his or her employment prior to April 21, 2003, shall not be required to hold a master's degree in nursing but shall be required to hold a bachelors degree in nursing with additional courses in the field of education.
- f) If an administrator of a nursing program is replaced, for any reason, the program shall notify the Board in writing within 30 days of the change.

**13:37-1.7 MAINTAINING ACCREDITATION: FACULTY QUALIFICATIONS**

- a) For purposes of this subchapter, the term "faculty" shall include full-time and part-time teachers as well as individuals who are responsible for teaching students in a clinical agency located in New Jersey.
- b) Faculty members shall:
  - 1) Hold current licensure in New Jersey as a registered professional nurse, if they are physically located in New Jersey while teaching;

- 2) If they are not physically located in New Jersey while teaching, hold current licensure as a registered professional nurse in New Jersey or another state; and;
  - 3) Have documentation that shows that they have taken courses in, or have professional or clinical experience in, the specific area of teaching responsibility.
- c) Faculty in baccalaureate degree programs, associate degree programs, and diploma programs who began their current employment position after September 1, 1981, shall hold either a master's degree or a doctoral degree with a major in nursing.
  - d) One-half of the faculty in licensed practical nursing programs who began their current employment position after January 18, 2022, shall hold master's or doctoral degrees in nursing. The remainder of the faculty who began their current employment position after January 18, 2022, shall hold baccalaureate degrees in nursing.
  - e) The educational institution shall maintain on file a record of professional preparation and experience for all faculty.
  - f) Faculty members shall supervise no more than 10 students in a clinical setting.

### **13:37-1.8 MAINTAINING ACCREDITATION: CURRICULUM ORGANIZATION AND CONTENT**

- a) The curriculum of all nursing education programs shall enable students to develop the knowledge, skills and competencies necessary for the level of nursing practice as defined in N.J.S.A. 45:11-23 et seq.
- b) Nursing courses shall only be taught by nursing faculty, except that nutrition courses may be taught by a dietician with a masters degree in nutrition and pharmacology courses may be taught by a licensed pharmacist with a masters degree in pharmacology.
- c) The nursing curriculum shall be based on the philosophy/mission, student learning outcomes, and program outcomes that the faculty have developed pursuant to N.J.A.C. 13:37-1.5.
- d) Faculty shall select clinical experiences for students that correlate with course objectives and/or competencies.
- e) All nursing courses and clinical experiences shall reflect participation by the community of interest which has been identified in the Systematic Plan for Program Evaluation required by N.J.A.C. 13:37-1.2(e).

- f) The nursing curriculum of all professional nursing education programs shall include:
- 1) Content in the sciences, social sciences and humanities; and
  - 2) Nursing courses concurrent with clinical experiences in a variety of settings that include:
    - i) The promotion, restoration and maintenance of health across the lifespan;
    - ii) Critical thinking;
    - iii) The nursing practice act, N.J.S.A. 45:11-23 et seq., and Board rules, N.J.A.C. 13:37;
    - iv) Legal and ethical issues;
    - v) Cultural implications for practice;
    - vi) The structure and economics of the health care delivery system;
    - vii) Delegation to, and supervision of, licensed practical nurses and unlicensed assistive personnel;
    - viii) Management and leadership;
    - ix) Interdisciplinary collaboration;
    - x) Pain management and end of life issues;
    - xi) Socialization to the role of the professional nurse; and
    - xii) Organ and tissue donation and recovery designed to address clinical aspects of the donation and recovery process;
    - xiii) Evidence-based practice; and
    - xiv) Review of National Patient Safety Goals, available from the Joint Commission, One Renaissance Blvd., Oakbrook Terrace, IL 60181.
- g) The curriculum of a practical nursing education program shall:

- 1) Include content in the sciences and social sciences;
- 2) Contain nursing courses concurrent with clinical experiences that include:
  - i) The provision of supportive and restorative care under the direction of a registered professional nurse;
  - ii) Medical-surgical nursing;
  - iii) Pediatric nursing;
  - iv) Obstetric nursing;
  - v) Psychiatric and mental health nursing;
  - vi) Critical thinking;
  - vii) The nursing practice act, N.J.S.A. 45:11-23 et seq., and Board rules, N.J.A.C. 13:37;
  - viii) Legal and ethical issues affecting licensed practical nursing practice and responsibilities;
  - ix) Cultural implications of practice;
  - x) Delegation from a registered professional nurse pursuant to N.J.A.C. 13:37-6.2, and delegation from a licensed physician or licensed dentist;
  - xi) Interdisciplinary collaboration at the level of practice of the licensed practical nurse;
  - xii) Pain management and end of life issues; and
  - xiii) Socialization to the role of the practical nurse;
  - xiv) Review of National Patient Safety Goals, available from the Joint Commission, One Renaissance Blvd., Oakbrook Terrace, IL 60181; and
- 3) Be at least 30 academic credits or 1,500 hours long, excluding holidays and vacations.

- h) Before an individual is admitted to a nursing education program, the program shall inform the individual that a criminal history background check is a prerequisite for licensure as a registered professional nurse or a licensed practical nurse.

**13:37-1.9 MAINTAINING ACCREDITATION: REQUIRED EDUCATIONAL AND ADMINISTRATIVE RESOURCES**

- a) The nursing education program shall provide:
- 1) Classrooms and laboratories to meet the needs of the students and faculty;
  - 2) Office space, conference rooms and equipment for the administrator, faculty and clerical staff;
  - 3) Furnishings, supplies and equipment to achieve the program's objectives and outcomes; and
  - 4) Access to current reference resources.

**13:37-1.10 MAINTAINING ACCREDITATION; CLINICAL AGENCIES**

- a) Every nursing program shall provide clinical experiences through an affiliation with a clinical agency or agencies that are licensed by a governmental agency or accredited by a nationally recognized accrediting body.
- b) There shall be a written agreement between the nursing program and the clinical agency. The agreement shall be signed and adhered to by the parties and shall include provisions for:
- 1) Review of the terms of the agreement;
  - 2) Notice of termination of the agreement by either party at least 120 days prior to termination;
  - 3) Faculty responsibility for student education;
  - 4) Collaboration between faculty and clinical agency personnel in selecting clinical experiences;
  - 5) Joint annual evaluation of the effectiveness of the clinical experience, with input from students; and

- 6) A faculty to student ratio of at least one faculty member for every 10 students.
- c) Clinical agencies located outside the State of New Jersey shall meet the requirements established by the state board of nursing in that other state.

### **13:37-1.10A PRECEPTORS**

- a) For purposes of this section, "preceptor" means a registered professional nurse employed by a health care entity licensed by the Department of Health who has agreed to supervise a student's clinical learning experience and who has either:
  - 1) A doctoral, master's, or bachelor's degree in nursing; or
  - 2) Five years of experience working in a health care entity licensed by the Department of Health.
- b) A preceptor shall not be considered a faculty member and shall not be required to meet the qualifications at N.J.A.C. 13:37-1.7.
- c) Notwithstanding N.J.A.C. 13:37-1.7(f) and 1.10(b)6, a faculty member shall supervise no more than 20 students who are working with preceptors.
- d) A preceptor shall only work with one student at a time.
- e) A program shall permit students to work with a preceptor during:
  - 1) The last semester of a doctoral, master's, or baccalaureate degree program; or
  - 2) The last semester or clinical course of an associate degree, diploma, or practical nursing program.

### **13:37-1.11 MAINTAINING ACCREDITATION: CRITERIA FOR STUDENT ADMISSION, PROMOTION AND COMPLETION OF THE PROGRAM**

- a) Every nursing program shall:
  - 1) Have written policies for admission, readmission, promotion, graduation and transfer of students;
  - 2) Have written criteria for granting course credit for programs admitting students with advanced standing;

- 3) Have written policies governing payment and refund of tuition and other fees;
- 4) Set dates for the beginning and ending of each term;
- 5) Establish and make available to students an appeals process;
- 6) Require either individual liability insurance for each student or an aggregate liability insurance policy, which covers each student individually and which covers the full limit for each student;
- 7) Establish and distribute to students written policies regarding health and guidance services;
- 8) Distribute information about the school to students and applicants for admission which shall include:
  - i) A general description of the program;
  - ii) The accreditation status of the program with the Board;
  - iii) The name and address of any organization the program is accredited by;
  - iv) Admission, promotion and graduation requirements;
  - v) Curriculum plan and course descriptions;
  - vi) Statement of tuition fees and refund policies;
  - vii) An appeals process; and
  - viii) The address and telephone number of the Board; and
- 9) Inform the students and applicants for admission that complaints regarding the program may be sent to the Board.

### **13:37-1.12 MAINTAINING ACCREDITATION: SURVEYS OF NURSING PROGRAMS**

- a) The Board may conduct a survey of any program at any time in order to ensure compliance with the requirements of this subchapter. A survey shall consist of an on-site visit and an

evaluation of all program documents required by N.J.A.C. 13:37-1.4 through 1.11. If the survey indicates that a program is not in compliance with this subchapter, the Board shall place the program on conditional accreditation pursuant to N.J.A.C. 13:37-1.17.

- b) The Board shall conduct a survey and an on-site visit for every accredited nursing program every eight years pursuant to N.J.A.C. 13:37-1.13 unless the on-site visit is waived pursuant to N.J.A.C. 13:37-1.14.

### **13:37-1.13 RENEWING ACCREDITATION**

- a) A program shall be accredited for eight years. Prior to the expiration of the accreditation period, the Board shall send to the nursing program an accreditation renewal form and notification of date for an on-site visit. The form shall be sent to the program 90 days prior to the scheduled date of the on-site visit.
- b) A program that meets the requirements of N.J.A.C. 13:37-1.14 may request a waiver of the on-site visit. If the Board grants the waiver, the program shall submit to the Board:
  - 1) The completed accreditation renewal form; and
  - 2) The accreditation renewal fee required by N.J.A.C. 13:37-5.5(d)3.
- c) If a program does not apply or qualify for a waiver of the on-site visit, the program administrator shall submit to the Board, 30 days prior to the scheduled date of the on-site visit, the following:
  - 1) The completed accreditation renewal form;
  - 2) The most recent institutional regional accreditation report;
  - 3) The nursing student handbook;
  - 4) Course outlines for all nursing courses;
  - 5) Description and location of clinical facilities;
  - 6) The Systematic Plan for Program Evaluation;
  - 7) The program's bylaws;

- 8) The program's organizational chart;
  - 9) The program's insurance policy;
  - 10) A list of the nursing journals subscribed to by the program's library; and
  - 11) The renewal fee required by N.J.A.C. 13:37-5.5(d)2.
- d) After the Board has reviewed the renewal form and the results of the on-site visit, the Board shall decide whether the program conforms to the rules of this subchapter and whether to renew the program's accreditation. The Board shall either send the program written notice that its accreditation has been renewed or a notice that accreditation has not been renewed and that the program is being placed on conditional accreditation pursuant to N.J.A.C. 13:37-1.17.

#### **13:37-1.14 WAIVER OF ON-SITE VISITS FOR ACCREDITATION RENEWAL**

- a) The on-site visit required pursuant to N.J.A.C. 13:37-1.12(b) and 1.13 may be waived if the program requests a waiver of the site visit in writing. The waiver request shall include:
- 1) Documentation that the nursing program is accredited by either the Accreditation Commission for Education in Nursing (ACEN), the Commission on Collegiate Nursing Education (CCNE), or the Commission for Nursing Education Accreditation (CNEA);
  - 2) A self-study by the nursing program which evaluates its compliance with the accreditation standards of the Board and either the ACEN, CCNE, or CNEA;
  - 3) The site survey report from either the ACEN, CCNE, or CNEA that has reviewed and evaluated the program; and
  - 4) The final report from either the ACEN, CCNE, or CNEA.
- b) A program that has been granted a waiver of the on-site visit pursuant to (a) above shall notify the Board within 30 days of the change if the ACEN, CCNE, or CNEA accreditation status changes.
- c) If the Board is notified that a program's ACEN, CCNE, or CNEA accreditation status has changed, the Board shall send a representative to conduct an on-site visit of the program to verify that the program conforms to the rules of this subchapter. A program that does not conform to the rules of this subchapter shall be placed on conditional accreditation pursuant to N.J.A.C. 13:37-1.18.

**13:37-1.15 MAINTAINING ACCREDITATION: PROGRAM RECORDKEEPING AND REPORTING REQUIREMENTS**

- a) Any record that a nursing program maintains pursuant to the requirements of this subchapter shall be made available to the Board upon request.
- b) Every nursing program shall maintain a record of all nursing committee minutes for a minimum of three years.
- c) Every nursing program shall ensure that records are maintained so that they provide accurate recording of student academic data. Records shall be stored in a manner to prevent loss by destruction and unauthorized use.
- d) A copy of the current contracts with clinical agencies shall be maintained by the administrator.
- e) An annual report of the school of nursing shall be submitted to the Board, or its designee, on forms supplied by the Board, or its designee.

**13:37-1.16 CHANGES TO A NURSING PROGRAM**

- a) A nursing program shall notify the Board in writing 30 days prior to any changes in ownership.
- b) A nursing program shall not institute a major curriculum change, as outlined in (d) below, without prior Board approval.
- c) A nursing program that plans to make any major curriculum changes shall submit the requested change to the Board in writing and provide the information required at (e) below a minimum of 120 days prior to the anticipated date of the change. The Board shall review the request to determine whether the requested change is in compliance with this subchapter.
- d) Major curriculum changes are:
  - 1) An increase or decrease in the number of required credits; or
  - 2) An increase or decrease in the length of the nursing program.
- e) A request for a change in the curriculum shall include:
  - 1) The rationale for the proposed change in the curriculum;

- 2) A presentation of the differences between the current status of the program and the proposed change;
  - 3) A timetable and course sequence outline for implementation of the change; and
  - 4) A plan for the evaluation of the change which shall include outcomes.
- f) After reviewing the request the Board shall:
- 1) Grant approval of the curriculum change;
  - 2) Require revisions to the request. If the Board requires a revision, the nursing program shall submit the revised request within 30 days of receiving notification; or
  - 3) Deny approval for the curriculum change.
- g) The nursing program may, within 30 days of notification of the denial, request in writing an appearance before the Board asking for a reconsideration of the denial of the curriculum change.
- h) If the Board denies a curriculum change, the nursing program may not resubmit another request for the same curriculum change for six months from the date of notification of the denial.

### **13:37-1.17 (RESERVED)**

### **13:37-1.18 CONDITIONAL ACCREDITATION: SUBCHAPTER REQUIREMENTS**

- a) If the Board receives information alleging that a program fails to meet the requirements of this subchapter, other than N.J.A.C. 13:37-1.17, the Board shall evaluate the information and may send a field representative to investigate the program. The Board representative shall evaluate the program for compliance with this subchapter and report the results of the program evaluation to the Board.
- b) If the Board determines that the nursing program does not comply with the provisions of this subchapter, the Board shall place the program on conditional accreditation. Conditional accreditation shall become effective upon the program's receipt of the written notification.

- c) The nursing program may, within 30 days of receiving written notification that the program has been placed on conditional accreditation, request in writing an appearance before the Board regarding its conditional accreditation status.
- d) Within 30 days of receiving written notification that the nursing program has been placed on conditional accreditation, the nursing program shall notify in writing the students enrolled in the program that the program has been placed on conditional accreditation.
- e) A nursing program that is placed on conditional accreditation shall submit to the Board, within 90 days of receiving written notification of being placed on conditional accreditation, an 18-month action plan with a time-line and measurable outcomes to correct any deficiencies. The outcomes identified in the action plan shall be met within 18 months.
- f) If the outcomes of the action plan are met within the 18-month period, the program shall be restored to accreditation status.
- g) The eligibility of students to take the licensing examination shall not be affected in the event a program is placed on conditional accreditation.

### **13:37-1.19 PROBATION**

- a) For purposes of this section, the term "calendar year" means a year beginning on January 1 and ending on December 31.
- b) A nursing program on conditional accreditation status that does not achieve the outcomes identified in the action plan required at N.J.A.C. 13:37-1.18(e) in 18 months shall be placed on probation.
- c) If, for three successive calendar years, less than 75 percent of a nursing program's graduates pass the licensing examination the first time the examination is taken, the Board shall place the program on probation. Probation shall become effective upon the program's receipt of the written notification.
- d) A nursing program that is placed on probation may request in writing an appearance before the Board.
- e) The nursing program shall, within 30 days of receiving written notification that it has been placed on probation, notify the students enrolled in the program in writing that the program is on probation.
- f) A program on probation shall not admit new or transfer students.

- g) A nursing program that is placed on probation pursuant to (b) above, shall revise the action plan with outcomes to be achieved in one calendar year and submit the action plan to the Board.
- h) A nursing program that is placed on probation pursuant to (c) above shall submit to the Board, within 90 days of receiving written notification of being placed on probation, an 18-month action plan with a timeline and measurable outcomes to correct any deficiencies. The outcomes identified in the action plan shall include that within the next calendar year at least 75 percent of graduates who take the examination for the first time will pass the examination the first time they take it.
- i) A program on probation that determines that it cannot accomplish its outcomes within one calendar year may request an extension of the one-year time period from the Board. A request for an extension shall set forth the reasons why the program needs an extension.
- j) A program that does not achieve the outcomes identified in the action plan within one calendar year, and which has not been granted an extension pursuant to (i) above, shall not be eligible for restoration to accredited status. A program that has been granted an extension and does not achieve the outcomes identified in the action plan by the end of the extension shall not be eligible for restoration to accredited status. A program that is not eligible for restoration of accredited status shall no longer be accredited. A program that is no longer accredited may reapply for accreditation pursuant to N.J.A.C. 13:37-1.2.
- k) The eligibility of graduates to take the licensing examination shall not be affected in the event a program is placed on probation.

### **13:37-1.20 PROGRAM TERMINATION**

- a) Programs that voluntarily terminate shall provide for their enrolled students by either:
  - 1) Phasing out the students. The students enrolled may continue with their studies until they complete the program; no new students may be admitted or accepted by transfer; qualified faculty remain with the program and compliance with this subchapter continues; or
  - 2) Transference of students to other schools.
- b) The eligibility of graduates to take the licensing examination shall not be affected in the event a program terminates.

- c) The individual responsible for an educational institution or hospital, which plans to terminate a program in nursing or to suspend any essential part of its program, shall so advise the Board in writing. The written notification shall include the reasons for terminating the program and the specific plans for students enrolled.
- d) Programs that voluntarily terminate or which terminate due to loss of accreditation shall provide for safekeeping of records. The program shall notify the Board of the name, address and telephone number of the site where records are to be stored at least ten days prior to the date of termination. The date of termination shall be the date on which the last student is properly transferred or completes the program.
- e) Programs that voluntarily terminate or that terminate due to loss of accreditation shall provide the Board with lists of:
  - 1) All students enrolled in the program at the time of termination, with anticipated graduation dates;
  - 2) All students who graduated from the program from its inception; and
  - 3) All graduates of the program for whom the program submitted letters of completion, with dates of graduation.

### **13:37-1.21 EXIT EXAMINATIONS**

- a) A nursing program may require students to take a comprehensive examination at the end of a program to assess students' knowledge of nursing.
- b) A student's performance on an examination, if required pursuant to (a) above, shall not affect the student's ability to graduate from the program or to take licensing examinations.

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## **SUBCHAPTER 2. LICENSURE BY EXAMINATION; REGISTERED PROFESSIONAL AND LICENSED PRACTICAL NURSES**

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### **13:37-2.1 ELIGIBILITY REQUIREMENTS**

- a) Every applicant for licensure as a registered professional nurse or a licensed practical nurse shall meet the requirements for licensure, as set forth in N.J.S.A. 45:1-14 et seq., N.J.S.A. 45:11-26 and 27. Every applicant shall pass either the National Council Licensure

Examination for Registered Nurses (NCLEX-RN) or the National Council Licensure Examination for Practical Nurses (NCLEX-PN).

- b) An applicant who fails to pass three consecutive licensing examinations shall submit to the Board, prior to the fourth licensing examination, proof of successful completion of a remediation course, consisting of 30 hours and conducted by a qualified instructor within the meaning of N.J.A.C. 13:37-1.7. The remediation course shall be completed within one year prior to taking the fourth examination. An applicant who fails the fourth examination may retake the examination two more times before being required to take the remediation course again.
- c) Applicants shall indicate whether they seek a multistate license, which authorizes a licensee to practice in any state that is part of the Nurse Licensure Compact, or a license without multistate privileges.

### **13:37-2.2 APPLICATION REQUIREMENTS; PROFESSIONAL AND PRACTICAL NURSES**

- a) Each applicant for licensure shall file with the Board:
  - 1) A completed application form, provided by the Board, which requests information concerning the applicant's educational and experiential background and which indicates whether the applicant seeks a multistate license or a license without multistate privileges;
  - 2) The nonrefundable application fee set forth in N.J.A.C. 13:37-5.5(a) 1; and
  - 3) A written certification from the registrar, or program administrator authorized by the registrar, attesting that the applicant has successfully completed all requirements for graduation from a registered professional nursing program accredited by the Board or a board of nursing in another state or a licensed practical nursing program accredited by the Board or by a board of nursing in another state. The certification shall indicate the date of graduation or the date the degree or diploma was conferred.

### **13:37-2.3 APPLICATION REQUIREMENTS; GRADUATES OF FOREIGN NURSING PROGRAMS**

- a) An applicant for licensure who graduated from a foreign nursing program shall submit:
  - 1) A completed licensure application for graduates of foreign nursing program, which contains information concerning the applicant's educational and experiential background and which indicates whether the applicant seeks a multistate license or a license without multistate privileges;

- 2) A transcript review performed by the Commission on Graduates of Foreign Nursing Schools (CGFNS);
  - 3) Proof that the applicant has achieved a passing score on the Test of English as a Foreign Language (TOEFL) examination, the International English Language Testing System (IELTS) examination or the Test of English in International Communications (TOEIC) examination, within the past two years; and
  - 4) The application fee set forth in N.J.A.C. 13:37-5.5(a)2.
- b) A graduate of a foreign licensed practical nursing program who has not taken courses in medical, surgical, pediatric, obstetric or psychiatric nursing shall complete a course in the area(s) of deficiency offered by a practical nursing education program approved by the Board pursuant to N.J.A.C. 13:37-1.
  - c) A graduate of a foreign registered professional nursing program who has not taken courses in medical, surgical, pediatric, obstetric, or psychiatric nursing shall complete a course in the area(s) of deficiency offered by a registered professional nursing program accredited by the Board pursuant to N.J.A.C. 13:37-1.
  - d) Any applicant who obtained his or her credentials, such as transcripts, licenses or certificates, through fraud, deception, misrepresentation, false promise or false pretense shall not be eligible to take the examination or for licensure.

### **13:37-2.4 MULTISTATE LICENSES**

- a) A registered professional nurse or licensed practical nurse in good standing who seeks a multistate license, which authorizes a nurse to practice in any state which is part of the Nurse Licensure Compact, shall submit to the Board:
  - 1) A multistate license application, which indicates that the nurse is not currently participating in the Board's Alternative to Discipline Program and that New Jersey is the nurse's primary state of residence;
  - 2) A completed Criminal History Certification of Authorization form; and
  - 3) A non-refundable application fee as set forth at N.J.A.C. 13:37-5.5(a)1.

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**SUBCHAPTER 3.  
(RESERVED)**

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**SUBCHAPTER 4.  
LICENSURE BY ENDORSEMENT; PROFESSIONAL AND PRACTICAL  
NURSES**

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**13:37-4.1 ELIGIBILITY REQUIREMENTS FOR LICENSURE BY ENDORSEMENT**

A registered professional nurse or licensed practical nurse licensed in another state, territory or possession of the United States, or the District of Columbia, who wishes to be licensed in New Jersey may be licensed by endorsement in this State if he or she meets the requirements for licensure as set forth in N.J.S.A. 45:1-14 et seq., 45:11-26 and 45:11-27.

**13:37-4.2 APPLICATION REQUIREMENTS FOR LICENSURE BY ENDORSEMENT**

- a) An applicant for licensure by endorsement shall submit or arrange to submit the following to the Board:
- 1) A completed application form, provided by the Board, which requests information concerning the applicant's educational and experiential background;
  - 2) A non-refundable initial license fee and application for licensure by endorsement fee as set forth in N.J.A.C. 13:37-5.5(a)3 and 4; and
  - 3) Written or electronic verification of status of licensure from every state, territory or possession of the United States, or the District of Columbia, in which the applicant was ever licensed. The verification shall either be forwarded directly to the Board from the applicable state board, if written, or if electronic, be issued by the applicable state board.

**13:37-4.3 TEMPORARY COURTESY LICENSE**

- a) A registered professional nurse or licensed practical nurse may obtain a temporary courtesy license pursuant to P.L. 2012, c. 76 if he or she:
- 1) Is currently licensed in good standing in another state or territory of the United States, or the District of Columbia that has licensure requirements equivalent to those in New Jersey;

- 2) Is not a resident of New Jersey;
  - 3) Has not committed an act in another jurisdiction that would have constituted grounds for the denial, suspension, or revocation of a nursing license in New Jersey or has not been disciplined, or is not the subject of an investigation, by a professional or occupational licensing or credentialing entity in another jurisdiction;
  - 4) Is the spouse of an active duty member of the Armed Forces of the United States who has been transferred to New Jersey in the course of his or her service; and
  - 5) Is legally domiciled in New Jersey or has moved to New Jersey on a permanent change-of-station basis.
- b) An applicant for a temporary courtesy license shall submit, or arrange to submit, to the Board:
- 1) A completed application form, provided by the Board, which requests information concerning the applicant's educational and experiential background;
  - 2) A non-refundable initial license fee and application for temporary courtesy license fee as set forth in N.J.A.C. 13:37-5.5(a)1 and 13;
  - 3) Written or electronic verification of status of licensure from every state or territory of the United States, or the District of Columbia, in which the applicant was ever licensed. The verification shall either be forwarded directly to the Board from the applicable state board, if written, or if electronic, be issued by the applicable state board;
  - 4) Proof that the applicant was engaged in the practice of nursing in another jurisdiction, including any time spent discharging official duties in the Armed Forces or for an agency of the federal government, for at least two of the last five years immediately preceding the date of application; and
  - 5) A completed Criminal History Certification of Authorization form.
- c) A temporary courtesy license shall be valid for one year.
- d) An individual who holds a temporary courtesy license may apply to the Board for an extension of the license for an additional year by submitting a renewal application to the Board.

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**SUBCHAPTER 5.  
GENERAL REQUIREMENTS OF LICENSURE; LICENSE RENEWAL; FEE  
SCHEDULE**

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**13:37-5.1 LICENSE REQUIREMENT**

Before engaging in nursing practice, as defined in N.J.S.A. 45:11-23(b), or representing oneself as a nurse, an individual shall obtain and maintain a current license that is active. No licensee shall engage in nursing practice if his or her license is expired, suspended, revoked or surrendered.

**13:37-5.2 BIENNIAL LICENSE RENEWAL**

- a) Licenses shall be renewed biennially on a form provided by the Board.
- b) The Board shall send a notice of renewal to each licensee at the address registered with the Board, at least 60 days prior to the expiration of the license. If the notice to renew is not sent at least 60 days prior to the expiration date, no monetary penalties or fines shall apply to the holder for failure to renew.
- c) The licensee shall submit the renewal application and pay the renewal fee and the alternative to discipline surcharge pursuant to N.J.A.C. 13:37-5.5(a)6 and 12 prior to the date of expiration of the license. If the licensee does not renew the license prior to its expiration date, the license shall expire, but the licensee may renew it no later than 30 days after its expiration date by submitting a renewal application and paying a renewal fee, a late fee, and alternative to discipline surcharge pursuant to N.J.A.C. 13:37-5.5(a)6, 7, and 12. A licensee who fails to renew the license within 30 days after the expiration date of the license shall be administratively suspended without a hearing.
- d) Individuals who continue to hold themselves out as licensed after being administratively suspended shall be deemed to have violated N.J.A.C. 13:37-5.1, even if no notice of suspension has been received by the person at the address registered with the Board.
- e) A person seeking reinstatement within five years following an administrative suspension of a license pursuant to (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. 13:37-5.5(a)6 and the alternative to discipline surcharge fees as set forth in N.J.A.C. 13:37-5.5(a)12;

- 3) Payment of a reinstatement fee as set forth in N.J.A.C. 13:37-5.5(a)8;
  - 4) A certification verifying completion of the continuing education hours required pursuant to N.J.A.C. 13:37-5.3 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 administrative suspension of a license shall:
- 1) Reapply for licensure by fulfilling all of the initial licensure requirements found at N.J.A.C. 13:37-2.1; and
  - 2) Successfully complete a refresher course consisting of 30 hours of didactic and clinical education conducted by a qualified instructor within the meaning of N.J.A.C. 13:37-1.7.
- g) Renewal applications for all licenses shall provide the licensee with the option of either active or inactive status. Licensees may choose paid or unpaid inactive status. The Board shall send any communications it sends to active licensees to licensees on paid inactive status. Licensees electing to renew as inactive shall not hold themselves out to the public or practice as licensees.
- h) Upon application to the Board, the Board may permit a licensee who has been on inactive status to return to active status.
- i) A licensee who elected inactive status and has been on inactive status for five years or less may be reinstated by the Board upon submission of the following:
- 1) A completed reactivation application;
  - 2) Evidence of completion of the continuing education hours required pursuant to N.J.A.C. 13:37-5.3 for the renewal of a license, within the immediately preceding two years;
  - 3) 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;
  - 4) The alternative to discipline surcharge fee as set forth in N.J.A.C. 13:37-5.5(a)12; and

- 5) One of the following renewal fees:
  - i) For licensees who did not pay the inactive renewal fee, the active renewal fee set forth in N.J.A.C. 13:37-5.5(a)6i; or
  - ii) For licensees who paid the inactive renewal fee, the difference between the amount paid for inactive renewal set forth in N.J.A.C. 13:37-5.5(a)6ii and the active renewal fee set forth in N.J.A.C. 13:37-5.5(a)6i.
- j) A licensee who has been on inactive status for more than five years who wishes to return to the practice of nursing shall:
  - 1) Reapply for licensure by fulfilling all of the initial licensure requirements found at N.J.A.C. 13:37-2.1; and
  - 2) Successfully complete a refresher course consisting of 30 hours of didactic and clinical education conducted by a qualified instructor within the meaning of N.J.A.C. 13:37-1.7.

### **13:37-5.3 CONTINUING EDUCATION**

- a) Upon biennial active license renewal, a registered professional nurse or licensed practical nurse shall attest that he or she has completed courses of continuing education of the types and number of hours specified in (b), (c) and (d) below. Falsification of any information submitted on the renewal application 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) Each applicant for biennial active license renewal shall complete, during the preceding biennial period, a minimum of 30 hours of continuing education that shall, commencing with the biennial renewal period beginning on June 1, 2020, include at least one hour in topics concerning prescription opioid drugs, including alternatives to opioids for managing and treating pain and the risks and signs of opioid abuse, addiction, and diversion.
- c) A registered professional nurse or licensed practical nurse who completes more than the minimum continuing education hours set forth in (b) above in any biennial registration period may carry up to 15 of the additional hours into the succeeding biennial period.
- d) A registered professional nurse or licensed practical nurse may obtain continuing education hours from the following:
  - 1) Successful completion of continuing education courses or programs related to nursing and approved by a credentialing agency accredited by the National Commission for Certifying

Agencies or provided by an International Association for Continuing Education Training (IACET) Authorized Provider: one hour for each 60 minutes of attendance;

- 2) Successful completion of continuing education course or programs related to nursing approved by, or offered by entities accredited by, the American Nurse Credentialing Center: one hour for each 60 minutes of attendance;
- 3) Successful completion of a continuing education course or program related to nursing, which is taken in order to comply with the requirements of a State or Federal agency; one hour for each 60 minutes of attendance;
- 4) Successful completion of continuing medical education courses recognized by the American Medical Association, the American Osteopathic Association or the American Podiatric Medical Association: one hour for each 60 minutes of attendance;
- 5) Successful completion of a continuing education course offered by a provider approved by the American Council of Pharmaceutical Education: one hour for each 60 minutes of attendance;
- 6) Successful completion of a course, related to nursing, given by a school, college or university accredited by the New Jersey Department of Education or an agency of another state with requirements substantially similar to the requirements of the New Jersey Department of Education. Courses related to nursing include courses taken as a student enrolled in an accredited nursing degree program when the student is obtaining a higher degree: five hours for each credit successfully completed;
- 7) Successful completion of a course in a doctoral degree program which has a research component: five hours for each credit successfully completed;
- 8) Teaching or developing the curriculum for a new continuing education program related to nursing that is approved pursuant to (d)1 above. "New" means that the registered professional nurse or licensed practical nurse has never taught or developed curriculum for that course or program in any educational setting: one hour for each 50 minutes taught;
- 9) Teaching or developing the curriculum for a new course related to nursing in a school, college or university accredited by the New Jersey Department of Education or an agency of another state with requirements substantially similar to the requirements of the New Jersey Department of Education. "New" means that the registered professional nurse or licensed practical nurse has never taught or developed curriculum for that course in any educational setting: five hours for each credit taught;

- 10) Authorship of a published textbook or a chapter of a published textbook related to nursing: 15 hours for each chapter up to 30 hours;
  - 11) Completion of a doctoral dissertation: 30 hours;
  - 12) Authorship of a published article related to nursing, which has been refereed through peer review, in a medical, nursing or health related journal: 15 hours per article up to 30;
  - 13) Presenting a new seminar or lecture to professional peers related to nursing, provided the seminar or lecture is at least one hour long. "New" means that the registered professional nurse or licensed practical nurse has never taught or developed curriculum for that seminar or lecture in any educational setting: one hour for each 50 minutes of presentation;
  - 14) Completion of a research project where the registered professional nurse or licensed practical nurse is a primary or co-investigator and the research project has been approved by an institutional review board: 30 hours;
  - 15) Development of new instructional materials related to nursing such as a compact disc, ROM or videotape: 15 hours up to 30; and
  - 16) Acting as a preceptor for at least 100 hours as part of an organized preceptorship program: 10 hours for the period during which the registered professional nurse or licensed practical nurse acts as a preceptor.
- e) Continuing education hours that could be allocated to more than one of the options in (d) above shall only be counted once and shall not be allocated for more than one option. For instance, a course which could be awarded hours pursuant to (d)4 and 5 above shall only count as a course for either (d)4 or 5, but not both.
- f) The Board may perform audits on randomly selected registered professional nurses and licensed practical nurses to determine compliance with continuing education requirements. A registered professional nurse or licensed practical nurse shall maintain the following documentation for a period of four years after completion of the hours and shall submit such documentation to the Board upon request:
- 1) For attendance at programs or courses: a certificate of completion from the provider;
  - 2) For publication of textbook or article: the published item, including the date of publication;

- 3) For teaching a course or program or developing curriculum: documentation, including a copy of the curriculum, location, date and time of course, duration of course by hour, and letter from provider confirming that the registered professional nurse or licensed practical nurse developed or taught the course or program;
  - 4) For presenting a lecture or seminar: documentation including the location, date and duration of the lecture or seminar;
  - 5) For a research project: a copy of the written materials regarding the project which lists the primary or co-investigators;
  - 6) For instructional material: a copy of the instructional materials; and
  - 7) For a preceptorship: documentation maintained pursuant to the organized preceptorship program and a document designating the registered professional nurse or licensed practical nurse as a preceptor.
- g) 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 registered professional nurse or licensed practical nurse 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 registered professional nurse or licensed practical nurse 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 only be effective 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 registered professional nurse or licensed practical nurse shall apply to the Board for the renewal of such waiver for the new biennial period.
- h) The Board may direct or order a registered professional nurse or licensed practical nurse to successfully complete continuing education hours:
- 1) As part of a disciplinary or remedial measure in addition to the required 30 hours of continuing education; or
  - 2) To correct a deficiency in the registered professional nurse or licensed practical nurse's continuing education requirements.

- i) Any continuing education hours completed by the registered professional nurse or licensed practical nurse in compliance with an order or directive from the Board as set forth in (h) above shall not be used to satisfy the minimum continuing education requirements as set forth in this section.

**13:37-5.4 POWER OF ATTORNEY; FINANCIAL MISCONDUCT**

- a) A licensee or certificant shall not have power of attorney over a patient or former patient.
- b) A licensee or certificant shall not accept a monetary loan from a patient or former patient.
- c) Any time a licensee or certificant is given money in an amount greater than \$ 50.00, or a gift valued at greater than \$ 50.00, directly by a patient, a patient's family, or a patient's guardian, the licensee or certificant must document:
  - 1) The amount of money or value of the gift;
  - 2) The date the gift was provided; and
  - 3) The name and signature of the patient, patient's family member, or patient's guardian who provided the gift.
- d) The documentation required at (c) above shall be maintained by the licensee or certificant and be provided to the Board upon request.
- e) Failure to comply with (a), (b), (c), or (d) above shall be deemed professional misconduct pursuant to N.J.S.A. 45:1-21(e).

**13:37-5.5 FEE SCHEDULE**

- a) The following fees shall be charged by the Board in connection with licensure of professional and practical nurses:
  - 1) Application fee ..... \$75.00
  - 2) Application fee for graduates of foreign nursing programs ..... \$100.00
  - 3) Initial license fee ..... 120.00

- 4) Application for licensure by endorsement ..... 75.00 plus  
initial fee set forth in (a)3 above
- 5) Verification for endorsement ..... 30.00
- 6) Renewal of license (biennial)
  - i) Active ..... 120.00
  - ii) Inactive ..... 60.00
- 7) Late license renewal (one to 30 days)..... 50.00 plus  
the applicable biennial license renewal fee set forth in (a)6 above
- 8) Reinstatement fee ..... 100.00
- 9) Duplicate license ..... 35.00
- 10) Written verification of licensure ..... 25.00
- 11) Copy of Nurse Practice Act ..... 5.00
- 12) Alternative to Discipline surcharge ..... 5.00
- 13) Temporary courtesy license ..... 60.00
  
- b) The following fees shall be charged by the Board in connection with certification of  
homemaker-home health aides:
  - 1) Application fee ..... \$50.00
  - 2) Program approval fee for each location at which course is offered (annual)  
..... 250.00
  - 3) Instructor's Manual ..... 25.00
  - 4) Student Manual ..... 15.00
  - 5) Initial certification fee

- i) If paid during the first year of a biennial renewal period..... 30.00
    - ii) If paid during the second year of a biennial renewal period..... 15.00
  - 6) Renewal of certificate (biennial) ..... 30.00
  - 7) Late renewal of certificate (one to 30 days)..... 10.00 plus the certification renewal fee set forth in (b)6 above
  - 8) Reinstatement fee (after 30 days) ..... 20.00 plus the certification renewal fee set forth in (b)6 above
  - 9) Duplicate certificate ..... 10.00
  - 10) Application for certification by endorsement..... 30.00 plus the applicable initial certification fee set forth in (b)5 above
- c) The following fees shall be charged by the Board in connection with certification of advanced practice nurses:
  - 1) Application fee..... \$100.00
  - 2) Initial certification fee
    - i) If paid during the first year of a biennial renewal period..... 160.00
    - ii) If paid during the second year of a biennial renewal period..... 80.00
  - 3) Renewal of certification (biennial)
    - i) Active ..... 160.00
    - ii) Inactive ..... 80.00
  - 4) Application for certification by endorsement..... 100.00 plus the applicable initial certification fee set forth in (c)2 above
  - 5) Lapsed certification fee (after 30 days)..... 100.00 plus the certification renewal fee set forth in (c)3 above

- 6) Duplicate certificate ..... 35.00
- 7) Written verification of certification ..... 25.00
- d) The following fees shall be charged by the Board in connection with accreditation of nursing programs:
  - 1) Initial accreditation application..... \$1,000
  - 2) Renewal of accreditation without waiver ..... 1,000
  - 3) Renewal of accreditation with waiver ..... 400.00
- e) The following fees shall be charged by the Board in connection with certification of forensic nurses-certified sexual assault:
  - 1) Application fee..... \$100.00
  - 2) Initial certification fee
    - i) If paid during the first year of a biennial renewal period..... 100.00
    - ii) If paid during the second year of a biennial renewal period..... 50.00
  - 3) Renewal of certification (biennial)
    - i) Active ..... 100.00
    - ii) Inactive ..... 50.00
  - 4) Application for certification by endorsement..... 100.00  
Plus the applicable initial certification fee set forth in (e)2 above
  - 5) Late certificate renewal ..... 50.00
  - 6) Reinstatement of certification..... 100.00
  - 7) Duplicate certificate ..... 35.00
  - 8) Written verification of certification ..... 25.00

**13:37-5.6 (RESERVED)****13:37-5.7 NOTIFICATION OF CHANGE OF ADDRESS**

A licensee or certificant shall notify the Board in writing of any change of address from that registered with the Board and shown on the most recently issued license or certificate. This address shall not be a post office box unless there is another address on file with the Board that includes a street, city, state and zip code. Such notice shall be given no later than 30 days following the change of address. Service to the street address registered with the Board shall constitute effective notice pursuant to N.J.A.C. 13:45-3.2.

**13:37-5.8 REPORTING OF UNLAWFUL CONDUCT**

A licensee or certificant shall report to the Board any incident or series of incidents that the licensee or certificant, in good faith, believes is in violation of the Nurse Practice Act, N.J.S.A. 45:11-23 et seq., this chapter, or N.J.A.C. 13:45C.

**13:37-5.9 SELF-REPORTING**

- a) A licensee or certificant shall immediately notify the Board if he or she:
- 1) Is incapable, for medical or any other good cause, of discharging the functions of a licensee in a manner consistent with the public's health, safety and welfare;
  - 2) Is indicted or convicted of a crime involving moral turpitude or a crime adversely relating to his or her practice;
  - 3) Is named as a defendant or respondent in a civil, criminal or administrative investigation, complaint or judgment involving alleged malpractice, negligence or misconduct relating to his or her practice;
  - 4) Is the subject of any voluntary license or certification surrender or any disciplinary action or order by any state or Federal agency, board or commission, including any order of limitation or preclusion; or
  - 5) Fails to maintain or renew any certification which is required by law as a condition of practice or as a condition of license or certification renewal.

- b) Any nurse or homemaker-home health aid licensed or certified under the Nurse Practice Act, N.J.S.A. 45:11-23 et seq., who violates any provision of the Act or N.J.S.A. 45:1-14 et seq. may be subject to disciplinary action by the Board, provided that the Board notifies the licensee or certificant and provides an opportunity for a hearing in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

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## **SUBCHAPTER 6. NURSING PROCEDURES**

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### **13:37-6.1 NURSING PROCEDURES**

Nursing procedures shall be determined by the Nursing Practice Act of this State, subject to the interpretation and revision by the Board of Nursing.

### **13:37-6.2 DELEGATION OF SELECTED NURSING TASKS**

- a) The registered professional nurse is responsible for the nature and quality of all nursing care including the assessment of the nursing needs, the plan of nursing care, the implementation, and the monitoring and evaluation of the plan. The registered professional nurse may delegate selected nursing tasks in the implementation of the nursing regimen to licensed practical nurses and ancillary nursing personnel. Ancillary nursing personnel shall include but not be limited to: aides, assistants, attendants and technicians.
- b) In delegating selected nursing tasks to licensed practical nurses or ancillary nursing personnel, the registered professional nurse shall be responsible for exercising that degree of judgment and knowledge reasonably expected to assure that a proper delegation has been made. A registered professional nurse may not delegate the performance of a nursing task to persons who have not been adequately prepared by verifiable training and education. No task may be delegated which is within the scope of nursing practice and requires:
- 1) The substantial knowledge and skill derived from completion of a nursing education program and the specialized skill, judgment and knowledge of a registered nurse;
  - 2) An understanding of nursing principles necessary to recognize and manage complications which may result in harm to the health and safety of the patient.
- c) The registered professional nurse shall be responsible for the proper supervision of licensed practical nurses and ancillary nursing personnel to whom such delegation is made. The degree of supervision exercised over licensed practical nurses and ancillary nursing personnel shall be determined by the registered professional nurse based on an evaluation of all factors including:

- 1) The condition of the patient;
  - 2) The education, skill and training of the licensed practical nurse and ancillary nursing personnel to whom delegation is being made;
  - 3) The nature of the tasks and the activities being delegated;
  - 4) Supervision may require the direct continuing presence or the intermittent observation, direction and occasional physical presence of a registered professional nurse. In all cases, the registered professional nurse shall be available for on-site supervision.
- d) A registered professional nurse shall not delegate the performance of a selected nursing task to any licensed practical nurse who does not hold a current valid license to practice nursing in the State of New Jersey. A registered professional nurse shall not delegate the performance of a selected nursing task to ancillary nursing personnel who have not received verifiable education and have not demonstrated the adequacy of their knowledge, skill and competency to perform the task being delegated.
- e) Nothing contained in this rule is intended to limit the current scope of nursing practice.
- f) Nothing contained in this rule shall limit the authority of a duly licensed physician acting in accordance with N.J.S.A. 45:9-1 et seq.

### **13:37-6.3 AUTHORIZED DELEGATION**

- a) (Reserved)
- b) A registered professional nurse should not delegate if the nurse, in his or her professional judgment, determines that such delegation is not consistent with standards of practice.

### **13:37-6.4 REGISTERED NURSE OBLIGATIONS RELATING TO DELEGATIONS TO A LICENSED PRACTICAL NURSE, CHHA, OR ASSISTIVE PERSON**

- a) (Reserved)
- b) (Reserved)

- c) When delegating the administration of a specific medication to a licensed practical nurse, a CHHA, or an assistive person, the registered professional nurse shall ensure that the facility patient record or record maintained by the registered professional nurse includes:
- 1) The specific medication whose administration has been delegated;
  - 2) Any specific instructions the registered nurse provided as part of that delegation;
  - 3) The duration of the delegation;
  - 4) A timeframe for the professional registered nurse to reevaluate the patient;
  - 5) The dosage of the medication, route of administration for the medication and frequency of the medication;
  - 6) Any side effects that the licensed practical nurse, the CHHA, or the assistive person should watch for;
  - 7) Any contraindications to administering the medication;
  - 8) Any conditions that would require the licensed practical nurse, CHHA, or assistive person to contact the registered professional nurse;
  - 9) Any instructions on positioning of the patient prior to and after the administration of the medication; and
  - 10) The instructions for proper preparation and maintenance of the medication.
- d) When delegating the administration of medication to a licensed practical nurse, a CHHA, or an assistive person, the registered professional nurse shall advise the person whom the task is delegated to:
- 1) Document every time that the medication is administered; and
  - 2) Report immediately to the delegating registered professional nurse, if:
    - i) The medication was administered at the wrong time;
    - ii) The wrong dose of medication was administered;

- iii) The wrong medication was administered;
- iv) The medication was administered through the wrong route;
- v) The medication was not administered;
- vi) The patient refused to take the medication; or
- vii) The patient evidences any adverse reaction or side-effects to the medication.

### **13:37-6.5 NON-DELEGABLE NURSING TASKS**

- a) If a registered professional nurse determines that delegation of a task is inappropriate, the nurse shall not delegate the task.
- b) A registered professional nurse shall not delegate the physical, psychological, and social assessment of the patient, which requires professional nursing judgment, intervention, referral, or modification of care.
- c) A registered professional nurse shall not delegate the formulation of the plan of nursing care and evaluation of the effectiveness of the plan.

### **13:37-6.6 ASSIGNMENT**

The requirements of this subchapter apply solely to delegation. These requirements are not applicable when a registered professional nurse makes an assignment to another registered professional nurse, when a registered professional nurse makes an assignment to a licensed practical nurse, when a licensed practical nurse makes an assignment to a registered professional nurse or when a licensed practical nurse makes an assignment to another licensed practical nurse.

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**SUBCHAPTER 7.  
CERTIFICATION OF ADVANCED PRACTICE NURSES**

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**13:37-7.1 APPLICATION FOR CERTIFICATION**

- a) Advanced practice nurses shall include those individuals who have been educated as nurse practitioners, clinical nurse specialists and certified registered nurse anesthetists.
- b) An applicant for certification as an advanced practice nurse shall complete a course of study and successfully complete an examination in an advanced practice nursing specialty credentialed by a national certifying agency, that is accredited by the American Board of Nursing Specialties and/or the National Commission for Certifying Agencies.
- c) A registered professional nurse who wishes to practice as an advanced practice nurse shall:
  - 1) Possess a current New Jersey registered professional nurse license in good standing or hold a registered professional nurse multistate license from a state which is part of the Nurse Licensure Compact; and
  - 2) Be certified by the Board as an advanced practice nurse.
- d) Each applicant for certification as an advanced practice nurse shall submit the following to the Board:
  - 1) A completed application form;
  - 2) Proof that the applicant has successfully completed the educational requirements of an advanced practice nurse as set forth in N.J.A.C. 13:37-7.2 or, when the advanced practice nurse specializes in anesthesia and does not hold a masters degree, the certification requirements of N.J.A.C. 13:37-7.5. The applicant shall submit to the Board a transcript showing successful completion of an advanced practice nurse program that meets the requirements of N.J.A.C. 13:37-7.2(a);
  - 3) Proof that the applicant has successfully completed the examination requirements set forth in N.J.A.C. 13:37-7.4 within the last year prior to the date of application or, for applicants specializing in anesthesia who do not hold a masters degree, the certification requirements of N.J.A.C. 13:37-7.5. Applicants specializing in anesthesia who have successfully completed the examination requirements of N.J.A.C. 13:37-7.4 need not show that they have completed that examination within the last year if they apply between June 16, 2008 and June 16, 2009;

- 4) Proof that the applicant is currently certified by a national certifying agency that is accredited by the American Board of Nursing Specialties and/or the National Commission for Certifying Agencies; and
- 5) The application fee set forth in N.J.A.C. 13:37-5.5(c).

### **13:37-7.2 EDUCATIONAL REQUIREMENTS FOR CERTIFICATION**

- a) An applicant for certification as an advanced practice nurse shall possess;
  - 1) A masters degree in nursing from a school accredited by a nursing accrediting association recognized by the U.S. Department of Education; or
  - 2) A masters degree in nursing and shall have completed a post-masters program that focuses on an advanced practice nursing specialty from a school accredited by a nursing accrediting association recognized by the U.S. Department of Education.
- b) Each applicant shall have successfully completed at least 39 hours in pharmacology during the education program referred to in (a) above.
- c) In addition to the requirements of (a) and (c) above, an applicant shall have completed six contact hours in pharmacology related to controlled dangerous substances, including the topics set forth at (d) below, presented by:
  - 1) An organization that has been approved by a credentialing agency accredited by the American Board of Nursing Specialties, and/or the National Commission for Certifying Agencies; or
  - 2) A college or university licensed by either the New Jersey Commission on Higher Education or an agency of another state with requirements substantially similar to the requirements of the New Jersey Commission on Higher Education.
- d) The six contact hours required by (c) above shall include:
  - 1) Pharmacologic therapy;
  - 2) Addiction prevention and management; and
  - 3) Issues concerning 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.

**13:37-7.3 (RESERVED)****13:37-7.4 EXAMINATION REQUIREMENTS FOR CERTIFICATION**

An applicant for certification shall pass an advanced practice examination in his or her area of specialization offered by a national certifying agency that is accredited by the American Board of Nursing Specialties and/or the National Commission for Certifying Agencies.

**13:37-7.5 (RESERVED)****13:37-7.6 CERTIFICATION BY ENDORSEMENT**

- a) An advanced practice nurse certified in another state shall be eligible for certification in this State without meeting the examination requirements of N.J.A.C. 13:37-7.4 if the educational requirements of the state in which he or she is certified are substantially similar to the educational requirements of this State.
- b) An applicant for advanced practice nurse certification who is certified in another state shall submit to the Board:
  - 1) A completed application form, which contains biographical, educational and experiential data concerning the applicant;
  - 2) Verification of certification as an advanced practice nurse in good standing in another state;
  - 3) Proof that the applicant has successfully completed the educational requirements of an advanced practice nurse as set forth in N.J.A.C. 13:37-7.2. The applicant shall submit to the Board a transcript showing successful completion of an advanced practice nurse program from the school(s) where the applicant completed the educational requirements. An applicant applying for certification through endorsement shall not be required to meet the requirements of N.J.A.C. 13:37-7.2(b);
  - 4) Proof that the applicant is currently certified by a national certifying agency that is accredited by the American Board of Nursing Specialties and/or the National Commission for Certifying Agencies; and
  - 5) The application fee set forth in N.J.A.C. 13:37-5.5(e).

**13:37-7.7 BIENNIAL CERTIFICATE RENEWAL; CERTIFICATE SUSPENSION;  
REINSTATEMENT OF SUSPENDED CERTIFICATE; INACTIVE STATUS; RETURN  
FROM INACTIVE STATUS**

- a) All certificates for advanced practice nurses shall be issued for a two-year certification period, that coincides with the advanced practice nurse's registered professional nurse licensure renewal period. An advanced practice nurse who seeks renewal of the certificate shall submit a renewal application, proof that the applicant is currently certified by a national certifying agency that is accredited by the American Board of Nursing Specialties, and/or the National Commission for Certifying Agencies, and the renewal fee set forth in N.J.A.C. 13:37-5.5 prior to the expiration date of the certificate. An advanced practice nurse who is certified prior to June 16, 2008, shall not have to show that he or she is certified by a national certifying agency.
- b) The Board shall send a notice of renewal to each advanced practice nurse, at least 60 days prior to the expiration of his or her certificate. If the notice to renew is not sent at least 60 days prior to the expiration date, no monetary penalties or fines shall apply to the holder for failure to renew.
- c) If an advanced practice nurse does not renew the certificate prior to its expiration date, the advanced practice nurse may renew the certificate within 30 days of its expiration by submitting a renewal application, proof that the applicant is currently certified by a national certifying agency that is accredited by the American Board of Nursing Specialties and/or the National Commission for Certifying Agencies, a renewal fee, and a late fee, as set forth in N.J.A.C. 13:37-5.5.
- d) A certificate that is not renewed within 30 days of its expiration shall be automatically suspended. An individual who continues to practice with a suspended certificate shall be deemed to be engaged in unlicensed practice.
- e) An advanced practice nurse whose certificate has been automatically suspended for five years or less for nonpayment of a biennial renewal fee pursuant to (c) above may be reinstated by the Board upon completion of the following:
  - 1) Payment of the reinstatement fee and all past delinquent biennial renewal fees pursuant to N.J.A.C. 13:37-5.5;
  - 2) Completion of the continuing education units required under N.J.A.C. 13:37-7.8 for each biennial registration period for which the advanced practice nurse was suspended; and

- 3) Submission of an affidavit of employment listing each job held during the period the certificate was suspended, including the name, address, and telephone number of each employer.
- f) An advanced practice nurse whose certificate has been automatically suspended for failure to renew for more than five years who wishes to have his or her certificate reinstated shall reapply for certification pursuant to N.J.A.C. 13:37-7.1. The applicant shall fulfill all of the initial licensure requirements, including retaking the examination required by N.J.A.C. 13:37-7.1(d)3. An applicant reapplying for certification shall not be required to meet the requirements of N.J.A.C. 13:37-7.2(b).
  - g) Renewal applications shall provide the advanced practice nurse with the option of either active or inactive status. An advanced practice nurse electing inactive status shall pay the inactive certificate fee set forth in N.J.A.C. 13:37-5.5 and shall not practice as an advanced practice nurse.
  - h) An advanced practice nurse 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) Payment of the active status fee set forth in N.J.A.C. 13:37-5.5;
    - 2) The completion of the continuing education units required for each biennial registration period for which the advanced practice nurse was on inactive status; and
    - 3) Submission of an affidavit of employment listing each job held during the period the advanced practice nurse was on inactive status, including the name, address, and telephone number of each employer.
  - i) An advanced practice nurse who has been on inactive status for more than five years who wishes to return to practice shall reapply for certification pursuant to N.J.A.C. 13:37-7.1. The applicant shall fulfill all of the initial licensure requirements, including retaking the examination required by N.J.A.C. 13:37-7.1(d)3. An applicant reapplying for certification shall not be required to meet the requirements of N.J.A.C. 13:37-7.2(b).
  - j) An advanced practice nurse who was initially certified by the Board in an area of practice that was approved by the Board prior to June 16, 2008 shall be permitted to renew certification for that practice.

**13:37-7.8 CONTINUING EDUCATION**

- a) Every biennial period, an advanced practice nurse shall complete the continuing education required for the renewal of a registered professional nurse license pursuant to N.J.A.C. 13:37-5.3 and the continuing education requirements of the national certifying agency whose examination the advanced practice nurse successfully passed pursuant to N.J.A.C. 13:37-7.4 or 7.5.
- b) Pursuant to P.L. 2011, c. 145 (N.J.S.A. 45:11-47.1), two credits of the continuing education completed pursuant to (a) above shall be in programs or topics related to end-of-life care.

**13:37-7.9 PRESCRIPTIVE PRACTICE**

- a) An advanced practice nurse may prescribe or order medications and devices and shall do so in conformity with the provisions of this subchapter, N.J.S.A. 45:11-45 et seq., and written protocols for the prescription of medications and devices jointly developed by the advanced practice nurse and the collaborating physician in accordance with the standards of N.J.S.A. 45:11-51 and N.J.A.C. 13:37-6.3.
- b) An advanced practice nurse may prescribe or order treatments, including referrals, and shall do so in conformity with the provisions of this subchapter and N.J.S.A. 45:11-45 et seq.
- c) An advanced practice nurse who issues prescriptions in any setting other than in a licensed acute care or long-term care facility may issue written prescriptions for medications to patients only on New Jersey Prescription Blanks in accordance with N.J.S.A. 45:14-55.
- d) An advanced practice nurse shall include the following information on each prescription blank issued:
  - 1) The prescribing advanced practice nurse's full name, designation, that is, APN, address, telephone number, and certification number;
  - 2) The full name, date of birth and address of the patient;
  - 3) The date of issuance;
  - 4) The name, strength, route and quantity of the medication prescribed;
  - 5) The number of refills permitted or time limit for refills, or both;
  - 6) A handwritten, original signature;

- 7) An explicit indication, by initials placed next to "do not substitute," if a specified brand name drug is to be dispensed;
  - 8) The full name, title, address, telephone number, and license number of the collaborating physician;
  - 9) Words, in addition to numbers, to indicate the drug quantity authorized if the prescription is for a controlled dangerous substance, for example: "ten (10) Percodan" or "five (5) Ritalin 5 mg"; and
  - 10) If the prescription is for a controlled dangerous substance, the advanced practice nurse's DEA number and instructions as to the frequency of use.
- e) An advanced practice nurse who prescribes medication or devices shall advise patients by a sign or pamphlets in the waiting room of the office, that a patient may request a generic drug as a substitute for a brand name drug prescribed.
  - f) An advanced practice nurse may use only prescription blanks that are imprinted with the words "substitution permissible" and "do not substitute," with a space for the prescribing advanced practice nurse's initials next to the chosen option. The prescription blanks shall not include preprinted information designed to discourage or prohibit substitution.
  - g) When using health care facility or multi-prescriber prescription blanks, the full name and certificate number of the advanced practice nurse shall be legibly printed at the top of the prescription blank or the identity of the advanced practice nurse shall be designated by a checkmark or other legible means.
  - h) Each prescription for a controlled dangerous substance shall be written on a separate New Jersey Prescription Blank.

**13:37-7.9A LIMITATIONS ON PRESCRIBING, ADMINISTERING, OR DISPENSING OF CONTROLLED DANGEROUS SUBSTANCES; SPECIAL REQUIREMENTS FOR MANAGEMENT OF ACUTE AND CHRONIC PAIN**

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

"Acute pain" means the pain, whether resulting from disease, accidental or intentional trauma, or other cause, that the practitioner reasonably expects to last only a short period of

time. "Acute pain" does not include chronic pain, pain being treated as part of cancer care, hospice or other end of life care, or pain being treated as part of palliative care.

"Chronic pain" means pain that persists or recurs for more than three months.

"Initial prescription" means a prescription issued to a patient who:

1. Has never previously been issued a prescription for the drug or its pharmaceutical equivalent; or

2. Was previously issued a prescription for, or used or was administered, the drug or its pharmaceutical equivalent, and the date on which the current prescription is being issued is more than one year after the date the patient last used or was administered the drug or its equivalent. When determining whether a patient was previously issued a prescription for, or used or was administered, a drug or its pharmaceutical equivalent, the practitioner shall consult with the patient, review prescription monitoring information, and, to the extent it is available to the practitioner, review the patient's medical record.

"Opioid antidote" means any drug, regardless of dosage amount or method of administration, which has been approved by the United States Food and Drug Administration (FDA) for the treatment of an opioid overdose. "Opioid antidote" includes, but is not limited to, naloxone hydrochloride, in any dosage amount, which is administered through nasal spray or any other FDA-approved means or methods.

"Palliative care" means care provided to an individual suffering from an incurable progressive illness that is expected to end in death, which is designed to decrease the severity of pain, suffering, and other distressing symptoms, and the expected outcome of which is to enable the individual to experience an improved quality of life.

"Practitioner" means a certified advanced practice nurse currently authorized to prescribe drugs in the course of professional practice, acting within the scope of his or her certification.

b) When prescribing, dispensing, or administering controlled dangerous substances, a practitioner shall:

- 1) Take a thorough medical history of the patient which reflects the nature, frequency, and severity of any pain, the patient's history of substance use or abuse, and the patient's experience with non-opioid medication and non-pharmacological pain management approaches;

- 2) Conduct a physical examination, including an assessment of physical and psychological function, and an evaluation of underlying or coexisting diseases or conditions;
  - 3) Access relevant prescription monitoring information as maintained by the Prescription Monitoring Program (PMP) pursuant to N.J.S.A. 45:1-46.1 and consider that information in accordance with N.J.A.C. 13:45A-35;
  - 4) Develop a treatment plan, which identifies the objectives by which treatment success is to be evaluated, such as pain relief and improved physical and psychological function, and any further diagnostic evaluations or other treatments planned, with particular attention focused on determining the cause of the patient's pain; and
  - 5) Prepare a patient record that reflects the medical history, the findings on examination, any relevant PMP data, and the treatment plan, as well as:
    - i) The complete name of the controlled substance;
    - ii) The dosage, strength, and quantity of the controlled substance; and
    - iii) The instructions as to frequency of use.
- c) With respect to Schedule II controlled dangerous substances, unless the prescribing of opioids is subject to limitations as set forth in (g) below, a practitioner may authorize a quantity, not to exceed a 30-day supply, which shall be at the lowest effective dose as determined by the directed dosage and frequency of dosage. The prescribing of opioids in any schedule is subject to limitations as set forth in (g) below.
- d) Prior to issuing an initial prescription for a Schedule II controlled dangerous substance or any opioid drug in the course of treatment for acute pain, a practitioner shall discuss with the patient, or the patient's parent or guardian if the patient is under 18 years of age and is not an emancipated minor, the reasons why the medication is being prescribed, the possible alternative treatments, and the risks associated with the medication. With respect to opioid drugs, the discussion shall include, but not be limited to, the risks of addiction, including that opioids are highly addictive, even when taken as prescribed and used as directed, physical or psychological dependence, and overdose associated with opioid drugs and the danger of taking opioid drugs with alcohol, benzodiazepines, and other central nervous system depressants, and requirements for proper storage and disposal.
- 1) If the patient is under 18 years of age and is not an emancipated minor, the practitioner shall have the discussion required in (d) above prior to the issuance of each subsequent prescription for any opioid drug that is a Schedule II controlled dangerous substance.

- 2) The practitioner shall reiterate the discussion required at (d) above prior to issuing a prescription at the outset of a course of treatment for chronic pain for a Schedule II controlled dangerous substance or any opioid drug.
  - 3) The practitioner shall include a note in the patient record that the required discussion(s) took place.
- e) Prior to the commencement of an ongoing course of treatment for chronic pain with a Schedule II controlled dangerous substance or any opioid, the practitioner shall enter into a pain management agreement with the patient. The pain management agreement shall be a written contract or agreement that is executed between a practitioner and a patient, that is signed and dated prior to the commencement of an ongoing course of treatment for chronic pain using a Schedule II controlled dangerous substance or any opioid drug, and which shall:
- 1) Document the understanding of both the practitioner and the patient regarding the patient's pain management plan;
  - 2) Establish the patient's rights in association with treatment, and the patient's obligations in relation to the responsible use, discontinuation of use, and storage and disposal of Schedule II controlled dangerous substances and any opioid drugs, including any restrictions on the refill or acceptance of such prescriptions from practitioners and other prescribers;
  - 3) Identify the specific medications and other modes of treatment, including physical therapy or exercise, relaxation, or psychological counseling, that are included as part of the treatment plan;
  - 4) Specify the measures the practitioner may employ to monitor the patient's compliance including, but not limited to, random specimen screens and pill counts; and
  - 5) Delineate the process for terminating the agreement, including the consequences if the practitioner has reason to believe that the patient is not complying with the terms of the agreement.
- f) When controlled dangerous substances are continuously prescribed for management of chronic pain, the practitioner shall:
- 1) Review, at a minimum of every three months, the course of treatment, any new information about the etiology of the pain and the patient's progress toward treatment objectives, and document the results of that review;

- 2) Assess the patient prior to issuing each prescription to determine whether the patient is experiencing problems associated with physical and psychological dependence, and document the results of that assessment;
  - 3) Make periodic reasonable efforts, unless clinically contraindicated, to either stop the use of the controlled dangerous substance, taper the dosage, try other drugs such as nonsteroidal anti-inflammatories, or utilize alternative treatment modalities in an effort to reduce the potential for abuse or the development of physical or psychological dependence, and document, with specificity, the efforts undertaken;
  - 4) Access relevant prescription monitoring information as maintained by the Prescription Monitoring Program (PMP) pursuant to N.J.S.A. 45:1-46.1 and consider that information in accordance with N.J.A.C. 13:45A-35;
  - 5) Monitor compliance with the pain management agreement and any recommendations that the patient seek a referral, and discuss with the patient any breaches that reflect that the patient is not taking the drugs prescribed or is taking drugs, illicit or prescribed by other practitioners or prescribers, and document within the patient record the plan after that discussion;
  - 6) Conduct random urine screens at least once every 12 months;
  - 7) Advise the patient, or the patient's parent or guardian if the patient is under 18 years of age and is not an emancipated minor, of the availability of an opioid antidote; and
  - 8) Refer the patient to a pain management or addiction specialist for independent evaluation or treatment in order to achieve treatment objectives, if those objectives are not being met.
- g) A practitioner shall not issue an initial prescription for an opioid drug for treatment of acute pain in a quantity exceeding a five-day supply as determined by the directed dosage and frequency of dosage. The initial prescription shall be for the lowest effective dose of an immediate-release opioid drug. A practitioner shall not issue an initial prescription for an opioid drug that is for an extended-release or long-acting opioid. No less than four days after issuing the initial prescription, upon request of the patient, a practitioner may issue a subsequent prescription for an opioid drug for the continued treatment of acute pain associated with the condition that necessitated the initial prescription provided the following conditions are met:
- 1) The practitioner consults (in person, via telephone, or other means of direct communication) with the patient;

- 2) After the consultation with the patient, the practitioner, in the exercise of his or her professional judgment, determines that an additional days' supply of the prescribed opioid drug is necessary and appropriate to the patient's treatment needs and does not present an undue risk of abuse, addiction, or diversion;
  - 3) The practitioner documents the rationale for the authorization in the patient record;
  - 4) The subsequent prescription for an additional days' supply of the prescribed opioid drug is tailored to the patient's expected need at the stage of recovery, as determined under (g)2 above and any subsequent prescription for an additional days' supply shall not exceed a 30-day supply.
- h) When a practitioner issues an initial prescription for an opioid drug for the treatment of acute pain, the practitioner shall so indicate it on the prescription.
- i) Except as provided at (i)1 below, when a practitioner issues a prescription for an opioid drug that is a controlled dangerous substance to a patient, the practitioner shall also issue the patient a prescription for an opioid antidote when the patient has a history of substance use disorders, the prescription for the opioid drug is for a daily dose of more than 90 morphine milligram equivalents, or the patient holds a current, valid prescription for a benzodiazepine drug that is a Schedule III or Schedule IV controlled dangerous substance.
- 1) A practitioner shall not be required to issue more than one prescription for an opioid antidote to a patient per year.
  - 2) Nothing at (i)1 above shall be construed to prohibit a practitioner from issuing additional prescriptions for an opioid antidote to a patient upon the patient's request or when the practitioner determines there is a clinical or practical need for the additional prescription.
- j) The requirements for prescribing controlled dangerous substances set forth at (d) through (i) above shall not apply to a prescription for a patient who is currently in active treatment for cancer, receiving hospice care from a licensed hospice, receiving palliative care, or is a resident of a long-term care facility or to any medications that are being prescribed for use in the treatment of substance abuse or opioid dependence.
- k) Nothing in (g) above shall be construed to limit a practitioner's professional judgment to authorize a subsequent prescription for an opioid drug in a quantity consistent with (g)4 above for the continued treatment of acute pain associated with the condition that necessitated the initial prescription.

**13:37-7.9B ELECTRONICALLY TRANSMITTED PRESCRIPTIONS**

- a) An advanced practice nurse may transmit, or have an authorized agent transmit, an electronic prescription to a pharmacy that has been approved by a patient, a patient's guardian, or a patient's authorized representative, consistent with the requirements of this section. For purposes of this section, "electronic prescription" means a prescription that is transmitted by a computer or other electronic data processing device in a secure manner, including computer-to-computer and computer-to-facsimile transmissions.
- b) An advanced practice nurse shall comply with all requirements set forth in N.J.A.C. 13:37-7.9, and shall ensure that all information required to be included on a written prescription pursuant to N.J.A.C. 13:37-7.9(d) is provided in each electronic prescription, except that a handwritten original signature shall not be required for the prescription.
- c) An advanced practice nurse's electronic signature, or other secure method of validation, shall be provided with the electronic prescription.
- d) To maintain confidentiality of electronic prescriptions, the advanced practice nurse shall ensure that the electronic system used to transmit the electronic prescription has adequate security and system safeguards designed to prevent and detect unauthorized access, modification, or manipulation of such records, and shall include, at a minimum, electronic encryption.
- e) An advanced practice nurse may authorize an agent to electronically transmit a prescription provided that the full name and title of the transmitting agent is included on the transmission, and provided that the advanced practice nurse's agent does not sign the electronic prescription.
- f) An advanced practice nurse shall provide verbal verification of an electronic prescription upon request of the pharmacy when the pharmacist has a question regarding the authenticity, accuracy, or appropriateness of the prescription. An advanced practice nurse's authorized agent may provide verbal verification of the electronic prescription to the pharmacy when the pharmacist has a question regarding the authenticity or legibility of the prescription.
- g) An advanced practice nurse or the advanced practice nurse's authorized agent may transmit an electronic prescription to a pharmacy for a Schedule II controlled substance, provided that the original signed prescription is presented to the pharmacist prior to the dispensing of the controlled substance. If permitted by Federal law, and in accordance with Federal requirements, the electronic prescription shall serve as the original signed prescription and the advanced practice nurse shall not provide the patient, the patient's guardian, or the patient's authorized representative with a signed, written prescription.

- h) An advanced practice nurse or the advanced practice nurse's authorized agent may transmit an electronic prescription to a pharmacy for a Schedule III, IV, or V controlled substance, provided that the original signed prescription for presentation at the pharmacy, an oral prescription, or a facsimile prescription is provided. If permitted by Federal law, and in accordance with Federal requirements, the electronic prescription shall serve as the original signed prescription and the advanced practice nurse shall not provide the patient, the patient's guardian, or the patient's authorized representative with a signed, written prescription.
- i) An advanced practice nurse shall not enter into any agreement with a pharmacy that requires that electronic prescriptions be transmitted to a particular pharmacy or in any way denies a patient the right to have his or her prescription transmitted electronically to a pharmacy of the patient's choice.

### **13:37-7.10 REQUIREMENTS FOR DISPENSING MEDICATIONS**

- a) An advanced practice nurse may dispense a medication directly to a patient pursuant to a joint protocol. An advanced practice nurse who dispenses medications shall assure that follow-up care is provided and that the effects of the medication are properly evaluated and integrated into the treatment plan of the patient.
- b) An advanced practice nurse who dispenses medications in the office shall maintain those medications in accordance with pharmaceutical standards and manufacturer recommendations concerning storage conditions. An advanced practice nurse shall not maintain in inventory any medications, which are outdated, misbranded, deteriorated, adulterated, recalled, unlabeled, damaged, discontinued or which were previously dispensed to a patient.
- c) When an advanced practice nurse dispenses a medication to a patient, he or she shall record the dispensing in the patient's record.
- d) All medications dispensed, except for those dispensed as pharmaceutical samples shall be recorded in a permanent, contemporaneous dispensing log, which shall contain the following:
  - 1) The full name of the patient;
  - 2) The complete name of each medication dispensed;
  - 3) The strength and quantity of the medication dispensed;

- 4) Instructions as to the frequency of use;
  - 5) The date of dispensing; and
  - 6) The identity of the dispensing advanced practice nurse, if more than one individual dispenses in the office.
- e) Every medication dispensed, except for pharmaceutical samples, shall bear a legible label, which includes
- 1) The full name of the patient;
  - 2) The complete name of the medication dispensed;
  - 3) The strength and quantity of the medication dispensed;
  - 4) Instructions as to the frequency of use;
  - 5) Special precautions, if appropriate;
  - 6) The date of dispensing;
  - 7) The expiration date of the medication;
  - 8) A list of the ingredients if the medication was compounded, not manufactured; and
  - 9) The identity of the dispensing advanced practice nurse.
- f) Medications dispensed as a pharmaceutical sample shall bear a legible label, which includes:
- 1) The complete name of the medication dispensed;
  - 2) The strength and quantity of the medication dispensed;
  - 3) Instructions as to the frequency of use;
  - 4) Special precautions, if appropriate; and

- 5) The expiration date of the medication;
- g) An advanced practice nurse need not label a pharmaceutical sample if a manufacturer's label on the sample includes the information required under (f) above. If a manufacturer's label includes only some of the information required under (f) above, an advanced practice nurse shall apply a label to the sample that provides the missing information. The label applied by the advanced practice nurse shall not obstruct the information provided on the manufacturer's label.
- h) An advanced practice nurse shall not charge a fee for a medication packaged and labeled by a manufacturer as a sample.
- i) An advanced practice nurse may charge a fee for dispensing any medication that is not packaged and labeled by a manufacturer as a sample. This fee shall not exceed the actual acquisition cost for the medication plus an administrative amount which shall not exceed 10 percent of the actual acquisition cost.
- j) Except as exempted by (k) below, an advanced practice nurse who dispenses a medication for a fee shall:
- 1) Not dispense the medication or a substantially equivalent medication in a quantity or in dosages greater than that which would allow the patient a seven-day supply;
  - 2) Not dispense the medication or a substantially equivalent medication more than once every 30 days;
  - 3) Assure that information is given to the patient regarding the availability of the medication outside of the advanced practice nurse's office; and
  - 4) Disclose to the patient in advance of purchase and again on the bill the actual acquisition cost of the medication.
- k) An advanced practice nurse need not comply with (j) above if:
- 1) The office at which the dispensing occurs is situated 10 or more miles from the nearest licensed pharmacy;
  - 2) The medication is dispensed pursuant to an oncological or AIDS protocol;
  - 3) The medication dispensed is a salve, ointment or drops; or

- 4) The medication is dispensed in, and directly related to, the services rendered to the patient at:
  - i) A hospital emergency room;
  - ii) A student health center at an institution of higher education; or
  - iii) A publicly subsidized community health center, family planning clinic or prenatal clinic.
- l) The requirements set forth in (d) through (g) above shall not apply to the dispensing of nonprescription substances.

### **13:37-7.10A DISPENSING NARCOTIC DRUGS FOR MAINTENANCE OR DETOXIFICATION TREATMENT**

- a) An advanced practice nurse may dispense narcotic drugs for maintenance or detoxification treatment if the advanced practice nurse has met the training requirements of, and is registered pursuant to, subsection (G) of 21 U.S.C. § 823.
- b) If an advanced practice nurse is qualified to dispense narcotic drugs for maintenance or detoxification treatment pursuant to (a) above, he or she may dispense such drugs even if his or her collaborating physician has not met the requirements of subsection (G) of 21 U.S.C. § 823, as long as the joint protocol between the advanced practice nurse and the collaborating physician includes the physician's written approval for the dispensing of such drugs.
- c) An advanced practice nurse may prescribe services for treatment of substance use disorder, pursuant to the joint protocol between the advanced practice nurse and his or her collaborating physician.

### **13:37-7.11 PRACTICE AS A REGISTERED PROFESSIONAL NURSE**

Nothing in N.J.S.A. 45:11-45 et seq. or this subchapter shall be construed to limit, preclude or otherwise interfere with the practice of nursing as defined by N.J.S.A. 45:11-23 by a person licensed as a registered professional nurse in this State, provided that the licensee does not represent himself or herself as an advanced practice nurse.

**13:37-7.12 (RESERVED)**

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**SUBCHAPTER 8.  
NURSING PRACTICE**

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**13:37-8.1 STANDARDS FOR JOINT PROTOCOLS BETWEEN ADVANCED PRACTICE NURSES AND COLLABORATING PHYSICIANS**

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

"Collaboration" means the ongoing process by which an advanced practice nurse and a physician engage in practice, consistent with agreed upon parameters of their respective practices.

"Device" means an article, other than medication, for use in the diagnosis, cure, mitigation, treatment or prevention of disease, injury, pain or deformity or physical or emotional condition or health problem in humans or intended to affect the structure or function of the human body.

"Joint protocol" means an agreement or contract between an advanced practice nurse and a collaborating physician which conforms to the standards established by the Director of the Division of Consumer Affairs pursuant to this rule.

"Medication" means any substance for which a prescription is required which is intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease, injury, pain or deformity or physical or emotional condition or health problem in humans or intended to affect the structure or function of the human body.

- b) Advance practice nurses who seek to prescribe or order medications or devices and the collaborating physician(s) with whom they are in collaboration shall develop a joint protocol, which shall be:
- 1) In writing;
  - 2) Signed by both the advanced practice nurse and the physician, with an acknowledgment that any inappropriate professional behavior or violation of the protocol on the part of either the physician or the advanced practice nurse will be reported to his or her respective licensing board;

- 3) Maintained on the premises of every office in which the advanced practice nurse practices;
  - 4) Updated on an ongoing basis to reflect changes in the practice, office personnel, skills of the advanced practice nurse, frequency of record review, and reference materials containing practice guidelines or accepted standards of practice; and
  - 5) Reviewed at least on an annual basis.
- c) The content of a joint protocol under (b) above shall address:
- 1) The nature of the practice, the patient population (for example, pediatric patients) and settings (for example, inpatient, nursing home, patient residences or other alternative care environments);
  - 2) Any particular circumstances for which, prior to prescribing, a specific examination is to be performed or a definitive diagnosis made;
  - 3) The recordkeeping methodology to be used in the practice (for example, the protocol might indicate that records should contain subjective complaints, objective findings, an assessment and a plan of treatment);
  - 4) A list of categories of medications appropriate to the practice;
  - 5) A delineation of specific medications and the specific number of refills, to be prescribed pursuant to the direction of the physician;
  - 6) Specific requirements with respect to the recordation, in the patient record and/or in separate logs, of medications prescribed or dispensed, dosages, frequency, duration, instructions for use and authorizations for refills;
  - 7) Any medical conditions or findings within the nature of the practice which should require direct consultation prior to the prescribing or ordering of medications or devices;
  - 8) The frequency and methodology to be employed to ensure periodic review of patient records;
  - 9) Identification of the means by which the advanced practice nurse and collaborating physician can be in direct communication, as well as a description of arrangements which will assure that the collaborating physician or peer coverage is accessible and available;

- 10) Procedures for the use of medications in emergency situations; and
  - 11) Identification of reference materials containing practice guidelines or accepted standards of practice.
- d) Failure to establish and implement joint protocols consistent with the standards set forth in this section and any violation of the joint protocol by an advanced practice nurse or physician may be deemed professional misconduct or other grounds for disciplinary sanction within the meaning of N.J.S.A. 45:1-21 by his or her respective licensing board.

### **13:37-8.2 IDENTIFICATION TAGS**

- a) Each licensee shall wear an identification tag when engaging in the practice for which the individual is licensed. The identification tag shall be clearly visible at all times, and such tag shall bear the first name or initial, the full surname and the term reflecting the individual's level of licensure, for example, Registered Nurse or R.N. The letters on the tag shall be of equal size in type, not smaller than one-quarter inch. The size of the identification tag shall be equal to or greater than that of any other identification worn by the licensee.
- b) Where a general hospital requires a facility staff member who is a licensee to wear an identifying badge pursuant to P.L. 1997, c.76 (N.J.S.A. 26:2H-12.8a), that staff member need only wear only one identification badge, as long as the badge meets requirements of both P.L. 1997, c.76 (N.J.S.A. 26:2H-12.8a) and (a) above.
- c) In order to protect his or her personal safety or to prevent the substantial invasion of his or her privacy, or to prevent the identification tag from causing physical harm to the patient, a licensee may request an exemption from the requirements of (a) above. Such requests for an exemption shall be made by the licensee in writing to the Board and shall set forth the reasons why wearing the tag would endanger the licensee's personal safety, substantially invade the licensee's privacy or physically harm a patient.
- d) The exemption set forth in (c) above shall not apply to those facility staff members in a general hospital, where such general hospital requires a facility staff member to wear an identifying badge pursuant to P.L. 1997, c.76 (N.J.S.A. 26:2H-12.8a).
- e) The exemption set forth in (c) above shall not apply to a nurse providing home-based services for a registered health care service firm who is required to wear an identification tag pursuant to N.J.S.A. 34:8-79.

**13:37-8.3 SEXUAL MISCONDUCT**

- a) This section shall apply to all advanced practice nurses, registered professional nurses, and licensed practical nurses licensed or certified by the Board.
- b) As used in this section, the following terms have the following meanings unless the context indicates otherwise:

"Board" means the New Jersey Board of Nursing.

"Licensee" means any person licensed or certified by the Board.

"Patient" means any person who is the recipient of nursing services rendered by a licensee pursuant to N.J.S.A. 45:11-23 et seq.

"Patient relationship" means an association between a licensee and patient wherein the licensee owes a continuing duty to the patient to be available to render nursing services consistent with the licensee's education, 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 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 nursing services, and that either: is unwelcome, offensive to a reasonable person, or creates a hostile 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 an individual whether or not such individual is in a subordinate position to the licensee.

"Spouse" means either the husband, wife or fiancée of the licensee or an individual 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 relationship. The patient relationship is considered ongoing for purposes of this section unless:
- 1) For an advanced practice nurse, registered professional nurse or licensed practical nurse, who is not engaged in psychiatric nursing, the last nursing service was rendered more than three months prior;
  - 2) For an advanced practice nurse who practices psychiatric nursing, the last nursing service was rendered more than two years prior; or
  - 3) For a registered professional nurse or a licensed practical nurse who practices psychiatric nursing, the last nursing service was rendered more than one year prior.
- d) A licensee shall not seek or solicit sexual contact with a patient with whom he or she has a patient relationship and shall not seek or solicit sexual contact with any person in exchange for nursing 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 intimate 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 nursing services rendered.
- g) A licensee shall not engage in sexual harassment, whether in a professional setting or outside of the professional setting.
- h) A licensee shall not engage in any activity performed with a patient which would lead a reasonable person to believe that the activity serves the licensee's personal prurient interests or is for the sexual arousal the sexual or gratification of the licensee or patient or which constitutes an act of sexual abuse.
- 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), respectively, 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 nursing services to a spouse, providing that the rendering of such nursing services is consistent with accepted standards and that the performance of nursing services is not utilized to exploit the patient 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 was in love with or had affection for the patient.

### **13:37-8.4 NURSE LICENSURE COMPACT REGULATIONS**

The Interstate Commission of Nurse Licensure Compact Administrators Final Rules (2019), available from National Council of State Boards of Nursing, 111 East Wacker Drive, Suite 2900, Chicago, IL 60601-4277 and at <http://www.ncsbn.org/nlcrules.htm>, are incorporated herein by reference, as amended and supplemented.

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## **SUBCHAPTER 8A. TELEMEDICINE**

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### **13:37-8A.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. 45:1-61 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 nurses.
- c) Pursuant to N.J.S.A. 45:1-62, a nurse must hold a license 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.

**13:37-8A.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 Nursing.

"Cross-coverage" means a licensee who 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 a registered professional nurse or a licensed practical nurse or certified as an advanced practice nurse.

"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.

"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 of N.J.A.C. 13:37-8A.4.

"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 (N.J.S.A. 45:1-61 et seq.).

"Telemedicine" means the delivery of a health care service, including supportive mental health services, using electronic communications, information technology, or other electronic or technological means to bridge the gap between a 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.

### **13:37-8A.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 health care 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.

### **13:37-8A.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 provider or other health care provider identified by the patient.
- c) Notwithstanding (a) and (b) above, health care services may be provided through telemedicine or telehealth without a proper licensee-patient relationship if the provision of health care 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.

### **13:37-8A.5 PROVISION OF HEALTH CARE SERVICES THROUGH TELEMEDICINE OR TELEHEALTH**

- a) As long as a licensee has satisfied the requirements of N.J.A.C. 13:37-8A.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 that allows a licensee to see a patient and the patient to see the licensee during the provision of health care 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 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) 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 health care 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 health care services through telemedicine or telehealth or contemporaneously with the encounter with the patient.
- g) During and after the provision of health care 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 health care services through telemedicine or telehealth, a licensee shall provide the patient, upon request, with his or her 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 health care providers.
- j) A licensee engaging in telemedicine or telehealth shall refer a patient for follow-up care when necessary.

### **13:37-8A.6 PRESCRIPTIONS**

- a) An advanced practice nurse 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) An advanced practice nurse shall not issue a prescription based solely on responses provided in an online questionnaire, unless the advanced practice nurse has established a proper licensee-patient relationship pursuant to N.J.A.C. 13:37-8A.4.
- c) Notwithstanding (a) above, and except as provided in (d) below, an advanced practice nurse shall not issue a prescription for a Schedule II controlled dangerous substance unless the advanced practice nurse 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 an advanced practice nurse prescribes a stimulant for a patient under the age of 18 years, as long as the advanced practice nurse is using interactive, real-time, two-way audio and video technologies and the advanced practice nurse has obtained written consent for a waiver of in-person examination requirements from the patient's parent or guardian.

### **13:37-8A.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 applicable State and Federal

statutes, rules, and regulations for recordkeeping, confidentiality, and disclosure of a patient's medical record.

### **13:37-8A.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. 13:37-8A.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.

### **13:37-8A.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 Federal standards under 45 CFR 160 and 164, as amended and supplemented, which are incorporated herein by reference, 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 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 in 45 CFR 164.402, shall comply with the reporting requirements of 45 CFR Part 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 through 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.

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## **SUBCHAPTER 9. FORENSIC NURSE—CERTIFIED SEXUAL ASSAULT PROGRAM**

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### **13:37-9.1 PURPOSE AND SCOPE**

- a) The purpose of this subchapter is to implement the provisions of P.L. 2001, c.81, which establishes a Statewide Sexual Assault Nurse Examiner Program and authorized the certification of sexual assault nurse examiners by the Board and the Attorney General.
- b) This subchapter sets forth standards for the education and certification of forensic nurses certified in sexual assault.

**13:37-9.2 DEFINITIONS**

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

"Board" means the State Board of Nursing.

"Certification" means the formal process by which education is received and the clinical competency of the FN—CSA is demonstrated.

"Forensic nurse-certified sexual assault (FN—CSA)" means a registered professional nurse licensed in New Jersey, and specially trained to provide comprehensive care to sexual assault victims, who demonstrates competency in conducting a sexual assault forensic examination and who has successfully completed a course of education as set forth in this subchapter.

"Full-time" means that a person has worked at least 800 hours in one year.

"Medical screening examination" means an examination and evaluation within the capability of a hospital's emergency department, including ancillary services routinely available to the emergency department, performed by qualified personnel pursuant to requirements in N.J.A.C. 8:43G-12, which are necessary to determine whether or not an emergency medical condition exists.

"Sexual assault forensic examination" means an assessment conducted by a physician or a registered professional nurse, consisting of a history and physical examination, medical or nursing diagnosis and intervention, including the collection of evidence.

**13:37-9.3 APPLICATION FOR CERTIFICATION**

a) To be eligible for certification as a FN-CSA, an applicant must:

- 1) Hold a current license as a registered professional nurse from the Board or a registered professional nurse multistate license from a state which is part of the Nurse Licensure Compact;
- 2) Have worked full-time for at least two years as a registered professional nurse;

- 3) Have successfully completed a FN-CSA education course approved by the Board and the Director of the Division of Criminal Justice, pursuant to N.J.A.C. 13:37-9.5; and
  - 4) Have successfully completed the FN-CSA clinical requirement pursuant to N.J.A.C. 13:37-9.6 and passed a clinical examination given by an approved clinical examination facility pursuant to N.J.A.C. 13:37-9.7(d).
- b) An applicant for certification as a FN-CSA shall submit, or arrange to have submitted, to the Board:
- 1) A completed application form which shall include the name, address and telephone number of the applicant;
  - 2) Proof that the applicant has successfully completed a FN-CSA education program, as outlined in N.J.A.C. 13:37-9.5, and the clinical requirements of N.J.A.C. 13:37-9.6 and 9.7(d); and
  - 3) The application fee pursuant to N.J.A.C. 13:37-5.5(d)1.
- c) The Board shall review the application and forward it to the Director of the Division of Criminal Justice, or his or her designee. If both the Board and the Director, or his or her designee, agree that the applicant meets the requirements for certification contained in this subchapter, the Board shall certify the applicant.

### **13:37-9.4 (RESERVED)**

### **13:37-9.5 FN-CSA EDUCATION PROGRAMS**

- a) An individual, agency or institution seeking approval for a course in clinical forensics for the purpose of providing education for forensic nurses-certified sexual assault shall submit to the Board an application which shall include:
- 1) The name and address of the individual, agency or institution seeking approval;
  - 2) Proof that the program has been accredited by the American Nurses Credentialing Center's Commission on Accreditation;
  - 3) An outline of the course curriculum specifying the hours allotted to each topic;

- 4) An affidavit which indicates that the curriculum is included in the FN-CSA education course;
  - 5) An affidavit that program instructors meet the requirements of (d) below;
  - 6) The names and credentials of all instructors for the program; and
  - 7) The name and credentials of the program administrator.
- b) Upon receipt of an application for course approval, the Board shall forward the application to the Director of the Division of Criminal Justice for review. The Board and the Director of the Division of Criminal Justice shall review the application for compliance with (c) below. If the Director of the Division of Criminal Justice and the Board approve the program, a letter of approval shall be provided to the individual, agency or institution which conducts the course. A copy of the letter of approval shall be included with course materials provided to the students.
- c) A course in FN-CSA education shall be completed within a six-month period. A course shall contain a minimum of 64 hours of didactic instruction that meets the requirements of the 2015 edition of the International Association of Forensic Nurses' Sexual Assault Nurse Examiner Education Guidelines, incorporated herein by reference, as amended and supplemented, published by the International Association of Forensic Nurses, 6755 Business Parkway, Suite 303, Elkridge, MD, 21075.
- d) The didactic instruction required in (c) above shall be taught by an instructor who either has a masters degree in nursing from a school accredited by the New Jersey Department of Education, or another state's department of education, or who is a FN-CSA.
- e) Each clinical forensics course shall include a written examination. Upon completion of the clinical forensics course, each student shall successfully pass the examination.
- f) The clinical forensics course shall meet the requirements of Educational Design I or Educational Design II programs as set forth by the American Nurses Credentialing Center's Commission on Accreditation in the "Manual for Accreditation as an Approver of Continuing Education in Nursing" (1996), available from the American Nurses Credentialing Center, 600 Maryland Ave., SW, Suite 100 West, Washington, DC 20024-2571, which is incorporated herein by reference, as amended and supplemented.

**13:37-9.6 CLINICAL EDUCATION**

- a) Applicants for certification as a FN-CSA shall complete classroom education, pursuant to N.J.A.C. 13:37-9.5, before beginning their clinical education.
- b) An applicant shall complete a clinical program that meets guidelines on clinical education found in the 2015 edition of the International Association of Forensic Nurses' Sexual Assault Nurse Examiner Education Guidelines, incorporated herein by reference, as amended and supplemented, published by the International Association of Forensic Nurses, 6755 Business Parkway, Suite 303, Elkridge, MD, 21075.
- c) Documentation of the completed clinical education shall be dated and signed by the supervising advanced practice nurse, physician, Forensic Nurse Coordinator, or FN-CSA who holds a master's degree in nursing and has been working as an FN-CSA for at least two years.

**13:37-9.7 CLINICAL EDUCATION FACILITIES**

- a) A Board accredited school of nursing may apply to the Board for approval as a clinical education facility. An applicant for approval shall submit to the Board:
  - 1) Documents which show that the clinical education facility is equipped with a colposcope and all other equipment needed for a comprehensive sexual assault forensic examination;
  - 2) Evidence that the clinical education facility has a person who will act as a surrogate sexual assault victim;
  - 3) An outline of what the person(s) acting as a surrogate sexual assault victim will say during a sexual assault examination;
  - 4) Evidence that the clinical education facility can provide the opportunity for individuals to complete the five sexual assault examinations required by N.J.A.C. 13:37-9.6(b); and
  - 5) After July 13, 2005, evidence that the training facility has an instructor who is a FN-CSA.
- b) The Board shall review the application to ensure that the clinical education facility meets the requirements of (a) above and shall forward the application to the Director of the Division of Criminal Justice for approval. Once the Board and the Director have approved the clinical education facility the Board shall send a letter to the clinical education facility indicating that it has been approved.

- c) An approved clinical education facility shall provide an opportunity for individuals to complete the five sexual assault forensic examinations required by N.J.A.C. 13:37-9.6(b)2.
- d) An approved clinical education facility shall, upon completion of the clinical education required by N.J.A.C. 13:37-9.6(b)2, provide an examination which tests the ability of a forensic nurse-certified sexual assault applicant to perform sexual assault forensic examinations. The facility shall forward the results of this examination to the Board.

### **13:37-9.8 RENEWAL OF CERTIFICATION**

- a) All FN-CSA certificates shall be issued for a two-year certification period, which coincides with the FN-CSA's registered professional nurse licensure renewal period. An FN-CSA who seeks renewal of the certificate shall submit a renewal application and the biennial renewal fee set forth in N.J.A.C. 13:37-5.5, prior to the expiration date of the certificate.
- b) The Board shall send a notice of renewal to each FN-CSA at least 60 days prior to the expiration of the certificate. 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 uncertified practice during the period following the certification expiration, not to exceed the number of days short of 60 before the renewals were issued.
- c) If an FN-CSA does not renew the certificate prior to its expiration date, the FN-CSA may renew the certificate within 30 days of its expiration by submitting a renewal application and a renewal fee as set forth in N.J.A.C. 13:37-5.5(e). If the FN-CSA has not paid a reinstatement fee for renewal of licensure as a registered professional nurse within the same biennial period, the FN-CSA shall pay, in addition to the renewal fee, the reinstatement fee from N.J.A.C. 13:37-5.5(e).
- d) A certificate that is not renewed within 30 days of its expiration shall be administratively suspended. An individual who continues to practice with an administratively suspended certificate shall be deemed to be engaged in unlicensed practice.
- e) An FN-CSA whose certificate has been administratively suspended for five years or less for nonpayment of a biennial renewal fee pursuant to (c) above may be reinstated by the Board upon completion of the following:
  - 1) Payment of all past delinquent biennial renewal fees pursuant to N.J.A.C. 13:37-5.5(e);
  - 2) Submission of an affidavit of employment listing each job held during the period the certificate was suspended, including the name, address and telephone number of each employer; and

- 3) If the FN-CSA has not paid a reinstatement fee for licensure as a registered professional nurse within the same biennial period, the FN-CSA shall pay, in addition to the renewal fees, the reinstatement fee from N.J.A.C. 13:37-5.5(e).
- f) An FN-CSA whose certificate has been administratively suspended for failure to renew for more than five years who wishes to have his or her certificate reinstated shall reapply for certification pursuant to N.J.A.C. 13:37-9.3, including retaking and successfully completing:
- 1) An FN-CSA education course approved by the Board and the Director of the Division of Criminal Justice pursuant to N.J.A.C. 13:37-9.5;
  - 2) The FN-CSA clinical requirements pursuant to N.J.A.C. 13:37-9.6; and
  - 3) The FN-CSA clinical examination given by an approved clinical examination facility pursuant to N.J.A.C. 13:37-9.7(d).
- g) An FN-CSA who has worked in another state as forensic nurse during the period of suspension shall be permitted to reinstate certification without meeting the requirement of (f) above if he or she submits an affidavit to the Board, from his or her employer, which indicates that he or she worked during the period of suspension as a forensic nurse in the other state.
- h) Renewal applications shall provide the FN-CSA with the option of either active or inactive status. An FN-CSA electing inactive status shall pay the inactive certificate fee set forth in N.J.A.C. 13:37-5.5 and shall not practice as an FN-CSA in New Jersey.
- i) An FN-CSA 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) Payment of the active status fee set forth in N.J.A.C. 13:37-5.5; and
  - 2) Submission of an affidavit of employment listing each job held during the period the FN-CSA was on inactive status, including the name, address and telephone number of each employer.
- j) An FN-CSA who has been on inactive status for more than five years who wishes to return to practice shall reapply for certification pursuant to N.J.A.C. 13:37-9.3, including retaking and successfully completing:

- 1) An FN-CSA education course approved by the Board and the Director of the Division of Criminal Justice pursuant to N.J.A.C. 13:37-9.5;
  - 2) The FN-CSA clinical requirements pursuant to N.J.A.C. 13:37-9.6; and
  - 3) The FN-CSA clinical examination given by an approved clinical examination facility pursuant to N.J.A.C. 13:37-9.7(d).
- k) An FN-CSA who has worked in another state as forensic nurse during the period of inactive status shall be permitted to reactivate certification without meeting the requirement of (j) above if he or she submits an affidavit to the Board, from his or her employer, which indicates that he or she worked during the period of inactive status as a forensic nurse in the other state.

### **13:37-9.9 REVOCATION OR SUSPENSION OF CERTIFICATION**

- a) The Board and the Director of the Division of Criminal Justice may revoke or suspend a certification, after affording an opportunity to be heard, if they find that a FN-CSA has:
- 1) Falsified documentation;
  - 2) Violated patient confidentiality;
  - 3) Been convicted of a crime;
  - 4) Been convicted of an offense involving perjury, dishonesty, fraud or misrepresentation, or sex offense; or
  - 5) Violated the provisions of N.J.S.A. 45:1-21.

### **13:37-9.10 ENDORSEMENT**

- a) A registered professional nurse, licensed in New Jersey, who is working as a FN-CSA in another state may apply for certification as a FN-CSA in New Jersey if the applicant is certified by another state as a FN-CSA, or its equivalent, and the applicant:
- 1) Has completed a course and clinical education substantially similar to the requirements of N.J.A.C. 13:37-9.5 and 9.6; and
  - 2) Passes a clinical competency examination given by a clinical examination facility pursuant to N.J.A.C. 13:37-9.7(d).

- b) An applicant for certification by endorsement shall submit to the Board:
- 1) A completed application for certification by endorsement form which shall include the name, address and telephone number of the applicant;
  - 2) Evidence that the applicant is licensed as a registered professional nurse in New Jersey;
  - 3) Evidence that the applicant is certified in another state and has worked in the past year as a FN-CSA, or its equivalent;
  - 4) Evidence that the applicant has successfully completed a course with a curriculum substantially similar to that required by N.J.A.C. 13:37-9.5;
  - 5) Evidence that the applicant has successfully completed clinical education which is substantially similar to that required by N.J.A.C. 13:37-9.6;
  - 6) Evidence that the applicant has passed a clinical competency examination given by an approved clinical examination facility; and
  - 7) The application fee pursuant to N.J.A.C. 13:37-5.5(d)4.
- c) The Board shall review the endorsement application and forward it to the Director of Criminal Justice for review and approval. Once both the Board and the Director have approved the applicant, the Board shall issue the applicant a certification as a FN-CSA in New Jersey.

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**SUBCHAPTERS 10 THROUGH 13.  
(RESERVED)**

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**SUBCHAPTER 14.  
HOMEMAKER-HOME HEALTH AIDES**

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**13:37-14.1 PURPOSE AND SCOPE**

- a) The rules in this subchapter are designed to protect the health and safety of the public through certification of homemaker-home health aides (CHHAs), pursuant to N.J.S.A. 45:11-24(d)(20).

- b) This subchapter prescribes standards and curricula for CHHA education and training programs which a CHHA, as defined in this subchapter, is required to complete in order to work in this State. This subchapter also establishes standards and requirements for CHHA certification and for the renewal, suspension or revocation of that certification.

### **13:37-14.2 DEFINITIONS**

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

"Activities of daily living" means the functions or tasks for self-care which are performed either independently or with supervision or assistance. Activities of daily living include mobility, transferring, walking, grooming, bathing, dressing, undressing, eating, and toileting.

"Board" means the Board of Nursing.

"CHHA" means a certified homemaker-home health aide who is employed by a home care services agency and who, under supervision of a registered professional nurse, follows a delegated nursing regimen or performs tasks which are delegated.

"Community health nursing" means professional nursing practice emphasizing health promotion, health maintenance, primary prevention, health education and management, coordination of health care services, and continuity of care for individuals, families, and groups in the community. "Community health nursing" includes home visits to assess, plan for, and provide nursing services; health guidance and direct care; and coordination of services with community resources, families and other health professionals and paraprofessionals.

"Full-time" means that a person has worked at least 1820 hours in a year.

"Home care services agency" means home health agencies, assisted living residences, comprehensive personal care homes, assisted living programs or alternate family care sponsor agencies licensed by the Department of Health pursuant to P.L. 1971, c. 136 (C.26:2H-1 et al.), nonprofit homemaker-home health aide agencies, and health care service firms regulated by the Division of Consumer Affairs pursuant to P.L. 1989, c. 331 (C.34-8-43 et seq.) and P.L. 1960, c. 39 (C.56:8-1 et seq.), which are engaged in the business of procuring or offering to procure

employment for homemaker-home health aides, where a fee may be exacted, charged, or received directly or indirectly for procuring or offering to procure that employment.

“Home-making activities” means the functions and tasks that a CHHA may be asked to perform by the patient, the patient’s family or a delegating registered professional nurse that are necessary to provide the patient with an appropriate therapeutic environment and comfort at home, including shopping, errands, laundry, meal planning and preparation, including therapeutic diets, serving of meals, and child care.

“Part-time” means that a person has worked at least 1040 hours in a year but has not worked enough hours to qualify as “full-time.”

"Program coordinator" means the nurse responsible for the training program curriculum.

### **13:37-14.3 DUTIES OF A HOMEMAKER-HOME HEALTH AIDE; REGISTERED PROFESSIONAL NURSE DELEGATION AND DIRECTION**

- a) (Reserved)
- b) A CHHA may perform home-making activities, as requested or assigned by the patient, the patient’s family or a registered professional nurse responsible for the patient’s care.
- c) When a CHHA is assigned to a patient that has already been assessed by a registered professional nurse, the registered professional nurse shall review the nursing plan of care with the CHHA. The registered professional nurse and CHHA shall meet face-to-face if the registered professional nurse determines that the CHHA is not yet adequately prepared to perform the tasks that he or she would perform for the patient pursuant to a delegation from the registered professional nurse, so that the registered professional nurse may provide instruction to the CHHA as to the manner in which the tasks shall be performed.
- d) A CHHA shall review the plan of care with a delegating registered professional nurse after the assessment has been conducted and a plan of care developed and whenever changes have been made to the plan of care by the registered professional nurse.
- e) A CHHA shall administer medications only if:
  - 1) A registered professional nurse delegates the administration of a specific medication to the CHHA pursuant to N.J.A.C. 13:37-6.4(c);

- 2) The delegating registered professional nurse documents in the nursing plan of care and in the patient record kept by the CHHA's home care services agency:
  - i) The specific medication whose administration has been delegated;
  - ii) Any specific instruction the registered professional nurse provided to the CHHA as part of that delegation;
  - iii) The duration of the delegation;
  - iv) A timeframe for the professional registered nurse to reevaluate the patient;
  - v) The dosage of the medication, route of administration for the medication, and frequency of the medication;
  - vi) Any side effects that the CHHA should watch for;
  - vii) Any contraindications to administering the medication;
  - viii) Any conditions that would require the CHHA to contact the registered professional nurse;
  - ix) Any instructions on positioning of the patient prior to and after the administration of the medication; and
  - x) The instructions for proper preparation and maintenance of the medication.
- 3) The CHHA shall document every time that he or she administers medications; and
- 4) The CHHA shall report immediately to the delegating registered professional nurse or his or her registered professional nurse designee if:
  - i) The medication was administered at the wrong time;
  - ii) The wrong dose of medication was administered;
  - iii) The wrong medication was administered;
  - iv) The medication was administered through the wrong route;

- v) The medication was not administered;
- vi) The patient refused to take the medication; or
- vii) The patient evidences any adverse reaction or side-effects to the medication.

### **13:37-14.4 CHHA TRAINING PROGRAM**

- a) An agency or educational institution shall apply to the Board pursuant to N.J.A.C. 13:37-14.6 for written approval to conduct a CHHA training program prior to the commencement of the training program. Program approval shall be valid for a 12 month period.
- b) A CHHA training program shall be conducted by a home care services agency or an educational institution approved by the New Jersey State Department of Education or the Commission of Higher Education.
- c) A CHHA training program shall consist of at least 76 hours. The program shall include 60 hours of classroom instruction and 16 hours of clinical instruction in a skills laboratory or patient care setting, covering topics outlined in (g) below and N.J.A.C. 13:37-14.5.
- d) The student-to-instructor ratio for classroom instruction shall not exceed 30 students to one classroom instructor.
- e) Classroom and clinical instruction shall be taught by an individual who meets the requirements of N.J.A.C. 13:37-14.8(a) and (b).
- f) The student-to- instructor ratio for clinical instruction shall not exceed 10 students to one clinical instructor.
- g) The curriculum for a CHHA training program shall include instruction in:
  - 1) The role of unlicensed assistive personnel in nursing care settings, including:
    - i) Long term care, acute care, subacute, outpatient services, rehabilitation centers, home care agencies, assisted living and hospice;
    - ii) The role, responsibilities and scope of practice of the registered nurse;

- iii) The role, responsibilities and scope of practice of the licensed practical nurse;
  - iv) The role and responsibilities of the unlicensed assistive personnel; and
  - v) Legal and ethical considerations for the unlicensed assistive personnel, such as client rights, confidentiality, accountability, legal documentation, eligibility, reporting physical, mental, verbal, emotional and financial abuse, and maintenance of certification including necessity for unlicensed assistive personnel to complete a course, competency testing and criminal background checks;
- 2) Foundations for working with people, including:
- i) Components of communication;
  - ii) Factors that affect communication;
  - iii) Barriers to communication;
  - iv) Enhancing communication;
  - v) Skills for basic communication;
  - vi) Communicating with staff members;
  - vii) Guidelines for communicating with individuals who are visually impaired, hearing impaired, speech impaired, cognitively impaired, experiencing stress or who have transcultural considerations; and
  - viii) An introduction to human behavior including instruction on understanding basic human needs, understanding mental health, emotional growth and needs throughout a person's lifetime, behavior as a response to stress or unmet needs, responses to changes in health, spiritual needs and reactions to loss, grief and dying;
- 3) Foundations for a safe client environment, including:
- i) Environmental conditions;
  - ii) Physical conditions including potential hazards and safety measures;

- iii) Emotional conditions including potential hazards and protective measures;
  - iv) Prevention of, and response to, fire and disaster emergencies;
  - v) Infection control, including the chain of infection, standard precautions, hazardous waste and special concerns regarding tuberculosis (TB), Human Immunodeficiency Virus (HIV) and Hepatitis B;
  - vi) Body mechanics; and
  - vii) Medical emergencies, emergency preparedness and guidelines for handling medical emergencies;
- 4) The musculoskeletal system, including:
- i) Overview of anatomy and physiology;
  - ii) Common conditions and disorders of the musculoskeletal system;
  - iii) Examples of changes in the musculoskeletal system to report to a nurse; and
  - iv) Client care procedures related to the musculoskeletal system including exercise, activity and positioning, range of motion, transferring, ambulation, and assistive devices;
- 5) The integumentary system, including:
- i) Overview of anatomy and physiology;
  - ii) Common conditions and disorders of the integumentary system;
  - iii) General skin care;
  - iv) Examples of changes in the integumentary system to report to a nurse; and
  - v) Client care procedures related to the integumentary system including personal hygiene and positioning;

- 6) The upper gastrointestinal system, including:
  - i) Overview of anatomy and physiology;
  - ii) Common conditions and disorders of the upper gastrointestinal system;
  - iii) General care including nutrition across the lifespan, factors affecting nutrition, therapeutic diets and alternative nutrition sources;
  - iv) Examples of gastrointestinal changes to report to a nurse; and
  - v) Client care procedures related to upper gastrointestinal system;
- 7) The lower gastrointestinal system:
  - i) Overview of anatomy and physiology;
  - ii) Common conditions and disorders of the lower gastrointestinal system;
  - iii) General care including factors affecting bowel elimination;
  - iv) Examples of gastrointestinal changes to report to a nurse; and
  - v) Client care procedures related to lower gastrointestinal system;
- 8) The urinary system, including:
  - i) Overview of anatomy and physiology;
  - ii) Common conditions and disorders of the urinary system, specifically incontinence;
  - iii) Examples of urinary changes to report to a nurse; and
  - iv) Client care procedures related to the urinary system;
- 9) The cardiovascular and respiratory systems, including:
  - i) Overview of anatomy and physiology;

- ii) Common conditions and disorders of the cardiovascular and respiratory systems;
  - iii) Examples of cardiovascular or respiratory changes to report to a nurse; and
  - iv) Client care procedures related to cardiovascular and respiratory systems specifically, vital signs, applying antiembolism stockings, assisting the client to use oxygen and positioning the client for circulatory and respiratory comfort;
- 10) Neurological system, including:
- i) Overview of anatomy and physiology;
  - ii) Common conditions and disorders of the neurological system;
  - iii) Examples of neurological changes to report to a nurse; and
  - iv) Client care procedures related to the neurological system, specifically, care needs of a client with cognitive impairment, care of a client with a seizure disorder, care of a client following a stroke and rehabilitation or restorative care;
- 11) The endocrine system, including:
- i) Overview of anatomy and physiology;
  - ii) Common conditions and disorders of the endocrine system;
  - iii) Changes to report to a nurse, including hyperglycemia and hypoglycemia and their causes, symptoms and emergency response: and
  - iv) Client care related to the endocrine system, specifically foot care, skin care and nutrition for a client with diabetes;
- 12) The reproductive system, including:
- i) Overview of anatomy and physiology;
  - ii) The structure of, function of and age related changes to reproductive organs;

- iii) Common conditions and disorders of the reproductive system, specifically sexually transmitted diseases such as gonorrhea, syphilis, herpes and Acquired Immunodeficiency Syndrome (AIDS); and
  - iv) Examples of changes in the reproductive system to report to a nurse;
- 13) The immune system, including:
- i) Overview of anatomy and physiology; and
  - ii) Common conditions and disorders of the immune system, such as AIDS, HIV and cancer;
- 14) Rest and sleep, including:
- i) Functions of rest and sleep;
  - ii) Factors affecting and/or causing sleep disturbances; and
  - iii) Promoting sleep; and
- 15) Death and dying, including:
- i) Responding to the physical and emotional needs of a client with a terminal illness;
  - ii) Legal and quality of life issues including the New Jersey Advance Directives for Health Care Act (N.J.S.A. 26:2H-53 et seq.), living wills and “do not resuscitate” orders;
  - iii) Signs of impending death; and
  - iv) Post-mortem care of the patient.
- h) The Board may conduct an on-site visit of any program prior to approval of the program, or at any other time, in order to ensure compliance with the requirements of this subchapter. If the on-site visit indicates that a program is not in compliance with this subchapter, the Board shall either deny approval of the program or revoke approval.

- i) The program shall inform an individual, before the individual is admitted to a CHHA training program, that a criminal history background check is a pre-requisite for certification as a CHHA.
- j) Every CHHA training program shall include a competency evaluation examination that tests a student's ability to complete the functions of a CHHA.

### **13:37-14.5 HOME CARE AND HOSPICE CARE TRAINING PROGRAMS**

- a) In addition to the curriculum training requirements of N.J.A.C 13:37-14.4(g), the training program for a CHHA in home care or hospice care shall include instruction in:
  - 1) The role of the CHHA, including:
    - i) Settings utilizing CHHAs;
    - ii) Role of the CHHA; and
    - iii) Legal and ethical considerations for the CHHA;
  - 2) The foundations for working with the home care client, the family and significant others of the home care client and home care team members, including:
    - i) Communication with the client and the client's family and significant others;
    - ii) Barriers to communication;
    - iii) Communication with the home care team; and
    - iv) Maintaining relationships with the client and the client's family and significant others;
  - 3) Foundations for a safe client environment, including:
    - i) General home safety;
    - ii) Fire safety;
    - iii) Personal safety and body mechanics;

- iv) Infection control;
  - v) Emergencies; and
  - vi) Assistance with medications;
- 4) Home care considerations, including:
- i) Food;
  - ii) Housekeeping;
  - iii) Use and care of medical equipment in the home;
  - iv) Cultural diversity; and
  - v) Death and dying;
- 5) Infant and child care, including:
- i) Introduction to infant and child care; and
  - ii) Family dynamics;
- 6) The responsibility of an agency to the CHHA, including:
- i) The supervision to be provided by a registered professional nurse;
  - ii) The agency's responsibility to comply with Federal and State employment laws;
  - iii) Mandatory taxes to be withheld by the agency;
  - iv) In-services provided to the homemaker-home health aide;
  - v) Job descriptions provided by the agency;
  - vi) Personnel policies of the agency;

- vii) Service policies and procedures of the agency; and
  - viii) Agency policies on patient and family confidentiality; and
- 7) Board statutes and regulations governing CHHA practice (N.J.S.A. 45:11-24 through 24.9 and N.J.A.C. 13:37-14).

### **13:37-14.6 APPLICATION FOR CHHA TRAINING PROGRAM APPROVAL**

- a) A training program that seeks Board approval shall submit the following to the Board at least two months prior to the commencement of the training program:
- 1) A completed application for training program approval. The application form includes:
    - i) The name and address of the agency or school;
    - ii) The course dates and location;
    - iii) The anticipated number of students;
    - iv) The name and address of the program coordinator; and
    - v) If the program is conducted by a home care services agency, the agency's license or registration number issued by the Department of Health or the Division of Consumer Affairs.
  - 2) An instructor approval application which provides the name of the instructor assigned to each session;
  - 3) The program approval fee for each location at which the program will be offered, as set forth in N.J.A.C. 13:37-5.5(b)2; and
  - 4) Resumes of each instructor. Each resume shall include the instructor's:
    - i) Name;
    - ii) Address;
    - iii) Education (institution, type of degree or diploma, month and year of graduation);

- iv) Work experience (employer's name and address, dates of employment, including month and year, job title, whether full-time or part-time); and
- v) New Jersey nursing license number.

### **13:37-14.7 PROGRAM COORDINATOR; QUALIFICATIONS AND RESPONSIBILITIES**

- a) The CHHA training program shall be coordinated by a registered professional nurse licensed in New Jersey who:
  - 1) Holds a bachelors or higher degree in nursing; and
  - 2) Has worked either:
    - i) Full-time for a total of two years as a registered professional nurse within the five-year period immediately preceding application, one year of which shall have been in community health nursing or home care; or
    - ii) Part-time for a total of four years as a registered professional nurse within the five-year period immediately preceding application, two years of which shall have been in community health nursing or home care.
- b) The program coordinator shall provide an appropriately equipped classroom and skills laboratory with sufficient equipment and resources to provide for efficient and effective theoretical and clinical learning experiences.
- c) The program coordinator shall have the following responsibilities:
  - 1) Establishing and implementing policies and procedures for the program;
  - 2) Maintaining on file a copy of the core curriculum, as provided in N.J.A.C. 13:37-14.4(g), and the homecare and hospice care curriculum, as provided in N.J.A.C. 13:37-14.5;
  - 3) Establishing methods to ensure that students who have missed classroom or clinical instruction receive the instruction that has been missed;
  - 4) Establishing and maintaining records for each student, which may be maintained electronically. The student record shall include the following:
    - i) The beginning and ending dates of the program session;

- ii) An attendance record, including the dates of any makeup sessions; and
  - iii) Evaluation of the student's performance by the classroom instructor and by the registered professional nurse who supervised the student's clinical instruction;
- 5) Developing, implementing and maintaining on file, which may be maintained electronically, a plan for evaluating the effectiveness of the program. The evaluation plan shall include the following:
- i) The name of the person responsible for conducting the evaluation plan;
  - ii) An annual written training program evaluation report, including findings, conclusions and recommendations;
  - iii) A written evaluation of instructor performance;
  - iv) Program, instructor and student data, which shall include the following:
    - (1) The beginning and ending dates of each program session;
    - (2) The number of students enrolled;
    - (3) The number and percentage of students who successfully completed the program; and
    - (4) The number and percentage of students who failed the program;
- 6) Ensuring that the curriculum includes the information required pursuant to N.J.A.C. 13:37-14.4(g) and 14.5;
- 7) Establishing job descriptions indicating the responsibilities of each instructor;
- 8) Ensuring that each instructor meets the qualifications specified in N.J.A.C. 13:37-14.8;
- 9) Ensuring that the program is in compliance with this subchapter; and
- 10) Submitting to the Board eligibility lists detailing those students who have successfully completed a homemaker-home health aide program. community health nursing or home care.
- d) The program coordinator shall notify the Board of Nursing in writing:

- 1) Within two weeks of a change in location or instructor; and
  - 2) Immediately of a cancellation of a training program.
- e) Program coordinators shall attend orientation sessions that may be held by the Board.

### **13:37-14.8 PROGRAM INSTRUCTOR: QUALIFICATIONS AND RESPONSIBILITIES**

- a) Classroom and clinical instruction in a CHHA training program shall be provided by a registered professional nurse licensed in New Jersey who has worked either:
- 1) Full-time for two years as a registered professional nurse within the past five years, one year of which shall have been in community health or home care; or
  - 2) Part-time for four years as a registered professional nurse within the past five years, two years of which shall have been in community health or home care.
- b) A CHHA training program that has an instructor who meets the requirements of (a) above may allow a person who does not meet the requirements of (a) above to assist the instructor during the training program if that person has a minimum of one year of full-time or two years of part-time experience in the area being taught.
- c) Program instructors who began their current employment position before June 6, 1994 need not meet the requirements of (a) above.
- d) The program instructor's responsibilities shall include the following:
- 1) Developing a lesson plan that covers the topics required pursuant to N.J.A.C. 13:37-14.4(g) and 13:37-14.5; and
  - 2) Developing and administering the competency evaluation examination required by N.J.A.C. 13:37-14.4(j).

### **13:37-14.9 APPLICATION FOR CHHA CERTIFICATION**

- a) An applicant for certification as a CHHA shall submit the following to the Board:

- 1) Evidence that the applicant satisfactorily completed a CHHA training program approved by the Board, including the competency evaluation examination required by N.J.A.C. 13:37-14.4(j);
  - 2) Evidence that the applicant has completed the education requirements of (b) below;
  - 3) A completed Criminal History Certification of Authorization form for the applicant;
  - 4) Proof that the applicant is employed, or will be employed, by a home care services agency; and
  - 5) The application fee and initial certification fee as set forth in N.J.A.C. 13:37-5.5(b).
- b) Applicants for certification shall qualify for certification by either:
- 1) Completing a CHHA training program approved by the Board pursuant to N.J.A.C. 13:14.6;
  - 2) Holding certification as a nurse aide from the Department of Health and completing a course that covers the information required by N.J.A.C. 13:37-14.5; or
  - 3) Successfully completing a clinical nursing course in a registered professional nursing education program or a licensed practical nursing education program which includes basic nursing theory and skills.
- c) An applicant shall have completed the education required by (b) 1 or 3 above no more than six months prior to an application for certification being submitted to the Board. An education program completed more than six months prior to submission shall not qualify an applicant for certification.
- d) When the results of a criminal history background check revealing a conviction for a crime or disorderly persons offense have been received by the Board, the applicant and the applicant's prospective employer, if known, shall be notified that the applicant is disqualified. The notice provided to the applicant shall also set forth:
- 1) The basis for a preliminary determination that the applicant is disqualified;
  - 2) The applicant's right to provide evidence to the Board, within 30 days of receipt of the notice, contesting the accuracy of the criminal history background check; and

- 3) In the event that the applicant truthfully disclosed the conviction in the application, the applicant's right to provide evidence to the Board, within 30 days of receipt of notice, affirmatively demonstrating rehabilitation and an identification of the factors that the Board will consider in determining whether the applicant has clearly and convincingly demonstrated rehabilitation, as set forth at N.J.S.A. 45:11-24.3(b).
- e) If the applicant submits evidence contesting the accuracy of the criminal history background check or demonstrating rehabilitation, notice of the submission shall be provided to the applicant's prospective employer, if known.
  - f) Upon its review of the results of a criminal history background, and any evidence pertaining to accuracy or rehabilitation, if applicable, the Board shall render one of the following dispositions:
    - 1) Issue a homemaker-home health aide certificate to the applicant, if the criminal history background check indicated that the applicant has never been convicted of any crime or disorderly persons offense;
    - 2) Issue a homemaker-home health aide certificate to the applicant, if the Board determines that the applicant has submitted sufficient information to establish to the Board that the criminal history background check is inaccurate or to clearly and convincingly demonstrate rehabilitation;
    - 3) Provide an applicant with additional time to supplement the evidence presented regarding rehabilitation, in writing or via an opportunity to be heard if there are material facts in dispute;
    - 4) Provide an applicant with additional time to supplement the evidence relating to the accuracy of the criminal history background check, in writing or via an opportunity to be heard if there are material facts in dispute; or
    - 5) Deny the application for a homemaker-home health aide certificate, providing reasons for the denial and designating the period of time that the applicant will be barred from reapplication, if the Board determines that the applicant has failed to submit sufficient information to clearly and convincingly demonstrate rehabilitation and:
      - i) The criminal history background check accurately reflects that the applicant has been convicted of a disqualifying crime or disorderly persons offense, as set forth at N.J.S.A. 45:11-24.3.b; or
      - ii) The criminal history background check accurately reflects that the applicant has been convicted of a crime or offense, which has not been categorized as disqualifying, but

otherwise involves moral turpitude or is related adversely to the activity regulated by the Board, pursuant to N.J.S.A. 45:1-21.f.

- g) If the applicant fails to contest the accuracy of the criminal history background check or submit evidence of rehabilitation within 30 days of the notification pursuant to (d) above, the application will be considered abandoned.
- h) If an applicant submits, as part of the application, a sworn statement asserting that he or she has not been convicted of a crime or disorderly persons offense that is false, he or she shall be disqualified from certification as a homemaker-home health aide and shall not have an opportunity to establish rehabilitation pursuant to N.J.S.A. 45:11-24.3 and may be subject to penalty, including a bar from reapplication for a period of time and a fine of up to \$1000, pursuant to N.J.S.A. 45:11-24.9.
- i) The Board shall notify the applicant the applicant's prospective employer, if known, of the disposition on the application.

### **13:37-14.10 COMPETENCY EXAMINATION**

- a) Upon successful completion of an approved training program, the applicant shall register for the next scheduled administration of the competency examination administered by the Board or a Board-approved testing service.
- b) The applicant may be employed by a home health care agency under the supervision of a registered professional nurse while waiting to take the next scheduled administration of the competency examination.
- c) The competency examination shall be an examination administered by the Board of Nursing or a Board-approved testing service at least four times a year.
- d) The passing score on the examination shall be established and reviewed annually by the Board.
- e) An individual who fails the competency examination may retake the examination provided that he or she registers for the next scheduled administration of the examination.
- f) An individual awaiting the next scheduled administration of the examination in accordance with (e) above may continue to be employed by a home health care agency under the supervision of a registered professional nurse.

- g) If the individual fails in the second attempt to pass the examination, he or she shall successfully complete another homemaker-home health aide training program approved by the Board before taking the examination again. This individual shall not be employed as a homemaker-home health aide until he or she passes the examination.
- h) Upon application to the Board, an individual may satisfy the examination requirement for certification as a homemaker-home health aide by passing an oral competency evaluation in English or Spanish.

### **13:37-14.11 CERTIFICATION BY RECIPROCITY**

- a) Upon receipt of a completed application, application fee, promise of employment letter from a New Jersey home care services agency, consent to a criminal history record background check, and requisite fee for such a check, the Board shall issue certification as a CHHA to any person who documents that he or she holds a valid, current CHHA certification in good standing issued by another state, if:
  - 1) The Board determines that the state that issued the certification has or had at the time of issuance, education, training, and examination requirements for certification substantially equivalent to the current standards of this State;
  - 2) The applicant has been practicing as a CHHA for a period of at least 6 months within the five years prior to the date of application; and
  - 3) The requirements of subsection (b) are satisfied.
- b) Prior to the issuance of the certification in (a) above, the Board shall have received:
  - 1) Documentation satisfactory to the Board that the applicant's certification in any other state in which the applicant is licensed is in good standing;
  - 2) The results of a criminal history record background check of the files of the Criminal Justice Information Services Division in the Federal Bureau of Investigation and the State Bureau of Identification in the Division of State Police does not disclose a conviction for a disqualifying crime; and
  - 3) Designation of an agent in this State for service of process if the applicant is not a State resident and does not have an office in this State.
- c) For purposes of this section, "good standing" means that:

- 1) No action has been taken against the applicant's certification by any licensing board;
  - 2) No action adversely affecting the applicant's privileges to practice as a CHHA has been taken by any out-of-State institution, organization, or employer;
  - 3) No disciplinary proceeding is pending that could affect the applicant's privileges to practice as a CHHA;
  - 4) All fines levied by any out-of-State board have been paid; and
  - 5) There is no pending or final action by any criminal authority for violation of law or regulation, or any arrest or conviction for any criminal or quasi-criminal offense under the laws of the United States, New Jersey, or any other state, including but not limited to: criminal homicide; aggravated assault; sexual assault, criminal sexual contact or lewdness; or any offense involving any controlled dangerous substance or controlled dangerous substance analog.
- d) The Board, after a CHHA has been given notice and an opportunity to be heard, may revoke any certification based on a certification issued by another state obtained through fraud, deception, or misrepresentation.
- e) The Board may grant a certification without examination to an applicant seeking reciprocity who holds a corresponding certification from another state who does not meet the good standing requirement of subsection (a) due to a pending action by a licensing board, a pending action by an out-of-State institution, organization, or employer affecting the applicant's privileges to practice, a pending disciplinary proceeding, or a pending criminal charge or arrest for a crime provided the alleged conduct of the applicant that is the subject of the action, proceeding, charge or arrest, assuming it is true, does not demonstrate a serious inability to practice as a CHHA, adversely affect the public health, safety, or welfare, or result in economic or physical harm to a person, or create a significant threat of such harm.

### **13:37-14.12 IDENTIFICATION TAGS**

- a) Every CHHA shall wear an identification tag at all times while providing care to patients. The identification tag shall be clearly visible at all times and shall include the CHHA's first name or initial, the full surname, the words "homemaker-home health aide" and a photograph of the individual pursuant to P.L. 2002, c. 81. The letters on the tag shall be of equal size, in type not smaller than one-quarter inch. The size of the identification tag shall be equal to or greater than that of any other identification worn by the CHHA.
- b) In order to protect his or her personal safety, or to prevent the substantial invasion of his or her privacy, or to prevent the identification tag from causing physical harm to a patient, a

CHHA may request an exemption from the requirements of (a) above. Such requests for an exemption shall be made by the CHHA in writing to the Board and shall set forth the reasons why wearing the tag would endanger the aide's personal safety, substantially invade the aide's privacy or physically harm a patient.

- c) The exemption set forth in (b) above shall not apply to a CHHA providing home-based services for a registered health care service firm who is required to wear an identification tag pursuant to N.J.S.A. 34:8-79.

### **13:37-14.13 RENEWAL OF CERTIFICATION**

- a) The Board shall send a notice of renewal to each CHHA, at least 60 days prior to the expiration of the certification. The notice of renewal shall explain inactive renewal and advise the CHHA 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 CHHA for failure to renew provided that the certification is renewed within 60 days from the date the notice is sent or within 30 days following the date of certification expiration, whichever is later.
- b) A CHHA shall renew his or her certification for a period of two years from the last expiration date. The CHHA shall submit a renewal application to the Board, along with the renewal fee set forth in N.J.A.C. 13:37-5.5(b), prior to the date of certification expiration.
- c) A CHHA may renew his or her certification by choosing inactive status. A CHHA electing to renew his or her certification as inactive shall not practice as a CHHA, or hold him- or herself out as eligible to practice as a CHHA, in New Jersey until such time as the certification is returned to active status.
- d) If a CHHA does not renew the certification prior to its expiration date, the CHHA may renew the certification 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. 13:37-5.5(b). During this 30-day period, the certification shall be valid and the CHHA shall not be deemed practicing without certification.
- e) A CHHA who fails to submit a renewal application within 30 days of certification expiration shall have his or her certification suspended without a hearing.
- f) An individual who practices as a CHHA with a suspended certification shall be deemed to be engaging in the uncertified practice and shall be subject to action consistent with N.J.S.A. 45:1-14 et seq., even if no notice of suspension has been provided to the individual.

**13:37-14.14 CERTIFICATION REACTIVATION**

- a) A CHHA who holds an inactive certification pursuant to N.J.A.C. 13:37-14.13(c) may apply to the Board for reactivation of certification. A CHHA seeking reactivation of an inactive certification shall submit:
- 1) A renewal application;
  - 2) A certification of employment listing each job held during the period of inactive certification, which includes the names, addresses, 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. 13:37-5.5(b); and
  - 4) Proof that the person is employed by, or has a promise of employment from, a home care services agency.
- 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 certification. If that examination or assessment identifies deficiencies or educational needs, the Board may require the applicant as a condition of reactivation of certification to take and successfully complete education or training or to submit to supervision, monitoring, or limitations, as the Board determines are necessary to assure that the applicant practices with reasonable skill and safety. The Board may restore the certification subject to the applicant's completion of the training within a period of time prescribed by the Board following the restoration of the certification. In making its determination whether there are practice deficiencies requiring remediation, the Board shall consider the following:
- 1) Length of time certification was inactive;
  - 2) Employment history;
  - 3) Professional history;
  - 4) Disciplinary history and any action taken against the applicant by any licensing board;

- 5) Actions affecting the applicant's privileges taken by any institution, organization, or employer related to practice as a CHHA or other professional or occupational practice in New Jersey, any other state, the District of Columbia, or in any other jurisdiction;
- 6) Pending proceedings against any professional or occupational license or certificate issued to the applicant by a professional board in New Jersey, any other state, the District of Columbia, or in any other jurisdiction; and
- 7) Civil litigation related to practice as a CHHA or other professional or occupational practice in New Jersey, any other state, the District of Columbia, or in any other jurisdiction.

### **13:37-14.15 CERTIFICATION REINSTATEMENT**

- a) Pursuant to N.J.S.A. 45:1-7.1(c), an individual who has had his or her certification suspended pursuant to N.J.A.C. 13:37-14.13(e) may apply to the Board for reinstatement. An individual applying for reinstatement shall submit:
  - 1) A reinstatement application;
  - 2) A certification of employment listing each job held during the period of suspended certification, which includes the names, addresses, and telephone number of each employer;
  - 3) The renewal fee for the biennial period for which reinstatement is sought set forth in N.J.A.C. 13:37-5.5(b);
  - 4) The past due renewal fee for the biennial period immediately preceding the renewal period for which reinstatement is sought set forth in N.J.A.C. 13:37-5.5(b);
  - 5) The reinstatement fee set forth in N.J.A.C. 13:37-5.5(b); and
  - 6) Proof that the person is employed by, or has a promise of employment from, a home care services agency.
- 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 certification. If that examination or assessment identifies deficiencies or educational needs, the board may require the applicant as a condition of reinstatement of certification to take and successfully complete education or training or to submit to supervision, monitoring, or

limitations, as the Board determines are necessary to assure that the applicant practices with reasonable skill and safety. The Board may restore certification subject to the applicant's completion of the training within a period of time prescribed by the Board following the restoration of the certification. In making its determination whether there are practice deficiencies requiring remediation, the Board shall consider the following:

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

### **13:37-14.16 DUTIES AND POWERS OF THE BOARD**

- a) The Board may deny, revoke or suspend a CHHA training program approval if the program coordinator has failed to comply with N.J.S.A. 45:11-20 et seq. or the requirements of this subchapter.
- b) The Board may investigate complaints made against a training program, program coordinator or CHHA and may conduct inquiries in connection with such complaints.
- c) The Board may suspend or revoke the certification of a CHHA who has violated any provisions of N.J.S.A. 45:11-20 et seq. or the requirements of this subchapter.
- d) Any Board action set forth in N.J.S.A. 45:1-21 and 22 shall take place only upon notice and the opportunity for a hearing in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

**13:37-14.17 SEXUAL MISCONDUCT**

- a) The purpose of this section is to identify for CHHAs conduct that 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 services from a CHHA.

"Patient-aide relationship" means a relationship between a CHHA and a patient wherein the CHHA owes a continuing duty to the patient to perform tasks a registered professional nurse has delegated to the CHHA, tasks a registered professional nurse has directed the CHHA to perform, or home-making activities as requested by a patient or patient's family.

"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 CHHA's own prurient interest or for sexual arousal or gratification. "Sexual contact" includes the imposition of a part of the CHHA'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 CHHA 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 CHHA performing tasks a registered professional nurse has delegated to the CHHA or tasks a registered professional nurse has directed the CHHA to perform, and that either: is unwelcome, is offensive to a reasonable person, or creates a hostile workplace environment, and the CHHA 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 CHHA with an individual whether or not such individual is in a subordinate position to the CHHA.

"Spouse" means the husband, wife, civil partner, domestic union partner or fiancée of the CHHA or an individual involved in a long term committed relationship with the CHHA. For purposes of the definition of "spouse," a long term committed relationship means a relationship which is at least six months in duration.

- c) A CHHA shall not engage in sexual contact with a patient with whom he or she has a patient-aide relationship. The patient-aide relationship is ongoing for purposes of this section, unless the last service provided to the patient was rendered more than three months ago.
- d) A CHHA shall not seek or solicit sexual contact with a patient with whom he or she has a patient-aide relationship and shall not seek or solicit sexual contact with any person in exchange for professional services.
- e) A CHHA shall not engage in any discussion of an intimate sexual nature with a person with whom the CHHA has a patient-aide relationship, unless that discussion is directly related to a task delegated by a registered professional nurse to the CHHA or which a registered professional nurse directed the CHHA to perform. Such discussion shall not include disclosure by the CHHA of his or her own intimate sexual relationships.
- f) A CHHA shall provide privacy conditions which prevent the exposure of the unclothed body of the patient unless necessary to the CHHA services rendered.
- g) A CHHA shall not engage in sexual harassment either within or outside of the professional setting.
- h) A CHHA shall not engage in any other activity which would lead a reasonable person to believe that the activity serves the CHHA's personal prurient interests or which is for the sexual arousal, or sexual gratification of the CHHA or patient or which constitutes an act of sexual abuse.
- i) Violation of any of the prohibitions or directives set forth in (c) through (h) above shall constitute professional misconduct pursuant to N.J.S.A. 45:1 21(e) and (c).
- j) Nothing in this section shall be construed to prevent a CHHA from providing care to a spouse, providing that the provision of such care is consistent with accepted standards and that the performance of this care is not utilized to exploit the spouse for the sexual arousal or sexual gratification of the CHHA.
- 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 CHHA; or
  - 2) The CHHA is in love with or held affection for the patient.

**13:37-14.18 POWER OF ATTORNEY; FINANCIAL MISCONDUCT**

- a) A certified homemaker-home health aide shall not have power of attorney over a client or former client.
- b) A certified homemaker-home health aide shall not accept a monetary loan from a client or former client.
- c) Any time a certified homemaker-home health aide is given money in an amount greater than \$ 50.00, or a gift valued at greater than \$ 50.00, directly by a client, a client's family, or a client's guardian, the certified homemaker-home health aide must document:
  - 1) The amount of money or value of the gift;
  - 2) The date the gift was provided; and
  - 3) The name and signature of the client, client's family member, or client's guardian who provided the gift.
- d) The documentation required at (c) above shall be:
  - 1) Signed by the certified homemaker-home health aide and a representative of the agency that employs the homemaker-home health aide;
  - 2) Maintained by the agency that employs the homemaker-home health aide; and
  - 3) Provided to the Board upon request.
- e) Failure to comply with (a), (b), (c), or (d) above shall be deemed professional misconduct pursuant to N.J.S.A. 45:1-21(e).

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**SUBCHAPTER 15.  
(RESERVED)**

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**SUBCHAPTER 16.  
(RESERVED)**

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