

CHAPTER 35

BOARD OF MEDICAL EXAMINERS

Authority

N.J.S.A. 24:6I-1 et seq. (P.L. 2009, c. 307), 26:6A-1 et seq., specifically 26:6A-4, 45:1-15.1 and 45:9-2.

Source and Effective Date

R.2011 d.155, effective May 3, 2011.  
See: 42 N.J.R. 1310(a), 43 N.J.R. 1359(b).

Chapter Expiration Date

Chapter 35, Board of Medical Examiners, expires on May 3, 2018.

Chapter Historical Note

Chapter 35, Board of Medical Examiners, was adopted and became effective prior to September 1, 1969.

Chapter 35, Board of Medical Examiners, was repealed and Chapter 35, Board of Medical Examiners, was adopted as new rules by R.1983 d.314, effective August 1, 1983. See: 15 N.J.R. 503(a), 15 N.J.R. 1255(a).

Subchapter 7, Chiropractic Practice, was adopted as R.1984 d.533, effective November 19, 1984. See: 16 N.J.R. 686(a), 16 N.J.R. 3208(a).

Pursuant to Executive Order No. 66(1978), Chapter 35, Board of Medical Examiners, was readopted as R.1989 d.532, effective September 21, 1989. See: 21 N.J.R. 2226(b), 21 N.J.R. 3307(a).

Subchapter 6A, Declarations of Death upon the Basis of Neurological Criteria, was adopted as R.1992 d.309, effective August 3, 1992. See: 23 N.J.R. 3635(a), 24 N.J.R. 2731(c).

Subchapter 2A, Limited Licenses: Certified Nurse Midwifery, was adopted as R.1992 d.332, effective September 8, 1992. See: 23 N.J.R. 3632(a), 24 N.J.R. 3094(a).

Subchapter 9, Acupuncture, was adopted as R.1993 d.299, effective June 21, 1993. See: 24 N.J.R. 4013(a), 25 N.J.R. 2689(c).

Subchapter 10, Athletic Trainers, was adopted as R.1993 d.546, effective November 1, 1993. See: 25 N.J.R. 265(a), 25 N.J.R. 4935(a), 26 N.J.R. 483(a).

Pursuant to Executive Order No. 66(1978), Chapter 35, Board of Medical Examiners, was readopted as R.1994 d.522, effective September 19, 1994, and Subchapter 7, Chiropractic Practice, was repealed by R.1994 d.522, effective October 17, 1994. See: 26 N.J.R. 2526(a), 26 N.J.R. 4195(a).

Subchapter 2B, Limited Licenses: Physician Assistants, was adopted as R.1994 d.538, effective November 7, 1994. See: 25 N.J.R. 5099(b), 26 N.J.R. 4411(b).

Subchapter 11, Alternate Resolution Program, was adopted as R.1995 d.339, effective June 19, 1995. See: 27 N.J.R. 1363(a), 27 N.J.R. 2412(a).

Subchapter 7, Prescription, Administration and Dispensing of Drugs, was adopted as R.1997 d.475, effective November 3, 1997. See: 29 N.J.R. 842(a), 29 N.J.R. 4706(a).

Subchapter 4A, Surgery, Special Procedures, and Anesthesia Services Performed in an Office Setting, was adopted as R.1998 d.294, effective June 15, 1998. See: 29 N.J.R. 2238(a), 30 N.J.R. 2236(b).

Petition for Rulemaking. See: 30 N.J.R. 740(c), 1642(a).

Pursuant to Executive Order No. 66(1978), Chapter 35, Board of Medical Examiners, was readopted as R.1999 d.356, effective September 20, 1999. See: 31 N.J.R. 1742(a), 31 N.J.R. 3117(a).

Subchapter 12, Electrologists Advisory Committee; Licensure of Electrologists and Electrology Instructors; Electrology Stand

Practice, was adopted as R.2004 d.279, effective July 19, 2004. See: 35 N.J.R. 3263(a), 36 N.J.R. 3401(a).

Subchapter 13, Perfusionists, Advisory Committee, was adopted as R.2005 d.88, effective March 7, 2005. See: 36 N.J.R. 1721(a), 37 N.J.R. 782(a).

Chapter 35, Board of Medical Examiners, was readopted as R.2005 d.120, effective March 17, 2005. See: 36 N.J.R. 4633(a), 37 N.J.R. 1203(a).

Subchapter 6A, Declarations of Death Upon the Basis of Neurological Criteria, was repealed and Subchapter 6A, Declarations of Death Upon the Basis of Neurological Criteria, was adopted as new rules by R.2007 d.120, effective May 7, 2007. See: 38 N.J.R. 2021(a), 39 N.J.R. 1751(a).

Subchapter 1, Medical Schools, Colleges, Externships, Clerkships and Post-Graduate Work, was renamed Medical Schools, Colleges, Externships and Clerkships; and Subchapter 3, Licensing Examinations and Endorsements, Limited Exemptions from Licensure Requirements, was renamed Licensing Examinations and Endorsements, Limited Exemptions from Licensure Requirements; Post-Graduate Training by R.2008 d.100, effective April 21, 2008. See: 39 N.J.R. 3876(a), 40 N.J.R. 2115(a).

Pursuant to Executive Order No. 1(2010), the chapter expiration date was extended from March 17, 2010 until the completion of the review of administrative regulations and rules by the Red Tape Review Group, and until such time as the extended regulation or rule was readopted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. See: 42 N.J.R. 1310(a).

Chapter 35, Board of Medical Examiners, was readopted as R.2011 d.155, effective May 3, 2011. As a part of R.2011 d.155, Subchapter 1A, Standards for New Jersey Clinical Training Programs Sponsored by Medical Schools Not Eligible for Evaluation and Not Approved by the L.C.M.E., the A.O.A. or Other Agency Recognized by the New Jersey State Board of Medical Examiners, was repealed; and Subchapter 4A, Surgery, Special Procedures, and Anesthesia Services Performed in an Office Setting, was renamed Surgery, Special Procedures and Anesthesia Services Performed in an Office Setting, effective June 6, 2011. See: Source and Effective Date. See, also, section annotations.

Subchapter 7A, Compassionate Use Medical Marijuana, was adopted as new rules by R.2011 d.292, effective December 5, 2011. See: 42 N.J.R. 2728(a), 43 N.J.R. 3191(b).

Law Review and Journal Commentaries

How New Jersey Regulates Doctors. Theodosia Tamborlane, 132 N.J.L.J. No. 15, S24 (1992).

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## SUBCHAPTER 10. ATHLETIC TRAINERS

## 13:35-10.1 Scope and purpose

(a) This subchapter is promulgated by the New Jersey State Board of Medical Examiners, pursuant to N.J.S.A. 45:9-37.35 et seq., providing for the licensure and regulation of athletic trainers within the State of New Jersey.

(b) The rules contained in this subchapter shall apply to all individuals currently practicing as athletic trainers, as well as those individuals studying to become athletic trainers within this State and applicants for licensure. The rules are designed to better define the allowable activities, professional standards, and the educational requirements of athletic trainers.

Amended by R.2004 d.273, effective July 19, 2004.  
See: 35 N.J.R. 2834(a), 36 N.J.R. 3400(a).

In (a), substituted "licensure" for "registration" preceding "and regulation"; in (b), inserted "and applicants for licensure" following "athletic trainers within this State".

## 13:35-10.2 Definitions

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

"Advisory Committee" means the Athletic Training Advisory Committee established under N.J.S.A. 45:9-37.39.

"Athlete" means an individual who participates in strenuous physical exercise, physical conditioning or a sport.

"Athletic training" means the practice of physical conditioning and reconditioning of athletes and the prevention of injuries incurred by athletes. "Athletic training" also includes the application of physical treatment modalities to athletes under a plan of care designed and overseen by a supervising physician licensed in New Jersey, as recommended by the Advisory Committee and defined in N.J.A.C. 13:35-10.7(b).

"Board" means the State Board of Medical Examiners.

"Bracing" means the provision of fabric and elastic supports, corsets, arch supports, trusses, elastic hose, canes, crutches, cervical collars, dental appliances or other similar devices carried in stock and sold by drug stores, department stores, corset shops or surgical supply facilities.

"Licensed athletic trainer" means an individual who is licensed by the Board to practice athletic training.

"Physician" means a physician and surgeon licensed pursuant to N.J.S.A. 45:9-1 et seq.

"Plan of care" means a documented arrangement between a licensed athletic trainer and a physician, which sets forth:

1. The physical treatment modalities a licensed athletic trainer will utilize while providing services to athletes in an interscholastic, intercollegiate, intramural or professional athletic setting; and

2. Any athletic training services, including physical treatment modalities, the athletic trainer will provide when he or she is working with an athlete outside of an interscholastic, intercollegiate, intramural or professional athletic setting.

"Supervising physician" means a physician with whom an athletic trainer has a plan of care.

"Supervision" means that a physician licensed in this State is accessible to a licensed athletic trainer, either on-site or through voice communication, during athletic training.

Amended by R.2004 d.273, effective July 19, 2004.

See: 35 N.J.R. 2834(a), 36 N.J.R. 3400(a).

Rewrote "Athletic training".

Amended by R.2012 d.013, effective January 3, 2012.

See: 43 N.J.R. 26(a), 44 N.J.R. 104(a).

Rewrote definitions "Athlete" and "Athletic training"; deleted definitions "Athletic trainer", "Direction of a licensed physician", "Non-injured athlete" and "Professional athletic team"; and added definitions "Bracing", "Licensed athletic trainer", "Physician", "Plan of care", "Supervising physician" and "Supervision".

## 13:35-10.3 Application for licensure

(a) An applicant for athletic trainer licensure shall submit to the Board:

1. A completed application form;
2. Proof that the applicant has completed a program of education, training and experience, which is approved by the Commission on Accreditation of Athletic Training Education, or its successor;
3. Proof that the applicant has passed the examination administered by the National Athletic Trainers' Association Board of Certification, Inc., or its successor, or an equivalent examination as adopted by the Board; and
4. The application fee pursuant to N.J.A.C. 13:35-10.19.

Amended by R.2004 d.273, effective July 19, 2004.

See: 35 N.J.R. 2834(a), 36 N.J.R. 3400(a).

Rewrote the section.

Amended by R.2012 d.013, effective January 3, 2012.

See: 43 N.J.R. 26(a), 44 N.J.R. 104(a).

In (a)2, inserted a comma following "experience", and substituted "Commission on Accreditation of Athletic Training Education" for "National Athletic Trainers' Association Board of Certification, Inc."; and in (a)4, updated the N.J.A.C. reference.

**13:35-10.4 Licensure; biennial license renewal; license suspension; reinstatement of suspended license; inactive status; return from inactive status**

(a) All licenses issued by the Board shall be issued for a two-year licensure period. A licensed athletic trainer who seeks renewal of the license shall submit a completed renewal application and the renewal fee as set forth in N.J.A.C. 13:35-10.19 prior to the expiration date of the license.

(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) If a licensed athletic trainer does not renew the license prior to its expiration date, the licensed athletic trainer may renew the license within 30 days of its expiration by submitting a renewal application, a renewal fee and a late fee, as set forth in N.J.A.C. 13:35-10.19. During this 30-day period, the license shall be valid, and the licensed athletic trainer shall not be deemed to be practicing without a license.

(d) A license that is not renewed within 30 days of its expiration shall be automatically suspended. An individual who continues to practice with a suspended license shall be deemed to be engaged in unlicensed practice and shall be subject to penalties for practicing without a license.

(e) A licensed athletic trainer whose license has been automatically suspended for five years or less for failure to renew pursuant to (d) 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. 13:35-10.19; and
2. Submission of an affidavit of employment listing each job held during the period of suspended license which includes the name, address, and telephone number of each employer.

(f) In addition to fulfilling the requirements set forth in (e) above, a licensed athletic trainer whose license has been automatically suspended for more than three years who wishes to return to practice shall submit proof that he or she is currently certified by the National Athletic Trainers Association Board of Certification, or its successor.

(g) In addition to fulfilling the requirements set forth in (e) and (f) above, a licensed athletic trainer whose license has been automatically suspended for more than five years who wishes to return to practice shall reapply for licensure and shall demonstrate that he or she has maintained proficiency. An applicant who fails to demonstrate to the satisfaction of the Board that he or she has maintained proficiency while suspended may be subject to an examination or other

requirements as determined by the Board prior to reinstatement of his or her license.

(h) Renewal applications shall provide the licensed athletic trainer with the option of either active or inactive status. A licensed athletic trainer electing inactive status shall pay the inactive license fee set forth in N.J.A.C. 13:35-10.19 and shall not engage in practice.

(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 completion of the following:

1. Payment of the reinstatement fee; and
2. Submission of an affidavit of employment listing each job held during the period the licensee was on inactive status which includes the name, address, and telephone number of each employer.

(j) In addition to fulfilling the requirements set forth in (i) above, a licensed athletic trainer who has been on inactive status for more than five years who wishes to return to the practice of athletic training shall reapply for licensure and shall demonstrate that he or she has maintained proficiency. An applicant who fails to demonstrate to the satisfaction of the Board that he or she has maintained proficiency while on inactive status may be subject to an examination or other requirements as determined by the Board prior to reinstatement of his or her license.

New Rule, R.2005 d.120, effective April 18, 2005.

See: 36 N.J.R. 4633(a), 37 N.J.R. 1203(a).

Former N.J.A.C. 13:35-10.4, Approved activities, recodified to N.J.A.C. 13:35-10.5.

Amended by R.2012 d.013, effective January 3, 2012.

See: 43 N.J.R. 26(a), 44 N.J.R. 104(a).

In (a), (c) and the introductory paragraph of (e), substituted "licensed athletic trainer" for "licensee" throughout; in (a), (c) and (e)1, updated the N.J.A.C. references; added new (f); recodified former (f) through (i) as (g) through (j); in (g) and (j), deleted "the" preceding "fulfilling"; in (g), (h) and (j), substituted "licensed athletic trainer" for "licensee" throughout; in (g), inserted "and (f)"; in (h), updated the N.J.A.C. reference; and in (j), substituted "(i)" for "(h)" and "athletic training" for "medicine".

**13:35-10.5 Plan of care guidelines**

(a) Every licensed athletic trainer shall enter into a written plan of care with a supervising physician, which sets forth the practices in which a licensed athletic trainer shall engage in while providing physical treatment modalities to athletes in an interscholastic, intercollegiate, intramural or professional athletic setting and all athletic training services, including physical treatment modalities, provided outside of these settings. The plan of care shall be signed and dated by both the licensed athletic trainer and the supervising physician.

(b) A licensed athletic trainer and his or her supervising physician shall meet at least once a year to review the plan of care and revise it as necessary.

(c) A supervising physician shall be available, either in person or through voice communication, whenever a licensed athletic trainer is practicing athletic training.

(d) A licensed athletic trainer shall make a plan of care available to the Board upon request.

Recodified from N.J.A.C. 13:35-10.6 and amended by R.2004 d.273, effective July 19, 2004.

See: 35 N.J.R. 2834(a), 36 N.J.R. 3400(a).

Rewrote the section. Former N.J.A.C. 13:35-10.4, Examinations, repealed.

Recodified from N.J.A.C. 13:35-10.4 by R.2005 d.120, effective April 18, 2005.

See: 36 N.J.R. 4633(a), 37 N.J.R. 1203(a).

Former N.J.A.C. 13:35-10.5, Violations, recodified to N.J.A.C. 13:35-10.6.

Repeal and New Rule, R.2012 d.013, effective January 3, 2012.

See: 43 N.J.R. 26(a), 44 N.J.R. 104(a).

Section was "Approved activities".

### 13:35-10.6 Practice outside of schools and professional teams

(a) If a licensed athletic trainer is working outside of an interscholastic, intercollegiate, intramural or professional athletic setting, the licensed athletic trainer shall provide athletic training services only when a physician (who may, in this instance, be licensed in another state) has referred the athlete for athletic training after physically examining the athlete.

(b) When a licensed athletic trainer is working outside of an interscholastic, intercollegiate, intramural or professional athletic setting with an athlete, the licensed athletic trainer's plan of care shall include provisions for supervision from a supervising physician during all aspects of athletic training, not just during the provision of physical modalities.

New Rule, R.2012 d.013, effective January 3, 2012.

See: 43 N.J.R. 26(a), 44 N.J.R. 104(a).

Former N.J.A.C. 13:35-10.6, Violations, recodified to N.J.A.C. 13:35-10.18.

### 13:35-10.7 Scope of practice

(a) A licensed athletic trainer in an interscholastic, intercollegiate, intramural or professional athletic setting, or any other setting pursuant to a referral from a physician, may provide to an athlete:

1. Conditioning programs for the prevention and management of injuries including:
  - i. Maintenance programs;
  - ii. Reconditioning programs;
  - iii. Exercise programs; and
  - iv. Bandaging, wrapping, taping, padding, bracing and splinting procedures;
2. Testing of neuromotor and musculoskeletal functional capability for the purposes of conditioning, recondi-

tioning or otherwise evaluating the athlete's performance capability; and

#### 3. First-aid.

(b) If they are included in the licensed athletic trainer's plan of care with a supervising physician, a licensed athletic trainer may administer physical treatment modalities, such as:

1. Cold;
2. Heat;
3. Light;
4. Sound;
5. Electricity;
6. Electromagnetic waves;
7. Water; and
8. Traditional mobilization techniques, rehabilitative exercise programs, traction and massage.

(c) A licensed athletic trainer shall not conduct electromyographic testing or nerve conduction velocity studies.

(d) A licensed athletic trainer shall not diagnose an injury or illness. Prior to implementing or continuing athletic training services, the licensed athletic trainer shall exercise professional judgment to determine whether any intervening circumstances have adversely affected the athlete's ability to participate in or continue to participate in athletic training.

(e) A licensed athletic trainer shall immediately refer an athlete to a health care professional licensed in this State if the licensed athletic trainer has cause to believe that athletic training is contraindicated or symptoms or conditions are present that require services outside the scope of a licensed athletic trainer's practice.

New Rule, R.2012 d.013, effective January 3, 2012.

See: 43 N.J.R. 26(a), 44 N.J.R. 104(a).

Former N.J.A.C. 13:35-10.7, Fees, recodified to N.J.A.C. 13:35-10.19.

### 13:35-10.8 Records

(a) A licensed athletic trainer shall prepare and maintain for each athlete a contemporaneous, permanent record that accurately reflects the evaluation and treatment of the athlete's illness or injury by the licensed athletic trainer.

(b) A licensed athletic trainer shall not falsify a record.

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

1. The full name, as it appears on the license, and license number of the licensed athletic trainer who rendered care. This information shall be legible and shall appear at least once on each page of the record;

2. Dates of all athletic training services;
3. The findings of the evaluation including test results;
4. Documentation of health care practitioner referrals, if any;
5. Established measurable goals of the athletic training with stated time frames, the type of athletic training and the frequency and expected duration of athletic training;
6. A contemporaneous note that accurately represents the services rendered during the athletic training sessions including the components of athletic training, the athlete's response to activities and current status;
7. Progress notes in accordance with stated goals at a frequency consistent with the evaluated findings and changes in the athlete's conditions;
8. Communication with other health care professionals relative to the athlete's care;
9. A discharge or return to activity summary, which includes the reason for discharge from and outcome of athletic training relative to established goals at the time of discharge; and
10. Pertinent legal document(s).

(d) Records shall be maintained for at least seven years from the date of the last entry.

(e) A student in a Commission on Accreditation of Athletic Training Education approved athletic training education program may enter information in an athlete's record, as long as the licensed athletic trainer supervising the student co-signs his or her full name and license number next to the student's entry.

(f) A licensed athletic trainer shall maintain his or her plan of care as part of his or her records.

New Rule, R.2012 d.013, effective January 3, 2012.

See: 43 N.J.R. 26(a), 44 N.J.R. 104(a).

Former N.J.A.C. 13:35-10.8, Sexual misconduct, recodified to N.J.A.C. 13:35-10.20.

### 13:35-10.9 Use of personal or other computer to prepare records

(a) A licensed athletic trainer who prepares a record maintained solely on a personal or other computer shall use a write-protected program that:

1. Contains an internal permanently activated date and time recordation for all entries;
2. Automatically prepares a back-up copy of the file; and
3. Is designed in such manner that, after the licensed athletic trainer "signs" by means of a confidential personal code (CPC), the entry cannot be changed in any manner.

(b) The licensed athletic trainer shall include in the record at least two forms of identification; for example, name and record number of the athlete or any other specific identifying information.

(c) The licensed athletic trainer shall finalize or "sign" the entry by means of a CPC. Where more than one individual is authorized to make entries into the computer file of any record, the licensed athletic trainer responsible for the facility at which the licensed athletic trainers work shall assure that each such person obtains a CPC and uses the program in the same manner.

(d) The licensed athletic trainer shall generate a hard copy of the complete record upon request.

New Rule, R.2012 d.013, effective January 3, 2012.

See: 43 N.J.R. 26(a), 44 N.J.R. 104(a).

### 13:35-10.10 Release of records

(a) A licensed athletic trainer shall provide a copy of the athlete's record within 30 days of a written request by the athlete or any person whom the athlete has designated to receive that record, or, if the athlete is a minor, the athlete's legal guardian.

(b) Licensed athletic trainers may require a record request to be in writing and may charge a fee for the reproduction of records, which shall be no greater than \$1.00 per page or \$100.00 for the entire record, whichever is less. (If the record requested is less than 10 pages, the licensed athletic trainer may charge up to \$10.00 to cover postage and the miscellaneous costs associated with retrieval of the record.) If the athlete requests a summary in lieu of the actual record, the charge for the summary shall not exceed the cost that would be charged for the actual record.

(c) If the athlete or a subsequent treating health care professional is unable to read the treatment record, either because it is illegible or prepared in a language other than English, the licensed athletic trainer shall provide a transcription at no cost to the athlete or the person requesting the record.

(d) Where the athlete has requested the release of all or part of a professional treatment record to a specified individual or entity, in order to protect the confidentiality of the records, the licensed athletic trainer shall:

1. Secure and maintain a current written authorization, bearing the signature of the athlete or an authorized representative;
2. Assure that the scope of the release is consistent with the request; and
3. Forward the records to the attention of the specific individual or entity identified and mark the material "Confidential."

(e) A licensed athletic trainer shall not withhold or delay providing a record because the athlete or any other payor failed to pay for services rendered.

New Rule, R.2012 d.013, effective January 3, 2012.  
Sec: 43 N.J.R. 26(a), 44 N.J.R. 104(a).

### 13:35-10.11 Advertising and solicitation practices

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

1. "Advertisement" shall mean any attempt directly or indirectly by publication, dissemination or circulation in print or electronic media to induce directly or indirectly any person or entity to purchase or enter into an agreement to purchase services, treatment or goods related thereto from a licensed athletic trainer.

2. "Electronic media" shall include radio, television, telephone, facsimile machine or computer.

3. "Fee schedule" refers to the fees charged for services or goods offered by a licensed athletic trainer.

4. "Graphic representation" shall mean the use of drawings, animations, clinical photographs, dramatizations, music or lyrics.

5. "Print media" shall refer to newspapers, magazines, periodicals, professional journals, telephone directories, circulars, handbills, fliers or other publications, the content of which is disseminated by means of the printed word.

6. "Routine professional service" refers to a service that a licensed athletic trainer or professional association routinely performs.

(b) Subject to the limitation of (c) and (e) through (i) below, a licensed athletic trainer may provide information to the public by advertising in print or electronic media.

(c) A licensed athletic trainer who engages in the use of advertising that contains any of the following shall be deemed to have engaged in professional misconduct:

1. Any statement, claim or format including a graphic representation that is false, fraudulent, misleading or deceptive;

2. Any misrepresentation of a material fact;

3. The suppression, omission or concealment of any material fact under circumstances that the licensed athletic trainer knows or should have known is improper or prevents an athlete from making a full and informed judgment on the basis of the information set forth in the advertisement;

4. Any claim that the service performed or the materials used are superior to those ordinarily performed or used in the profession;

5. Any promotion of professional service that the licensed athletic trainer knows or should know is beyond the licensed athletic trainer's ability to perform;

6. A technique or communication that appears to intimidate, exert undue pressure or to unduly influence an athlete;

7. Any personal testimonial attesting to the quality or competence of service or treatment by a licensed athletic trainer involving medical or technical assessments that are beyond the athlete's competency to assess, or any testimonial not in compliance with N.J.A.C. 13:35-10.13;

8. The communication of any fact, data or information that may personally identify an athlete without the athlete's signed written permission obtained in advance;

9. An offer to pay, give or accept a fee or other consideration to or from a third party for the referral of an athlete;

10. Any print, language or format that directly or indirectly obscures a material fact; or

11. Any guarantee of results from any procedure.

(d) The Board may require a licensed athletic trainer to substantiate the truthfulness of any assertion or representation set forth in an advertisement.

(e) Any violations of (f) through (i) below shall be deemed professional misconduct.

(f) A licensed athletic trainer shall not engage, either directly or through the use of any agent, employee or representative, in solicitation of an athlete. This subsection shall not prohibit a licensed athletic trainer from offering services through materials provided to a community service organization that makes known the availability of all professional services listed; nor shall it prohibit the offering of services by a licensed athletic trainer to any bona fide representative of an athlete including, employers, labor union representatives or insurance carriers.

(g) Advertising making reference to or setting forth fees shall be limited to a stated fee for specifically described routine professional services or goods offered by licensed athletic trainers.

1. A licensed athletic trainer who advertises a fee shall disclose all relevant and material variables and considerations that are ordinarily included in such a service, so that the fee will be clearly understood by athletes.

2. In the absence of such disclosure referred to in (g)1 above, the stated fees shall be presumed to include everything ordinarily required for such a service. No additional charges shall be made for an advertised service unless the advertisement specifically delineates the additional services contemplated and the fee to be charged.

(h) The time period during which an advertised fee will remain in effect shall be set forth on the face of the advertisement. In the absence of such disclosure, the effective period shall be deemed to be 30 days from the date of the advertisement's final publication.

(i) Any licensed athletic trainer advertising a specialty certification shall have been certified by a certifying entity and shall maintain documentary proof of certification from the entity as part of his or her records. A licensed athletic trainer who advertises a specialty certification shall include the full name of the certification and the certifying entity in any advertisements and shall not use initials or acronyms for the certification or certifying entity. For example, a licensed athletic trainer may indicate in advertisements that he or she is a Certified Strength and Conditioning Specialist certified by the National Strength and Conditioning Association but shall not indicate that he or she is a CSCS certified by the NSCA.

New Rule, R.2012 d.013, effective January 3, 2012.  
See: 43 N.J.R. 26(a), 44 N.J.R. 104(a).

### 13:35-10.12 Advertising free or discounted services; required disclosures

(a) An advertisement offering a fee reduction shall state the reduced fee and the licensed athletic trainer's usual fee for each service for which a reduction is advertised. The usual fee shall be the fee charged for the advertised service for a period of not less than 90 days prior to the publication of the advertised reduction.

(b) If the discount or free service does not apply to all services to be rendered, the advertisement shall specify any associated or reasonably anticipated services that are not included and a statement of the specific charges for all associated or reasonably anticipated services that are not included.

(c) Except for those services specifically excluded in the advertisement offering free services, the licensed athletic trainer shall not charge for any service whatsoever rendered during a period of 72 hours from the time the free service was rendered.

New Rule, R.2012 d.013, effective January 3, 2012.  
See: 43 N.J.R. 26(a), 44 N.J.R. 104(a).

### 13:35-10.13 Testimonial advertising

(a) All testimonials involving a specific or identifiable procedure shall truthfully reflect the actual experience of the athlete.

(b) The licensed athletic trainer shall be able to substantiate any objective, verifiable statement of fact appearing in a testimonial. The failure to do so, if required by the Board, may be deemed professional misconduct.

(c) Where a licensed athletic trainer directly or indirectly provides compensation to a testimonial giver, the fact of such compensation shall be conspicuously disclosed in a clear, legible and readable manner in any advertisement as follows: "COMPENSATION HAS BEEN PROVIDED FOR THIS TESTIMONIAL."

New Rule, R.2012 d.013, effective January 3, 2012.  
See: 43 N.J.R. 26(a), 44 N.J.R. 104(a).

### 13:35-10.14 Minimum content

(a) A licensed athletic trainer shall include the following in all advertisements and professional representations (other than an office entry sign), including advertisements in a classified directory, business cards and professional stationery:

1. The name and license number of at least one licensed athletic trainer working at the advertised practice location; and
2. The street address and telephone number of the practice.

New Rule, R.2012 d.013, effective January 3, 2012.  
See: 43 N.J.R. 26(a), 44 N.J.R. 104(a).

### 13:35-10.15 Advertising by a business entity offering athletic training

The responsibility for the form and content of any advertisement offering services or goods by a licensed athletic trainer shall be jointly and severally that of each licensed athletic trainer who is a principal, partner, officer or employee of the firm or entity identified in the advertisement.

New Rule, R.2012 d.013, effective January 3, 2012.  
See: 43 N.J.R. 26(a), 44 N.J.R. 104(a).

### 13:35-10.16 Advertising record retention

(a) A licensed athletic trainer shall retain, for a period of three years from the date of initial publication or dissemination, a copy of every advertisement for his or her services appearing in print media, as well as a video or audio tape of every advertisement communicated by electronic media. A licensed athletic trainer shall indicate on all advertisements in his or her possession the date and place of publication.

(b) Documentation relating to the use of testimonials shall be retained for a period of three years from the date of last use of the testimonial. Documentation shall include the name, address and telephone number of the testimonial giver and the type and amount or value of compensation, if any.

New Rule, R.2012 d.013, effective January 3, 2012.  
See: 43 N.J.R. 26(a), 44 N.J.R. 104(a).

**13:35-10.17 Use of professional credentials and certifications**

(a) A licensed athletic trainer shall accurately and objectively represent his or her competence, education, training and experience.

(b) A licensed athletic trainer shall use the designation "athletic trainer" or "licensed athletic trainer" or the abbreviation "AT" or "LAT" in conjunction with the use of his or her name and license number. Academic degree designations may be placed after the name and the title.

(c) An advertisement that includes information on professional credentials shall contain the academic degrees attained related to the practice of athletic training and shall refer only to degrees obtained from accredited academic institutions.

New Rule, R.2012 d.013, effective January 3, 2012.  
See: 43 N.J.R. 26(a), 44 N.J.R. 104(a).

**13:35-10.18 Violations**

Without limiting the prosecution of any practices which may be unlawful under any other state or Federal law, a violation of this subchapter shall be deemed to be a violation of the Athletic Training Licensure Act, N.J.S.A. 45:9-37.35 et seq., and shall be subject to the sanctions and penalties of N.J.S.A. 45:1-1 et seq.

Recodified from N.J.A.C. 13:35-10.7 and amended by R.2004 d.273, effective July 19, 2004.  
See: 35 N.J.R. 2834(a), 36 N.J.R. 3400(a).  
Substituted "Licensure" for "Practice" and " of N.J.S.A. 45:1-1 et seq." for "provided for thereunder".  
Recodified from N.J.A.C. 13:35-10.5 and amended by R.2005 d.120, effective April 18, 2005.  
See: 36 N.J.R. 4633(a), 37 N.J.R. 1203(a).  
Former N.J.A.C. 13:35-10.6, Fees, recodified to N.J.A.C. 13:35-10.7.  
Recodified from N.J.A.C. 13:35-10.6 by R.2012 d.013, effective January 3, 2012.  
See: 43 N.J.R. 26(a), 44 N.J.R. 104(a).

**13:35-10.19 Fees**

(a) The following fees shall be charged by the Board for athletic trainer licensure:

1. Application Fee..... \$100.00
2. Temporary licensure or authorized licensure without examination ..... \$60.00
3. Initial Licensure Fee
  - i. If paid during the first year of a biennial renewal period .....\$80.00
  - ii. If paid during the second year of a biennial renewal period .....\$40.00
4. Biennial renewal ..... \$80.00
5. Endorsement ..... \$60.00
6. Late renewal fee..... \$50.00
7. Reinstatement fee..... \$60.00
8. Inactive license fee ..... (to be determined by the Director by regulation)

Recodified from N.J.A.C. 13:35-10.8 and amended by R.2004 d.273, effective July 19, 2004.  
See: 35 N.J.R. 2834(a), 36 N.J.R. 3400(a).  
Rewrote the section. Former N.J.A.C. 13:35-10.6, Approved activities, recodified to N.J.A.C. 13:35-10.4.  
Recodified from N.J.A.C. 13:35-10.6 and amended by R.2005 d.120, effective April 18, 2005.  
See: 36 N.J.R. 4633(a), 37 N.J.R. 1203(a).  
Former N.J.A.C. 13:35-10.7, Reserved, repealed.  
Amended by R.2005 d.175, effective June 6, 2005.  
See: 37 N.J.R. 206(a), 37 N.J.R. 1203(a), 37 N.J.R. 2041(b).  
Rewrote the section.  
Recodified from N.J.A.C. 13:35-10.7 by R.2012 d.013, effective January 3, 2012.  
See: 43 N.J.R. 26(a), 44 N.J.R. 104(a).

**13:35-10.20 Sexual misconduct**

(a) The purpose of this section is to identify for licensed athletic trainers conduct which shall be deemed sexual misconduct.

(b) As used in this section, the following terms have the following meanings, unless the context indicates otherwise:

"Athlete" means any person who is the recipient of athletic training services rendered by a licensed athletic trainer as set forth in N.J.A.C. 13:35-10.4.

"Athlete-athletic trainer relationship" means a relationship between a licensed athletic trainer and an athlete wherein the licensed athletic trainer is responsible to render athletic training services for the athlete.

"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 licensed athletic trainer's own prurient interest or for sexual arousal or gratification. "Sexual contact" includes, but is not limited to, the imposition of a part of the licensed athletic trainer's body upon the part of the athlete's body, sexual penetration, or the insertion or any imposition of any object or any part of a licensed athletic trainer's or athlete's body into or near the genital, anal or other opening of the other person's body. "Sexual contact" does not include the touching of an athlete's body which is necessary during a generally accepted and recognized athletic training procedure.

"Sexual harassment" means solicitation of any sexual act, physical advances, or verbal or nonverbal conduct that is sexual in nature, and which occurs in connection with a licensed athletic trainer's activities or role as a provider of athletic training services, and that either is unwelcome, offensive to a reasonable person, or creates a hostile workplace environment, and the licensed athletic trainer 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, but is not limited to, conduct of a licensed athletic trainer with an athlete, co-worker, employee, student or supervisee, whether or not such individual is in a subordinate position to the licensed athletic trainer.

"Spouse" means the husband, wife or fiancée of the licensed athletic trainer or an individual involved in a long-term committed relationship with the licensed athletic trainer. For the purposes of the definition of "spouse," a long-term committed relationship means a relationship which is at least six months in duration.

(c) A licensed athletic trainer shall not seek or solicit sexual contact with an athlete with whom he or she has an athlete-athletic trainer relationship and shall not seek or solicit sexual contact with any person in exchange for professional services.

(d) A licensed athletic trainer shall not engage in any discussion of an intimate sexual nature with an athlete with whom the licensed athletic trainer has an athlete-athletic trainer relationship unless that discussion is directly related to a proper athletic training purpose. Such discussion shall not include disclosure by the licensed athletic trainer of his or her own sexual relationships.

(e) A licensed athletic trainer shall provide draping or other measures which prevent the unnecessary exposure of the unclothed body of the athlete while examining the injured area.

(f) A licensed athletic trainer shall not engage in sexual contact with a student who is enrolled in a high school at which the licensed athletic trainer is employed.

(g) If a licensed athletic trainer has an athlete-athletic trainer relationship, the licensed athletic trainer shall not engage in sexual contact with the athlete if either:

1. Such sexual contact is prohibited by (f) above; or
2. The athlete-athletic trainer relationship is ongoing. The athlete-athletic trainer relationship is ongoing for the purposes of this section, unless:
  - i. Athletic training services are terminated by way of written notice to the athlete, the termination is documented in the licensed athletic trainer's records and alternative athletic training services are provided; or
  - ii. The athlete has left the school, college, university or team for which the licensed athletic trainer works.

(h) A licensed athletic trainer shall not engage in sexual harassment either within or outside of the professional setting.

(i) A licensed athletic trainer shall not engage in any other activity which would lead a reasonable person to believe that the activity serves the licensed athletic trainer's personal prurient interests or which is for the sexual arousal, or sexual gratification of the licensed athletic trainer or athlete or which is an act of sexual abuse.

(j) Violation of any of the prohibitions or directives set forth in (c) through (i) above shall constitute professional misconduct pursuant to N.J.S.A. 45:1-21(e).

(k) Nothing in this section shall be construed to prevent a licensed athletic trainer from rendering athletic training services to a spouse, providing that the rendering of such athletic training services is consistent with accepted standards of athletic training and that the performance of athletic training is not utilized to exploit the athlete spouse for the sexual arousal or sexual gratification of the licensed athletic trainer.

(l) It shall not be a defense to any action under this section that:

1. The athlete solicited or consented to sexual contact with the licensed athletic trainer; or
2. The licensed athletic trainer is in love with or had affection for the athlete.

New Rule, R.1993 d.260, effective June 7, 1993.

See: 25 N.J.R. 1058(a), 25 N.J.R. 2487(a).

Administrative Correction.

See: 25 N.J.R. December 6, 1993.

Amended by R.1995 d.330, effective June 19, 1995.

See: 27 N.J.R. 640(a) (see also 27 N.J.R. 1746(a)), 27 N.J.R. 2410(a).

Increased some of the fees.

Repealed by R.2004 d.273, effective July 19, 2004.

See: 35 N.J.R. 2834(a), 36 N.J.R. 3400(a).

Former N.J.A.C. 13:35-10.8, Fees, recodified to N.J.A.C. 13:35-10.6.

New Rule, R.2007 d.165, effective May 21, 2007.

See: 38 N.J.R. 2989(a), 39 N.J.R. 2125(a).

Section was "Reserved".

Recodified from N.J.A.C. 13:35-10.8 by R.2012 d.013, effective January 3, 2012.

See: 43 N.J.R. 26(a), 44 N.J.R. 104(a).