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13:35-6.14 Delegation of [physical] **treatment** modalities to a licensed health care provider or an unlicensed physician aide

(a) ~~["Physician," for the purpose of this section, shall mean a doctor of medicine (M.D.), a doctor of osteopathic medicine (D.O.) or a doctor of podiatric medicine (D.P.M.):~~

~~1. "Licensed health care provider," for the purpose of this section, shall mean an individual holding a current, valid license in this State as a physical therapist, registered nurse, licensed practical nurse, physician assistant, chiropractor or athletic trainer.]~~

For purposes of this section, the following words and phrases shall have the following meaning unless the context clearly indicates otherwise:

"Physician" means a doctor of medicine (M.D.), a doctor of osteopathic medicine (D.O.) or a doctor of podiatric medicine (D.P.M.).

"Licensed health care provider" means an individual holding a current, valid license in this State as a physical therapist, registered professional nurse, licensed practical nurse, physician assistant, chiropractor or athletic trainer.

"Treatment modalities" means the therapeutic use of ultraviolet phototherapy UVA and UVB bands, diathermy agents, deep heating agents, microwave diathermy, shortwave diathermy, and diagnostic and high frequency ultrasound. All laser, intense pulsed light (IPL), infrared, and radiofrequency (RF) procedures are specifically excluded from this definition and are addressed in N.J.A.C. 13:35-6.14A.

(b) A physician may direct his or her unlicensed employee to administer to the doctor's patients ~~[certain physical]~~ **the modalities set forth in (d) below** in the limited circumstances set forth in ~~[this section]~~ **(e) below**, ~~[without being in violation of the pertinent professional practice act~~

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implemented by the Board,] to the extent such conduct is permissible under [any] other **Board or other State agency** [pertinent] law or rule [administered by the Board or any other State agency].

(c) ~~[A physician may direct a licensed health care provider with training and experience to administer to the physician's patients physical modalities including ultraviolet (B and C bands) and electromagnetic rays including, but not limited to, deep heating agents, microwave diathermy, shortwave diathermy, ultrasound, and those modalities listed in (d) below. The physician shall retain responsibility for examining the patient, determining the appropriate modalities, assessing training and experience, as well as providing the appropriate level of supervision consistent with practice standards, applicable to the specific licensed health care provider.]~~ **A podiatrist shall only direct an unlicensed individual to administer the modalities set forth in (d) below for the purpose of treating conditions of the lower leg, foot, or ankle that are within the scope of practice of podiatry, as defined in N.J.S.A. 45:5-7.**

(d) A physician may direct an unlicensed aide to administer the following physical modalities: hot packs, cold packs, paraffin baths, contrast baths, and whirlpool baths. ~~[The aide shall not be permitted to perform any rehabilitative exercise programs.]~~ No other modalities including T.E.N.S. or traction shall be performed by the unlicensed physician's aide.

(e) A physician may direct the administration of ~~[an appropriate physical]~~ a modality by an unlicensed assistant only ~~[where the following conditions are satisfied]~~ **when:**

1. The doctor ~~[shall]~~ **has** examined the patient to: ascertain the nature of the trauma or disease; ~~[to]~~ determine whether the application of a ~~[physical]~~ modality will encourage the alleviation of pain and promotion of healing; ~~[to]~~ assess the risks of the modality for a

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given patient and the diagnosed injury or disease; and ~~[to]~~ decide that the anticipated benefits are likely to outweigh those risks~~[-]~~;

2. The doctor ~~[shall]~~ **has** determined all the components of the ~~[precise]~~ treatment to be given at the ~~[present]~~ therapy session, including the type of modality to be used, extent of area to which it shall be applied, the length of treatment, and any other factors peculiar to the risks of that modality such as strict avoidance of certain parts of the body. This information shall be written on the patient's chart and made available at all times to the **unlicensed** assistant carrying out the instructions. The doctor shall assure that the ~~[aide]~~ **unlicensed assistant** administering the treatment is identified in the patient chart ~~[on]~~ **for** each such occasion~~[-]~~;

3. The doctor ~~[shall]~~ **has** ascertained ~~[a satisfactory level of]~~ **that the unlicensed assistant, who shall be at least 18 years of age, has the** education, competence, and comprehension ~~[of the particular assistant, who shall be at least 18 years of age, to whom instruction has been given by the doctor as to]~~ **to perform the** modalities used ~~[in]~~ **by** that ~~[office]~~ **assistant**. The doctor shall prepare and maintain a written document certifying as to the instructions given to each **unlicensed** assistant, ~~[and]~~ **which shall be signed by** both doctor and **unlicensed** assistant ~~[shall sign it.]~~ **; and**

4. ~~[The doctor shall see the patient prior to any subsequent scheduled application of the modality to ascertain that continued treatment is appropriate and that no contraindications to treatment have become apparent.~~

5.] The doctor ~~[shall remain on the premises at all times that]~~ **or a licensed healthcare provider is on-site while** treatment orders are being carried out by the **unlicensed**

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assistant ~~[and shall be within reasonable proximity to the treatment room and available in the event of emergency]~~. **If the doctor is not on-site, he or she shall be available through electronic communication.**

(f) A physician may direct a licensed health care provider with training and experience to administer to the physician's patients treatment modalities as defined in (a) above and those modalities listed in (d) above. The physician shall retain responsibility for examining the patient, determining the appropriate modalities, assessing training and experience, as well as providing the appropriate level of supervision consistent with practice standards, applicable to the specific licensed health care provider.

(f) Recodified as (g) (No change in text.)

~~[(g)]~~ **(h) A bill rendered [for the limited consultation set forth in (d)4 above] shall not exceed a sum which reasonably reflects the actual level of service~~[,]~~ and the supervision and responsibility personally rendered by the doctor, and consistent with the factors listed in the rule prohibiting excessive fees, N.J.A.C. 13:35-6.11(b) and (c).**

(h) Recodified as (i) (No change in text.)

13:35-6.14A Lasers, intense pulsed light, infrared, and radiofrequency

(a) A physician may direct a registered professional nurse or licensed physician assistant to perform the application of lasers, intense pulsed light, or infrared to the body pursuant to (d) through (f) below.

(b) A podiatrist may use, or direct a registered professional nurse to use, lasers, intense pulsed light, or infrared pursuant to (d) through (f) below, as long as such use is for the

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purpose of treating conditions of the lower leg, foot, or ankle that are within the scope of practice of podiatry, as defined in N.J.S.A. 45:5-7.

(c) The following words and terms, when used in this section, shall have the following meaning, unless the context clearly indicates otherwise:

“Infrared devices” means devices which use an infrared light source (wavelength 1100 to 1800 nm) to heat the dermis causing dermal collagen contraction and production.

“Intense Pulsed Light (IPL)” means a device using a high intensity pulse of light and consisting of a xenon or other flash lamp and optic focusing equipment which causes a tissue interaction in the skin, its layers or appendages with a photo-biologic effect.

“Laser” means a device emitting coherent electromagnetic radiation in the visible light, infrared, or ultraviolet spectrum from which photons cause a tissue interaction with a photo-biologic effect. “Laser” does not include intense pulsed light or infrared devices.

“Radiofrequency (RF)” means a device emitting radio waves that cause a tissue interaction in the skin, its layers, or appendages with a biologic effect.

(d) A physician shall only direct a registered professional nurse or a licensed physician assistant, and a podiatrist shall only direct a registered professional nurse, to perform a modality pursuant to (f) below if the physician or podiatrist has determined and documented that the registered professional nurse or licensed physician assistant has attained a satisfactory level of comprehension and experience in that specific modality.

(e) A physician who directs a registered professional nurse or licensed physician assistant, and a podiatrist who directs a registered professional nurse, to perform a procedure with lasers, IPL, infrared devices, or RF, shall:

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- 1. Take a medical history, perform a physical examination, and develop a treatment plan, which includes the estimated number of treatments for the patient on whom the procedure will be performed prior to the commencement of the procedure. A physician or podiatrist may permit a registered professional nurse, and a physician may permit a licensed physician assistant, to take the medical history and to perform a physical examination, as long as the physician or podiatrist reviews the medical history and the results of the physical examination;**
 - 2. Maintain the medical history and treatment plan as part of his or her medical records pursuant to N.J.A.C. 13:35-6.5;**
 - 3. Ensure that the registered professional nurse or licensed physician assistant knows that he or she is required to notify the physician or podiatrist if the patient experiences complications or adverse events;**
 - 4. Assess the patient's progress at the end of the treatments; and**
 - 5. When the procedure is being performed by a registered professional nurse, be on site when the procedure is performed or, when the procedure is performed by a physician assistant, be within reasonable proximity to site and maintain contact through electronic or other means of communication.**
- (f) A physician may direct a registered professional nurse or licensed physician assistant, and a podiatrist may direct a registered professional nurse, who has met the requirements of (d) and (e) above to perform:**
- 1. Hair removal using lasers or IPL;**
 - 2. Procedures using infrared devices;**

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- 3. IPL for pigmentation;**
- 4. IPL for vascularity; and**
- 5. Procedures using RF.**

13:35-6.14B Use of injections: fillers and neuromuscular blockers

(a) For purposes of this section, “filler” means any item that is injected into a person for reconstructive or cosmetic purposes.

(b) A physician may direct a licensed physician assistant or registered professional nurse to perform a procedure that involves injecting a patient with a filler or neuromuscular blocker pursuant to (d) below.

(c) A podiatrist may perform, or direct a registered professional nurse to perform, a procedure that involves injecting a patient with a filler or neuromuscular blocker pursuant to (d) below, as long as the procedure is for the purpose of treating conditions of the lower leg, foot, or ankle that are within the scope of practice of podiatry, as defined in N.J.S.A. 45:5-7.

(d) A physician who directs a licensed physician assistant or registered professional nurse, or a podiatrist who directs a registered professional nurse, to perform a procedure that involves injecting a patient with a filler or neuromuscular blocker pursuant to (b) or (c) above shall:

- 1. Take a medical history, perform a physical examination, and develop a treatment plan, which includes the estimated number of treatments for the patient on whom the procedure will be performed prior to the commencement of the procedure. A**

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physician or podiatrist may permit a registered professional nurse, and a physician may permit a licensed physician assistant, to take the medical history and to perform a physical examination, as long as the physician reviews the medical history and the results of the physical examination;

2. Maintain the medical history and treatment plan as part of his or her medical records pursuant to N.J.A.C. 13:35-6.5;

3. Ensure that the licensed physician assistant or registered professional nurse knows that he or she is required to notify the physician if the patient experiences complications or adverse events;

4. Assess the patient's progress at the end of the treatments;

5. Have an antidote for reactions to a filler on site; and

6. When the procedure is being performed by a registered professional nurse, be on site when the procedure is performed or, when the procedure is performed by a physician assistant, be within reasonable proximity to site and maintain contact through electronic or other means of communication.

(e) A physician shall only direct a licensed physician assistant or registered professional nurse, and a podiatrist shall only direct a registered professional nurse, to perform a procedure that involves injecting a patient with a filler or neuromuscular blocker pursuant to (b) above if the physician has determined and documented that the registered professional nurse or licensed physician assistant has attained a satisfactory level of comprehension and experience in that specific procedure.

(f) A physician or podiatrist shall inject only fillers and neuromuscular blockers that have

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been approved by the United States Food and Drug Administration, except when the physician is taking part in an Institutional Review Board approved clinical trial.

(g) A physician or podiatrist injecting fillers and neuromuscular blockers shall comply with the record keeping requirements of N.J.A.C. 13:35-6.5, the Comprehensive Regulated Medical Waste Management Act, N.J.S.A. 13:1E-48.1 et seq. and the Occupational Safety and Health Administration (OSHA) rules on blood borne pathogens, 29 CFR § 1910.1030.

13:35-6.14C Microdermabrasion; epidermal peels; procedures affecting the dermis or subcutaneous layer

(a) A physician may direct an individual to perform the application of superficial epidermal peels or microdermabrasion to the body pursuant to (c) through (d) below.

(b) The following words and terms, when used in this section, shall have the following meaning, unless the context clearly indicates otherwise:

“Superficial epidermal peel” means a chemical peel that is directed only at the epidermis.

“Microdermabrasion” means the use of abrasive material to affect the skin which affects only the epidermis and does not affect the dermis.

(c) A physician may direct an individual to perform a superficial epidermal peel or microdermabrasion with a machine that affects the epidermal layer of skin pursuant to (d) below if the physician has determined and documented that the individual has attained a satisfactory level of comprehension and experience in superficial epidermal peels or microdermabrasions.

(d) A physician who directs an individual to perform a superficial epidermal peel or

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microdermabrasion shall:

- 1. Take, or direct a registered professional nurse or licensed physician assistant to take, a medical history for the patient on whom the superficial epidermal peel or microdermabrasion is performed at the initial visit;**
- 2. Develop, at the initial visit, a treatment plan, which includes the estimated number of treatments, for the patient on whom the superficial epidermal peel or microdermabrasion is performed;**
- 3. Maintain the medical history and treatment plan as part of his or her medical records pursuant to N.J.A.C. 13:35-6.5;**
- 4. Ensure that the individual who will perform the superficial epidermal peel or microdermabrasion knows that he or she is required to notify the physician if the patient experiences complications or adverse events; and**
- 5. Assess the patient's progress at the end of the treatments.**

(e) Except as set forth in N.J.A.C. 13:35-6.14A(f) and in (f) below, a physician shall not direct an individual to perform a procedure that affects the dermis or subcutaneous layer.

(f) A physician may direct a physician assistant to perform a procedure that affects the dermis or subcutaneous layer if the physician:

- i. Has determined and documented that the physician assistant has attained a satisfactory level of comprehension and experience in the performance of that procedure; and**
- ii. Is within reasonable proximity to the site where the physician assistant is performing the procedure and maintains contact through electronic or other means**

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of communication.

