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RULE PROPOSALS

**LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF PHYSICAL THERAPY EXAMINERS**

41 N.J.R. 1161(a)

Proposed Amendments: *N.J.A.C. 13:39A-8.1 and 8.5*

[Click here to view Interested Persons Statement](#)

Advertising and Solicitation Practices; Use of Professional Credentials and Certifications

Authorized By: State Board of Physical Therapy Examiners, Lisa Affinito, Executive Director.

Authority: *N.J.S.A. 45:9-37.18*.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2009-82.

Submit comments by May 15, 2009 to:

Lisa Affinito, Executive Director
State Board of Physical Therapy Examiners
P.O. Box 45014
Newark, NJ 07101

The agency proposal follows:

Summary

On December 19, 2006, the State Board of Physical Therapy Examiners (the Board) readopted *N.J.A.C. 13:39A*. The Board received many comments on the readoption regarding proposed amendments to *N.J.A.C. 13:39A-8.1*. Prior to the readoption, this rule prohibited a licensed physical therapist from advertising certification in a specialty area unless he or she possessed certification by American Board of Physical Therapy Specialties (ABPTS) or other

Board-recognized national certifying body. As the Board did not recognize any other national certifying bodies, as a practical matter the rule only permitted licensed physical therapists to advertise certifications from the ABPTS. The proposed amendments to *N.J.A.C. 13:39A-8.1* in the readoption removed reference to "other Board-recognized national certifying body." Many commenters were concerned that this amendment would prohibit licensed physical therapists from advertising that they hold certifications from valid certifying bodies. In responding to these comments, the Board pointed out that the only Board-recognized certifying body was the ABPTS and that the deletion of the phrase did not change the existing standards. The Board recognized that this existing standard prohibited licensed physical therapists from advertising certifications that they may hold from other certifying bodies. In the readoption, the Board stated that it would review *N.J.A.C. 13:39A-8.1* at a later date to determine how it should be amended to permit licensed physical therapists to recognize that they hold certifications from comparable certifying entities in advertisements.

The Board has conducted this review and has determined that *N.J.A.C. 13:39A-8.1* should be amended to permit licensed physical therapists to advertise any certification in a specialty area they possess. Licensed physical therapists who refer to certifications in advertisements must maintain documentary proof of this certification as part of their records. The amended rule requires that advertisements that refer to certifications include the full name of the certification and the certifying entity. Advertisements may not contain initials or acronyms for the certification or certifying entity. The Board imposes this requirement in order to ensure that consumers will know the nature of the specialty certifications licensed physical therapists hold.

The Board also proposes to amend *N.J.A.C. 13:39A-8.5* to clarify that licensed physical therapists may use initials to indicate their academic degrees. The Board believes that the general public knows what academic degree initials mean; so using these initials will not engender the same confusion that certification initials or acronyms cause.

The Board has determined that the comment period for this notice of proposal shall be 60 days; therefore, pursuant to *N.J.A.C. 1:30-3.3(a)5*, this notice is excepted from the rulemaking calendar requirement.

Social Impact

Proposed amendments to *N.J.A.C. 13:39A-8.1* will benefit consumers by providing them with valuable information regarding a licensed physical therapist's education while ensuring that this information is clearly presented. The proposed amendments will also benefit licensed physical therapists, who will be able to advertise any specialty certifications they hold. The Board does not believe that the proposed amendments to *N.J.A.C. 13:39A-8.5* will have any social impact.

Economic Impact

The proposed amendments to *N.J.A.C. 13:39A-8.1* may have an economic impact on licensed physical therapists who wish to advertise that they hold certifications. The amendments require licensed physical therapists to maintain documentary proof that they hold advertised certifications in their records. The cost of maintaining these records will be borne by licensed physical therapists. The amendments also require that licensed physical therapists include the full name of the certification and the certifying body that issues the certification in advertisements. Printing these full names in advertisements will be more costly than using initials or acronyms to indicate certifications. The cost of including this information in advertisements will be borne by licensed physical therapists. The Board does not believe that the proposed amendments to *N.J.A.C. 13:39A-8.5* will have any economic impact.

Federal Standards Statement

A Federal standards analysis is not required because there are no Federal laws or standards applicable to the proposed amendments to *N.J.A.C. 13:39A-8.1* and 8.5.

Jobs Impact

The Board does not believe that the proposed amendments either increase or decrease jobs in the State.

Agriculture Industry Impact

The Board does not believe that the proposed amendments will have any impact on the agriculture industry of this State.

Regulatory Flexibility Analysis

Since licensed physical therapists are individually licensed by the Board, they may be considered "small businesses" under the Regulatory Flexibility Act (the Act), *N.J.S.A. 52:14B-16* et seq.

The economic impact on small businesses will be the same as on all businesses as detailed in the Economic Impact statement above. The Board does not believe that licensed physical therapists will need to employ any professional services to comply with the requirements of the [page=1162] proposed amendments. The proposed amendments do not impose reporting requirements, but do impose compliance and recordkeeping requirements as outlined in the Summary above.

The Board believes that the proposed amendments further the welfare and safety of the public by ensuring that consumers are provided accurate and clear information in advertisements regarding certifications held by licensed physical therapists. As such, the provisions must be applied uniformly to all licensees regardless of the size of the business.

Smart Growth Impact

The Board believes that the proposed amendments will have no impact on the achievement of smart growth and implementation of the State Development and Redevelopment Plan, otherwise known as the State Plan.

Housing Affordability Impact

The proposed amendments will have an insignificant impact on affordable housing in New Jersey and there is an extreme unlikelihood that the rules would evoke a change in the average costs associated with housing because the proposed amendments concern advertising and use of professional credentials by licensed physical therapists.

Smart Growth Development Impact

The proposed amendments will have an insignificant impact on smart growth and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2 or within designated centers under the State Development and Redevelopment Plan in New Jersey because the proposed amendments concern advertising and use of professional credentials by licensed physical therapists.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

13:39A-8.1 Advertising and solicitation practices

(a)-(h) (No change.)

(i) Any licensed physical therapist advertising certification in a specialty area shall possess certification by [American Board of Physical Therapy Specialties.] **a certifying entity and shall maintain documentary proof of certification from the entity as part of his or her records. A licensed physical therapist 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 licensee may indicate in advertisements that he or she is an Orthopaedic Certified Specialist certified by the American Board of Physical Therapy Specialties but shall not indicate that he or she is an OCS certified by the ABPTS.

13:39A-8.5 Use of professional credentials and certifications

(a) (No change.)

(b) A licensee shall use the designation "physical therapist" or "physical therapist assistant" or the abbreviation "PT" or "PTA" in conjunction with the use of his or her name and license number. Academic degree designations, **including initials**, may be placed after the name and the title.

(c) (No change.)