

(d) Rules concerning a request by an alleged violator for a hearing follow:

1. An alleged violator shall have 20 calendar days from service of the notice of intent to impose an administrative penalty within which to deliver a written request for a hearing to: [Manager of Enforcement] **Chief of Investigations**, New Jersey Department of Banking and Insurance, PO Box 329, Trenton, New Jersey 08625-0329, or faxed to the Department at (609) 292-5337.

2.-6. (No change.)

11:17D-2.4 Schedules of fines for certain insurance producer licensing violations

(a) The Department shall impose fines for certain insurance producer violations in accordance with the following schedule:

1. Failure to maintain on file with the Department a complete and accurate business or home address or to notify the Department of a change of business or home address within 30 calendar days as required [by] **at** N.J.A.C. 11:17-[2.7(f)]**2.8(f)**: \$250.00, except where notification is delayed beyond 60 calendar days, including the aforesaid 30 days, in which case, the violator is subject to the maximum penalty provided by law;

2.-3. (No change.)

4. Failure to obtain approval for the use of a business name from the Department prior to conducting business under that name as required [by] **at** N.J.A.C. 11:17-[2.7(c)]**2.8(c)**: \$250.00;

5.-7. (No change.)

(b) (No change.)

(a)

## DIVISION OF INSURANCE

### Notice of Readoption

### Medical Malpractice Liability Insurance

#### Readoption with Technical Changes: N.J.A.C. 11:27

Authority: N.J.S.A. 17:1-8.1, 17:1-15.e, 17:17-1 through 20, 17:23-1 through 26, 17:29AA-1 through 34, 17:30D-1 through 31, and 17:32-1 through 2.

Authorized By: Justin Zimmerman, Acting Commissioner, New Jersey Department of Banking and Insurance.

Effective Dates: July 15, 2024, Readoption;  
August 19, 2024, Technical Changes.

New Expiration Date: July 15, 2031.

**Take notice** that pursuant to the provisions at N.J.S.A. 52:14B-5.1, the rules at N.J.A.C. 11:27 were scheduled expire on August 14, 2024. The chapter sets forth rules that govern medical malpractice liability insurance policies and insurance companies offering/underwriting the same in the State of New Jersey. The rules govern the contents of medical malpractice liability insurance policies, the composition of the corporate structure of companies offering such insurance policies, premium rates, premium payment methods, and related subject matters. The rules to be readopted continue to provide standards to implement specific provisions of the New Jersey Medical Care Access and Responsibility and Patients First Act, P.L. 2004, c. 17 (the Act). These rules also ensure access to high-quality health care by residents of this State.

N.J.A.C. 11:27-1 sets forth general provisions regarding the purpose, scope, and separability of the rules.

N.J.A.C. 11:27-2 outlines the option of an insured to waive the “consent to settle” provisions in a medical malpractice liability insurance policy. N.J.A.C. 11:27-2 further states that an insurer is required to provide a premium reduction reflecting any savings or reduced costs if the endorsement providing for a waiver of “consent to settle” provision is selected.

N.J.A.C. 11:27-3 specifies the requirements applicable to mandatory deductibles that shall be offered by all authorized medical malpractice liability insurers on medical malpractice liability insurance policies issued in this State.

N.J.A.C. 11:27-4 provides minimum standards for optional premium payment installments.

N.J.A.C. 11:27-5 prohibits increases in premiums upon the renewal of New Jersey medical malpractice liability policies on the basis of claims filed against insureds where the insured is dismissed from a civil action based upon that claim at an early stage of the civil proceeding.

N.J.A.C. 11:27-6 provides that medical malpractice liability insurers shall comply with N.J.A.C. 11:1-20 with regard to notices of renewal and non-renewal of medical malpractice liability insurance policies.

N.J.A.C. 11:27-7 sets forth procedures for the establishment of the Medical Malpractice Liability Insurance Premium Assistance Fund (Fund).

N.J.A.C. 11:27-8 sets forth prohibitions upon concurrently serving as an officer, director, or board member of a professional association of health care providers and in such a capacity with a domestic medical malpractice liability insurer.

N.J.A.C. 11:27-9 establishes rules for the formation and operation of medical malpractice liability insurance purchasing alliances.

N.J.A.C. 11:27-10 sets forth the requirements for structured settlements and the furnishing of a bond or security.

N.J.A.C. 11:27-11 sets forth reporting requirements regarding reinsurance agreements and loss reserves established by insurers that are writing medical malpractice liability insurance in this State.

N.J.A.C. 11:27-12 sets forth minimum requirements for the independence of the board of directors and the committees of the board of directors of an insurer that is writing medical malpractice liability insurance in this State.

N.J.A.C. 11:27-13 provides for the biannual reporting of information related to rate modifiers used by medical malpractice liability insurers writing physicians and surgeons coverage in this State.

N.J.A.C. 11:27-14 sets forth the procedures to establish the designated range of annual rate change pursuant to N.J.S.A. 17:29AA-5.1; the filing requirements for changes in rates for medical malpractice liability insurance; and the procedures to review medical malpractice liability insurance rates subject to prior approval.

Therefore, pursuant to N.J.S.A. 52:14B-5.1.c(1), these rules are readopted and shall continue in effect for a seven-year period, with the following technical changes to reflect the Department of Banking and Insurance’s current website.

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

#### SUBCHAPTER 7. MEDICAL MALPRACTICE LIABILITY INSURANCE PREMIUM ASSISTANCE FUND- PREMIUM SUBSIDY

11:27-7.5 Determination of eligibility

(a)-(e) (No change.)

(f) The certification of eligible classes and determination of practitioner and healthcare provider eligibility shall be made annually as set forth below.

1. The Department shall issue a public notice on or about January 31 of each year setting forth those classes of specialties and subspecialties proposed to be eligible to apply to receive a subsidy from the Fund, the amount available for distribution or projected to be available, and, if applicable, the proposed amounts of increases in premium and funding obligations referenced, respectively, [in] **at** (b)1 and 2 above. The public notice shall be disseminated to those interested parties on the Department’s distribution list utilized pursuant to N.J.A.C. 1:30-5.2(a)6 and shall also be posted on the Department’s website: [[www.njdobi.org](http://www.njdobi.org)] [www.nj.gov/dobi](http://www.nj.gov/dobi). In addition, the public notice shall be published in the New Jersey Register. The public notice shall also provide that interested parties shall have 30 days from the date of posting on the Department’s website to provide written comments on the Department’s determination.

2. After giving due consideration to any comments received, the Commissioner shall thereafter issue an Order establishing the classes eligible, and, if applicable, the amounts of the qualifying increases and funding obligations to be utilized as set forth [in] **at** (b)1 and 2 above. The Order shall be disseminated to those interested parties on the Department’s distribution list utilized pursuant to N.J.A.C. 1:30-5.2(a)6,

and to all persons who submitted written comments on the public notice referenced [in] at (f)1 above and shall also be posted on the Department's website: [[www.njdobi.org](http://www.njdobi.org)] [www.nj.gov/dobi](http://www.nj.gov/dobi). In addition, the Order shall be published in the New Jersey Register. The Order shall constitute a final agency decision.

#### 11:27-7.6 Application process

(a) Practitioners and healthcare providers deemed eligible to apply for a subsidy from the Fund as provided [in] at N.J.A.C. 11:27-7.5 shall file an application in a form to be prescribed by the Department and posted on the Department's website at [[www.njdobi.org](http://www.njdobi.org)] [www.nj.gov/dobi](http://www.nj.gov/dobi). The information provided in the application shall include, but not be limited to, the following:

- 1.-5. (No change.)
- (b)-(e) (No change.)

### SUBCHAPTER 14. CHANGES TO MEDICAL MALPRACTICE LIABILITY INSURANCE RATES

#### 11:27-14.4 Commissioner's findings

(a) (No change.)

1. (No change.)

2. After giving due consideration to any comments and data received, the Commissioner shall thereafter issue an Order prescribing each designated range of annual rate change and the categories of providers whose medical malpractice liability insurance rates changes shall be subject to each range pursuant to the standards set forth [in] at N.J.A.C. 11:27-14.3. The Order shall be disseminated to those interested parties on the Department's distribution list utilized pursuant to N.J.A.C. 1:30-5.2(a)6, and to all persons who submitted written comments on the public notice referenced [in] at (a)1 above, and shall also be posted on the Department's [web site] website: [[www.njdobi.org](http://www.njdobi.org)] [www.nj.gov/dobi](http://www.nj.gov/dobi). In addition, the Order shall be published in the New Jersey Register. The Order shall constitute a final agency decision.

(b) (No change.)

## LAW AND PUBLIC SAFETY

### (a)

#### **DIVISION OF CONSUMER AFFAIRS BOARD OF MASSAGE AND BODYWORK THERAPY Clinical Practice for Licensure, Electrical Percussive Devices, and Continuing Education Adopted Amendments: N.J.A.C. 13:37A-2.1, 3.1, and 4.1**

Proposed: August 7, 2023, at 55 N.J.R. 1621(a).

Adopted: March 14, 2024, by the Board of Massage and Bodywork Therapy, David Bank, Chair.

Filed: July 16, 2024, as R.2024 d.073, **without change, but with proposed amendments to N.J.A.C. 13:37A-4.2 not adopted.**

Authority: N.J.S.A. 45:11-67.

Effective Date: August 19, 2024.

Expiration Date: October 17, 2026.

#### **Summary of Public Comments and Agency Responses:**

The official comment period ended on October 6, 2023. To ensure compliance with the Administrative Procedure Act and the rules promulgated by the Office of Administrative Law, the comment period was extended to October 29, 2023. The Board of Massage and Bodywork Therapy (Board) received comments from:

1. Judith Cole
2. Holly R. Lange
3. Kimberly Campbell
4. Nancy Sheehan
5. Christina Boyd
6. Rebecca A. Place

7. Matthew Lindholm
8. Kimberly Neild
9. Yvonne Watkis
10. Tara Paccillo
11. Toni Allen
12. Lance Hostetter
13. Christina Newdeck
14. Adrian Villalobos
15. Alana Scott
16. Dyriann Graciani
17. Jacqui Delario
18. Jennifer Davenport
19. Jennifer Richards

1. COMMENT: A commenter opposes the Board's amendment limiting licensees to completing no more than eight continuing education credit hours in one day, arguing that the amendment would disqualify five-day conferences where participants can earn up to 80 continuing education credits. The commenter also states that in addition to bodywork education, five-day conferences give instruction in self-improvement and allow licensees to network and learn about which techniques are working for patients. Similarly, another commenter argues that the Board should not limit ambitious learners. The commenter further states that continuing education courses are costly, and some licensees attend weekend events where they can earn up to 10 continuing education credits for one class.

RESPONSE: The Board is not disqualifying five-day conferences or weekend events as the commenters suggest. Licensees are free to attend such conferences and events. However, licensees must adhere to the new limit on the number of continuing education credit hours they may complete in one day and maintain their record of attendance as required pursuant to N.J.A.C. 13:37A-4.3 for each course or program they complete during the conference or event.

2. COMMENT: Two commenters opposing the amendment limiting licensees to completing no more than eight continuing education credit hours in one day argue that the Board is overstepping. They both maintain that the issue of licensees stockpiling continuing education credits may be due to the State's decision to allow more online continuing education courses during the COVID-19 pandemic and suggest that the issue might resolve itself.

Another commenter opposes adding additional requirements on how licensees obtain their continuing education credits.

RESPONSE: N.J.S.A. 45:11-59.e grants the Board the authority to "establish standards for the continuing education of licensees as it deems necessary." The purpose of continuing education is to ensure that licensees continue to receive adequate education and training to enable them to practice massage and bodywork therapy safely and effectively. The Board believes limiting licensees to completing no more than eight hours of continuing education credits in one day is necessary to achieve that goal.

The Board also does not believe that the issue of licensees stockpiling continuing education credits might resolve itself with the end of the policy allowing licensees to complete all of their continuing education online. The Board has determined that the eight-hour limit is necessary to educate licensees and protect consumers regardless of whether licensees complete their continuing education online or in-person, and the Board believes this limit must take effect as soon as practicable.

3. COMMENT: A commenter opposes the amendment limiting licensees to completing no more than eight continuing education credit hours in one day and states that while they understand prohibiting licensees from completing all the required 20 hours of continuing education credits in one day, they think the eight-hour limit is too low.

RESPONSE: The Board notes that there is a limit to the amount of educational material a person can absorb in one day. The Board does not believe that licensees who complete most or all of the required 20 credit hours of continuing education in one day are receiving the full educational benefits of their continuing education courses. Moreover, the Board determined that the eight-hour limit strikes the appropriate balance of protecting consumers by ensuring licensees receive adequate education and training while giving licensees the flexibility to accrue all of their continuing education credits in as few as two and a half days if they choose to do so.