

40 N.J.R. 3729(a)

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## **RULE ADOPTIONS**

### **LAW AND PUBLIC SAFETY DIVISION OF CONSUMER AFFAIRS NEW JERSEY BOARD OF NURSING**

40 N.J.R. 3729(a)

**Adopted Amendments:** [N.J.A.C. 13:37-5.5](#), [7.1](#), [7.3](#), [7.10](#), [13.1](#) and [13.2](#)

**Adopted New Rules:** [N.J.A.C. 13:37-7.3](#), [7.10](#)

**Adopted Repeals:** [N.J.A.C. 13:37-7.4](#) and [7.11](#)

**Adopted Repeals and New Rules:** [N.J.A.C. 13:37-7.2](#) and [7.5](#) through [7.9](#)

#### **Certification of Advanced Practice Nurses**

Proposed: May 21, 2007 at [39 N.J.R. 1991\(b\)](#).

Adopted: October 16, 2007 by the Board of Nursing, Leo-Felix Jurado, President.

Filed: May 20, 2008 as R.2008 d.160, **with substantive and technical changes** not requiring additional public notice and comment (see [N.J.A.C. 1:30-6.3](#)) **with proposed new [N.J.A.C. 13:37-7.12](#) not adopted.**

Authority: [N.J.S.A. 45:11-24](#) and [45:11-50](#).

Effective Date: June 16, 2008.

Expiration Date: July 6, 2010.

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

The official comment period ended July 20, 2007. The Board received 127 comments from the following individuals:

1. John D. Fanburg, WolfBlock Brach Eichler
2. Semena Curlik, MD

3. Donna Rudesyle, American Academy of Nurse Practitioners
4. Theresa Felzenberg, RN, APN-c, NJSNA, Forum of Nurses in Advanced Practice
5. Beverly Karas-Irwin, MS, MSN, RN, APN-c, AANP
6. Claire Donaghy, NJSNA
7. Fedor Bilyk, NJSNA
8. Maria Hadon Buttner, ANCC
9. Catherine Jennings, NJSNA
10. Candace Del Gaudio, Solaris Health System
11. Joseph Picardi
12. Linda Dayer-Berenson, Adult NP, NJSNA, NLN
13. Robin Giordano, APN-C
14. Judith Sinicola, RN, APN, C.
15. Revecca Dauerman, RN, APN, C.
16. Susan Zboray, RN, APN, C.
17. Ann Rhatican, RN, APN, C.
18. Carolyn Duval, RN, APN, C.
19. Theresa Zito-Maxiner, RN, APN, C.
20. Joyce Gill, RN, APN, C.
21. Susan Egan, RN, APN, C.
22. Kathleen Schilling, RN, APN, C.
23. Catherine Menendez, RN, APN, C.
24. Sarah Sattin, RN, APN, C.
25. Kathleen Hacker, RN, APN, C.
26. Kathe Olohan, RN, APN, CDE
27. Karen Piren, ANA, NJSNA
28. Babatunji O. Omotoso, MD

29. Carolyn Torre, RN, MA, APN,C., Director of Practice, New Jersey State Nurses Association
30. Joan Colella, NJSNA
31. Scottt Hernberg, D.O., Diplomat, American Board of Anesthesiology
32. David Garfunkel, M.D.
33. Kenneth J. Abrams, MD, MBA, Patient Safety Officer, Chairman, Dept. of Anesthesiology and Perioperative Medicine, AtlantiCare, Regional Medical Center
34. Roger A. Moore, MD, Chair Emeritus, Deborah Heart and Lung Center, First Vice President, American Society of Anesthesiologists
35. Linda M. Delamar, CRNA, MSN, MS, President, New Jersey Association of Nurse Anesthetists
36. Michael S. Gordon, MD, Chairman, Department of Anesthesia, Robert Wood Johnson University Hospital at Hamilton
37. Marybeth Stingle, CRNA, MSN
38. Janet M. Summerly, MSN, RN, APN, C., Certified Women's Health Care Nurse Practitioner
39. Henry Rosenberg, MC, CPE, Director, Department of Medical Education, Saint Barnabas Medical Center
40. David Schwytzer, CRNA, ARNP, BS, President, Kentucky Association of Nurse Anesthetists, Member, Kentucky Board of Nursing Advanced Practice Nursing Council
41. Ervin Moss, MD, Executive Director, New Jersey State Society of Anesthiologists
42. Lisa Klosinski, Robert Wood Johnson University Hospital
43. Ann Maroulis, AACN, NJSNA
44. Angela Nelson, Forum of Nurse Practitioners
45. Susan Doyle-Lindrud, CrNP(c), RN, APN-C
46. Mary Laves, ANA
47. Anne Bennecke, WOCN, Wound, Ostomy and Continence Assn.
48. Grace Reilly, NJSNA, FNAP
49. Aaron Schenider, VA Medical Center East Orange, NJSNA, ANA, American Academy of Pain Management
50. Mary Tobolski, Southern Gastroenterology Associates of NJ, LLC

51. Lynne Capik, MSN, APN,C
52. Susan Austin
53. Andree Nolen, APNA, ISPN, SPAPN, AANP
54. Norma Mann, Forum of Nurses in Advance Practice
55. Janis Town, MSN, APN,C., Nurse Practitioner, Penn Cardiology
56. Marianne Herman, NJSNA
57. Susan Graziano, RN, APN,C., Montclair State University
58. Nora Vizzachero, RN, APN-C, Certified Pediatric Nurse Practitioner, Cooper University Hospital, Pediatric Neurology
59. Mary Rowland, CRNA
60. Francine Anderson, CRNA, BSN
61. Leslie Shrem, MD, Diplomate of the American Board of Anesthesiology
62. Craig Wagner, D.O., South Jersey Anesthesia and Pain Physicians, P.C.
63. Abdul Qadir, MD, Staff Anesthesiologist, Shore Memorial Hospital
64. Eileen Kean, Esq., Director of Governmental Affairs, Medical Society of New Jersey
65. Kenneth Goodkind, Esquire, Flaster Greenberg P.C.
66. Mary Gibson, CRNA
67. Brian K. Patton, CRNA
68. Patricia M. Browne, MD, FAAP, ABA
69. Mirasha N. Bell, CRNA
70. Dawn M. Sisco, CRNA, MS
71. Leah Baron, MD, Burlington Anesthesia Associates, P.A.
72. Leila Taylor Pancurak, CRNA
73. Michael E. Armao, DO, James Street Anesthesia Associates
74. Alexander Klyashtorny, MD, Columbia Pain Management
75. David Serota, MD, Burlington Anesthesia Associates, P.A.
76. Joshua Schwartz, MD, Burlington Anesthesia Associates, P.A.

77. Robert A. Hirsh, MD, Burlington Anesthesia Associates, P.A.
78. Robin Thronton, M.D., Burlington Anesthesia Associates, P.A.
79. Howard Mendel, M.D., Burlington Anesthesia Associates, P.A.
80. Joseph Nyzio, D.O., Burlington Anesthesia Associates, P.A.
81. Richard Gargiul, M.D., Burlington Anesthesia Associates, P.A.
82. Omar Awan, M.D., Burlington Anesthesia Associates, P.A.
83. Edward Marcelo, D.O., Burlington Anesthesia Associates, P.A.
84. Praveen Gollapudi, M.D., Burlington Anesthesia Associates, P.A.
85. Al Ferrari, M.D., Burlington Anesthesia Associates, P.A.
86. Mark Tatz, M.D., Burlington Anesthesia Associates, P.A.
87. Clayton Cowan, M.D., Burlington Anesthesia Associates, P.A.
88. Zafar Ajmal, M.D., Burlington Anesthesia Associates, P.A.
89. David Tavares, M.D., Burlington Anesthesia Associates, P.A.
90. Linda Fagan, D.O., Burlington Anesthesia Associates, P.A.
91. Jessica Mendelsohn , CRNA
92. Elizabeth Anne Conroy, CRNA, MS
93. Robert Mirynowski, CRNA, MS
94. Julie Adamek, RN, APN, C.
95. M. Teresa Greenhalgh, CRNA, MS
96. Sherl Brand, RN, BSN, CCM, President and CEO, NJ Home Care Association
97. Andrew Topf, MD, President, Select Anesthesia
98. Jeffrey R. Lynch, MD
99. Angela Richman, CRNA
100. Denis G. Vekeman, CRNA
101. Rosemarie Tchong, CRNA, BA
102. Michael J. Richardson, MD, Medical Director, Post Anesthesia Care Units, Saint Peter's University Hospital, Clinical Assistant Professor, Anesthesiology, Drexel

University College of Medicine

103. Mark J. Lema, MD, PhD, President, American Society of Anesthesiologists
104. James Sperrazza, MD, Chief of Pediatric Anesthesiology, St. Peter's University Hospital
105. Christine B. Desantis, APN,C
106. James C. Ku, MD, Anesthesia Consultants of New Jersey, St. Peters University Hospital
107. Victoria Eftychiou, RN, APN,C.
108. Susan Cacomber, CRNA
109. Margaret A. Liddy, CRNA
110. Cheragl Fiedler, CRNA, Chief CRNA, Hunterdon Medical Center
111. Jennifer Joiner, BSN, RN, CCRN-CSC
112. Nancy Risser, MN, RN, APN,C.
113. Debra L. Wentz, Ph.D., CEO, New Jersey Association of Mental Health Agencies, Inc.
114. Celia West
115. John Rutter, CRNA
116. Valerie Vineck, CRNA
117. Ann E. Kearny, CRNA
118. Kathleen Mahoney, RN, APN, Chairperson on behalf of The Committee for Advanced Clinical Nursing Practice, Robert Wood Johnson University Hospital
119. Affiong Utuk, RN, BSN, CRANK
120. Lisa A. Falcon, MSN, RN, CCRN
121. Laurie Jansson Didyk, MSN, RN, APN-C, CRNFA, CURN
122. Carol Calcerano, APN
123. Rita Burtcel, CRNA
124. Senator Joseph F. Vitale, Chair, Health, Human Services and Senior Citizens Committee
125. Assemblyman Herb Conaway, M.D., Chair, Health and Senior Services Committee

126. Senator Loretta Weinberg

127. Assemblyman Sean T. Kean

1. COMMENT: One commenter asks what the Regulatory Flexibility Act, [N.J.S.A. 52:14B-16](#), is.

RESPONSE: The Regulatory Flexibility Act, [N.J.S.A. 52:14B-16](#) et seq. requires that an agency that proposes a rule that imposes reporting, recordkeeping or other compliance requirements on small businesses include an analysis that describes the methods used to minimize the adverse economic impact of the proposed rules on small businesses. Individual licensees may be considered small businesses as defined in the Act.

2. COMMENT: One commenter likes the change from "RN, APN,C" to "APN" but has been told that the legal credential is "RN."

RESPONSE: The Board is not clear to what the commenter is referring. No prior regulation required an **advanced practice nurse** to use the initials "RN, APN,C." The Board did not, therefore, make the change the commenter seems to suggest. The Board did require in the past that every prescription include either: "R.N., N.P., C." or "R.N., C.N.S., C." Adopted [N.J.A.C. 13:37-7.9](#) requires that every prescription include "APN" after the **advanced practice nurse's** name. If this is what the commenter is referring to, the information she received that "RN" is the legal credential is incorrect.

3. COMMENT: One commenter commends the Board for closing a loophole in the original regulations that required an **advanced practice nurse** to be certified for initial certification and for recertification.

RESPONSE: The Board is not clear as to what the commenter is referring. If the commenter is contending that the Board required an applicant for Board certification as a nurse practitioner or clinical nurse specialist to hold national certification as a prerequisite of initial certification or as a prerequisite of recertification, the commenter is incorrect in his assertion. The Board did not require an applicant to be nationally certified. New rule [N.J.A.C. 13:37-7.1](#) requires an applicant for Board certification to be currently certified by a national certifying agency that is accredited by the American Board of Nursing specialties or the National Commission for Certifying Agencies. New rule [N.J.A.C. 13:37-7.7](#) requires applicants for renewal of certification to be currently certified by an accredited national certifying agency.

4. COMMENT: One commenter supports requiring **advanced practice nurses** to complete continuing education, complete six contact hours in controlled dangerous substances and maintain current national certification.

RESPONSE: The Board thanks the commenter for her support of the proposed amendments.

5. COMMENT: One commenter commends the Board for recognizing Certified Registered Nurse Anesthetist (CRNAs) as **advanced practice nurses** and for creating fees for inactive **advanced practice nurse** certification.

RESPONSE: The Board thanks the commenter for his support.

6. COMMENT: One commenter commends the Board on proposing regulations that incorporate changes in the Advance Practice Nurse Certification Act.

RESPONSE: The Board thanks the commenter for her support.

7. COMMENT: Several commenters commend the Board for permitting nurse anesthetists to obtain **advanced practice nurse** status.

RESPONSE: The Board thanks the commenters for their support.

8. COMMENT: One commenter asks why a nurse would need to obtain advanced practice status if he or she is specialized in his or her field. The commenter asks if this is to provide more revenue for the Board.

RESPONSE: [N.J.S.A. 45:11-46](#) requires that a person who practices as an **advanced practice nurse** in New Jersey be certified by the Board. Regardless of the specialization a nurse has obtained in his or her field, he or she cannot practice as an **advanced practice nurse** unless he or she is Board certified. The Board points out that, under [N.J.S.A. 45:1-3.2](#), it is required to charge only those fees that are necessary to cover the expenses it incurs in providing services. It cannot impose a fee simply to raise revenue as the commenter implies.

9. COMMENT: One commenter suggests that the Board send a letter to every **advanced practice nurse** that informs them of the amendments to [N.J.A.C. 13:37-7](#). The commenter believes that it has been difficult to follow changes to **advanced practice nurse** legislation over the last 15 years and that many **advanced practice nurses** are unaware of such changes. The commenter believes that the Board should work to advance the profession by informing all **advanced practice nurses** of the new regulations, as they will affect every **advanced practice nurse's** practice and joint protocols. This notification should explain how an **advanced practice nurse** is to submit proof that he or she completed the required six hours of continuing education in controlled dangerous substances.

RESPONSE: The Board points out that all nurses, including **advanced practice nurses**, are required to know of the statutory and regulatory requirements imposed on their practice. The Board points out that all of its statutes and regulations are available on the internet and that it welcomes the public to attend Board meetings. The Board maintains a distribution list of interested individuals to whom it sends all Board proposals to help keep the public informed as to regulatory amendments. The Board also works with nursing associations, including the New Jersey State Nurses Association, to get information to the nursing community. The Board will not send a notification to every **advanced practice nurse** as the commenter requests. [N.J.A.C. 13:37-7.8](#) clearly requires every **advanced practice nurse** to submit a certification of completion issued by the entity that provided the six hour continuing education hours in controlled dangerous substances. The Board does not believe that further clarification is necessary.

10. COMMENT: A commenter requests that the Board hold a hearing regarding the proposed amendments to [N.J.A.C. 13:37-7](#). The commenter contends that the proposed amendments to [N.J.A.C. 13:37-7](#) will have a negative impact on the level of supervision required for the provision of anesthesia. The commenter is particularly

concerned about the certification of certified registered nurse anesthetists as **advanced practice nurses**. The commenter contends that these proposed amendments will have a negative impact on patient safety and the quality of anesthesia services. The commenter believes that there are many individuals and entities that have concerns with these proposed amendments. As there are competency, quality of care and patient safety issues with the proposed amendments, the commenter contends there is sufficient public interest for a hearing.

RESPONSE: [N.J.S.A. 52:14B-4](#) requires an agency to hold a public hearing if, within 30 days of the publication of the proposed rule in the New Jersey Register, sufficient public interest is shown in having a public hearing. [N.J.A.C. 13:1E-4.3](#) defines sufficient public interest "as a submission of at least 50 written requests for a public hearing." The commenter's request for a public hearing was submitted on June 20, 2007, within the 30-day deadline for public hearing requests imposed by [N.J.S.A. 52:14B-4](#); however, as only one commenter requested a public hearing, the requirements for sufficient public interest set forth in [N.J.A.C. 13:1E-4.3](#) have not been met and the Board has determined that it is not necessary to hold a public hearing. Commenters, including this one, have had the opportunity to raise concerns, which have been fully considered by the Board.

11. COMMENT: Two commenters request that the Attorney General and the Governor deny adoption of the rules.

RESPONSE: The Board has no authority over the Attorney General or the Governor. The Board points out that the proposal and adoption of these rules has been reviewed by individuals in the Office of the Attorney General and in Governor's Counsel.

12. COMMENT: Two commenters request hearings from the Senate Legislature Oversight Committee and the Assembly Regulatory Oversight Committee to determine if the Board has overstepped its authority in proposing amendments to [N.J.A.C. 13:37-7](#).

RESPONSE: The Board has no authority to dictate that the Senate or Assembly hold hearings.

13. COMMENT: A commenter believes that all regulations governing anesthesia should be codified in statute.

RESPONSE: The Board has no authority over legislation.

14. COMMENT: Many commenters are concerned with amendments to [N.J.A.C. 13:37-7](#), which permit nurse anesthetists to obtain certification as **advanced practice nurses**. The commenters contend that providing nurse anesthetists with **advanced practice nurse** status will lower standards of patient care and safety. According to the commenters, nurse anesthetists do not have the training to prescribe anesthesia. The commenters believe that administering anesthesia is the practice of medicine and must be performed, or supervised, by a physician. The commenters urge the Board to not adopt the amendments to [N.J.A.C. 13:37-7](#).

RESPONSE: The Board believes that it is appropriate to recognize nurse anesthetists as **advanced practice nurses** in light of the fact that the majority of states and the

National Council of State Boards of Nursing provide such recognition. The Board does not believe that recognizing nurse anesthetists as **advanced practice nurses**, and regulating them pursuant to [N.J.A.C. 13:37-7](#), will impair patient safety and care. Nurse anesthetists who obtain **advanced practice nurse** certification will have completed the same pharmacological requirements as all other **advanced practice nurses** and will have the education necessary to assess patient needs and select the appropriate anesthetic agent to meet those needs. They will also meet the same requirements for collaborative agreements. The Board notes that an **advanced practice nurse** generally practices without the need for supervision from another healthcare professional, but in the case of the delivery of anesthesia services there are rules in place which require a physician to supervise a nurse anesthetist whenever he or she administers anesthesia. Recognition of a nurse anesthetist as an **advanced practice nurse** does not overrule rules imposed by other regulatory bodies or other entities upon the individuals or organizations they regulate, nor does it call into question the appropriateness of those rules. Therefore, a physician who uses the services of an **advanced practice nurse** specializing in anesthesia will be required to supervise the **advanced practice nurse** and adhere to all of the regulatory mandates imposed by other governmental entities.

15. COMMENT: One commenter suggests that [N.J.A.C. 13:37-7](#) be amended to clarify that granting nurse anesthetists **advanced practice nurse** status does not expand their scope of practice.

RESPONSE: The Board does not agree that a nurse anesthetist's scope of practice will not change once he or she becomes an **advanced practice nurse**. A nurse anesthetist does not have prescriptive authority; an **advanced practice nurse** does in accordance with a joint protocol. This change constitutes an expanded scope of practice.

16. COMMENT: One commenter contends that permitting nurse anesthetists to obtain **advanced practice nurse** status is an attempt to allow these nurses to provide anesthetic care similar to that of an anesthesiologist, who has, on average, six more years of education in anesthesia than a nurse does.

RESPONSE: The Board is not contending that a nurse anesthetist is the same as an anesthesiologist. The amendments to [N.J.A.C. 13:37-7](#) recognize that the administration of anesthesia is an area of advanced practice nursing and permit nurse anesthetists to obtain advanced practice certification and engage in prescriptive practice pursuant to a joint protocol.

17. COMMENT: A commenter contends that nurse anesthetists are well trained anesthesia technicians who are not adequately trained, experienced or equipped to evaluate, diagnose, choose the proper anesthetic or react to unexpected intra-operative events.

RESPONSE: The Board believes that **advanced practice nurses** who specialize in anesthesia have the requisite education and experience to administer anesthesia. The Board notes that under existing Board of Medical Examiner and Department of Health and Senior Services rules, an **advanced practice nurse** who administers anesthesia will be supervised by a physician. The adoption of these rules does not negate those rules or cast doubt on the appropriateness of requirements imposed by other entities on the individuals and facilities they regulate.

18. COMMENT: A commenter points out that there are several studies that identify an increased mortality rate in states in which nurses practice anesthesia independent of a supervising anesthesiologist. Similarly, studies show that overall anesthetic mortality rates have declined nationally, with the vast majority of anesthesia being provided by an anesthesiologist or a nurse supervised by an anesthesiologist.

RESPONSE: As the commenter did not provide or identify these studies to the Board, it cannot comment on them. The Board points out that recognizing nurse anesthetists as **advanced practice nurses** does not conflict with or overrule New Jersey State Board of Medical Examiners or Department of Health and Senior Services rules that require supervision of nurses who administer anesthesia, nor does it call into question the appropriateness of those rules.

19. COMMENT: One commenter contends that in the 35 other states that recognize **advanced practice nurses** specializing in anesthesia, there are defined standards as to what these **advanced practice nurses** can and cannot do. The commenter contends that the Board's regulations should be amended to do the same.

RESPONSE: The Board points out that [N.J.A.C. 13:37-7](#) sets forth the certification standards for all **advanced practice nurses**, including those who specialize in anesthesia. The Board also points out that the prescriptive practices of all **advanced practice nurses**, including those who specialize in anesthesia, are required to be conducted in accordance with the joint protocols the **advanced practice nurses** enter into with collaborating physicians.

20. COMMENT: One commenter points out that, of the 35 other states, which recognize nurse anesthetists as **advanced practice nurses**, only nine grant these **advanced practice nurses** full prescriptive authority. Fifteen states prohibit prescriptive authority and 11 place limitations on prescriptive authority.

RESPONSE: [N.J.S.A. 45:11-49](#) gives prescriptive authority to all **advanced practice nurses**. The statute does not permit the Board to grant limited prescriptive authority for specific areas of specialization.

21. COMMENT: One commenter recognizes that there have been recent upgrades to nurse anesthetist training programs, but contends that few practicing nurse anesthetists have gone through such programs. The commenter is uncomfortable with grandparenting these nurses as **advanced practice nurses**.

RESPONSE: Consistent with its earlier approach to OB/GYN **advanced practice nurses**, the Board is permitting existing practitioners whose specialty becomes recognized as advanced practice to obtain advanced practice status without undergoing the certification requirements imposed on new entrants into the field. The Board is following the same process here as it did for **advanced practice nurses** who specialize in obstetrics/gynecology with a limited time frame during which applicants without master's degrees may obtain advanced practice status with additional training. The Board believes that patients will not be well served by having two categories of nurses who administer anesthesia. The Board points out that it is not grandparenting existing nurse anesthetists as **advanced practice nurses**. These nurses must complete the requirements of [N.J.A.C. 13:37-7.5](#).

22. COMMENT: A commenter points out that [N.J.A.C. 13:37-7](#) does not set forth a scope of practice for **advanced practice nurses** who specialize in anesthesia. The

commenter contends that many states deny prescriptive authority and collaborative arrangements for **advanced practice nurses** specializing in anesthesia and that, as **advanced practice nurse** education is different from nurse anesthetist education, restrictions have been placed on prescriptive authority. The commenter contends that this difference in education is evidenced in the Board's rules, which require 45 hours of pharmacology before granting **advanced practice nurse** status to a nurse anesthetist.

RESPONSE: [N.J.S.A. 45:11-45](#) et seq., requires that all **advanced practice nurses** have the same prescriptive authority; it does not permit the Board to impose the limitations the commenter suggests. The Board points out that the pharmacology education required of nurse anesthetists seeking certification as **advanced practice nurses** who specialize in anesthesia is the same as that imposed on all **advanced practice nurses**. There is no difference in the pharmacological education as the commenter contends.

23. COMMENT: A commenter contends that prescriptive authority is of little use in the practice of nurse anesthetists.

RESPONSE: The Board disagrees with the commenter's contention. The Board interprets prescriptive authority to include more than just the physical writing of prescriptions; prescriptive authority also includes choosing medications that are administered to patients.

24. COMMENT: A commenter points out that the amended rules will grant **advanced practice nurses** specializing in anesthesia full prescriptive authority, even though the petition for rulemaking that asked for certification of nurses specializing in anesthesia did not request prescriptive authority. The commenter points out that the original petition for rulemaking stated that such a nurse "should identify that his or her primary task is the administration of drugs and not the ordering or prescribing of drugs." The commenter points out that, despite this statement denying the need for prescriptive authority, the Board granted prescriptive authority to such nurses once educational requirements are met.

RESPONSE: The commenter is correct that the petition for rulemaking requested that **advanced practice nurses** who specialize in anesthesia not be granted prescriptive authority. The Board partially accepted this portion of the petition as [N.J.S.A. 45:11-49](#) clearly indicates that all **advanced practice nurses** hold prescriptive authority. By the nature of their Board certification, every **advanced practice nurse** can exercise prescriptive authority pursuant to a joint protocol, which embodies the agreed upon standards for collaborative practice. The Board cannot grant advanced practice status without also granting prescriptive authority, but an **advanced practice nurse** specializing in anesthesia need not exercise his or her full authority. An **advanced practice nurse** who selects anesthetic agents will be exercising prescriptive authority

25. COMMENT: Many commenters oppose permitting nurse anesthetists to obtain **advanced practice nurse** status as they believe that this will allow nurse anesthetists to practice in collaboration with a physician, not under physician supervision. The commenters are concerned that ending supervision requirements will endanger patient safety. The commenters contend that current supervision requirements protect the safety of patients. According to the commenters, the practice of anesthesia does not lend itself to collaboration. In anesthesia practice, life

threatening situations often arise that must be addressed immediately. Such immediate attention is not possible in collaborative relationships. The commenters contend that physicians must be present during the administration of anesthesia, which would not occur in a collaborative relationship.

RESPONSE: Pursuant to [N.J.S.A. 45:11-49](#), every **advanced practice nurse** who engages in prescriptive practice must have a joint protocol with a collaborating physician. This requirement does not end supervision requirements in connection with anesthesia services because, as stated above, those supervision requirements are imposed by another licensing board on its own licensees. The Board cannot regulate the practice of individuals who are not licensed by the Board and the adoption of these rules does not call into question the appropriateness of the requirements imposed by other entities. The joint protocol that will be developed to guide the relationship between the **advanced practice nurse** specializing in anesthesia and the physician with whom he or she works will need to conform to the regulatory mandates of all other agencies. The Board believes that the joint protocol will provide for additional protections to those provided through supervision.

26. COMMENT: Several commenters are concerned that permitting nurse anesthetists to obtain **advanced practice nurse** status will increase their scope of practice. One of these commenters contends that this expanded scope of practice is not permitted in any of the locations in which such nurses work. The commenter points out that New Jersey is one of the only states that regulates the administration of anesthesia in all practice sites.

RESPONSE: Granting nurse anesthetists **advanced practice nurse** status will increase their scope of practice. Currently, nurse anesthetists do not hold prescriptive authority. Once they become certified as **advanced practice nurses**, they will have this authority. Granting **advanced practice nurse** status will not, however, have any effect on supervision requirements imposed by other New Jersey Boards or Departments. As stated above, granting nurse anesthetists **advanced practice nurse** status does not alter the rules of other entities or their requirements or call into question the appropriateness of those requirements. The Board believes that the joint protocol will provide for additional protections to those provided through supervision.

27. COMMENT: One commenter contends that nurse anesthetists are not aware of the need for supervision because they have always enjoyed and benefited from the constant presence and support of anesthesiologists. The commenter posits that nurse anesthetists may over-value their contribution to the care and safety of the patient because they are unaware of the physician's input through supervision.

RESPONSE: The commenter points out the value of a team approach in the field of anesthesia. The collaborative approach enhances patient care. Nothing in the action of the Board is intended to supplant that team approach. As stated above, recognizing that the practice of anesthesia is an area of advanced nursing practice does not alter supervision requirements imposed by other Boards or Departments or call into question the appropriateness of those requirements.

28. COMMENT: One commenter believes that there are some nurse anesthetists who are able to manage complex situations on their own; however, there is a sizable group of nurse anesthetists who are unable to perform basic procedures without supervision. Permitting nurse anesthetists to obtain **advanced practice nurse**

status will result in a situation where those who need supervision will be able to practice without it. The commenter believes that, in order to protect patient safety, all nurse anesthetists must be supervised.

RESPONSE: As stated above, the adoption of these rules does not affect supervision requirements imposed by other Boards and Departments or call into question the appropriateness of those requirements. The joint protocol mechanism will enable **advanced practice nurses** who specialize in anesthesia to work with physicians with specific standards tailored to individual needs.

29. COMMENT: One commenter asks how malpractice carriers have reacted to supervision of nurse anesthetists by non-anesthesiologists.

RESPONSE: The Board has received no comments from malpractice carriers and is unaware of their reaction to the amendments to [N.J.A.C. 13:37-7](#).

30. COMMENT: Two commenters contend that the majority of nurse anesthetists do not have the knowledge to practice without direct supervision and that permitting them to do so would result in critical incidents and bad outcomes. One of these commenters contends that nurse anesthetists do not have the training to deal with co-existing diseases.

RESPONSE: As stated above, the adoption of these rules does not affect supervision requirements imposed by other Boards or Departments or call into question the appropriateness of those requirements. The Board believes that the joint protocol will provide for additional protections to those provided through supervision.

31. COMMENT: Some commenters contend that supervision of nurse anesthetists by an anesthesiologist should be required as the anesthesiologist has the ability to correct situations that could occur because a nurse anesthetist does not have the training to appreciate when a patient is in danger. The commenters believe that anesthesiologists, by virtue of their training as medical diagnosticians and their education, which emphasizes the science of medicine as opposed to memorized algorithms for applying anesthesia, are better able to care for patients.

RESPONSE: The model suggested by the commenter is not a reflection of the status quo. The rules of the Board of Medical Examiners and Department of Health and Senior Services permit privileged non-anesthesiologists to work with nurse anesthetists in the administration of conscious sedation. As stated above, the adoption of these rules does not affect supervision requirements imposed by other Boards or Departments or call into question the appropriateness of those requirements. The Board believes that the joint protocol will provide for additional protections to those provided through supervision.

32. COMMENT: One commenter points out that the New Jersey Supreme Court decided that the administration of anesthesia was the practice of medicine, not nursing. The commenter therefore questions the concept that nurse anesthetists can practice without physician supervision.

RESPONSE: The Supreme Court affirmed the authority of the Board of Medical Examiners to develop regulations applicable to its licensees, even where there may be an impact on other professionals. The adoption of these rules does not alter supervision requirements imposed by other Boards or Departments or call into

question the appropriateness of those requirements.

33. COMMENT: One commenter contends that collaboration, as opposed to supervision, was the objective behind the petition for rulemaking filed with the Board by the New Jersey Association of Nurse Anesthetists, even though supervision is required in any venue, outside of dentist offices, in which anesthesia is administered in New Jersey. The commenter requests that collaboration be removed from [N.J.A.C. 13:37-7](#) as it pertains to **advanced practice nurses** specializing in anesthesia.

RESPONSE: The Board cannot comment on the objectives of the petitioner. The Board points out that supervision issues were not addressed in the Board's response to the petition. Every **advanced practice nurse** who engages in prescriptive practice is required to have a joint protocol with a collaborating physician. As stated above, these rules do not affect supervision requirements imposed by other Boards or Departments or call into question the appropriateness of those requirements.

34. COMMENT: One commenter asks the Board how collaboration will be practiced by **advanced practice nurses** specializing in anesthesia.

RESPONSE: An **advanced practice nurse** specializing in anesthesia will be required to enter into a joint protocol with a collaborating physician. This requirement is the same for all **advanced practice nurses** certified in New Jersey who engage in prescriptive practice.

35. COMMENT: One commenter points out that Maryland defines collaboration for **advanced practice nurses** specializing in anesthesia as "synonymous with supervision and direction." Maryland requires such **advanced practice nurses** to work under the direction of an anesthesiologist or surgeon.

RESPONSE: Under [N.J.S.A. 45:11-45](#) et seq., the Board cannot adopt differing standards for collaboration for **advanced practice nurses** based upon their areas of specialization. Every **advanced practice nurse** is required to engage in collaborative practice in the same manner. As explained above, the adoption of these rules does not alter supervision requirements imposed by other Boards or Departments or call into question their appropriateness. Every protocol is tailored to meet the needs of the patient that the collaborating physician and the **advanced practice nurse** will be serving. In the field of anesthesia, the protocol will need to reflect the mandate of the rules of other agencies.

36. COMMENT: Many commenters contend that permitting nurse anesthetists to obtain **advanced practice nurse** status conflicts with existing Board of Medical Examiners and Department of Health and Senior Services regulations, which require that physicians supervise nurses administering anesthesia. The Board of Medical Examiners regulation dictates that anesthesia is the practice of medicine. The New Jersey Supreme Court upheld this regulation and ruled that Board of Medical Examiners supervision requirements are not arbitrary or unreasonable.

RESPONSE: As stated above, recognizing the administration of anesthesia as an area of advanced practice nursing does not conflict with Board of Medical Examiners or Department of Health and Senior Services rules. Those rules impose requirements on physicians and facilities. The Board's rules cannot alter the regulatory requirements imposed by those entities on individuals and facilities that they regulate and do not call into question the appropriateness of those requirements.

37. COMMENT: Three commenters are neutral as to the adoption of the amendments to [N.J.A.C. 13:37-7](#) but request that the Board and the Board of Medical Examiners meet to resolve whether the relationship between physicians and nurse anesthetists is supervisory or collaborative. The commenters point out that the Supreme Court has upheld Board of Medical Examiners regulations that require nurse anesthetists to work under the supervision of physicians. The commenters are concerned that the amendments to [N.J.A.C. 13:37-7](#) would contradict the Board of Medical Examiners regulations.

RESPONSE: The Board does not believe that there is any conflict as to supervision of nurse anesthetists by physicians. Board of Medical Examiners rules require physicians to provide supervision. Board of Nursing rules cannot alter the requirements that another board imposes on its own licensees. As there is no conflict or question of contradicting Board of Medical Examiner rules, it is not necessary to meet with the Board of Medical Examiners. To the extent that questions that arise, or practice issues that engender confusion, the Board will reach out to the Board of Medical Examiners to coordinate.

38. COMMENT: Several commenters point out that Federal Medicare regulations require physician supervision of nurse anesthetists, unless a state opts out of this requirement. New Jersey has not opted out of this requirement and physician supervision is the accepted standard of practice for nurse anesthetists.

RESPONSE: As stated above, the adopted rules do not alter requirements for supervision imposed by other Boards or Departments or call into question the appropriateness of those requirements.

39. COMMENT: Many commenters point out that there are no rural hospitals in New Jersey and that all New Jersey hospitals are staffed with anesthesiologists. There is no issue as to access to anesthesia care in New Jersey hospitals and there is no reason for New Jersey to compromise patient safety standards as other states have been forced to do.

RESPONSE: The Board does not contest the commenters' contention that there are no rural hospitals in New Jersey. The Board does not believe that recognizing the administration of anesthesia as an area of advanced nursing practice compromises patient safety in any way. As stated above, these rules do not alter supervision requirements imposed by other Boards or Departments or call into question their appropriateness.

40. COMMENT: Many commenters oppose permitting non-masters prepared nurse anesthetists to obtain **advanced practice nurse** status. The commenters believe that such nurses are not sufficiently educated to hold **advanced practice nurse** status and that certifying them will endanger patient safety.

RESPONSE: Pursuant to [N.J.S.A. 45:11-27](#), the Board has the authority to determine the appropriate education that an applicant for certification as an **advanced practice nurse** must complete. The Board has permitted, for a short window of time, non-masters prepared nurses to obtain **advanced practice nurse** status if they were actively practicing in an area that is newly recognized as an area of advanced practice nursing. The Board believes that a nurse anesthetist who meets the requirements of [N.J.A.C. 13:37-7.5](#) will have the education and experience to

safely and effectively practice as an **advanced practice nurse**.

41. COMMENT: Several commenters want to know how many nurse anesthetists are non-masters prepared and how many of these nurses will be grandfathered as **advanced practice nurses**. The commenters ask how many of non-master's degree nurse anesthetists hold bachelor's degrees and how many hold diplomas. Two commenters contend that the majority of nurse anesthetists do not hold master's degrees.

RESPONSE: The Board does not have this information and will not have this information until nurse anesthetists start applying to the Board for certification.

42. COMMENT: One commenter points out that the New Jersey Association of Nurse Anesthetists requested that non-masters prepared nurse anesthetists be grandfathered as **advanced practice nurses**. The commenter contends that the accepted definition of an **advanced practice nurse** is a registered professional nurse with a master's degree. The commenter points out that the original petition asked that nurse anesthetists granted **advanced practice nurse** status be allowed to refer to themselves as CRNAs, not **advanced practice nurses**. The commenter posits that **advanced practice nurses** who obtained master's degrees will protest grandparenting and will expect that all **advanced practice nurses** hold master's degrees. The commenter believes that grandparenting a select group of nurses constitutes a form of affirmative action. The commenter contends that of the others states that have granted **advanced practice nurse** status to nurse anesthetists, only some provided grandparenting and most required a master's degree.

RESPONSE: The Board points out that its established practice for newly recognized areas of advanced practice nursing is to permit existing practitioners to obtain **advanced practice nurse** status without a master's degree. The petition for rulemaking requested that the Board grandfather all existing nurse anesthetists as **advanced practice nurses**. The Board partially granted this request and imposed the requirements of [N.J.A.C. 13:37-7.5](#) on all nurse anesthetists who seek **advanced practice nurse** status without a master's degree. The Board also partially granted the petitioner's request that nurse anesthetists be permitted to refer to themselves as CRNAs and not **advanced practice nurses**. **All advanced practice nurses** must refer to themselves as **advanced practice nurses**. Contrary to the commenter's contention, no **advanced practice nurses** submitted comments in opposition to permitting a nurse anesthetist without a master's degree to obtain **advanced practice nurse** status. The Board is not grandparenting a select group of nurses, it is following the same procedure that was applied when rules were first drafted for **advanced practice nurses** in New Jersey and when the Board recognized obstetrics/gynecology as an area of advanced practice nursing.

43. COMMENT: One commenter asks why practicing nurse anesthetists must apply to be grandfathered as **advanced practice nurses**. The commenter believes that all practicing nurse anesthetists should automatically become **advanced practice nurses**.

RESPONSE: The Board is not grandparenting all nurse anesthetists as **advanced practice nurses**. The Board is requiring that those nurses who are currently practicing as nurse anesthetists and do not hold master's degrees complete the requirements of [N.J.A.C. 13:37-7.5](#) in order to obtain **advanced practice nurse** status. The standards of [N.J.A.C. 13:37-7.5](#) ensure that an individual is prepared to

safely and effectively practice as an **advanced practice nurse** in New Jersey.

44. COMMENT: A commenter contends that the petition for rulemaking that requested **advanced practice nurse** status for nurse anesthetists was filed in order to gain independent practice for nurse anesthetists. The commenter contends that grandparenting is a necessary part of the process of obtaining this goal and the Board's regulations are contributing to this political ambition.

RESPONSE: The Board points out that it is not grandparenting nurse anesthetists, it is requiring current practitioners who do not hold a master's degree to complete the requirements of [N.J.A.C. 13:37-7.5](#).

45. COMMENT: One commenter contends that, if a master's degree was required for practice as a nurse anesthetist when she entered the field, she would have attended medical school. The commenter doubts that more initials after a nurse's name indicates that she is a better anesthetist.

RESPONSE: The Board cannot comment on the commenter's contention as to her chosen educational path. The Board is not requiring more initials after a nurse's name. The Board is requiring that all applicants for **advanced practice nurse** status meet the requirements of Subchapter 7.

46. COMMENT: One commenter is concerned that the amendments to [N.J.A.C. 13:37-7](#) will prevent him from continuing his practice as a nurse anesthetist. The commenter recommends that the Board follow interstate compact standards for master's degrees and grandparenting deadlines.

RESPONSE: The amendments to [N.J.A.C. 13:37-7](#) do not require that all existing nurse anesthetists obtain **advanced practice nurse** status in order to continue administering anesthesia. The amendments to [N.J.A.C. 13:37-13.1](#) impose this requirement. The Board has recognized that the administration of anesthesia is an area of advanced practice nursing, as the New Jersey Association of Nurse Anesthetists requested in its petition for rulemaking. As this practice is an area of advanced practice nursing, those who are not certified as **advanced practice nurses** cannot administer anesthesia, except for supplemental dose. The Board points out that it is not part of the Nurse Multistate Licensure Compact and is not required to follow its dictates regarding certification of **advanced practice nurses**. The Board has imposed the requirements for **advanced practice nurse** certification that it believes are appropriate to ensure the safe and effective practice of **advanced practice nurses** and the health, safety and welfare of patients.

47. COMMENT: A commenter suggests that the Board exempt nurse anesthetists who have practiced for 25 or more years from the requirements of [N.J.A.C. 13:37-7](#).

RESPONSE: The Board believes that, in order to protect patient safety, all applicants for certification as **advanced practice nurses** who specialize in anesthesia must meet the same standards.

48. COMMENT: A commenter points out that the term "certified" in [N.J.A.C. 13:37-7.1\(b\)](#) should be replaced with "conferred."

RESPONSE: The Board believes that the use of the term "certified" in [N.J.A.C. 13:37-7.1\(b\)](#) could be confusing, but does not believe that "conferred" is the correct term.

The Board has changed [N.J.A.C. 13:37-7.1\(b\)](#) to change the term "certified" to "credentialed."

49. COMMENT: Two commenters are concerned with [N.J.A.C. 13:37-7.1\(b\)](#), which requires an applicant for **advanced practice nurse** certification to complete an examination in an advanced practice nursing specialty. The commenters contend that professional organizations now require that applicants for certification complete 500 hours of clinical training throughout their master's degree curriculum. The commenters also contend that graduates of master's degree programs who are not in a nurse practitioner track do not complete these 500 clinical hours and are not eligible to take an examination in an advanced practice nursing specialty. The commenters request that the Board reconsider its requirement that applicants complete an advanced practice nursing specialty examination so that those who cannot take the examination can be certified in New Jersey as **advanced practice nurses**.

RESPONSE: The Board believes that all applicants for **advanced practice nurse** certification should be held to the same examination requirements in order to ensure that all are prepared to practice safely and effectively. The Board points out that an applicant who has not completed clinical hours during his or her education program may apply for a work permit letter pursuant to [N.J.A.C. 13:37-7.3](#) and obtain those clinical hours working as an applicant **advanced practice nurse**.

50. COMMENT: One commenter recommends that the Board not adopt the deletion of the phrase "in good standing" in [N.J.A.C. 13:37-7.1\(c\)](#)<sup>1</sup>. The commenter believes it is important for an applicant's New Jersey registered professional nurse license to be in good standing.

RESPONSE: The Board believes that referring to a "current" license in [N.J.A.C. 13:37-7.1\(c\)](#)<sup>1</sup> ensures that a license is unencumbered. In order to avoid any possible confusion, the Board is changing [N.J.A.C. 13:37-7.1\(c\)](#)<sup>1</sup> upon adoption to require that the current license be "in good standing."

51. COMMENT: [N.J.A.C. 13:37-7.1\(d\)](#)<sup>4</sup> requires **advanced practice nurses** to maintain national certification. A commenter points out that physicians are not required to maintain certifications to practice in New Jersey. The commenter believes that **advanced practice nurses** will welcome this requirement.

RESPONSE: The Board thanks the commenter for her support.

52. COMMENT: Many commenters were concerned with [N.J.A.C. 13:37-7.2](#), which requires an applicant for **advanced practice nurse** certification to obtain a master's degree in nursing. The commenters contend that the Board agreed to accept master's degrees that were related to nursing. The commenters contend that no other state requires **advanced practice nurses** specializing in anesthesia to obtain a degree in nursing. The commenters point out that approximately half of nurse anesthesia programs are not part of schools of nursing and do not grant master's degrees in nursing. The commenters are concerned that this rule will prevent graduates from non-nursing school programs from obtaining certification. The commenters suggest that this rule be amended to require applicants to obtain a master's degree in advanced practice nursing. They point out that the National Council of State Boards of Nursing's "Uniform Advanced Practice Registered Nurse Licensure/Authority to Practice Requirements" requires completion of a graduate

level APRN program accredited by a national accrediting body.

RESPONSE: The Board believes that [N.J.A.C. 13:37-7.2](#) indicates that any master's degree that is related to nursing will be acceptable to the Board. A master's degree obtained from a nurse anesthesia program would be a master's degree in nursing for Board purposes. As the rule does not create the impediments that the commenters contend, it is not necessary to amend the rule as they request.

53. COMMENT: One commenter contends that Maine requires a master's degree in anesthesia if an **advanced practice nurse** wishes to specialize in anesthesia. The commenter contends that New Jersey does not define what type of master's degree it requires. The commenter asks if a masters of business administration would meet the Board's requirements for a master's degree for an **advanced practice nurse** specializing in anesthesia.

RESPONSE: The Board requires that a master's degree be in nursing, a master's of business administration degree is not related to nursing and would not qualify under [N.J.A.C. 13:37-7.2](#).

54. COMMENT: One commenter points out that the rules do not require that a nurse anesthetist's master's degree be in anesthesiology. The commenter understands that an **advanced practice nurse** must receive their master's degree in their area of practice.

RESPONSE: The Board requires that an applicant for Board certification as an **advanced practice nurse** be certified by a national certifying agency that is accredited by the American Board of Nursing Specialties and/or the National Commission for Certifying Agencies. An applicant who did not complete his or her education in his or her area of advanced practice could not obtain certification from a national certifying agency and would not be qualified to be Board certified.

55. COMMENT: A commenter points out that many nurse anesthetists complete educational programs, which grant a master's of science degree in anesthesia and not a master's degree in nursing. These programs are designed for nurses and the graduates are all nurses who are nationally certified as certified registered nurse anesthetists. The commenter requests that the Board recognize that these programs qualify as master's degrees in nursing.

RESPONSE: A master's degree program that is designed for nurses is a masters in nursing and is recognized pursuant to [N.J.A.C. 13:37-7.2](#).

56. COMMENT: One commenter suggests that the Board amend [N.J.A.C. 13:37-7.2](#) to recognize a master's degree from a school accredited by an advanced practice nursing national accrediting body as an acceptable master's degree. The commenter contends that this amendment would be consistent with regulations in every other state that certifies **advanced practice nurses** in anesthesia and would allow all nurse anesthetists to obtain **advanced practice nurse** status. The commenter is concerned that, if the rule is not amended, qualified applicants will be unable to obtain certification.

RESPONSE: A master's degree from a school accredited by an advanced practice nursing national accrediting body would qualify as a master's degree in nursing under [N.J.A.C. 13:37-7.2](#)

57. COMMENT: One commenter points out that all nurse anesthetists are required to complete 40 hours of continuing education every two years. The commenter believes that this indicates that the master's degree a nurse anesthetist holds does not have to be in nursing.

RESPONSE: Any master's degree that prepares an individual to practice advanced practice nursing is a master's degree in nursing. The continuing education a nurse completes after obtaining a master's degree is not relevant to the master's degree he or she completed and does not provide the proof that the commenter contends it does.

58. COMMENT: One commenter asks why the Board increased the required hours in pharmacology in [N.J.A.C. 13:37-7.2](#) from 30 to 39 hours.

RESPONSE: Prior to the adoption of these amendments, an applicant for certification was required to complete either a graduate level credit course in pharmacology or 30 contact hours in pharmacology. A graduate level credit course usually consists of 45 contact hours. The Board believes that every applicant for certification should complete the more rigorous requirement of 45 contact hours so that all **advanced practice nurses** receive the same level of education. In conjunction with the six contact hours in pharmacology related to controlled dangerous substances, requiring 39 hours of pharmacology ensures that all applicants complete the previous requirement of 45 hours.

59. COMMENT: [N.J.A.C. 13:37-7.2\(b\)](#) requires an applicant to complete his or her education no more than two years prior to applying for certification. One commenter is concerned that this will adversely affect nurse anesthetists who completed their education more than two years ago and failed to apply within one year of the effective date of the rule. The commenter requests that this rule be amended to remove any time limitations between completion of an education and applying for certification as long as the applicant has completed a program approved by the Council on Accreditation of Nurse Anesthesia Educational Programs prior to January 1, 1999.

RESPONSE: The Board believes that imposing the two-year requirement between the end of an applicant's educational program and application to the Board ensures that the applicant is sufficiently competent to begin practicing and that the preparation obtained is current and comprehensive as to technological and pharmaceutical advancements in the field. This requirement must be imposed on all applicants who apply under [N.J.A.C. 13:37-7.2](#) in order to protect the safety of patients. The Board believes that providing one year for a currently practicing nurse anesthetist to apply to the Board for advanced practice nursing certification is ample time for all of these nurses to obtain certification. The Board will not change the rules as the commenter requests.

60. COMMENT: Two commenters contend that six hours of pharmacology related to controlled dangerous substances is not enough education to adequately prepare an **advanced practice nurse** to prescribe such substances. The commenters contend that Schedule II and III controlled substances have more profound physiologic consequences than other types of prescription drugs. The commenters believe that six hours is not enough training to prepare a nurse for dealing with pharmacologic therapy management and addiction prevention/management. One of the

commenters contends that six hours in controlled dangerous substances is not enough training to be classified as an **advanced practice nurse**.

RESPONSE: The Legislature, under [N.J.S.A. 45:11-49\(b\)7](#), has made a determination that **advanced practice nurses** should complete six continuing education hours in pharmacology related to controlled dangerous substances. Should practice and experience suggest that more is needed, there would need to be a legislative adjustment.

61. COMMENT: [N.J.A.C. 13:37-7.3](#) permits an applicant to practice prior to passing a certification examination. Several commenters contend that recent graduates, who have not passed certification examinations, should not be permitted to practice as **advanced practice nurses**. The commenters point out that certification examinations are given frequently and that recent graduates will practice under this provision for only a short period of time. The commenters ask why the Board would weaken certification by allowing such practice. One of the commenters asks the Board to adopt measures limiting an applicant's scope of practice and practice settings.

RESPONSE: The Board believes it is important to permit recent graduates to practice as an applicant **advanced practice nurse**, so that these individuals may maintain a level of continuing competency between the end of their education and obtaining certification. The Board also believes it is necessary to permit this practice in order to accommodate those who have not completed clinical hours required by some national accrediting agencies. The Board does not believe that permitting this practice weakens certification, since applicant **advanced practice nurses** are not permitted to exercise prescriptive authority.

62. COMMENT: A commenter believes that [N.J.A.C. 13:37-7.3](#) should not apply to **advanced practice nurses** specializing in anesthesia. The commenter contends that a graduate who has not passed the anesthesia certifying examination is a registered nurse anesthetist who must practice under the direct supervision of a CRNA or anesthesiologist until the examination has been passed. The commenter contends that this rule would permit a graduate to work as a CRNA before passing a certification examination, which is contrary to present practice standards.

RESPONSE: The Board treats all **advanced practice nurses** in a similar manner, it will not adopt disparate requirements for **advanced practice nurses** based on their areas of specialization. [N.J.A.C. 13:37-7.3](#) applies to any individual who has applied to the Board of certification as an **advanced practice nurse**, including those who have applied to be **advanced practice nurses** who specialize in anesthesia. The Board points out that recognizing that nurse anesthesia is an area of advanced practice nursing entails new practice standards. The standards for practice that the commenter refers to are based upon previous practice standards that are not applicable here.

63. COMMENT: One commenter believes that [N.J.A.C. 13:37-7.3](#) should be amended so that an applicant **advanced practice nurse** may fail the certification examination only one time.

RESPONSE: The Board believes that such a requirement would be unduly harsh. Permitting an applicant to take the certification examination twice recognizes that anxiety and other issues may impact an applicant's performance on an examination.

64. COMMENT: Many commenters are concerned with the deadline for grandparenting of nurse anesthetists who do not hold a master's degree. The commenters believe that this deadline could prevent out-of-State **advanced practice nurses** from applying for certification. The commenters point out that, as of 1998, all accredited nurse anesthesia programs are master's degree programs. They contend that this means that the number of applicants who do not have master's degrees will decrease every year. The commenters contend that, while the degree granted by these programs has changed from a bachelor's degree to a master's degree, the rigor of the didactic and clinical programs has not changed and graduates with certificates or diplomas are as qualified and competent as those with master's degrees. The commenters point out that, of the 28 states that require master's for nurse anesthetists, 25 do not impose a deadline for grandparenting of non-masters prepared nurses. The commenters also point out that the advanced practice registered nurse interstate compact requires grandparenting without deadlines. The commenters contend that, if New Jersey enters into this compact, it would have to adopt a regulation that allows indefinite grandparenting. Some of the commenters suggest that the Board amend [N.J.A.C. 13:37-7.6\(b\)3](#) to include the following statement: "An applicant applying for certification by endorsement shall not be required to meet the requirements of [N.J.A.C. 13:37-7.2\(a\)](#), if the applicant provides proof of successful completion of an education program accredited by the Council on Accreditation of Nurse Anesthesia Educational Programs prior to January 1, 1999."

RESPONSE: The Board believes that permitting a one-year period during which applicants who do not hold master's degrees may obtain **advanced practice nurse** certification allows for adequate time for such applications. The Board points out that it is not part of the Nurse Multistate Licensure Compact for advanced practice registered nurses. If it ever becomes so, it may be necessary to alter its certification standards, but the Board will not do so at this time.

65. COMMENT: [N.J.A.C. 13:37-7.5](#) requires an applicant who does not hold a master's degree to submit proof that he or she completed a minimum of 1,600 hours as a nurse anesthetist during the past 24 months. A commenter points out that this is 15 hours a week of practice. The commenter contends that this would be considered part-time practice by malpractice insurers. The commenter questions why the Board does not require applicants to complete a 40-hour work week.

RESPONSE: The Board believes that its requirements are the minimum necessary to ensure that an individual is completing the experience he or she needs in order to demonstrate competency for certification as an **advanced practice nurse**. The commenter's suggested hours would be unduly burdensome for applicants to obtain and would not significantly increase an applicant's competency. The commenter's reference to malpractice insurance determinations is not relevant to the Board's decision making process on this issue.

66. COMMENT: A commenter is concerned with the pharmacology requirements of [N.J.A.C. 13:37-7.5](#). The commenter questions why the Board is worried about pharmacology courses that she took more than 30 years ago. The commenter has taken continuing education courses in the ensuing years and does not believe it is necessary for her to take six hours of pharmacology every year to make her a better nurse anesthetist. The commenter contends that, if these regulations are adopted, she and many other nurse anesthetists may retire from the practice.

RESPONSE: The Board needs to know that every applicant for certification has completed the required pharmacology courses so that it will be confident that every **advanced practice nurse** has the education to safely and effectively engage in prescriptive practice. The Board is not requiring that an **advanced practice nurse** complete six hours of pharmacology every year. The Board is requiring that every **advanced practice nurse** complete six hours of continuing education in pharmacology related to controlled dangerous substances in order to comply with [N.J.S.A. 45:11-49](#).

67. COMMENT: Two commenters point out that the Council on Recertification of Nurse Anesthetists is autonomous and that it is not necessary to cite to the AANA in [N.J.A.C. 13:37-7.5\(a\)2](#).

RESPONSE: The Board has researched this issue and agrees that it is not necessary to cite to the AANA in [N.J.A.C. 13:37-7.5\(a\)2](#). The Board has changed this rule upon adoption to remove this reference.

68. COMMENT: One commenter points out that [N.J.A.C. 13:37-7.5\(a\)4i](#) does not define acceptable proof. The commenter points out that, while most transcripts would indicate this information, some pharmacology education could be obtained in a course with a title that does not reflect that it is pharmacology. The commenter also points out that the number of course hours in a transcript would depend on the requirements of the accrediting body. The commenter suggests that this rule be amended to allow applicants to satisfy pharmacology requirements if they submit transcripts indicating completion of a program approved by the Council on Accreditation of Nurse Anesthesia Education Programs. The commenter contends that such a program provides sufficient training, regardless of the title of the courses or the number of hours credited.

RESPONSE: The Board cannot simply trust that a program approved by the Council on Accreditation of Nurse Anesthesia Education Programs contained the required pharmacology content, specifically since these programs did not in the past prepare graduates for prescriptive authority. The Board needs to have documented proof that applicants have completed the education necessary to safely and effectively engage in prescriptive practice. The Board will work with applicants to ensure that they will be able to provide the necessary information without unduly interfering with their ability to obtain **advanced practice nurse** certification.

69. COMMENT: A commenter points out that the amendments to [N.J.A.C. 13:37-7](#) will permit an **advanced practice nurse** certified in another state to practice in New Jersey. The commenter believes that every **advanced practice nurse** who practices in New Jersey should be required to meet New Jersey standards.

RESPONSE: The commenter is incorrect in his interpretation of [N.J.A.C. 13:37-7](#). The subchapter does not permit **advanced practice nurses** certified in another state to practice in New Jersey. It does permit such individuals to apply for certification by endorsement pursuant to [N.J.A.C. 13:37-7.6](#). Every **advanced practice nurse** who practices in New Jersey is required to meet New Jersey standards.

70. COMMENT: One commenter contends that an applicant for certification by endorsement should only be granted certification in New Jersey if he or she meets New Jersey criteria for certification.

RESPONSE: The commenter accurately states the requirements for certification by endorsement.

71. COMMENT: One commenter recommends that the Board amend [N.J.A.C. 13:37-7.6\(b\)](#) to require that an applicant for endorsement possess a registered professional nurse license in good standing.

RESPONSE: [N.J.S.A. 45:11-48](#) requires that every applicant for **advanced practice nurse** certification be a registered professional nurse. Changes made upon adoption to [N.J.A.C. 13:37-7.1](#) clarify that this license must be in good standing. It is unnecessary to amend [N.J.A.C. 13:37-7.6](#) as amendments to [N.J.A.C. 13:37-7.1](#) impose this requirement.

72. COMMENT: One commenter suggests that [N.J.A.C. 13:37-7.6\(b\)](#)<sup>3</sup> should be amended to permit applicants to satisfy the requirements of the rule by providing proof of successful completion of an educational program prior to January 1, 1999 that was accredited by the Council on Accreditation of Nurse Anesthesia Educational Programs.

RESPONSE: The Board believes that all applicants for certification by endorsement should be held to the same requirements for certification in order to protect the health, safety and welfare of patients.

73. COMMENT: One commenter is concerned that [N.J.A.C. 13:37-7.7\(a\)](#) will prevent some **advanced practice nurses** from renewing their certification. The commenter points out that many **advanced practice nurses** who were certified in the past passed a certification examination that was not at an advanced practice level, as that was the only examination offered at the time. The commenter asks the Board to clarify that currently certified **advanced practice nurses** will be able to renew certification without being required to take an advanced practice examination. The commenter points out that many **advanced practice nurses** cannot sit for an advanced practice examination because their initial education would not meet the requirements for taking the examination. The commenter posits that [N.J.A.C. 13:37-7.7\(j\)](#) may address this concern.

RESPONSE: The Board believes that all applicants for renewal should be nationally certified; however, it does recognize that a small number of currently certified **advanced practice nurses** have not kept their national certification active and may not be able to renew this national certification because national standards have changed. [N.J.A.C. 13:37-7.7\(j\)](#) does not address this concern. The Board is changing [N.J.A.C. 13:37-7.7](#) upon adoption so that **advanced practice nurses** who were certified by the effective date of these rules will not have to submit proof that they are nationally certified. The Board will address this issue at a later date to determine how it may require national certification as a requirement of renewal for all **advanced practice nurses** without foreclosing some **advanced practice nurses** from renewing certification.

74. COMMENT: One commenter asks why the Board requires an **advanced practice nurse** applying for reactivation of certification after more than five years on inactive status to submit an affidavit of employment listing jobs held during inactive status. The commenter asks if this requirement is to ensure that the applicant was not working as an **advanced practice nurse** during the years of inactive status. The

commenter contends that the intent of this requirement is unclear and is intrusive. The commenter points out that an **advanced practice nurse** voluntarily chooses to go on inactive status, it is not the same as being suspended by the Board.

RESPONSE: This requirement addresses an **advanced practice nurse's** competence to practice and issues of unlicensed practice. Just because an individual chooses to become inactive, it does not mean that this individual would automatically refrain from unlicensed practice. The Board does not believe that this requirement is unduly intrusive.

75. COMMENT: Several commenters point out that the majority of national certifying agencies recertify **advanced practice nurses** every five years, which differs from the Board's biennial renewal requirement. One of the commenters is concerned that an **advanced practice nurse** could let his or her national certification lapse and continue practicing in New Jersey up to the time his or her State certification is up for renewal.

RESPONSE: [N.J.S.A. 45:1-7](#) dictates a biennial renewal requirement. The Board cannot change this statutorily imposed timeframe. Likewise, the Board has no authority to dictate the timeframe for national certifications. It is possible that an **advanced practice nurse** could let his or her national certification lapse and continue to practice in New Jersey up until the time he or she is required to renew Board certification. The Board believes that this is very unlikely as national certification is a requirement for Board recertification and renewing national certification after it has lapsed is usually a difficult process that often requires the individual to retake the national certification examination. If it becomes apparent in the future that many **advanced practice nurses** are permitting their national certification to lapse, the Board will revisit this issue to determine if it is necessary to amend the rules to ensure that **advanced practice nurses** keep their national certification active at all times.

76. COMMENT: Many of the commenters are concerned with [N.J.A.C. 13:37-7.8](#), which requires **advanced practice nurses** to complete six contact hours in controlled dangerous substances. The commenters ask if **advanced practice nurses** who took six contact hours on controlled dangerous substances in the past will be required to retake these contact hours.

RESPONSE: If the six contact hours taken in the past meet the requirements of [N.J.A.C. 13:37-7.8](#), the **advanced practice nurses** who took those contact hours will not have to retake them.

77. COMMENT: One commenter believes that it will not be possible for all **advanced practice nurses** to complete six contact hours in controlled dangerous substances within six months of the effective date of [N.J.A.C. 13:37-7.8](#). The commenter contends that these courses are not offered during summer months and are usually offered only on Saturdays. The commenter contends that there must be more courses offered on weekdays and evenings and that the timeframe for completing these courses should be increased to one year.

RESPONSE: The Board does not offer these courses and has no authority to dictate when and how often they are offered. In order to facilitate compliance with this requirement, the Board is changing [N.J.A.C. 13:37-7.8](#) upon adoption to increase the timeframe for completing the six continuing education hours from six months to one

year.

78. COMMENT: One commenter believes that the Board should send notification to every **advanced practice nurse** informing them that they are required to submit proof that they have completed six hours of pharmacology related to controlled dangerous substances. The commenter contends that there are many **advanced practice nurses** in New Jersey who are unaware of changes made in 1999 to **advanced practice nurse** legislation.

RESPONSE: The Board points out that all **advanced practice nurses** are required to know of the statutory and regulatory requirements imposed on their practice. The Board points out that all of its statutes and regulations are available on the internet and that it welcomes the public to attend Board meetings. The Board maintains a distribution list of interested individuals to whom it sends all Board proposals to help keep the public informed as to regulatory amendments. The Board also works with nursing associations, including the New Jersey State Nurses Association, to get information to the nursing community. The Board will not send a notification to every **advanced practice nurse** as the commenter requests. [N.J.A.C. 13:37-7.8](#) clearly requires every **advanced practice nurse** to submit a certification of completion issued by the entity that provided the six-hour continuing education hours in controlled dangerous substances. The Board does not believe that further clarification is necessary.

79. COMMENT: Several commenters are concerned with provisions that limit an **advanced practice nurse's** prescriptive authority to those medications that are used in an **advanced practice nurse's** specialty. The commenters point out that many medications have multiple uses.

RESPONSE: No Board regulation imposes the limitations that the commenter alleges.

80. COMMENT: One commenter asks if **advanced practice nurses** will be required to take six hours in controlled dangerous substances every two years.

RESPONSE: An **advanced practice nurse** will not have to take six hours in controlled dangerous substances every two years.

81. COMMENT: Several commenters are concerned with [N.J.A.C. 13:37-7.8](#), which requires **advanced practice nurses**, as part of Board continuing education requirements, to meet the continuing education requirements of their national certifying agency. The commenters point out that ANCC has a five-year certification timeframe and that the Board has a biennial renewal timeframe. The commenters ask how **advanced practice nurses** will be able to comply with the Board's two-year renewal requirements when national certifying agencies have a five-year continuing education requirement.

RESPONSE: [N.J.A.C. 13:37-7.8](#) requires **advanced practice nurses** to complete the continuing education requirements of their national certifying agency. In the renewal application, the Board will ask if the **advanced practice nurse** is current with these requirements. If an **advanced practice nurse** is genuinely compliant with national certifying agency requirements, indicates such on the renewal application, and completes the hours required for the renewal of a registered professional nurse license pursuant to [N.J.A.C. 13:37-5.3](#), he or she will meet Board requirements.

82. COMMENT: Two commenters contend that the phrase "and treatments, including referrals" should be deleted from [N.J.A.C. 13:37-7.9\(a\)](#). The commenters believe that treatments and referrals are not statutorily required to be part of a joint protocol, which is required for prescribing medications and devices. The commenters point out that P.L. 2004, c. 122 included treatment and referral as part of an **advanced practice nurse's** scope of practice. One of the commenters suggests that references to treatments and referrals should be included in [N.J.A.C. 13:37-7.12](#).

RESPONSE: The Board agrees that treatments and referrals need not be part of a joint protocol, but believes that these terms must appear in [N.J.A.C. 13:37-7.9](#) to clarify that an **advanced practice nurse** has the authority to prescribe treatments and referrals. To clarify the requirements of this rule, the Board is changing [N.J.A.C. 13:37-7.9](#) upon adoption to take out the term "and treatments, including referrals" from subsection (a) and putting this term into a new subsection (b), which does not refer to joint protocols.

83. COMMENT: One commenter believes that by May of 2008, it will be required that all prescriptions include a National Provider Identifier. The commenter suggests that the Board amend [N.J.A.C. 13:37-7.9](#) to require the inclusion of this on all prescriptions.

RESPONSE: When this requirement becomes effective, **advanced practice nurses** who receive reimbursement from Medicare will have to comply with this requirement regardless of whether it appears in [N.J.A.C. 13:37-7.9](#). It is unnecessary to amend this rule as the commenter suggests at this time. If it becomes apparent that there is confusion as to how to comply with Medicare requirements once they become effective, the Board will revisit this issue to determine if it should amend the rule as the commenter suggests.

84. COMMENT: One commenter points out that [N.J.A.C. 13:37-7.9\(c\)8](#) requires a prescription blank to include the name, title, address, telephone number and license number of the **advanced practice nurse's** collaborating physician. The commenter uses prescription blanks that have a blank line on which the collaborating physician's name and license number may be written in. There is no room for the physician's address, which is different than the commenter's address. The commenter asks how this prescription blank will fit into the rule.

RESPONSE: The requirements of [N.J.A.C. 13:37-7.9\(c\)8](#) come from [N.J.S.A. 45:11-49](#). The Board could not change these requirements. The Board points out that the commenter is required to comply with Board requirements regarding prescription blanks.

85. COMMENT: One commenter questions what [N.J.A.C. 13:37-7.9\(d\)](#) means.

RESPONSE: [N.J.A.C. 13:37-7.9\(d\)](#) requires an **advanced practice nurse** to advise patients that they may request a generic drug as a substitute for a brand name drug prescribed by the **advanced practice nurse**.

86. COMMENT: One commenter works in a practice that dispenses one to two days worth of antibiotic to prevent infections after testing procedures. These antibiotics are placed in an envelope with the patient's name, drug, dosage, instructions and **advanced practice nurse** signature. They are not placed in a safety bottle. The

commenter also works in a free clinic that dispenses medications in plastic containers without safety lids. The physician at the clinic is concerned with the expense of using containers with safety lids and indicated that she would not enter into a joint protocol with the **advanced practice nurse** if such containers are required. The commenter suggests that the Board not adopt the provision in [N.J.A.C. 13:37-7.10\(e\)](#) that requires dispensed medications to be in containers with safety lids.

RESPONSE: The Board proposed [N.J.A.C. 13:37-7.10](#) after reviewing Board of Medical Examiner requirements for dispensing of medications. This rule, [N.J.A.C. 13:35-7.5](#), imposes the same safety closure cap requirement on physicians. The Board believes that imposing this safety closure cap requirement is a practice standard for all who dispense medications, but it does not wish to impinge on the provision of health care. The Board is not adopting [N.J.A.C. 13:37-7.10\(e\)](#) at this time and will review at a later date what changes it should make to this rule, if any, to ensure that patient safety is protected without interfering with the provision of health care.

87. COMMENT: One commenter questions if the information required by [N.J.A.C. 13:37-7.10\(g\)](#) has to be placed on a sample by an **advanced practice nurse**, repeating the information that is already on the package. The commenter points out that pharmaceutical samples come individually packaged, with the name, strength, quantity and expiration date on the box. They do not come with instructions as to frequency of use and do not specify precautions.

RESPONSE: As mentioned above, the Board wishes to ensure patient safety without impinging on the appropriate provision of health care. The Board will not adopt [N.J.A.C. 13:37-7.10\(g\)](#) at this time in order to determine what, if any, changes should be made to the rule in order to ensure that pharmaceutical samples may be dispensed to patients in a safe and effective manner.

88. COMMENT: Several commenters were concerned with [N.J.A.C. 13:37-7.12](#), which requires an **advanced practice nurse** to practice only in the area of specialization in which he or she was educated and in which he or she holds certification. The commenters believe that this rule will impede the practice of qualified **advanced practice nurses**.

RESPONSE: The Board drafted [N.J.A.C. 13:37-7.12](#) in order to prevent **advanced practice nurses** from practicing in fields in which they were not adequately educated to practice. The Board was concerned with **advanced practice nurses** working with patient populations or in areas of practice in which they had no preparation, not in preventing **advanced practice nurses** from practicing in sub-specialties within their area of practice. Thus, the rule would prohibit an **advanced practice nurse** who specializes in pediatrics from working with a geriatric patient or an **advanced practice nurse** who specializes in OB/GYN from working with a male patient. The rule would not prevent a pediatric nurse from working in a pediatric neurology practice or an adult practice nurse from working with an adult in the psychiatric setting. While the Board did not intend for this rule to prohibit these practices, the confusion evidenced by the commenters indicates that the rule could be easily misinterpreted. The Board is not adopting [N.J.A.C. 13:37-7.12](#) at this time and will address at a later date changes to this rule that will clarify the Board's intent.

89. COMMENT: Many commenters contend that the Board should not regulate scope

of practice for **advanced practice nurses**. The commenters believe that scope of practice should be determined by the individual **advanced practice nurse**, based upon his or her training, experiences and new certifications. According to these commenters, scope of practice for **advanced practice nurses** evolves and expands as the **advanced practice nurse** grows professionally and undergoes continuing education and clinical experiences.

RESPONSE: [N.J.S.A. 45:11-50\(g\)](#) clearly indicates that the Board has the authority to set standards for professional conduct of **advanced practice nurses**. The Board clearly has the authority to dictate scope of practice, to argue otherwise is to ignore the basic rationale for the existence of a regulatory board. The Board of Nursing is the only arbiter of nursing scope of practice, as the Board of Medical Examiners is the arbiter of physician scope practice and the Board of Dentistry is the arbiter of dentist scope of practice. That is not to say that the Board would ignore an individual's education in determining whether his or her actions are outside of his or her scope of practice. Neither would the Board ignore the contributions made by professional associations and new advances in the profession in determining scope of practice. Scope of practice for nursing is solely within the purview of the Board.

90. COMMENT: Several commenters believe that national certifying bodies have the authority to determine **advanced practice nurse** scope of practice.

RESPONSE: As explained above, the Board has sole authority to determine scope of nursing practice in New Jersey. The Board will not ignore the information provided by national certifying bodies on scope of practice determinations, but it will not cede its mandated responsibility of governing scope of practice.

91. COMMENT: Some of the commenters contend that scope of practice is not regulated for other health care providers in New Jersey and that it should not be regulated for **advanced practice nurses**.

RESPONSE: Every regulatory board in the State of New Jersey governs scope of practice for its licensees. The Board does the same for nurses.

92. COMMENT: Several commenters contend that [N.J.A.C. 13:37-7.12](#) is unnecessary as employers would not hire an **advanced practice nurse** unless he or she has the appropriate certification or background to practice.

RESPONSE: The Board has the authority to determine practice standards for **advanced practice nurses**. It cannot cede this authority to employers. But as stated above, the Board is not adopting [N.J.A.C. 13:37-7.12](#) at this time.

93. COMMENT: One commenter contends that it is up to an **advanced practice nurse** to know when it is necessary to consult and to inform employers of areas outside of his or her scope of practice.

RESPONSE: The Board agrees that an **advanced practice nurse** should know when it is necessary to consult and inform employers of areas outside of his or her scope of practice. This does not change the fact that the Board has the authority to determine scope of practice for **advanced practice nurses** in New Jersey.

94. COMMENT: One commenter contends that most **advanced practice nurses** would not enter a field unless they are certified in that practice or they had

background in that practice as an RN.

RESPONSE: The Board cannot cede its authority for determining scope of practice.

95. COMMENT: One commenter points out that no malpractice insurance would cover an **advanced practice nurse** who is practicing in an area in which he or she is unprepared to practice.

RESPONSE: Insurance determinations have no bearing on the fact that the Board has the authority to determine **advanced practice nurse** scope of practice.

96. COMMENT: Several commenters contend that it would be up to an **advanced practice nurse** to defend his or her self-determined scope of practice if he or she is brought before the Board or a court of law.

RESPONSE: An **advanced practice nurse** would be required to defend him- or herself if he or she were brought before the Board for disciplinary action or before a court of law based upon a violation of scope of practice. This does not change the fact that scope of practice is determined by the Board.

97. COMMENT: Several commenters are concerned that [N.J.A.C. 13:37-7.12](#) will prevent them from practicing in subspecialties, such as cardiology, dermatology, or oncology. Some of these commenters point out that there are no certifying examinations in subspecialties.

RESPONSE: As proposed, [N.J.A.C. 13:37-7.12](#) would not prevent an **advanced practice nurse** from working in a subspecialty within his or her area of practice. As stated above, in order to avoid confusion and to permit further study and review, the Board is not adopting [N.J.A.C. 13:37-7.12](#) at this time.

98. COMMENT: Several commenters encourage the Board to recognize subspecialties and to permit **advanced practice nurses** to practice in subspecialties if they have the appropriate training and experience.

RESPONSE: The Board does not need to recognize subspecialties. As long as an **advanced practice nurse** is working within his or her area of specialization, he or she will be permitted to work in subspecialties within that area of specialization.

99. COMMENT: Several commenters completed their education in adult practice and are currently working in acute care. They are concerned that, once [N.J.A.C. 13:37-7.12](#) is adopted, they will no longer be permitted to work in acute care.

RESPONSE: As proposed, [N.J.A.C. 13:37-7.12](#) would not prevent an adult practice **advanced practice nurse** from working in acute care, as long as he or she was working with adults. As stated above, the Board is not adopting [N.J.A.C. 13:37-7.12](#) at this juncture.

100. COMMENT: One commenter believes that [N.J.A.C. 13:37-7.12](#) would prevent her from practicing in the wound, ostomy and continence area. The commenter points out that the Wound, Ostomy and Continence Certification Board has established an **advanced practice nurse** wound, ostomy and continence certification that is required for all **advanced practice nurses** who have this professional status.

RESPONSE: As proposed, [N.J.A.C. 13:37-7.12](#) would not prohibit this practice. The Board is not adopting [N.J.A.C. 13:37-7.12](#) at this time.

101. COMMENT: One commenter is a pediatric nurse practitioner who works in a pediatric neurology practice. The commenter is concerned that [N.J.A.C. 13:37-7.12](#) will prevent her from continuing this practice.

RESPONSE: The Board is not adopting [N.J.A.C. 13:37-7.12](#) at this time. The development of highly specialized certification areas is among the issues the Board will be reviewing.

102. COMMENT: One commenter is certified as an acute care nurse practitioner and is currently working with a cardiology group. The commenter is concerned that [N.J.A.C. 13:37-7.12](#) would prevent her from working in the cardiology group.

RESPONSE: [N.J.A.C. 13:37-7.12](#) would not prevent this practice. The Board is not adopting [N.J.A.C. 13:37-7.12](#).

103. COMMENT: One commenter contends that family and adult **advanced practice nurses** often work in areas that do not have advanced practice nursing education programs. These include clinics in pharmacies and supermarkets, cardiology, college clinics, dermatology and pain management offices. The commenter points out that AACN and AANP have developed specialty exams for **advanced practice nurses** who advance to these specialty areas.

RESPONSE: As proposed, [N.J.A.C. 13:37-7.12](#) would not prohibit **advanced practice nurses** from working in subspecialties within their area of specialization. The Board will not require **advanced practice nurses** to take specialty examinations in areas of subspecialization.

104. COMMENT: Two commenters point out that **advanced practice nurses** are RNs and have a plenary license to practice nursing.

RESPONSE: The Board agrees that registered professional nurses have a plenary license to practice nursing. **Advanced practice nurses**, by the nature of their specialized education in a specific area of practice, do not have a plenary certification to practice in every field of advanced practice nursing with the autonomy envisioned. **Advanced practice nurses**, by virtue of their registered professional nurse licensure, could practice within the scope of nursing in a wide variety of fields.

105. COMMENT: One commenter contends that all **advanced practice nurses** receive the same basic education, with concentration in their area of specialization.

RESPONSE: The Board believes that concentration in a specific area of specialization is the hallmark of **advanced practice nurse** education programs. This specialized education indicates that **advanced practice nurses** should only practice with the full range of **advanced practice nurse** authority in their area of specialization.

106. COMMENT: One commenter suggests that the Board should prohibit anyone from working as a nurse practitioner unless he or she has trained in a nurse practitioner program. The commenter does not believe that an individual who completed a clinical nurse specialist pharmacy course should be permitted to work as

a nurse practitioner.

RESPONSE: Any nurse who meets the certification requirements established by the Board will be permitted to obtain certification and practice as an **advanced practice nurse**.

107. COMMENT: One commenter believes that any **advanced practice nurse** who wishes to work in a specialty should be required to submit documentation that he or she received appropriate education in that specialty and documentation that he or she has observed and performed procedures under the supervision of a physician. The Board would have to create a credentialing process to approve specialties.

RESPONSE: An **advanced practice nurse** certified by the Board has shown that he or she has the education to practice as an **advanced practice nurse** in his or her area of specialization. It is unnecessary to impose additional requirements on **advanced practice nurses** as the commenter suggests.

108. COMMENT: A commenter contends that pediatric and women's health are the only **advanced practice nurse** specialties with specific populations.

RESPONSE: The Board does not agree with the commenter, there are many areas of specialization that have specific populations.

109. COMMENT: One commenter suggests that the Board impose age and setting limitations on **advanced practice nurse** practice, so that pediatric **advanced practice nurses** would not work with adults and acute care **advanced practice nurses** would not work in a primary care setting.

RESPONSE: As proposed, [N.J.A.C. 13:37-7.12](#) would impose the requirements suggested by the commenter. In order to avoid confusion, the Board is not adopting [N.J.A.C. 13:37-7.12](#) at this time and will be studying how best to address these concerns.

110. COMMENT: One commenter believes that [N.J.A.C. 13:37-7.12](#) will exacerbate the shortage of **advanced practice nurses** working in the nonprofit mental health sector. The commenter recommends that the Board amend [N.J.A.C. 13:37-7.12](#) to allow **advanced practice nurses** who have experience to work in nonprofit mental health agencies that can document difficulties in finding **advanced practice nurses** with psychiatric specialties.

RESPONSE: The Board is not adopting [N.J.A.C. 13:37-7.12](#). It expects that its review will address needs in a variety of fields, including mental health areas.

111. COMMENT: One commenter is an acute care nurse practitioner who is concerned that [N.J.A.C. 13:37-7.12](#) would prevent her from seeing patients in the office. The commenter asks if she will need to obtain certification in cardiology to continue practicing. The commenter contends that, as an RN, she could see any patient over the age of 18 and contends that as an acute care nurse practitioner, she should be permitted to see any patient over the age of 18 in any setting.

RESPONSE: As proposed, [N.J.A.C. 13:37-7.12](#) would not prohibit the commenter from seeing patients in the office or require certification in cardiology. The Board is not adopting [N.J.A.C. 13:37-7.12](#) at this time.

112. COMMENT: Two commenters request that the Board introduce "grandparenting" language that recognizes the clinical experience of **advanced practice nurses** currently practicing, so that [N.J.A.C. 13:37-7.12](#) would not require these **advanced practice nurses** to cease practicing.

RESPONSE: The Board is not adopting [N.J.A.C. 13:37-7.12](#) at this time.

113. COMMENT: One commenter contends that some areas of advanced practice do not offer certifications and is concerned that **advanced practice nurses** in these areas will have to cease practicing due to [N.J.A.C. 13:37-7.12](#).

RESPONSE: The Board is not adopting [N.J.A.C. 13:37-7.12](#). The availability of certifying processes will be considered by the Board in its future considerations.

114. COMMENT: One commenter points out that physicians who trained as pediatricians are permitted to provide gynecological care and that gynecologists are permitted to perform dermatology procedures. The commenter asks why the Board has proposed specific practice guidelines for **advanced practice nurses**.

RESPONSE: The board points out that physicians are licensed to practice in all areas of medicine. **Advanced practice nurse** certification is in a specific area of practice, it is not a plenary certification. But, as noted, the Board is not adopting [N.J.A.C. 13:37-7.12](#) at this time.

115. COMMENT: One commenter holds a certification as a nurse practitioner and as a clinical nurse specialist. The commenter is concerned that [N.J.A.C. 13:37-7.12](#) will require her to drop one of her certifications.

RESPONSE: As proposed, [N.J.A.C. 13:37-7.12](#) would not require the commenter to drop any certifications. Moreover, the Board is not adopting [N.J.A.C. 13:37-7.12](#) at the present time.

116. COMMENT: One commenter asks what the phrase "practice only in the area of specialization" means in [N.J.A.C. 13:37-7.12](#). The commenter asks if an adult **advanced practice nurse** who makes hospital rounds is inappropriately practicing in the acute care area. The commenter recognizes that an adult **advanced practice nurse** should not practice anesthesia.

RESPONSE: The Board is not adopting [N.J.A.C. 13:37-7.12](#) at this time.

117. COMMENT: One commenter contends that the term "education" has many different meanings. The commenter believes that much nursing education takes place after leaving school and is concerned that, if the term "education" only refers to schooling, there may be no **advanced practice nurses** in any specialties. The commenter contends that "education" must be interpreted to include on-the-job training, as well as formal schooling.

RESPONSE: The term "education" in [N.J.A.C. 13:37-7.12](#) clearly refers to the education the **advanced practice nurse** completed to obtain Board certification. The Board is not adopting [N.J.A.C. 13:37-7.12](#).

118. COMMENT: An adult nurse practitioner who practices in the psychiatric setting

is concerned that [N.J.A.C. 13:37-7.12](#) will prohibit such practice. The commenter takes continuing education courses in mental illnesses.

RESPONSE: As proposed, [N.J.A.C. 13:37-7.12](#) would not prohibit the **advanced practice nurse's** practice. The Board is not adopting [N.J.A.C. 13:37-7.12](#) and its future study of the issue will give consideration to the circumstances described, the provision of general care in a specialized setting.

119. COMMENT: One commenter believes that [N.J.A.C. 13:37-7.12](#) will require her to prove her existing knowledge, go through training courses, pass an examination and pay new fees in order to continue her existing practice. The commenter is a family nurse practitioner who works in gastroenterology. The commenter contends that there is a lower demand for family nurse practitioners in South Jersey and that salaries are low. The commenter believes that [N.J.A.C. 13:37-7.12](#) will discourage nurses from pursuing advanced degrees in family practice and points out that, even though there is a shortage in South Jersey, no one is willing to hire such **advanced practice nurses** or pay a fair wage.

RESPONSE: As proposed, [N.J.A.C. 13:37-7.12](#) would not require an **advanced practice nurse** to prove existing knowledge, attend training course, pass any examinations or pay new fees. The Board has no authority over the demand for family nurse practitioners in the State or the salaries these **advanced practice nurses** receive. The Board is not adopting [N.J.A.C. 13:37-7.12](#). As such, it should not add in any way to the issues that the commenter raises, if they are present.

120. COMMENT: One commenter points out that there are many areas of **advanced practice nurse** practice that do not have specialized training, such as emergency medicine, cardiology, pulmonology and dermatology. The commenter also points out that many areas of practice overlap, such as emergency medicine, which could include family, adult and acute care, and cardiology, which could include adult or acute care. The commenter contends that specializations are not permanent and must remain fluid to meet the needs of the community. The commenter points out that physicians are not limited to practice in a specific area of training and that physician assistants do not receive designation in a specific area of practice. The commenter contends that limiting an **advanced practice nurse** to his or her area of specialization will thwart on the job training and advancement and will discourage RNs from becoming **advanced practice nurses**. The commenter contends that limiting an **advanced practice nurse** to an area of specialization is contrary to nursing education.

RESPONSE: An **advanced practice nurse** completes an education that focuses on a specific area of advanced nursing practice. **Advanced practice nurses** must remain within this area of specialization, but may practice any subspecialty within that area of specialization. As noted, though, additional study will be undertaken prior to the adoption of any regulations.

121. COMMENT: One commenter contends that prohibiting **advanced practice nurses** from working in specialty areas unless they have credentials would impede free trade practices of **advanced practice nurses**. The commenter contends that the Board must allow a three- to four-year grace period during which currently certified **advanced practice nurses** could obtain the credentials they will need to practice.

RESPONSE: As proposed, [N.J.A.C. 13:37-7.12](#) would not prohibit an **advanced practice nurse** from working in specialty areas. The Board is not adopting [N.J.A.C. 13:37-7.12](#).

### Federal Standards Statement

A Federal standards analysis is not required because there are no applicable Federal laws or standards.

**Full text** of the adoption follows (additions to proposal indicated in boldface with asterisks **\*thus\***; deletions from proposal indicated in brackets with asterisks **\*[thus]\***):

13:37-5.5 Fee schedule

(a)-(b) (No change.)

(c) The following fees shall be charged by the Board in connection with certification of **advanced practice nurses**:

1.-2. (No change.)

3. Renewal of certification (biennial)

i. Active..... 160.00

ii. Inactive..... 80.00

4. (No change.)

Recodify existing 6. and 7. as 5. and 6. (No change in text.)

(d)-(f) (No change.)

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

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 **\*[certified]\* \*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\***; 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 *\*[(the effective date of this amendment)]\* \*June 16, 2008\** and *\*[(one year from the effective date of this amendment)]\* \*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) An applicant shall have completed the education required by (a) above no more than two years prior to submitting an application for certification to the Board. An education program completed more than two years prior to submission shall not qualify an applicant for certification. Applicants specializing in anesthesia who have successfully completed the education required by (a) above need not show that they have completed that education within the last two years if they apply between *\*[(the effective date of this new rule)]\* \*June 16, 2008\** and *\*[(one year from the effective date of this new rule)]\* \*June 16, 2009\**.

(c) Each applicant shall have successfully completed at least 39 hours in pharmacology during the education program referred to in (a) above.

(d) 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 pharmacologic therapy and addiction prevention and management, presented by:

1. An organization that has been approved by a credentialing agency accredited by 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.

#### 13:37-7.3 Practice prior to passing the examination for certification

(a) Prior to passing the examination for certification as an **advanced practice nurse**, an individual who has submitted an **advanced practice nurse** application to the Board may apply to the Board for a work permit letter authorizing the applicant to practice pursuant to this subchapter, except that no holder of a work permit letter shall engage in prescriptive practice. An applicant seeking a work permit letter shall submit to the Board proof that:

1. The applicant has completed the educational requirements of [N.J.A.C. 13:37-7.2](#) or [7.5](#); and
2. The applicant has applied to take the examination required by [N.J.A.C. 13:37-7.4](#).

(b) An applicant who engages in advanced practice nursing pursuant to a work permit letter shall indicate that he or she is an "applicant **advanced practice nurse**" whenever the applicant identifies himself or herself either in person, on a chart, on a report or on any other document.

(c) An applicant who engages in advanced practice nursing pursuant to a work permit letter shall take the first examination for which the applicant is eligible. If the applicant fails the first examination, the applicant shall take the next examination for which he or she is eligible. If the applicant fails the second examination, the applicant shall surrender the work permit letter to the Board and shall not practice as an applicant **advanced practice nurse** until he or she passes the examination.

#### 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 Educational and examination certification requirements in the area of anesthesia on or before *\*[(one year after the effective date of this new rule)]\** **\*June 16, 2009\***

(a) An applicant who does not possess a masters degree who is seeking certification as an **advanced practice nurse** in the specialty area of anesthesia on or before *\*[(one year from the effective date of these rules)]\** **\*June 16, 2009\*** shall be certified, provided the applicant is licensed as a registered nurse in New Jersey and

submits the following to the Board:

1. Proof of successful completion of an education program accredited and/or approved by the Council on Accreditation of Nurse Anesthesia Educational Programs;
2. Proof of current re-certification by the Council on Recertification of Nurse Anesthetists \*[of the AANA]\*;
3. Proof that the applicant has worked for a minimum of 1600 hours as a nurse anesthetist over the previous 24 months; and
4. Proof that the applicant has completed:
  - i. At least 39 hours in pharmacology during the program referred to in (a)1 above or at least three credits of graduate level course work in pharmacology from a school accredited by a nursing accrediting association recognized by the U.S. Department of Education; and
  - ii. Six contact hours in pharmacology related to controlled dangerous substances, including pharmacologic therapy and addiction prevention and management, offered by either an organization that has been approved by a credentialing agency accredited by the National Commission for Certifying Agencies or 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.

#### 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, which 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 *\*[(the effective date of this new rule)]\** **\*June 16, 2008\*** shall not have to show that he or she is certified by a national certifying agency *\*[until the biennial period (two years from the effective date of this new rule)]\**.

(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\(d\)](#)<sup>3</sup>. 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\(d\)](#)<sup>3</sup>. 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 \*[(the effective date of this new rule)]\* **\*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) By \*[(six months from effective date of this new rule)]\* **\*June 16, 2009\***, every **advanced practice nurse** shall have completed six contact hours in pharmacology related to controlled dangerous substances, including pharmacologic therapy and addiction prevention and management, presented by:

1. An organization that has been approved by a credentialing agency accredited by 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.

(c) Upon completing the six contact hours in pharmacology related to controlled dangerous substances as required by (b) above, an **advanced practice nurse** shall submit to the Board a certificate of completion issued by the organization, college or university that provided the contact hours indicating that he or she has completed the hours.

#### 13:37-7.9 Prescriptive practice

(a) An **advanced practice nurse** may prescribe or order medications\*[,] \*and\* devices \*[and treatments, including referrals,]\* 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.\***

\*[(b)]\*\***(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](#).

\*[(c)]\*\***(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.

\*[(d)]\*\* (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.

\*[(e)]\*\* (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.

\*[(f)]\*\* (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.

\*[(g)]\*\* (h) \* Each prescription for a controlled dangerous substance shall be written on a separate New Jersey Prescription Blank.

#### 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, in whatever dosage form, shall be placed in a separate container with a safety closure cap, unless the patient requests otherwise or the drug is a pharmaceutical sample, which has been packaged and labeled by the manufacturer.]\*

**\*(e) (Reserved) \***

(f) 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**.

\*[(g) 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) (Reserved) \***

(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.

#### 13:37-7.11 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 Scope of practice

An **advanced practice nurse** shall only practice in the area of specialization in which the **advanced practice nurse** received his or her education and hold certification from an agency accredited by the American Board of Nursing Specialties and/or the National Commission for Certifying Agencies.]\*

13:37-13.1 Nurse anesthetist practice

(a)-(b) (No change.)

(c) This section shall expire \*[(one year from the effective date of this amendment)]\* **\*June 16, 2009\***. A nurse anesthetist who has not obtained certification as an **advanced practice nurse** shall cease to administer anesthesia on \*[(one year from the effective date of this amendment)]\* **\*June 16, 2009\***.

13:37-13.2 Practice pending the results of the examination

(a)-(b) (No change.)

(c) This section shall expire \*[(one year from the effective date of this amendment)]\* **\*June 16, 2009\***.

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