

## CHAPTER 18

AN ACT concerning the practice of physical therapy and revising parts of the statutory law.

**BE IT ENACTED** by the Senate and General Assembly of the State of New Jersey:

1. Section 3 of P.L.1983, c.296 (C.45:9-37.13) is amended to read as follows:

C.45:9-37.13 Definitions.

3. As used in this act:

"Board" means the State Board of Physical Therapy Examiners established pursuant to section 5 of this act.

"Direct supervision" means the presence of the supervising physical therapist on site, available to respond to any consequence occurring during any treatment procedure.

"Physical therapist" means a natural person who holds a current, valid license to practice physical therapy pursuant to the provisions of this act and in accordance with regulations of the board.

"Physical therapist assistant" means a natural person who is licensed pursuant to the provisions of this act and who assists a licensed physical therapist under his direct supervision in accordance with this act and regulations of the board.

"Physical therapy" and "physical therapy practice" mean the identification of physical impairment or movement-related functional limitation that occurs as a result of injury or congenital or acquired disability, or other physical dysfunction through examination, evaluation and diagnosis of the physical impairment or movement-related functional limitation and the establishment of a prognosis for the resolution or amelioration thereof, and treatment of the physical impairment or movement-related functional limitation, which shall include, but is not limited to, the alleviation of pain, physical impairment and movement-related functional limitation by therapeutic intervention, including treatment by means of manual therapy techniques and massage, electro-therapeutic modalities, the use of physical agents, mechanical modalities, hydrotherapy, therapeutic exercises with or without assistive devices, neurodevelopmental procedures, joint mobilization, movement-related functional training in self-care, providing assistance in community and work integration or reintegration, providing training in techniques for the prevention of injury, impairment, movement-related functional limitation, or dysfunction, providing consultative, educational, other advisory services, and collaboration with other health care providers in connection with patient care, and such other treatments and functions as may be further defined by the board by regulation.

2. Section 4 of P.L.1983, c.296 (C.45:9-37.14) is amended to read as follows:

C.45:9-37.14 Practice not to authorize other practices.

4. a. (Deleted by amendment, P.L.2003, c.18).

b. Nothing in P.L.1983, c.296 (C.45:9-37.11 et seq.), shall be construed to authorize the interpretation of data for the purpose of diagnosing disease, organic condition or the practice of medicine and surgery, chiropractic, podiatry, occupational therapy, or prosthetics by any person not licensed to do so pursuant to Title 45 of the Revised Statutes.

c. Nothing in P.L.1983, c.296 (C.45:9-37.11 et seq.), shall authorize the practice of dentistry by any person not licensed to do so pursuant to chapter 6 of Title 45 of the Revised Statutes.

3. Section 5 of P.L.1983, c.296 (C.45:9-37.15) is amended to read as follows:

C.45:9-37.15 State Board of Physical Therapy Examiners.

5. There is created within the Division of Consumer Affairs in the Department of Law and Public Safety the State Board of Physical Therapy Examiners. The board shall consist of 11 members who are residents of the State, two of whom shall be public members and one of whom shall be a State executive department member appointed pursuant to the provisions of P.L.1971, c.60 (C.45:1-2.1 et seq.). Of the remaining eight members six shall be licensed physical therapists who have been actively engaged in the practice of physical therapy in this State for at least five years immediately preceding their appointment, one shall be a licensed physical

therapist assistant who has been actively engaged in practice as a physical therapist assistant for at least five years immediately preceding his appointment, and one shall be a physician licensed to practice medicine and surgery pursuant to chapter 9 of Title 45 of the Revised Statutes.

The Governor shall appoint members to the board with the advice and consent of the Senate. The Governor shall appoint each member for a term of three years, except that of the physical therapist members first appointed, two shall serve for terms of three years, two shall serve for terms of two years and two shall serve for a term of one year. Each member shall hold office until the member's successor has been qualified. Any vacancy in the membership of the board shall be filled for the unexpired term in the manner provided for the original appointment. No member of the board may serve more than two successive terms in addition to any unexpired term to which the member has been appointed. Upon a vacancy in the membership of the board, any professional association of physical therapists and physical therapist assistants, or individual, may submit recommendations to the Governor for his consideration. The Governor may remove any member of the board for cause, which may include, but shall not be limited to, professional misconduct and repeated failure to attend board meetings.

4. Section 8 of P.L.1983, c.296 (C.45:9-37.18) is amended to read as follows:

C.45:9-37.18 Duties of board.

8. a. The board shall:

(1) Administer and enforce the provisions of P.L.1983, c.296 (C.45:9-37.11 et seq.) and P.L.2003, c.18 (C.45:9-37.34b et al.);

(2) Establish procedures for application for licensure;

(3) Establish standards for, and adopt and administer examinations for licensure;

(4) Review and pass upon the qualifications of applicants for licensure;

(5) Insure the proper conduct and standards of examinations;

(6) Issue and renew licenses to physical therapists and physical therapist assistants pursuant to this act;

(7) Establish disciplinary measures, including but not limited to, suspending, revoking, or refusing to renew the license of a physical therapist or physical therapist assistant pursuant to the provisions of P.L.1978, c.73 (C.45:1-14 et seq.);

(8) Maintain a record of every physical therapist and physical therapist assistant licensed in this State, his place of business, his place of residence, and the date and number of his license;

(9) Conduct hearings into allegations of misconduct by licensees;

(10) Establish requirements and standards for continuing education and approve courses that are eligible to meet the requirements as provided in section 25 of P.L.2003, c.18 (C.45:9-37.34f);

(11) Conduct hearings pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), except that the board shall have the right to administer oaths to witnesses, and shall have the power to issue subpoenas for the compulsory attendance of witnesses and the production of pertinent books, papers or records;

(12) Conduct proceedings before any board, agency or court of competent jurisdiction for the enforcement of the provisions of P.L.1983, c.296 (C.45:9-37.11 et seq.) and P.L.2003, c.18 (C.45:9-37.34b et al.);

(13) Conduct investigations as necessary and have the enforcement powers provided pursuant to P.L.1978, c.73 (C.45:1-14 et seq.);

(14) Within 180 days of the effective date of P.L.2003, c.18, establish standards in accordance with the provisions of section 22 of P.L.2003, c.18 (C.45:9-37.34c), in collaboration with the State Board of Medical Examiners and other appropriate professional licensing boards established pursuant to Title 45 of the Revised Statutes, setting forth the conditions under which a physical therapist is required to refer an individual being treated by a physical therapist to or consult with a practitioner licensed to practice dentistry, podiatry or medicine and surgery in this State, or other appropriate licensed health care professional. Pending adoption of the standards: (a) a physical therapist shall refer any individual who has failed to demonstrate reasonable progress within 30 days of the date of initial treatment to a licensed health care professional; and

(b) a physical therapist, not more than 30 days from the date of initial treatment of functional limitation or pain, shall consult with the individual's licensed health care professional of record as to the appropriateness of the treatment, or, in the event that there is no identified licensed health care professional of record, recommend that the individual consult with a licensed health care professional of the individual's choice;

(15) Establish mechanisms to assure that the public has access to physical therapists' services, and report back to the Senate Health, Human Services and Senior Citizens and Assembly Regulated Professions and Independent Authorities Committees, or their successors, regarding this access; and

(16) Promulgate rules and regulations necessary for the performance of its duties and the implementation of this act.

b. In addition to the provisions of subsection a. of this section, the board may establish standards of professional behavior.

5. Section 9 of P.L.1983, c.296 (C.45:9-37.19) is amended to read as follows:

C.45:9-37.19 License required to practice, assist at, physical therapy.

9. No person shall practice physical therapy or act as a physical therapist assistant, whether or not compensation is received or expected, unless the person holds a valid license to practice in this State; however, nothing in this section shall be construed to:

a. Prohibit any student enrolled in a school or post-graduate course of physical therapy or in a course of study for training as a physical therapist assistant that is approved or recognized by the board from performing physical therapy or acting as a physical therapist assistant, as appropriate, which is necessary to his course of study;

b. Prohibit any person licensed to practice in this State under any other law from engaging in the practice for which the person is licensed, provided that: the procedures or duties performed by that person are within the scope of that person's practice as established by law and the accepted standards of practice of the profession for which the person is licensed; and the person does not represent himself as a physical therapist or physical therapist assistant; or

c. Prohibit any person employed by an agency, bureau or division of the federal government from practicing physical therapy within the scope of his official duties.

6. Section 10 of P.L.1983, c.296 (C.45:9-37.20) is amended to read as follows:

C.45:9-37.20 Supervision of physical therapist assistants.

10. a. No physical therapist shall supervise more physical therapist assistants at any one time than in the opinion of the board can be adequately supervised. Under usual circumstances the maximum number of physical therapist assistants that may be supervised by a physical therapist shall be two, except that, upon application, the board may permit the supervision of a greater number of physical therapist assistants if it feels there would be adequate supervision and the public health and safety would be served.

b. A licensed physical therapist assistant may initiate patient physical therapy treatment consistent with the role of a physical therapist assistant, as defined by the board or otherwise provided in P.L.1983, c.296, (C.45:9-37.11 et seq.) or P.L.2003, c.18 (C.45:9-37.34b et al.), only at the discretion of, and under the direct supervision of, a licensed physical therapist.

7. Section 11 of P.L.1983, c.296 (C.45:9-37.21) is amended to read as follows:

C.45:9-37.21 Division of fees, payments for referrals.

11. No physical therapist or physical therapist assistant shall engage directly or indirectly in the division, transferring, assigning, rebating or refunding of fees received for professional services or pay or accept fees or commissions for referrals for professional services; however, nothing in this section shall be construed to prohibit physical therapists who are members of a professional association or other business entity, properly organized pursuant to law, from making a division of fees among themselves as determined by contract to be necessary to defray

joint operating costs or pay salaries, benefits, or other compensation to employees.

8. Section 12 of P.L.1983, c.296 (C.45:9-37.22) is amended to read as follows:

C.45:9-37.22 Requirements for licensure as physical therapist.

12. To be eligible for licensure as a physical therapist, an applicant shall:

- a. Have completed a program in physical therapy from an accredited college or university which has been approved by the board;
- b. Successfully complete a written examination approved by the board;
- c. Possess at least a master's degree from an accredited college or university, except for an applicant who prior to January 1, 2003, possessed a minimum of a bachelor's degree from an accredited college or university;
- d. Have experience satisfactory to the board, in accordance with regulations of the board;
- e. Be at least 18 years of age;
- f. Be of good moral character; and
- g. Meet such other requirements as may be established by the board by regulation.

9. Section 13 of P.L.1983, c.296 (C.45:9-37.23) is amended to read as follows:

C.45:9-37.23 Licensing of graduate of foreign school.

13. An applicant for licensure who is a graduate of a foreign school of physical therapy shall furnish evidence satisfactory to the board that the applicant:

- a. Has completed a course of study in physical therapy which is substantially equivalent to that provided in an accredited program approved by the board;
- b. Has successfully completed a written examination approved by the board; and
- c. Is a graduate of a recognized college or university.

10. Section 14 of P.L.1983, c.296 (C.45:9-37.24) is amended to read as follows:

C.45:9-37.24 Application, renewal, reinstatement fees.

14. a. A fee established by the board by regulation shall accompany each application for licensure. Licenses shall expire biennially at a time established by the board and may be renewed upon submission of a renewal application to the board. If the renewal fee is not paid by the designated date, the license shall automatically expire, but may be reinstated by the board within two years of its expiration date upon payment of a reinstatement fee. The license fee payable to the board for a new or reinstated license may be pro rated at the discretion of the board. Reinstatement of a license may include a requirement that renewal of a lapsed license be renewed under the procedures established for initial licensure.

b. Fees shall be established, prescribed or changed by the board for examinations, licensure and other services performed pursuant to section 2 of P.L.1974, c.46 (C.45:1-3.2).

c. All fees and any fines imposed by the board shall be paid to the board and shall be forwarded to the State Treasurer and be part of the General Fund.

11. Section 15 of P.L.1983, c.296 (C.45:9-37.25) is amended to read as follows:

C.45:9-37.25 Written examination.

15. The written examination provided for in sections 12 and 13 of this act and section 21 of P.L.2003, c.18 (C.45:9-37.34b) shall test the applicant's knowledge of basic and clinical sciences as they relate to physical therapy and physical therapy theory and procedures and any other subjects the board may deem useful to test the applicant's fitness to practice physical therapy or act as a physical therapist assistant. Examinations shall be held within the State at a time and place to be determined by the board. The board shall give adequate written notice of the examination to applicants for licensure and examination.

If an applicant fails his first examination, the applicant may take a second examination no more than two years from the date of the initial examination. Additional examinations may be

given at the discretion of the board.

12. Section 17 of P.L.1983, c.296 (C.45:9-37.27) is amended to read as follows:

C.45:9-37.27 Issuance of license.

17. The board shall issue a license to each applicant for licensure as a physical therapist or physical therapist assistant who, in the judgment of the board, qualifies for licensure pursuant to this act and P.L.2003, c.18 (C.45:9-37.34b et al.).

13. Section 18 of P.L.1983, c.296 (C.45:9-37.28) is amended to read as follows:

C.45:9-37.28 Issuance of license to holder of out-of-State license.

18. Upon payment to the board of a fee and the submission of a written application on forms provided by it, the board shall issue without examination to a physical therapist or physical therapist assistant who holds a valid license issued by another state or possession of the United States or the District of Columbia which, in the judgment of the board, has education and experience requirements substantially equivalent to the requirements of this act and P.L.2003, c.18 (C.45:9-37.34b et al.).

14. Section 19 of P.L.1983, c.296 (C.45:9-37.29) is amended to read as follows:

C.45:9-37.29 Issuance of temporary license.

19. a. (Deleted by amendment, P.L.2003, c.18).

b. Upon payment to the board of a fee and the submission of a written application on forms provided by it, the board may issue without examination a temporary license to practice physical therapy or act as a physical therapist assistant in this State to a person who is qualified, in the judgment of the board, to practice as a physical therapist or physical therapist assistant, and who provides evidence that he is in the State on a temporary basis to assist in a medical emergency or to engage in a special project, teaching assignment or other activity approved by the board relating to physical therapy practice. A temporary license shall expire one year from its date of issue, however, it may be renewed by the board for an additional one-year period. A temporary license shall be surrendered to the board upon its expiration.

15. Section 20 of P.L.1983, c.296 (C.45:9-37.30) is amended to read as follows:

C.45:9-37.30 Use of certain titles, designations restricted.

20. No person, business entity or its employees, agents or representatives shall use the titles "physical therapist," "physiotherapist," "registered physical therapist," "licensed physical therapist," "physical therapist assistant," "registered physical therapist assistant," "licensed physical therapist assistant," "physical therapy assistant," or the abbreviations "PT" or "RPT," "LPT," "PTA," "RPTA," "LPTA," or any other title, designation, words, letters, abbreviations, or insignia indicating the practice of physical therapy unless licensed to practice as a physical therapist or physical therapist assistant under the provision of this act.

16. Section 21 of P.L.1983, c. 296 (C.45:9-37.31) is amended to read as follows:

C.45:9-37.31 Titles, abbreviations for licensees.

21. Any person who holds a license as a physical therapist pursuant to this act may use the title "physical therapist," or "licensed physical therapist," or the abbreviations "PT" or "LPT." Any person who holds a license as a physical therapist assistant pursuant to this act may use the title "physical therapist assistant," "licensed physical therapist assistant," or the abbreviations "PTA" or "LPTA."

17. Section 4 of P.L.1990, c.68 (C.45:9-37.34a) is amended to read as follows:

C.45:9-37.34a Administration of physical modalities by employees of physical therapists.

4. a. A licensed physical therapist shall not permit an employee to administer physical modalities to patients unless that employee is a licensed physical therapist, licensed physical therapist assistant, or other health care provider licensed in this State to administer those modalities.

As used in this subsection, physical modalities mean ultraviolet (B and C bands) and electromagnetic rays, including, but not limited to, deep heating agents, microwave diathermy, shortwave diathermy, and ultrasound or any other treatment proscribed by the board.

b. Nothing in this section shall be construed to prohibit any person licensed to practice in this State under any other law from engaging in any activity which is within the scope of his practice.

18. Section 1 of P.L.1971, c.60 (C.45:1-2.1) is amended to read as follows:

C.45:1-2.1 Applicability of act.

1. The provisions of this act shall apply to the following boards and commissions: the New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage and Family Therapy Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the New Jersey Real Estate Commission, the State Board of Shorthand Reporting, the State Board of Veterinary Medical Examiners, the Radiologic Technology Board of Examiners, the Acupuncture Examining Board, the State Board of Chiropractic Examiners, the State Board of Respiratory Care, the State Real Estate Appraiser Board, the State Board of Social Work Examiners, the State Board of Public Movers and Warehousemen and the State Board of Physical Therapy Examiners.

19. Section 1 of P.L.1974, c.46 (C.45:1-3.1) is amended to read as follows:

C.45:1-3.1 Applicability of act.

1. The provisions of this act shall apply to the following boards and commissions: the New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage and Family Therapy Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the State Board of Shorthand Reporting, the State Board of Veterinary Medical Examiners, the Radiologic Technology Board of Examiners, the Acupuncture Examining Board, the State Board of Chiropractic Examiners, the State Board of Respiratory Care, the State Real Estate Appraiser Board, the State Board of Social Work Examiners and the State Board of Physical Therapy Examiners.

20. Section 2 of P.L.1978, c.73 (C.45:1-15) is amended to read as follows:

C.45:1-15 Application of act.

2. The provisions of this act shall apply to the following boards and all professions or occupations regulated by, through or with the advice of those boards: the New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the Board of Examiners of Electrical Contractors, the New

Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage and Family Therapy Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the State Board of Shorthand Reporting, the State Board of Veterinary Medical Examiners, the Acupuncture Examining Board, the State Board of Chiropractic Examiners, the State Board of Respiratory Care, the State Real Estate Appraiser Board, the State Board of Social Work Examiners, the State Board of Physical Therapy Examiners, the Professional Counselor Examiners Committee, the New Jersey Cemetery Board, the Orthotics and Prosthetics Board of Examiners, the Occupational Therapy Advisory Council, the Electrologists Advisory Committee, the Alcohol and Drug Counselor Committee, the Fire Alarm, Burglar Alarm, and Locksmith Advisory Committee, the Home Inspection Advisory Committee, the Massage, Bodywork and Somatic Therapy Examining Committee, and the Audiology and Speech-Language Pathology Advisory Committee.

C.45:9-37.34b Eligibility for licensure as a physical therapist assistant.

21. To be eligible for licensure as a physical therapist assistant, an applicant shall:

- a. Possess at least an Associate in Arts degree from an accredited college or university;
- b. Have completed a two-year physical therapist assistant program at an accredited college or university, which has been approved by the board;
- c. Have experience satisfactory to the board, in accordance with regulations of the board;
- d. Have successfully completed a written examination approved by the board;
- e. Be at least 18 years of age;
- f. Be of good moral character; and
- g. Meet such other requirements as may be established by the board by regulation.

C.45:9-37.34c Failure to refer patient, certain circumstances, unlawful practice.

22. It shall be considered an unlawful practice of physical therapy if a physical therapist does not immediately refer an individual to a health care professional licensed to practice dentistry, podiatry or medicine and surgery, or other appropriate licensed health care professional, if the physical therapist has reasonable cause to believe that physical therapy is contraindicated or symptoms or conditions are present, including, but not limited to, nonmuscular and nonskeletal symptoms or conditions and conditions of the central nervous system, that require services outside the scope of a physical therapist's practice.

C.45:9-37.34d Information provided by applicant.

23. An applicant for licensure or renewal as a physical therapist or a physical therapist assistant shall:

- a. Execute and submit a sworn statement on a form prescribed by the board that neither the license for which renewal is sought nor any similar license or other authority issued by another jurisdiction has been revoked, suspended or not renewed; and
- b. Present satisfactory evidence that any continuing education requirements established by P.L.2003, c.18 (C.45:9-37.34b et al.) or the board, have been completed.

C.45:9-37.34e Permitted licensees, natural person; regulations.

24. No person other than a natural person shall be licensed as, hold itself out to be licensed as, or practice as, a physical therapist or a physical therapist assistant. Every physical therapist or physical therapist assistant employed by a corporation or other business entity shall assume professional responsibility for the practice of physical therapy or acting as a physical therapist assistant that is provided under the auspices of the corporation or other business entity. The board shall establish regulations to effectuate the provisions of this section, which shall include, but shall not be limited to, a statement of the responsibilities of licensees under this section.

C.45:9-37.34f Continuing professional education requirements.

25. The board shall establish continuing professional education requirements for physical therapists and physical therapist assistants, which requirements shall be a condition of retaining licensure. The board shall:

- a. Approve only such continuing professional education programs as are available to all physical therapists and physical therapist assistants in this State on a nondiscriminatory basis;
- b. Establish standards for continuing professional educational programs;
- c. Accredite educational programs offering credits towards the continuing professional educational requirements; and
- d. Establish the number of credits of continuing professional education required of each applicant for license renewal. Each credit shall represent or be equivalent to one hour of actual course attendance, or in the case of those electing an alternative method of satisfying the requirements of P.L.2003, c.18 (C.45:9-37.34b et al.), shall be approved by the board and certified pursuant to procedures established for that purpose.

26. Section 4 of P.L.1998, c.21 (C.39:6A-3.1) is amended to read as follows:

C.39:6A-3.1 Election of basic automobile insurance policy; coverage provided.

4. As an alternative to the mandatory coverages provided in sections 3 and 4 of P.L.1972, c.70 (C.39:6A-3 and 39:6A-4), any owner or registered owner of an automobile registered or principally garaged in this State may elect a basic automobile insurance policy providing the following coverage:

- a. Personal injury protection coverage, for the payment of benefits without regard to negligence, liability or fault of any kind, to the named insured and members of his family residing in his household, who sustained bodily injury as a result of an accident while occupying, entering into, alighting from or using an automobile, or as a pedestrian, caused by an automobile or by an object propelled by or from an automobile, to other persons sustaining bodily injury while occupying, entering into, alighting from or using the automobile of the named insured, with the permission of the named insured, and to pedestrians sustaining bodily injury caused by the named insured's automobile or struck by an object propelled by or from such automobile. "Personal injury protection coverage" issued pursuant to this section means and includes payment of medical expense benefits, as provided in the policy and approved by the commissioner, for the reasonable and necessary treatment of bodily injury in an amount not to exceed \$15,000 per person per accident; except that, medical expense benefits shall be paid in an amount not to exceed \$250,000 for all medically necessary treatment of permanent or significant brain injury, spinal cord injury or disfigurement or for medically necessary treatment of other permanent or significant injuries rendered at a trauma center or acute care hospital immediately following the accident and until the patient is stable, no longer requires critical care and can be safely discharged or transferred to another facility in the judgment of the attending physician. In the event benefits paid by an insurer pursuant to this subsection are in excess of \$75,000 on account of personal injury to any one person in any one accident, such excess shall be paid by the insurer in consultation with the Unsatisfied Claim and Judgment Fund Board and shall be reimbursable to the insurer from the Unsatisfied Claim and Judgment Fund pursuant to section 2 of P.L.1977, c.310 (C.39:6-73.1). Benefits provided under basic coverage shall be in accordance with a benefit plan provided in the policy and approved by the commissioner. The policy form, which shall be subject to the approval of the commissioner, shall set forth the benefits provided under the policy, including eligible medical treatments, diagnostic tests and services as well as such other benefits as the policy may provide. The commissioner shall set forth by regulation a statement of the basic benefits which shall be included in the policy. Medical treatments, diagnostic tests, and services provided by the policy shall be rendered in accordance with commonly accepted protocols and professional standards and practices which are commonly accepted as being beneficial for the treatment of the covered injury. Protocols and professional standards and practices which are deemed to be commonly accepted pursuant to this section shall be those recognized by national standard setting organizations, national or state professional organizations of the same discipline as the treating provider, or those designated or approved



by the commissioner in consultation with the professional licensing boards in the Division of Consumer Affairs in the Department of Law and Public Safety. The commissioner, in consultation with the Commissioner of the Department of Health and Senior Services and the applicable licensing boards, may reject the use of protocols, standards and practices or lists of diagnostic tests set by any organization deemed not to have standing or general recognition by the provider community or the applicable licensing boards. Protocols shall be deemed to establish guidelines as to standard appropriate treatment and diagnostic tests for injuries sustained in automobile accidents, but the establishment of standard treatment protocols or protocols for the administration of diagnostic tests shall not be interpreted in such a manner as to preclude variance from the standard when warranted by reason of medical necessity. The policy form may provide for the precertification of certain procedures, treatments, diagnostic tests, or other services or for the purchase of durable medical goods, as approved by the commissioner, provided that the requirement for precertification shall not be unreasonable, and no precertification requirement shall apply within ten days of the insured event. The policy may provide that certain benefits provided by the policy which are in excess of the basic benefits required by the commissioner to be included in the policy may be subject to reasonable copayments in addition to the copayments provided for herein, provided that the copayments shall not be unreasonable and shall be established in such a manner as not to serve to encourage underutilization of benefits subject to the copayments, nor encourage overutilization of benefits. The policy form shall clearly set forth any limitations on benefits or exclusions, which may include, but need not be limited to, benefits which are otherwise compensable under workers' compensation, or benefits for treatments deemed to be experimental or investigational, or benefits deducted pursuant to section 6 of P.L.1972, c.70 (C.39:6A-6). The commissioner may enlist the services of a benefit consultant in establishing the basic benefits level provided in this subsection, which shall be set forth by regulation no later than 120 days following the enactment date of this amendatory and supplementary act. The commissioner shall not advertise for the consultant as provided in sections 3 and 4 of P.L.1954, c.48 (C.52:34-8 and 52:34-9).

Medical expense benefits payable under this subsection shall not be assignable, except to a provider of service benefits, in accordance with policy terms approved by the commissioner, nor shall they be subject to levy, execution, attachment or other process for satisfaction of debts. Medical expense benefits payable in accordance with this subsection may be subject to a deductible and copayments as provided for in the policy, if any. No insurer or provider providing service benefits to an insured shall have a right of subrogation for the amount of benefits paid pursuant to any deductible or copayment under this section.

Notwithstanding the provisions of P.L.2003, c.18, physical therapy treatment shall not be reimbursable as medical expense benefits pursuant to this subsection unless rendered by a licensed physical therapist pursuant to a referral from a licensed physician, dentist, podiatrist or chiropractor within the scope of their respective practices.

b. Liability insurance coverage insuring against loss resulting from liability imposed by law for property damage sustained by any person arising out of the ownership, maintenance, operation or use of an automobile in an amount or limit of \$5,000, exclusive of interest and costs, for damage to property in any one accident.

c. In addition to the aforesaid coverages required to be provided in a basic automobile insurance policy, optional liability insurance coverage insuring against loss resulting from liability imposed by law for bodily injury or death in an amount or limit of \$10,000, exclusive of interests and costs, on account of injury to, or death of, one or more persons in any one accident.

If a named insured has elected the basic automobile insurance policy option and an immediate family member or members or relatives resident in his household have one or more policies with the coverages provided for in sections 3 and 4 of P.L.1972, c.70 (C.39:6A-3 and 39:6A-4), the provisions of section 12 of P.L.1983, c.362 (C.39:6A-4.2) shall apply.

Every named insured and any other person to whom the basic automobile insurance policy, with or without the optional \$10,000 liability coverage insuring against loss resulting from liability imposed by law for bodily injury or death provided for in subsection c. of this section, applies shall be subject to the tort option provided in subsection a. of section 8 of P.L.1972, c.70 (C.39:6A-8).

No licensed insurance carrier shall refuse to renew the coverage stipulated by this section of an eligible person as defined in section 25 of P.L.1990, c.8 (C.17:33B-13) except in accordance with the provisions of section 26 of P.L.1988, c.119 (C.17:29C-7.1) or with the consent of the Commissioner of Banking and Insurance.

27. Section 4 of P.L.1972, c.70 (C.39:6A-4) is amended to read as follows:

C.39:6A-4 Personal injury protection coverage, regardless of fault.

4. Personal injury protection coverage, regardless of fault.

Except as provided by section 4 of P.L.1998, c.21 (C.39:6A-3.1), every standard automobile liability insurance policy issued or renewed on or after the effective date of P.L.1998, c.21 (C.39:6A-1.1 et al.) shall contain personal injury protection benefits for the payment of benefits without regard to negligence, liability or fault of any kind, to the named insured and members of his family residing in his household who sustain bodily injury as a result of an accident while occupying, entering into, alighting from or using an automobile, or as a pedestrian, caused by an automobile or by an object propelled by or from an automobile, to other persons sustaining bodily injury while occupying, entering into, alighting from or using the automobile of the named insured, with permission of the named insured, and to pedestrians sustaining bodily injury caused by the named insured's automobile or struck by an automobile or struck by an object propelled by or from that automobile.

"Personal injury protection coverage" means and includes:

a. Payment of medical expense benefits in accordance with a benefit plan provided in the policy and approved by the commissioner, for reasonable, necessary, and appropriate treatment and provision of services to persons sustaining bodily injury, in an amount not to exceed \$250,000 per person per accident. In the event benefits paid by an insurer pursuant to this subsection are in excess of \$75,000 on account of bodily injury to any one person in any one accident, that excess shall be paid by the insurer in consultation with the Unsatisfied Claim and Judgment Fund Board and shall be reimbursable to the insurer from the Unsatisfied Claim and Judgment Fund pursuant to section 2 of P.L.1977, c.310 (C.39:6-73.1). The policy form, which shall be subject to the approval of the commissioner, shall set forth the benefits provided under the policy, including eligible medical treatments, diagnostic tests and services as well as such other benefits as the policy may provide. The commissioner shall set forth by regulation a statement of the basic benefits which shall be included in the policy. Medical treatments, diagnostic tests, and services provided by the policy shall be rendered in accordance with commonly accepted protocols and professional standards and practices which are commonly accepted as being beneficial for the treatment of the covered injury. Protocols and professional standards and practices and lists of valid diagnostic tests which are deemed to be commonly accepted pursuant to this section shall be those recognized by national standard setting organizations, national or state professional organizations of the same discipline as the treating provider, or those designated or approved by the commissioner in consultation with the professional licensing boards in the Division of Consumer Affairs in the Department of Law and Public Safety. The commissioner, in consultation with the Commissioner of the Department of Health and Senior Services and the applicable licensing boards, may reject the use of protocols, standards and practices or lists of diagnostic tests set by any organization deemed not to have standing or general recognition by the provider community or the applicable licensing boards. Protocols shall be deemed to establish guidelines as to standard appropriate treatment and diagnostic tests for injuries sustained in automobile accidents, but the establishment of standard treatment protocols or protocols for the administration of diagnostic tests shall not be interpreted in such a manner as to preclude variance from the standard when warranted by reason of medical necessity. The policy form may provide for the precertification of certain procedures, treatments, diagnostic tests, or other services or for the purchase of durable medical goods, as approved by the commissioner, provided that the requirement for precertification shall not be unreasonable, and no precertification requirement shall apply within ten days of the insured event. The policy may provide that certain benefits provided by the policy which are in excess of the basic benefits required by the commissioner to be included in the policy may be subject

to reasonable copayments in addition to the copayments provided for pursuant to subsection e. of this section, provided that the copayments shall not be unreasonable and shall be established in such a manner as not to serve to encourage underutilization of benefits subject to the copayments, nor encourage overutilization of benefits. The policy form shall clearly set forth any limitations on benefits or exclusions, which may include, but need not be limited to, benefits which are otherwise compensable under workers' compensation, or benefits for treatments deemed to be experimental or investigational, or benefits deducted pursuant to section 6 of P.L.1972, c.70 (C.39:6A-6). The commissioner may enlist the services of a benefit consultant in establishing the basic benefits level provided in this subsection, which shall be set forth by regulation no later than 120 days following the enactment date of P.L.1998, c.21 (C.39:6A-1.1 et al.). The commissioner shall not advertise for bids for the consultant as provided in sections 3 and 4 of P.L.1954, c.48 (C.52:34-8 and 52:34-9).

Notwithstanding the provisions of P.L.2003, c.18, physical therapy treatment shall not be reimbursable as medical expense benefits pursuant to this subsection unless rendered by a licensed physical therapist pursuant to a referral from a licensed physician, dentist, podiatrist or chiropractor within the scope of their respective practices.

b. Income continuation benefits. The payment of the loss of income of an income producer as a result of bodily injury disability, subject to a maximum weekly payment of \$100. Such sum shall be payable during the life of the injured person and shall be subject to an amount or limit of \$5,200, on account of injury to any one person in any one accident, except that in no case shall income continuation benefits exceed the net income normally earned during the period in which the benefits are payable.

c. Essential services benefits. Payment of essential services benefits to an injured person shall be made in reimbursement of necessary and reasonable expenses incurred for such substitute essential services ordinarily performed by the injured person for himself, his family and members of the family residing in the household, subject to an amount or limit of \$12 per day. Such benefits shall be payable during the life of the injured person and shall be subject to an amount or limit of \$4,380, on account of injury to any one person in any one accident.

d. Death benefits. In the event of the death of an income producer as a result of injuries sustained in an accident entitling such person to benefits under this section, the maximum amount of benefits which could have been paid to the income producer, but for his death, under subsection b. of this section shall be paid to the surviving spouse, or in the event there is no surviving spouse, then to the surviving children, and in the event there are no surviving spouse or surviving children, then to the estate of the income producer.

In the event of the death of one performing essential services as a result of injuries sustained in an accident entitling such person to benefits under subsection c. of this section, the maximum amount of benefits which could have been paid to such person, under subsection c., shall be paid to the person incurring the expense of providing such essential services.

e. Funeral expenses benefits. All reasonable funeral, burial and cremation expenses, subject to a maximum benefit of \$1,000, on account of the death of any one person in any one accident shall be payable to the decedent's estate.

Benefits payable under this section shall:

(1) Be subject to any option elected by the policyholder pursuant to section 13 of P.L.1983, c.362 (C.39:6A-4.3);

(2) Not be assignable, except to a provider of service benefits under this section in accordance with policy terms approved by the commissioner, nor subject to levy, execution, attachment or other process for satisfaction of debts.

Medical expense benefit payments shall be subject to any deductible and any copayment which may be established as provided in the policy. Upon the request of the commissioner or any party to a claim for benefits or payment for services rendered, a provider shall present adequate proof that any deductible or copayment related to that claim has not been waived or discharged by the provider.

No insurer or health provider providing benefits to an insured shall have a right of subrogation for the amount of benefits paid pursuant to any deductible or copayment under this section.

28. This act shall take effect immediately.

Approved February 13, 2003.