

Uniform Enforcement Act

TITLE 45 PROFESSIONS AND OCCUPATIONS

45:1-1. Persons entitled to practice, etc. under former laws unaffected

Any person now entitled to practice any profession or to engage in any occupation, governed or regulated by the provisions of this title by virtue of any prior law, shall continue to be entitled to practice or engage in the same, notwithstanding the enactment of this title, and the validity of any license or other authorization to practice any such profession or to engage in any such occupation, heretofore issued to any person under any prior law, or of any proceeding pending to obtain such a license or authorization shall not be affected by the enactment of this title but all such persons shall in all other respects be subject to the provisions of this title.

45:1-2.1 Applicability of act.

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 Court 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 Examiners of Heating, Ventilating, Air Conditioning and Refrigeration Contractors, the State Board of Physical Therapy Examiners, the Orthotics and Prosthetics Board of Examiners, the New Jersey Cemetery Board, the State Board of Polysomnography, the New Jersey Board of Massage and Bodywork Therapy, the Genetic Counseling Advisory Committee and any other entity hereafter created under Title 45 to license or otherwise regulate a profession or occupation.

45:1-2.2 Membership of certain boards and commissions; appointment, removal, quorum.

a. All members of the several professional boards and commissions shall be appointed by the Governor in the manner prescribed by law; except in appointing members other than those appointed pursuant to subsection b. or subsection c., the Governor shall give due consideration to, but shall not be bound by, recommendations submitted by the appropriate professional organizations of this State.

b. In addition to the membership otherwise prescribed by law, the Governor shall appoint in the same manner as presently prescribed by law for the appointment of members, two additional members to represent the interests of the public, to be known as public members, to each of 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 New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State

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Board of Professional Engineers and Land Surveyors, 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 New Jersey Real Estate Commission, the State Board of Court Reporting, the State Board of Social Work Examiners, and the State Board of Veterinary Medical Examiners, and one additional public member to each of the following boards: the Board of Examiners of Electrical Contractors, the State Board of Marriage and Family Therapy Examiners, the State Board of Examiners of Master Plumbers, and the State Real Estate Appraiser Board. Each public member shall be appointed for the term prescribed for the other members of the board or commission and until the appointment of his successor. Vacancies shall be filled for the unexpired term only. The Governor may remove any such public member after hearing, for misconduct, incompetency, neglect of duty or for any other sufficient cause.

No public member appointed pursuant to this section shall have any association or relationship with the profession or a member thereof regulated by the board of which he is a member, where such association or relationship would prevent such public member from representing the interest of the public. Such a relationship includes a relationship with members of one's immediate family; and such association includes membership in the profession regulated by the board. To receive services rendered in a customary client relationship will not preclude a prospective public member from appointment. This paragraph shall not apply to individuals who are public members of boards on the effective date of this act.

It shall be the responsibility of the Attorney General to insure that no person with the aforementioned association or relationship or any other questionable or potential conflict of interest shall be appointed to serve as a public member of any board regulated by this section.

Where a board is required to examine the academic and professional credentials of an applicant for licensure or to test such applicant orally, no public member appointed pursuant to this section shall participate in such examination process; provided, however, that public members shall be given notice of and may be present at all such examination processes and deliberations concerning the results thereof, and, provided further, that public members may participate in the development and establishment of the procedures and criteria for such examination processes.

c. The Governor shall designate a department in the Executive Branch of the State Government which is closely related to the profession or occupation regulated by each of the boards or commissions designated in section 1 of P.L.1971, c.60 (C.45:1-2.1) and shall appoint the head of such department, or the holder of a designated office or position in such department, to serve without compensation at the pleasure of the Governor as a member of such board or commission.

d. A majority of the voting members of such boards or commissions shall constitute a quorum thereof and no action of any such board or commission shall be taken except upon the affirmative vote of a majority of the members of the entire board or commission.

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45:1-2.3. Qualifications; rights and duties

Such additional members:

a. Need not meet the educational and professional requirements for membership on such boards or commissions as provided in the several statutes establishing such boards and commissions; and

b. Shall be voting members subject to the same rights, obligations and duties as other members of their respective boards or commissions.

45:1-2.4. Effect of act on term of member in office

Nothing in this act shall affect the right of a board or commission member in office on the effective date of this act to continue to serve for the term for which he was appointed.

45:1-2.5. Compensation and reimbursement of expenses of members; executive secretaries; compensation and terms; office and meeting places

With respect to the boards or commissions designated in section 1 of P.L.1971, c.60 (C.45:1-2.1), except as otherwise provided in subsection d. of this section, and notwithstanding the provisions of any other law:

a. The officers and members shall be compensated on a per diem basis in the amount of \$25.00 or an amount to be determined by the Attorney General, with the approval of the State Treasurer, but not to exceed \$100.00 per diem or \$2,500.00 annually, and shall be reimbursed for actual expenses reasonably incurred in the performance of their official duties. Such moneys shall be paid according to rules and regulations promulgated by the Attorney General.

b. The executive secretary shall receive such salary as shall be determined by the appointing authority within the limits of available appropriations and shall serve at its pleasure. Any such executive secretary who holds a certificate, license or registration issued by the board or commission by which he is employed shall not during such employment be permitted to engage in any profession or occupation regulated by the board or commission.

c. The head of the department to which such board or commission is assigned shall maintain within any public building, whether owned or leased by the State, suitable quarters for the board's or commission's office and meeting place, provided that no such office or meeting place shall be within premises owned or occupied by an officer or member of such board or commission.

d. The compensation schedule for members of boards and commissions provided in subsection a. of this section shall not apply to the members of the New Jersey Real Estate Commission, who shall be compensated pursuant to R.S.45:15-6 or to members of the State Board of Medical Examiners who shall receive compensation of \$150 per diem.

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45:1-2.6. Inapplicability of act to rights under civil service or any pension law or retirement system

Nothing in this act shall deprive any person of any tenure rights or of any right or protection provided him by Title 11 of the Revised Statutes, Civil Service, or any pension law or retirement system.

45:1-3. Expenses of boards paid from income; surplus paid to state treasurer; accounts

Each member of the boards mentioned in section 45:1-2 of this title shall be entitled to his actual traveling and other expenses incurred in the performance of his duties, which sum shall be paid from the license fees and other sources of income of such boards. Such boards shall also be entitled to expend from their income such sums as shall be necessary to defray all proper expenses incurred by them in the performance of their duties, including the compensation of any of their officers or agents whom they are authorized to compensate. Such boards, if authorized to collect an annual registration or license fee from persons licensed by them, may retain in their treasuries the fees so collected and use the same for the purpose of defraying the expenses of securing evidence against and prosecuting persons violating the provisions of the laws with the enforcement of which they are charged, or, in case the revenue of the boards from other sources shall be insufficient to pay the salary of their secretaries and their other expenses, such fees may be expended for such purposes. Such boards shall be entitled to retain, in addition to the above, at least one hundred dollars in their treasuries for the purpose of preparing and holding their examinations. On or before October thirty-first in each year such boards shall pay to the state treasurer all moneys remaining in their treasuries, except as above stated, which sum, when so paid, shall form a part of the state fund. Such boards shall keep accurate accounts of their receipts and expenditures, which accounts shall be subject to audit by the state comptroller.

45:1-3.1 Applicability of act.

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 Court 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 New Jersey Cemetery Board, the State Board of Social Work Examiners, the State Board of Examiners of Heating, Ventilating, Air Conditioning and Refrigeration Contractors, the State Board of Physical Therapy Examiners, the State Board of Polysomnography, the Orthotics and Prosthetics Board of Examiners, the New Jersey Board of Massage and Bodywork Therapy, the Genetic Counseling Advisory Committee and any other entity hereafter created under Title 45 to license or otherwise regulate a profession or occupation.

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45:1-3.2. Charges for examinations, licensures and other services; establishment or change by rule; standards

Notwithstanding the provisions of Title 45 of the Revised Statutes or any other law to the contrary, any board or commission named in section 1 of this supplementary act may by rule establish, prescribe or change the charges for examinations, licensures and other services it performs, which rule shall first be approved by the head of the department to which such board or commission is assigned and shall be adopted in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c. 410 (c. 52:14B-1).

Any board's or commission's charges established, prescribed or changed pursuant to this section shall be established, prescribed or changed to such extent as shall be necessary to defray all proper expenses incurred by the board or commission in the performance of its duties but such charges shall not be fixed at a level that will raise amounts in excess of the amount estimated to be so required.

45:1-3.3. Administrative fees

The Director of the Division of Consumer Affairs may by rule establish, prescribe, or modify administrative fees charged by boards in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). For purposes of this section, "administrative fees" are charges assessed to licensees, registrants or holders of certificates, as the case may be, for board functions that are not unique to a particular board but are uniform throughout all boards. Administrative fees include, but are not limited to, fees for a duplicate or replacement license, certification or registration, late renewal fee, license reinstatement fee, and the fee for processing change of address.

45:1-4. Salary of secretary

The secretary of each of the boards mentioned in section 45:1-2 of this title, whether or not a member thereof, shall be entitled to receive such reasonable salary or compensation for his services as secretary as shall be fixed by such boards, which shall be paid by the boards from their receipts, unless an appropriation is made for the expenses of such boards, in which case the same shall be paid from such appropriation.

45:1-7 Issuance of certain licenses or certificates of registration.

Notwithstanding any of the provisions of Title 45 of the Revised Statutes or of any other law to the contrary, all professional or occupational licenses or certificates of registration, except such licenses or certificates issued to real estate brokers or salesmen pursuant to chapter 15 of Title 45, which prior to the effective date of this act were issued for periods not exceeding one year and were annually renewable, shall, on and after the effective date of this act, be issued for periods of two years and be biennially renewable, except that licenses and business permits issued to electrical contractors and certificates of registration issued to qualified journeymen electricians pursuant to chapter 5A of Title 45 shall be issued for periods of three years and be triennially renewable; provided, however, the boards or commissions in charge of the issuance or renewal of such licenses or certificates may, in order to stagger the expiration dates thereof, provide that those first issued or renewed after

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the effective date of this act, shall expire and become void on a date fixed by the respective boards or commissions, not sooner than six months nor later than 29 months, after the date of issue.

The fees for the respective licenses and certificates of registration issued pursuant to this act for periods of less or greater than one year shall be in amounts proportionately less or greater than the fees established by law.

45:1-7.1. Applicability of act; renewals; reinstatements

a. Notwithstanding any other act or regulation to the contrary, the provisions of this section and sections 6 and 7 of P.L.1999, c.403 (C.45:1-7.2 and C.45:1-7.3) shall apply to every holder of a professional or occupational license or certificate of registration or certification issued or renewed by a board specified in section 2 of P.L.1978, c.73 (C.45:1-15), who seeks renewal of that license or certificate.

b. Every holder of a professional or occupational license or certificate of registration or certification, issued or renewed by a board specified in section 2 of P.L.1978, c.73 (C.45:1-15), who seeks renewal shall submit a renewal application and pay a renewal fee prior to the date of expiration of the license or certificate of registration or certification. If the holder does not renew the license or certificate prior to its expiration date, the holder may renew it within 30 days of its expiration date by submitting a renewal application and paying a renewal fee and a late fee. Any professional or occupational license or certificate of registration or certification not renewed within 30 days of its expiration date shall be suspended without a hearing.

c. Any individual who continues to practice with an expired license or certificate of registration or certification after 30 days following its expiration date shall be deemed to be engaged in unlicensed practice of the regulated profession or occupation, even if no notice of suspension has been provided to the individual.

d. A professional or occupational license or certificate of registration or certification suspended pursuant to this section may be reinstated within five years following its date of expiration upon submission of a renewal application and payment of an additional reinstatement fee. An applicant seeking reinstatement of a license or certificate suspended pursuant to this section more than five years past its expiration date shall successfully complete the examination required for initial licensure, registration or certification and submit a renewal application and payment of an additional reinstatement fee.

e. A board specified in section 2 of P.L.1978, c.73 (C.45:1-15) shall send a notice of renewal to each of its holders of a professional or occupational license or certificate of registration or certification, as applicable, at least 60 days prior to the expiration of the license or 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.

45:1-7.2. Reinstatement of license, registration, certification

A board may reinstate the professional or occupational license or certificate of registration or certification of an applicant whose license or certificate has been suspended pursuant to section 5 of P.L.1999, c.403 (C.45:1-7.1), provided that the applicant otherwise qualifies for licensure, registration or certification and submits the following upon application for reinstatement:

- a. Payment of all past delinquent renewal fees;

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b. Payment of a reinstatement fee;

c. An affidavit of employment listing each job held during the period of suspended license, registration or certification which includes the names, addresses, and telephone numbers of each employer; and

d. If applicable, satisfactory proof that the applicant has maintained proficiency by completing the continuing education hours or credits required for the renewal of an active license or certificate of registration or certification.

45:1-7.3 Active, inactive options on renewal applications.

a. Renewal applications for all professional or occupational licenses or certificates of registration or certification shall provide the applicant with the option of either active or inactive renewal. A renewal applicant electing to renew as inactive shall not engage in professional or occupational practice within the State.

b. An applicant who selects the inactive renewal option shall remain on inactive status for the entire renewal period unless, upon application to the board, the board permits the inactive applicant to return to active status provided such applicant presents satisfactory proof that he has maintained proficiency by completing the continuing education hours or credits required for the renewal of an active license, registration or certification, if applicable. The continuing education hours or credits shall be completed by the applicant within three years prior to the date of application for the return to active status, unless otherwise provided by board rule.

45:1-8. Contractors; application of s. 45:1-9

The provisions of this act apply to the following classes of contractors:

a. Tree experts, certified pursuant to P.L.1940, c. 100 (C. 13:1-28 et seq.);

b. Home repair contractors, licensed pursuant to P.L.1960, c. 41 (C. 17:16C-62 et seq.);

c. Electrical contractors, licensed pursuant to P.L.1962, c. 162 (C. 45:5A-1 et seq.);

d. Master plumbers, licensed pursuant to P.L.1968, c. 362 (C. 45:14C-1 et seq.);

e. Well drillers, licensed pursuant to P.L.1947, c. 377 (C. 58:4A-5 et seq.);
and

f. Any class of contractors who hereafter are licensed by the State.

45:1-9. Indication of license or certificate number on contracts, bids and advertisements

Any contractor licensed by the State shall indicate his license or certificate number on all contracts, subcontracts, bids and all forms of advertising as a contractor.

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45:1-10 Agreement by practitioner for payments to laboratory for tests without disclosure to patient, third party payor; prohibited.

It shall be unlawful for any person licensed in the State of New Jersey to practice medicine or surgery, dentistry, osteopathy, podiatric medicine or chiropractic to agree with any clinical, bio-analytical or hospital laboratory, wheresoever located, to make payments to such laboratory for individual tests, combination of tests, or test series for patients unless such person discloses on the bills to patients and third party payors the name and address of such laboratory and the net amount or amounts paid or to be paid to such laboratory for individual tests, combination of tests or test series.

45:1-10.1 Responsibility of health care professionals for filing claims.

Effective 12 months after the adoption of regulations establishing standard health care enrollment and claim forms by the Commissioner of Banking and Insurance pursuant to section 1 of P.L.1999, c.154 (C.17B:30-23), a health care professional licensed pursuant to Title 45 of the Revised Statutes is responsible for filing all claims for third party payment, including claims filed on behalf of the licensed professional's patient for any health care service provided by the licensed professional that is eligible for third party payment, except that at the patient's option, the patient may file the claim for third party payment.

a. In the case of a claim filed on behalf of the professional's patient, the professional shall file the claim within 60 days of the last date of service for a course of treatment, on the standard claim form adopted by the Commissioner of Banking and Insurance pursuant to section 1 of P.L.1999, c.154 (C.17B:30-23).

b. In the case of a claim in which the patient has assigned his benefits to the professional, the professional shall file the claim within 180 days of the last date of service for a course of treatment, on the standard claim form adopted by the Commissioner of Banking and Insurance pursuant to section 1 of P.L.1999, c.154 (C.17B:30-23). If the professional does not file the claim within 180 days of the last date of service for a course of treatment, the third party payer shall reserve the right to deny payment of the claim, in accordance with regulations established by the Commissioner of Banking and Insurance, and the professional shall be prohibited from seeking any payment directly from the patient.

(1) In establishing the standards for denial of payment, the Commissioner of Banking and Insurance shall consider the good faith use of information provided by the patient to the professional with respect to the identity of the patient's third party payer, delays in filing a claim related to coordination of benefits between third party payers and any other factors the commissioner deems appropriate, and, accordingly, shall define specific instances where the sanctions permitted pursuant to this subsection shall not apply.

(2) A professional who fails to file a claim within 180 days and whose claim for payment has been denied by the third party payer in accordance with this subsection may, in the discretion of a judge of the Superior Court, be permitted to refile the claim if the third party payer has not been substantially prejudiced thereby. Application to the court for permission to refile a claim shall be made within 14 days

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of notification of denial of payment and shall be made upon motion based upon affidavits showing sufficient reasons for the failure to file the claim with the third party payer within 180 days.

c. The provisions of this section shall not apply to any claims filed pursuant to P.L.1972, c.70 (C.39:6A-1 et seq.).

d. A health care professional who violates the provisions of subsection a. of this section may be subject to a civil penalty of \$250 for each violation plus \$50 for each day after the 60th day that the provider fails to submit a claim. The penalty shall be sued for and collected by the Division of Consumer Affairs in the Department of Law and Public Safety pursuant to "the penalty enforcement law," N.J.S.2A:58-1 et seq.

45:1-11. Violations; penalty

Any person violating this act shall be guilty of a misdemeanor.

45:1-12 Extra fee for completion of medical claim form, certain practitioners, penalty.

No podiatrist, optometrist or psychologist and no professional service corporation engaging in the practice of podiatric medicine, optometry or psychology in this State shall charge a patient an extra fee for services rendered in completing a medical claim form in connection with a health insurance policy. Any person violating this act shall be subject to a fine of \$100.00 for each offense.

Such penalty shall be collected and enforced by summary proceedings pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). The Superior Court and municipal court shall have jurisdiction within its territory of such proceedings. Process shall be either in the nature of a summons or warrant and shall issue in the name of the State, upon the complaint of the State Board of Medical Examiners with respect to podiatrists, the New Jersey State Board of Optometry for optometrists or the State Board of Psychological Examiners for psychologists.

45:1-14. Legislative findings and declarations; liberal construction of act

The Legislature finds and declares that effective implementation of consumer protection laws and the administration of laws pertaining to the professional and occupational boards located within the Division of Consumer Affairs require uniform investigative and enforcement powers and procedures and uniform standards for license revocation, suspension and other disciplinary proceedings by such boards. This act is deemed remedial, and the provisions hereof should be afforded a liberal construction.

45:1-15 Application of act.

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

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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 Court Reporting, the State Board of Veterinary Medical Examiners, 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 Examiners of Heating, Ventilating, Air Conditioning and Refrigeration Contractors, the State Board of Physical Therapy Examiners, the State Board of Polysomnography, 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 Acupuncture Advisory Committee, the Alcohol and Drug Counselor Committee, the Athletic Training Advisory Committee, the Certified Psychoanalysts Advisory Committee, the Fire Alarm, Burglar Alarm, and Locksmith Advisory Committee, the Home Inspection Advisory Committee, the Interior Design Examination and Evaluation Committee, the Hearing Aid Dispensers Examining Committee, the Landscape Architect Examination and Evaluation Committee, the Perfusionists Advisory Committee, the Physician Assistant Advisory Committee, the Audiology and Speech-Language Pathology Advisory Committee, the New Jersey Board of Massage and Bodywork Therapy, the Genetic Counseling Advisory Committee and any other entity hereafter created under Title 45 to license or otherwise regulate a profession or occupation.

45:1-15.1. Rules, regulations

Consistent with their enabling acts, P.L.1978, c.73 (C.45:1-14 et seq.) and the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the boards and others set forth in section 2 of P.L.1978, c.73 (C.45:1-15) are authorized to adopt rules and regulations to serve the public health, safety and welfare.

45:1-15.2 Professional, occupational licenses, registrations, expiration date for individuals with certain types of military service; delayed.

Any license issued by a professional or occupational board designated in section 2 of P.L.1978, c.73 (C.45:1-15), and any registration issued under the "New Jersey Controlled Dangerous Substances Act," P.L.1970, c.226 (C.24:21-1 et al.), shall not expire while the licensee or registrant is an active member of the Armed Forces of the United States and shall be extended for up to 120 days after his or her return from active service. Any late renewal fees, reinstatement fees and other reinstatement requirements shall be waived by the applicable professional or occupational board or the Division of Consumer Affairs upon application by the licensee or registrant within 120 days after he or she returns from active service. If the license or registration is renewed during the 120-day period after his or her return from active service, and the licensee or registrant submits documentation verifying his or her active military service, the licensee or registrant shall only be responsible for normal fees and activities relating to renewal of the license or registration and shall not be charged any additional costs, such as, but not limited to, late fees or delinquency fees.

As used in this section, "active member" means an individual or member of an organized unit ordered into active service in the Armed Forces of the United

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States by reason of membership in a reserve component of the Armed Forces of the United States or any branch of the Armed Forces of the United States.

45:1-16. Definitions

As used within this act the following words or terms shall have the indicated definition unless the context clearly indicates otherwise.

"Board" means any professional or occupational licensing board designated in section 2 of this act.

"Director" means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

"Person" means any natural person or his legal representative, partnership, corporation, company, trust, business entity or association, and any agent, employee, salesman, partner, officer, director, member, stockholder, associate, trustee or cestuis que trust thereof.

45:1-17. Powers of Attorney General to implement act and administer law enforcement activities of boards

In implementing the provisions of this act and administering the law enforcement activities of those professional and occupational boards located within the Division of Consumer Affairs, the Attorney General may:

a. After advice to the board or boards in question of his intent to proceed under this section, and the specific action he intends to take, and the failure of such board or boards to take steps in accordance with the advice of the Attorney General within 30 days of receipt of such advice, promulgate rules and regulations consistent with the provisions of this act and the Administrative Procedure Act, P.L.1968, c. 410 (C. 52:14B-1 et seq.) governing the procedure for administrative hearings before all boards within the Division of Consumer Affairs. Such rules and regulations shall govern administrative complaints, answers thereto, issuance of subpoenas, appointment of hearing examiners, adjournments, submission of proposed findings of fact and conclusions of law, the filing of briefs, and such other procedural aspects of administrative hearings before the boards as the Attorney General may deem necessary; provided, however, nothing herein authorized shall be construed to require the Attorney General to promulgate rules regarding prehearing investigative procedures.

b. After advice to the board or boards in question of his intent to proceed under this section, and the specific action he intends to take, and the failure of such board or boards to take steps in accordance with the advice of the Attorney General within 30 days of receipt of such advice, promulgate substantive rules and regulations consistent with the provisions of any statute governing the activities of any licensing agency, board or committee located within the Division of Consumer Affairs, which shall be limited to disciplinary matters and arbitrary restrictions on initial licensure. In addition to promulgating such rules and regulations, the Attorney General may direct that any proposed or existing regulation be amended, abandoned or repealed. Prior to the final adoption of any regulation affecting the activities of any professional or occupational licensing agency, board or committee located within the division and prior to the issuance of any directive to amend, abandon or repeal any regulation, the Attorney General or his designee shall first

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consult with the agency, board or committee whose activities are affected regarding the proposed action.

c. After a full consideration of all relevant facts and the applicable law, may direct the initiation of any appropriate enforcement action by a professional or occupational licensing board or set aside, modify or amend, as may be necessary, any action or decision of a licensing agency, board or committee located within the Division of Consumer Affairs; provided, however, no such action shall be directed by the Attorney General in reviewing the action or decision of an agency, board or committee unless such action or decision is contrary to applicable law.

45:1-18 Investigative powers of boards, director or attorney general.

Whenever it shall appear to any board, the director or the Attorney General that a person has engaged in, or is engaging in any act or practice declared unlawful by a statute or regulation administered by such board, or when the board, the director or the Attorney General shall deem it to be in the public interest to inquire whether any such violation may exist, the board or the director through the Attorney General, or the Attorney General acting independently, may exercise any of the following investigative powers:

a. Require any person to file on such form as may be prescribed, a statement or report in writing under oath, or otherwise, as to the facts and circumstances concerning the rendition of any service or conduct of any sale incidental to the discharge of any act or practice subject to an act or regulation administered by the board;

b. Examine under oath any person in connection with any act or practice subject to an act or regulation administered by the board;

c. Inspect any premises from which a practice or activity subject to an act or regulation administered by the board is conducted;

d. Examine any goods, ware or item used in the rendition of a practice or activity subject to an act or regulation administered by the board;

e. Examine any record, book, document, account or paper prepared or maintained by or for any professional or occupational licensee in the regular course of practicing such profession or engaging in such occupation or any individual engaging in practices subject to an act or regulation administered by the board. Nothing in this subsection shall require the notification or consent of the person to whom the record, book, account or paper pertains, unless otherwise required by law;

f. For the purpose of preserving evidence of an unlawful act or practice, pursuant to an order of the Superior Court, impound any record, book, document, account, paper, goods, ware, or item used, prepared or maintained by or for any board licensee in the regular course of practicing such profession or engaging in such occupation or any individual engaging in a practice or activity subject to an act or regulation administered by the board. In such cases as may be necessary, the Superior Court may, on application of the Attorney General, issue an order sealing items or material subject to this subsection; and

g. Require any board licensee, permit holder or registered or certified person

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to submit to an assessment of skills to determine whether the board licensee, permit holder or registered or certified person can continue to practice with reasonable skill and safety.

In order to accomplish the objectives of this act or any act or regulation administered by a board, the Attorney General may hold such investigative hearings as may be necessary and the board, director or Attorney General may issue subpoenas to compel the attendance of any person or the production of books, records or papers at any such hearing or inquiry.

45:1-19. Failure or refusal to file statement or report, refuse access to premises or failure to obey subpoena; penalty

If any person shall fail or refuse to file any statement or report or refuse access to premises from which a licensed profession or occupation is conducted in any lawfully conducted investigative matter or fail to obey a subpoena issued pursuant to this act, the Attorney General may apply to the Superior Court and obtain an order:

- a. Adjudging such person in contempt of court; or
- b. Granting such other relief as may be required; or
- c. Suspending the license of any such person unless and until compliance with the subpoena or investigative demand is effected.

45:1-20. Compelling testimony or production of book, paper or document; immunity from prosecution

If any person shall refuse to testify or produce any book, paper, or other document in any proceeding under this act for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him, convict him of a crime, or subject him to a penalty or forfeiture, and shall, notwithstanding, be directed to testify or to produce such book, paper, or document by the Attorney General, he shall comply with such direction.

A person who is entitled by law to, and does assert such privilege, and who complies with such direction of the Attorney General shall not thereafter be prosecuted or subjected to any penalty or forfeiture in any criminal proceeding which arises out of and relates to the subject matter of the proceeding. No person so testifying shall be exempt from prosecution or punishment for perjury or false swearing committed by him in giving such testimony or from any civil or administrative action arising from such testimony.

45:1-21 Refusal to license or renew, grounds.

A board may refuse to admit a person to an examination or may refuse to issue or may suspend or revoke any certificate, registration or license issued by the board upon proof that the applicant or holder of such certificate, registration or license:

- a. Has obtained a certificate, registration, license or authorization to sit for an examination, as the case may be, through fraud, deception, or misrepresentation;

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b. Has engaged in the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense;

c. Has engaged in gross negligence, gross malpractice or gross incompetence which damaged or endangered the life, health, welfare, safety or property of any person;

d. Has engaged in repeated acts of negligence, malpractice or incompetence;

e. Has engaged in professional or occupational misconduct as may be determined by the board;

f. Has been convicted of, or engaged in acts constituting, any crime or offense involving moral turpitude or relating adversely to the activity regulated by the board. For the purpose of this subsection a judgment of conviction or a plea of guilty, non vult, nolo contendere or any other such disposition of alleged criminal activity shall be deemed a conviction;

g. Has had his authority to engage in the activity regulated by the board revoked or suspended by any other state, agency or authority for reasons consistent with this section;

h. Has violated or failed to comply with the provisions of any act or regulation administered by the board;

i. Is incapable, for medical or any other good cause, of discharging the functions of a licensee in a manner consistent with the public's health, safety and welfare;

j. Has repeatedly failed to submit completed applications, or parts of, or documentation submitted in conjunction with, such applications, required to be filed with the Department of Environmental Protection;

k. Has violated any provision of P.L.1983, c.320 (C.17:33A-1 et seq.) or any insurance fraud prevention law or act of another jurisdiction or has been adjudicated, in civil or administrative proceedings, of a violation of P.L.1983, c.320 (C.17:33A-1 et seq.) or has been subject to a final order, entered in civil or administrative proceedings, that imposed civil penalties under that act against the applicant or holder;

l. Is presently engaged in drug or alcohol use that is likely to impair the ability to practice the profession or occupation with reasonable skill and safety. For purposes of this subsection, the term "presently" means at this time or any time within the previous 365 days;

m. Has prescribed or dispensed controlled dangerous substances indiscriminately or without good cause, or where the applicant or holder knew or should have known that the substances were to be used for unauthorized consumption or distribution;

n. Has permitted an unlicensed person or entity to perform an act for which a license or certificate of registration or certification is required by the board, or aided

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and abetted an unlicensed person or entity in performing such an act;

o. Advertised fraudulently in any manner.

The division is authorized, for purposes of facilitating determinations concerning licensure eligibility, to require the fingerprinting of each applicant in accordance with applicable State and federal laws, rules and regulations. Each applicant shall submit the applicant's name, address, and written consent to the director for a criminal history record background check to be performed. The division is authorized to receive criminal history record information from the State Bureau of Identification in the Division of State Police and the Federal Bureau of Investigation. Upon receipt of such notification, the division shall forward the information to the appropriate board which shall make a determination regarding the issuance of licensure. The applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check, unless otherwise provided for by an individual enabling act. The Division of State Police shall promptly notify the division in the event an applicant or licensee, who was the subject of a criminal history record background check pursuant to this section, is convicted of a crime or offense in this State after the date the background check was performed.

For purposes of this act:

"Completed application" means the submission of all of the information designated on the checklist, adopted pursuant to section 1 of P.L.1991, c.421 (C.13:1D-101), for the class or category of permit for which application is made.

"Permit" has the same meaning as defined in section 1 of P.L.1991, c.421 (C.13:1D-101).

L.1978,c.73,s.8; amended 1991, c.420, s.1; 1997, c.151, s.10; 1999, c.403, s.2; 2003, c.199, s.31.

45:1-21.1. Information on DEP application compliance, seminar attendance

a. A board obtaining information from the Department of Environmental Protection pursuant to section 1 of P.L.1991, c.418 (C.13:1D-110) on the compliance of a member of a regulated profession with the requirements for completed applications of the department, shall annually develop a detailed written summary of the information gathered by the department pursuant to P.L.1991, c.418 (C.13:1D-110) regarding compliance with the department's requirements for completed applications and attendance records for continuing education seminars required to be filed with the department pursuant to section 2 of P.L.1991, c.419 (C.13:1D-117).

b. Any reasonable costs incurred in preparation of the report required pursuant to this section may be included in the charges authorized pursuant to P.L.1974, c.46 (C.45:1-3.2).

c. Information required to be compiled by a board pursuant to this section, shall be deemed to be public records subject to the requirements of P.L.1963, c.73 (C.47:1A-1 et seq.).

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45:1-21.2 Suspension of certain licenses, registrations, certifications for failure to repay student loans.

The director or a board shall suspend, as appropriate, after a hearing, the license, registration or certification of any person who has been certified by a lender or guarantor and reported to the director or the board, as the case may be, for nonpayment or default of a State or federal direct or guaranteed educational loan. The license, registration or certification shall not be reissued until the person provides the director or board with a written release issued by the lender or guarantor stating that the person has cured the default or is making payments on the loan in accordance with a repayment agreement approved by the lender or guarantor. If the person has continued to meet all other requirements for licensure, registration or certification during the suspension, reinstatement shall be automatic upon receipt of the notice and payment of any reinstatement fee the director or the board may impose.

45:1-21.3 Violation of the responsibility to make 911 call, forfeiture of license, authorization to practice.

A health care professional licensed or otherwise authorized to practice as a health care professional pursuant to Title 45 of the Revised Statutes who violates the provisions of section 3 of P.L.2003, c.191 (C.30:6D-5.3) shall, in addition to being liable to a civil penalty pursuant to section 4 of P.L.2003, c.191 (C.30:6D-5.4), be subject to revocation of that individual's professional license or other authorization to practice as a health care professional by the appropriate licensing board in the Division of Consumer Affairs in the Department of Law and Public Safety, after appropriate notice and opportunity for a hearing.

45:1-21.4 Certain information relative to address of certain applicants, licensees; nondisclosure.

Notwithstanding any other law, rule or regulation to the contrary, the director or a board shall not disclose to the public information indicating the place of residence of any applicant for or holder of a license, registration or certification without the consent of the applicant or holder, except for such disclosure to a federal or State regulatory authority or a law enforcement or judicial authority.

45:1-22 Additional, alternative penalties.

In addition or as an alternative, as the case may be, to revoking, suspending or refusing to renew any license, registration or certificate issued by it, a board may, after affording an opportunity to be heard:

a. Issue a letter of warning, reprimand, or censure with regard to any act, conduct or practice which in the judgment of the board upon consideration of all relevant facts and circumstances does not warrant the initiation of formal action;

b. Assess civil penalties in accordance with this act;

c. Order that any person violating any provision of an act or regulation administered by such board to cease and desist from future violations thereof or to take such affirmative corrective action as may be necessary with regard to any act or practice found unlawful by the board;

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d. Order any person found to have violated any provision of an act or regulation administered by such board to restore to any person aggrieved by an unlawful act or practice, any moneys or property, real or personal, acquired by means of such act or practice; provided, however, no board shall order restoration in a dollar amount greater than those moneys received by a licensee or his agent or any other person violating the act or regulation administered by the board;

e. Order any person, as a condition for continued, reinstated or renewed licensure, to secure medical or such other professional treatment as may be necessary to properly discharge licensee functions;

f. Order any person, as a condition for continued, reinstated or renewed licensure, to submit to any medical or diagnostic testing and monitoring or psychological evaluation which may be required to evaluate whether continued practice may jeopardize the safety and welfare of the public;

g. Order any person, as a condition for continued, reinstated or renewed licensure, to submit to an assessment of skills to determine whether the licensee can continue to practice with reasonable skill and safety, and to take and successfully complete educational training determined by the board to be necessary;

h. Order any person, as a condition for continued, reinstated or renewed licensure, to submit to an assessment of skills to determine whether the licensee can continue to practice with reasonable skill and safety, and to submit to any supervision, monitoring or limitation on practice determined by the board to be necessary.

A board may, upon a duly verified application of the Attorney General that either provides proof of a conviction of a court of competent jurisdiction for a crime or offense involving moral turpitude or relating adversely to the regulated profession or occupation, or alleges an act or practice violating any provision of an act or regulation administered by such board, enter a temporary order suspending or limiting any license issued by the board pending plenary hearing on an administrative complaint; provided, however, no such temporary order shall be entered unless the application made to the board palpably demonstrates a clear and imminent danger to the public health, safety and welfare and notice of such application is given to the licensee affected by such order. If, upon review of the Attorney General's application, the board determines that, although no palpable demonstration of a clear and imminent danger has been made, the licensee's continued unrestricted practice pending plenary hearing may pose a risk to the public health, safety and welfare, the board may order the licensee to submit to medical or diagnostic testing and monitoring, or psychological evaluation, or an assessment of skills to determine whether the licensee can continue to practice with reasonable skill and safety.

In any administrative proceeding commenced on a complaint alleging a violation of an act or regulation administered by a board, such board may issue subpoenas to compel the attendance of witnesses or the production of books, records, or documents at the hearing on the complaint.

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45:1-23. Summary proceeding in Superior Court; injunction; orders necessary to prevent unlawful practice or remedy past unlawful activity

Whenever it shall appear to a board, the director or the Attorney General that a violation of any act, including the unlicensed practice of the regulated profession or occupation, or regulation administered by such board has occurred, is occurring, or will occur, the Attorney General, in addition to any other proceeding authorized by law, may seek and obtain in a summary proceeding in the Superior Court an injunction prohibiting such act or practice. In any such proceeding the court may assess a civil penalty in accordance with the provisions of this act, order restoration to any person in interest of any moneys or property, real or personal, acquired by means of an unlawful act or practice and may enter such orders as may be necessary to prevent the performance of an unlawful practice in the future and to fully remedy any past unlawful activity. In any action brought pursuant to this section, the court shall not suspend or revoke any license issued by a board.

45:1-24. Failure to pay penalties; enforcement

Upon the failure of any person to comply within 10 days after service of any order of a board directing payment of penalties or restoration of moneys or property, the Attorney General or the secretary of such board may issue a certificate to the Clerk of the Superior Court that such person is indebted to the State for the payment of such penalty and the moneys or property ordered restored. A copy of such certificate shall be served upon the person against whom the order was entered. Thereupon the clerk shall immediately enter upon his record of docketed judgments the name of the person so indebted and of the State, a designation of the statute under which the penalty is imposed, the amount of the penalty imposed, and amount of moneys ordered restored, a listing of property ordered restored, and the date of the certification. Such entry shall have the same force and effect as the entry of a docketed judgment in the Superior Court, and the Attorney General shall have all rights and remedies of a judgment creditor in addition to exercising any other available remedies. Such entry, however, shall be without prejudice to the right of appeal to the Appellate Division of the Superior Court from the board's order.

An action to enforce the provisions of any order entered by a board or to collect any penalty levied thereby may be brought in any municipal court or the Superior Court in summary manner pursuant to "the penalty enforcement law" (N.J.S.2A:58-1 et seq.) and the rules of court governing the collection of civil penalties. Process in such action shall be by summons or warrant, and in the event that the defendant fails to answer such action, the court shall issue a warrant for the defendant's arrest for the purpose of bringing such person before the court to satisfy any order entered.

45:1-25 Violations, penalties.

a. Any person who engages in any conduct in violation of any provision of an act or regulation administered by a board shall, in addition to any other sanctions provided herein, be liable to a civil penalty of not more than \$10,000 for the first violation and not more than \$20,000 for the second and each subsequent violation. For the purpose of construing this section, each act in violation of any provision of an act or regulation administered by a board shall constitute a separate violation and shall be deemed a second or subsequent violation under the following circumstances:

- (1) an administrative or court order has been entered in a prior, separate and

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independent proceeding;

(2) the person is found within a single proceeding to have committed more than one violation of any provision of an act or regulation administered by a board; or

(3) the person is found within a single proceeding to have committed separate violations of any provision of more than one act or regulation administered by a board.

b. In lieu of an administrative proceeding or an action in the Superior Court, the Attorney General may bring an action in the name of any board for the collection or enforcement of civil penalties for the violation of any provision of an act or regulation administered by such board. Such action may be brought in summary manner pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.) and the rules of court governing actions for the collection of civil penalties in the municipal court where the offense occurred. Process in such action may be by summons or warrant and in the event that the defendant in such action fails to answer such action, the court shall, upon finding an unlawful act or practice to have been committed by the defendant, issue a warrant for the defendant's arrest in order to bring such person before the court to satisfy the civil penalties imposed. In any action commenced pursuant to this section, the court may order restored to any person in interest any moneys or property acquired by means of an unlawful act or practice.

c. Any action alleging the unlicensed practice of a profession or occupation shall be brought pursuant to this section or, where injunctive relief is sought, by an action commenced in the Superior Court.

d. In any action brought pursuant to this act, a board or the court may order the payment of costs for the use of the State, including, but not limited to, costs of investigation, expert witness fees and costs, attorney fees and costs, and transcript costs.

45:1-26. Repeal of inconsistent acts and parts of acts

All acts and parts of acts inconsistent with this act are hereby superseded and repealed.

45:1-27. Severability

If any provision of this law or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the law which can be given effect without the invalid provision or application, and to this end the provisions of this law are severable.

45:1-28 Definitions relative to criminal history background checks for health care professionals.

As used in this act:

"Applicant" means an applicant for the licensure or other authorization to engage in a health care profession.

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"Board" means a professional and occupational licensing board within the Division of Consumer Affairs in the Department of Law and Public Safety.

"Director" means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

"Division" means the Division of Consumer Affairs in the Department of Law and Public Safety.

"Health care professional" means a health care professional who is licensed or otherwise authorized, pursuant to Title 45 or Title 52 of the Revised Statutes, to practice a health care profession that is regulated by one of the following boards or by the Director of the Division of Consumer Affairs: the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Dentistry, the New Jersey State Board of Optometrists, the New Jersey State Board of Pharmacy, the State Board of Chiropractic Examiners, the Acupuncture Examining Board, the State Board of Physical Therapy, the State Board of Respiratory Care, the Orthotics and Prosthetics Board of Examiners, the State Board of Psychological Examiners, the State Board of Social Work Examiners, the State Board of Veterinary Medical Examiners, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Audiology and Speech-Language Pathology Advisory Committee, the State Board of Marriage and Family Therapy Examiners, the Occupational Therapy Advisory Council, the Certified Psychoanalysts Advisory Committee or the State Board of Polysomnography.

Health care professional shall not include a nurse aide or personal care assistant who is required to undergo a criminal history record background check pursuant to section 2 of P.L.1997, c.100 (C.26:2H-83) or a homemaker-home health aide who is required to undergo a criminal history record background check pursuant to section 7 of P.L.1997, c.100 (C.45:11-24.3).

"Licensee" means an individual who has been issued a license or other authorization to practice a health care profession.

45:1-29 Criminal history record background check required for licensure of health care professional.

a. A professional and occupational licensing board within the Division of Consumer Affairs in the Department of Law and Public Safety or the director who regulates the practice of a health care professional, as applicable, shall not issue an initial license or other authorization to practice a health care profession that is regulated by that board or the director to any applicant therefor unless the board or director, as applicable, first determines, consistent with section 8 of P.L.1978, c.73 (C.45:1-21), that no criminal history record information exists on file in the Federal Bureau of Investigation, Identification Division, or in the State Bureau of Identification in the Division of State Police, which may disqualify the applicant from being licensed or otherwise authorized to practice as a health care professional.

b. A board or the director, as applicable, shall not renew or, if renewed, shall revoke a license or other authorization to practice a health care profession that is regulated by that board or the director of any applicant therefor unless the board or director determines, consistent with section 8 of P.L.1978, c.73 (C.45:1-21), that no

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criminal history record information exists on file in the Federal Bureau of Investigation, Identification Division, or in the State Bureau of Identification in the Division of State Police, which may provide grounds for the refusal to renew the license or other authorization to practice as a health care professional.

The director shall establish, by regulation, a schedule of dates by which the requirements of this subsection shall be implemented, so that all licensees will have been required to submit to a criminal history record background check beginning no later than four years after the effective date of P.L.2005, c.83 (C.45:1-33 et al.).

The director may, in an emergent circumstance, temporarily waive the requirement to undergo a criminal history record background check as a condition of renewal of a license or other authorization to practice a health care profession.

45:1-30 Submission of information by applicant or licensee.

a. An applicant or licensee who is required to undergo a criminal history record background check pursuant to section 2 of P.L.2002, c.104 (C.45:1-29) shall submit to the director that individual's name, address and fingerprints taken on standard fingerprint cards, or through any equivalent means, by a State or municipal law enforcement agency or by a private entity under contract with the State. The director is authorized to exchange fingerprint data with and receive criminal history record information from the Federal Bureau of Investigation and the Division of State Police for use in making the determinations required pursuant to this act.

b. Upon receipt of the criminal history record information for an applicant or licensee from the Federal Bureau of Investigation or the Division of State Police, the director shall immediately notify the board, as applicable.

c. If an applicant refuses to consent to, or cooperate in, the securing of a criminal history record background check, the board or director, as applicable, shall not issue a license or other authorization to practice a health care profession to the applicant and shall notify the applicant of that denial.

d. If a licensee refuses to consent to, or cooperate in, the securing of a criminal history record background check as required during the licensure or other authorization renewal process, the board or director, as applicable, shall refuse to renew the license or other authorization of the licensee, without a hearing, and shall notify the licensee of that denial.

e. A licensee who:

(1) has permitted a license or other authorization to lapse or whose license or other authorization has been suspended, revoked or otherwise has had licensure or other authorization privileges restricted, and

(2) has not already submitted to a criminal history record background check,

shall be required to submit fingerprints as part of the licensure or other authorization reinstatement process. If a reinstatement applicant refuses to consent to, or cooperate in, the securing of a criminal history record background check as required during the reinstatement process, the board or director, as applicable, shall automatically deny reinstatement of the license or other authorization, without a

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hearing, and shall notify the licensee of that denial.

45:1-31 Applicant or licensee to assume cost.

An applicant or licensee shall be required to assume the cost of the criminal history record background check conducted pursuant to sections 1 through 3 of P.L.2002, c.104 (C.45:1-28 through 45:1-30) and section 14 of P.L.1997, c.100 (C.53:1-20.9a), in accordance with procedures determined by regulation of the director.

45:1-32. Rules, regulations

The Director of the Division of Consumer Affairs in the Department of Law and Public Safety, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate the purposes of this act.

45:1-33 Short title.

This act shall be known and may be cited as the "Health Care Professional Responsibility and Reporting Enhancement Act."

45:1-34 Definitions relative to healthcare professionals.

As used in sections 9 through 14 and 16 and 17 of P.L.2005, c.83 (C.45:1-34 through C.45:1-39 and C.26:2H-12.2d and C.45:1-40):

"Board" means a professional and occupational licensing board within the Division of Consumer Affairs in the Department of Law and Public Safety which licenses or otherwise authorizes a health care professional to practice a health care profession.

"Division" means the Division of Consumer Affairs in the Department of Law and Public Safety;

"Health care entity" means a health care facility licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), a health maintenance organization authorized to operate pursuant to P.L.1973, c.337 (C.26:2J-1 et seq.), a carrier which offers a managed care plan regulated pursuant to P.L.1997, c.192 (C.26:2S-1 et seq.), a State or county psychiatric hospital, a State developmental center, a staffing registry, and a home care services agency as defined in section 1 of P.L.1947, c.262 (C.45:11-23).

"Health care professional" means a person licensed or otherwise authorized pursuant to Title 45 or Title 52 of the Revised Statutes to practice a health care profession that is regulated by the Director of the Division of Consumer Affairs or by one of the following boards: the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Dentistry, the New Jersey State Board of Optometrists, the New Jersey State Board of Pharmacy, the State Board of Chiropractic Examiners, the Acupuncture Examining Board, the State Board of Physical Therapy, the State Board of Respiratory Care, the Orthotics and Prosthetics Board of Examiners, the State Board of Psychological Examiners, the State Board of Social Work Examiners, the State Board of Veterinary Medical Examiners, the State

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Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Audiology and Speech-Language Pathology Advisory Committee, the State Board of Marriage and Family Therapy Examiners, the Occupational Therapy Advisory Council and the Certified Psychoanalysts Advisory Committee.

"Licensee" means an individual who has been issued a license or other authorization to practice a health care profession.

"Review panel" means the Medical Practitioner Review Panel established pursuant to section 8 of P.L.1989, c.300 (C.45:9-19.8).

45:1-35 Immunity from civil liability.

A health care entity, health care professional or any other person who provides to the division, a board or the review panel, in good faith and without malice, any information concerning an act by a health care professional which the person has reasonable cause to believe involves misconduct that may be subject to disciplinary action by the division, board or review panel, as applicable, or any information relating to such conduct requested by the division, board or review panel in the exercise of its statutory responsibilities or which may be required by statute, shall not be liable for civil damages in any cause of action arising out of the provision of such information or services.

45:1-36 Confidentiality of information.

Any information provided to the division or a board concerning the conduct of a health care professional, pursuant to section 2 of P.L.2005, c.83 (C.26:2H-12.2b), section 5 of P.L.1978, c.73 (C.45:1-18) or any other provision of law, shall be treated as confidential pending final disposition of the inquiry or investigation, except for that information required to be shared with the Attorney General, Department of Health and Senior Services or any other government agency.

If the result of the inquiry or investigation is a finding of no basis for disciplinary action, the information shall remain confidential, except that the board or division, as applicable, may release the information to a government agency to facilitate the discharge of its public responsibilities.

The provisions of this section shall not apply to information that the division, or its designated agent, is required to include in a physician's profile pursuant to P.L.2003, c.96 (C.45:9-22.21 et seq.).

45:1-37 Notification to division of impairment of health care professional.

a. A health care professional shall promptly notify the division if that health care professional is in possession of information which reasonably indicates that another health care professional has demonstrated an impairment, gross incompetence or unprofessional conduct which would present an imminent danger to an individual patient or to the public health, safety or welfare. A health care professional who fails to so notify the division is subject to disciplinary action and civil penalties pursuant to sections 8, 9 and 12 of P.L.1978, c.73 (C.45:1-21, 45:1-22 and 45:1-25).

b. A health care professional shall be deemed to have satisfied the reporting

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requirement concerning another health care professional's impairment by promptly providing notice to the division, the board or a professional assistance or intervention program approved or designated by the division or a board to provide confidential oversight of the licensee.

c. (1) There shall be no private right of action against a health care professional for failure to comply with the notification requirements of this section.

(2) There shall be no private right of action against a health care entity if a health care professional who is employed by, under contract to render professional services to, or has privileges granted by, that health care entity, or who provides such services pursuant to an agreement with a health care services firm or staffing registry, fails to comply with the notification requirements of this section.

d. A health care professional who provides notification to the division, board or review panel, in good faith and without malice, about a health care professional who is impaired or grossly incompetent or who has demonstrated unprofessional conduct, pursuant to this section, is not liable for civil damages to any person in any cause of action arising out of the notification.

e. Notwithstanding the provisions of this section to the contrary, a health care professional is not required to provide notification pursuant to this section about an impaired or incompetent health care professional if the health care professional's knowledge of the other health care professional's impairment or incompetence was obtained as a result of rendering treatment to that health care professional.

45:1-38 Notification to board relative to impairment, misconduct of health care professional.

a. Upon receipt of notice from a health care entity, or any employee thereof, pursuant to section 2 of P.L.2005,c.83 (C.26:2H-12.2b), notice from a health care professional pursuant to section 12 of P.L.2005, c.83 (C.45:1-37) or information concerning the conduct of a health care professional pursuant to section 10 of P.L.2005, c.83 (C.45:1-35), the division shall promptly notify the board that issued the license or other authorization to practice to the person to whom the notice relates.

The division or board, as applicable, shall initiate an investigation concerning the information received and obtain any additional information that may be necessary in order to determine if disciplinary charges should be pursued or if an application to temporarily suspend or otherwise limit the health care professional's license or other authorization to practice should be initiated.

b. The division or the board may seek the assistance of a consultant or other knowledgeable person in evaluating the information and may request the board or the Attorney General to exercise investigative powers pursuant to section 5 of P.L.1978, c.73 (C.45:1-18) in the conduct of its investigation.

c. If the Attorney General files charges based on information derived from the notice from a health care entity or if the board revokes or permanently or temporarily suspends or otherwise limits the license or other authorization to practice of a health care professional, the board shall notify each health care entity with which the health care professional is affiliated.

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45:1-39 Fraud, misrepresentation, deception; disciplinary proceedings.

Any health care professional seeking to become employed by, enter into a contract to render professional services to, or obtain privileges at, a health care entity, or provide professional services pursuant to an agreement with a health care services firm or staffing registry, who engages in fraud, misrepresentation or deception in the application or credentialing process shall be subject to disciplinary proceedings, pursuant to section 8 of P.L.1978, c.73 (C.45:1-21).

45:1-40 Health Care Professional Information Clearinghouse Coordinator.

a. The Division of Consumer Affairs in the Department of Law and Public Safety shall employ a full-time Health Care Professional Information Clearinghouse Coordinator to assist the Director of the Division of Consumer Affairs in compiling and disseminating to the appropriate licensing board or other applicable entity the information reported to the division by health care entities and professionals pursuant to this act and such other information as specified by the director.

b. The director shall provide that the professional and occupational licensing boards which license or otherwise authorize a health care professional to practice a health care profession with professional and administrative staff as may be needed to carry out the purposes of this act.

45:1-41 Rules, regulations.

a. The Director of the Division of Consumer Affairs in the Department of Law and Public Safety shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to carry out the purposes of this act.

b. The Commissioner of Health and Senior Services shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to carry out the purposes of this act.

45:1-42 Definitions relative to establishment of alternate testing dates for certain license applicants.

As used in this act:

"Applicant" means an individual to whom a licensing examination is administered.

"Affected applicant" means an applicant for whom a day of religious observance falls on the day or portion thereof that a licensing examination is administered.

"Day of religious observance" means any day or portion thereof on which a religious observance imposes a substantial burden on any applicant's ability to participate in a licensing examination, or any particular day or days or any portion thereof which any individual observes as a Sabbath or other holy day or days in accordance with the requirements of his religion.

Uniform Enforcement Act

"Licensing examination" means any test or examination that is given and used to determine whether an applicant is qualified for licensure, registration or certification by a professional or occupational board or the director, pursuant to Title 45 of the Revised Statutes.

45:1-43 Offering of alternate testing dates for examination.

When any licensing examination is administered on a day of religious observance, a special administration of that licensing examination or an equivalent examination shall be offered to any affected applicant as soon after or before as is possible, at a comparable time, place and cost, provided that in no circumstances shall the special administration be more than 30 days before or after the regular test administration.