

**CHAPTER 45B  
PERSONNEL SERVICES**

**Authority**

N.J.S.A. 34:8-43 et seq. and 56:8-1.1.

**Source and Effective Date**

R.1992 d.357, effective September 21, 1992.  
See: 23 N.J.R. 2470(a), 23 N.J.R. 2919(a), 24 N.J.R. 3316(a).

**Executive Order No. 66(1978) Expiration Date**

Chapter 45B, Personnel Services, expires on September 21, 1997.

**Chapter Historical Note**

Rules concerning Private Employment Agencies were originally adopted by the Commissioner of the former Department of Labor and Industry pursuant to N.J.S.A. 34:8-24 et seq. and were filed and became effective prior to September 1, 1969. Codified at N.J.A.C. 12:55, and comprising Subchapters 1 through 3, the rules were recodified to N.J.A.C. 13:45B after jurisdiction of the subject matter was transferred to the Division of Consumer Affairs within the Department of Law and Public Safety pursuant to N.J.S.A. 52:17B-139.1 et seq., approved August 4, 1972 to become effective 90 days thereafter. Subchapter 5, Booking Agencies, was adopted as R.1989 d.209, effective April 17, 1989. Subchapter 4 remained "Reserved". See: 20 N.J.R. 2684(a), 21 N.J.R. 1016(c). Subchapter 6, Fees, was adopted as R.1990 d.317, effective June 18, 1990. See: 22 N.J.R. 906(a), 22 N.J.R. 1941(b), 22 N.J.R. 2182(a). Subsequently, the text of Chapter 45B was repealed and new rules, Personnel Services, were adopted as R.1992 d.357. See: Source and Effective Date.

Subchapter 5, Providers of Temporary Help Exempt from N.J.S.A. 34:8-43 et seq., and Subchapter 9, Registration for Consulting Firms, were repealed by R.1995 d.106, effective February 21, 1995. See: 26 N.J.R. 4316(a), 27 N.J.R. 732(a).

**CHAPTER TABLE OF CONTENTS**

**SUBCHAPTER 1. PURPOSE AND SCOPE;  
DEFINITIONS**

- 13:45B-1.1 Purpose and scope
- 13:45B-1.2 Definitions

**SUBCHAPTER 2. EMPLOYMENT AGENCIES**

- 13:45B-2.1 Employment agency license requirements
- 13:45B-2.2 Posting
- 13:45B-2.3 Bond required
- 13:45B-2.4 Records
- 13:45B-2.5 Agreements; fee schedules
- 13:45B-2.6 Employment agent's license qualifications
- 13:45B-2.7 Employment agent's conditional license qualifications
- 13:45B-2.8 Identification and introductory card

**SUBCHAPTER 3. BUSINESS LOCATIONS**

- 13:45B-3.1 Business locations; special permits

**SUBCHAPTER 4. EXAMINATIONS AND VARIOUS  
CLASSIFICATIONS OF EMPLOYMENT AND  
PERSONNEL SERVICES**

- 13:45B-4.1 Examination subjects
- 13:45B-4.2 "Aeronautical" classification
- 13:45B-4.3 (Reserved)
- 13:45B-4.4 (Reserved)

- 13:45B-4.5 "Career counseling" classification
- 13:45B-4.6 Temporary placement operation (functioning in conjunction with an employment agency and integrated)
- 13:45B-4.7 Employment agency providing temporary help

**SUBCHAPTER 5. (RESERVED)**

**SUBCHAPTER 6. ENTERTAINMENT AGENCIES**

- 13:45B-6.1 Purpose and scope
- 13:45B-6.2 Definitions
- 13:45B-6.3 Entertainment agency licenses; posting
- 13:45B-6.4 Entertainment agency contracts
- 13:45B-6.5 Entertainment agency advertising
- 13:45B-6.6 Information required

**SUBCHAPTER 7. FEES AND EXPIRATION DATES**

- 13:45B-7.1 Fee schedule
- 13:45B-7.2 License and registration expiration

**SUBCHAPTER 8. OUT-OF-STATE BUSINESSES**

- 13:45B-8.1 Application
- 13:45B-8.2 Registered agent

**SUBCHAPTER 9. (RESERVED)**

**SUBCHAPTER 10. REGISTRATION FOR CAREER  
CONSULTING OR OUTPLACEMENT  
ORGANIZATIONS**

- 13:45B-10.1 Registration process

**SUBCHAPTER 11. PREPAID COMPUTER JOB  
MATCHING OR JOB LISTING SERVICES**

- 13:45B-11.1 Registration process

**SUBCHAPTER 12. ADVERTISING AND  
SOLICITATIONS**

- 13:45B-12.1 Advertisements and solicitations

**SUBCHAPTER 13. VIOLATIONS**

- 13:45B-13.1 Violations
- 13:45B-13.2 Standards for issuance and renewal of licenses and registrations

**SUBCHAPTER 14. HEALTH CARE SERVICE FIRMS**

- 13:45B-14.1 Authority, purpose and scope
- 13:45B-14.2 Definitions
- 13:45B-14.3 Initial registration requirements
- 13:45B-14.4 Firms registered prior to April 3, 1995 and meeting the definition of health care service firm
- 13:45B-14.5 Registration renewal
- 13:45B-14.6 Prohibited acts

**SUBCHAPTER 15. PLACEMENT OF HEALTH CARE  
PRACTITIONERS**

- 13:45B-15.1 Definitions
- 13:45B-15.2 Application form; minimum information required
- 13:45B-15.3 General duties
- 13:45B-15.4 Duty to refer only licensed individuals
- 13:45B-15.5 Duty to match credentials to need
- 13:45B-15.6 Duty to verify work history
- 13:45B-15.7 through 13:45B-15.8 (Reserved)
- 13:45B-15.9 Duties relating to placements in home care settings

SUBCHAPTER 1. PURPOSE AND SCOPE;  
DEFINITIONS

**13:45B-1.1 Purpose and scope**

(a) The rules contained in this chapter implement N.J.S.A. 34:8-43 et seq. and N.J.S.A. 56:8-1.1, and regulate the operation of persons offering, promising, attempting to procure and/or supplying, procuring, obtaining or assisting in procuring or obtaining employment or personnel services or products in the State of New Jersey.

(b) This chapter shall apply to any person engaging in any of the activities regulated by N.J.S.A. 34:8-43 et seq., including persons whose residence or principal place of business is located outside of this State.

**13:45B-1.2 Definitions**

The following words and terms, when used in this chapter and in license application forms and licenses, shall have the following meanings unless the context clearly indicates otherwise:

“Accepting employment” means that a job seeker has entered into an agreement with an employer which includes:

1. The terms and conditions of employment;
2. The salary or wages and any benefits to be paid to the job seeker as compensation for employment; and
3. The date, time and place employment will commence.

“Act” means P.L. 1989, c.331, (N.J.S.A. 34:8-43 et seq.), an Act regulating certain employment agencies, services and firms, supplementing Title 52 of the Revised Statutes and repealing P.L. 1951, c.337 and Section 6 of P.L. 1981, c.500.

“Advertisement” means any advertisement as defined by N.J.S.A. 56:8-1(a) of any service or product, including any statement appearing in a newspaper, periodical, pamphlet, circular, or other publication, in direct mail literature, on a display or any exterior or interior sign, or radio or television broadcast, or transmitted by telecopier, telex, or telephone, that offers a service or product for sale, whether or not the statement includes a price.

“Agent” means any individual who performs any function or activity for or on behalf of any person, the purpose of which is to provide services or products to individuals seeking employment, career guidance or counseling, or employment-related services or products.

“Agent-registrant” means a person authorized and empowered by the owner of a service registered pursuant to N.J.S.A. 34:8-43 et seq. to solicit business or otherwise act as an agent of the registered service.

“Applicant” means any person applying for licensing or registration under the Act.

“Bona fide job order” means an accurate written or recorded description of a job or jobs to be filled, with an address or location where the job is to be performed, the range of salary, the conditions of employment offered, the date of order, the name of the individual placing the order, and the name of the interviewer to be contacted by the job seeker.

“Booking agency” means any person who procures, offers, promises, or attempts to procure employment for performing artists, or athletes, not under the jurisdiction of the Athletic Control Board, and who collects a fee for providing those services. Under N.J.S.A. 34:8-43 et seq., a booking agency is licensed as an employment agency.

“Broker” means a person who acts, works or performs duties as an agent for others, in return for a fee, charge or commission.

“Career consulting or outplacement organization” means any person required to be registered under N.J.S.A. 34:8-65, providing or rendering services, with or without related products, in connection with advice, instruction, analysis, recommendation or assistance concerning past, present, or future employment or compensation for an individual’s time, labor or effort where the products or services are paid for by the job seeker.

“Career counseling service” means any person who, through its agents or otherwise, procures or represents itself as procuring employment or employment assistance or advertises in any manner the following services for a fee paid by the job seeker: career counseling; vocational guidance; aptitude, achievement or vocational testing; executive consulting; personnel consulting; career management, evaluation, or planning; the development of resumes and other promotional materials relating to the preparation for employment; or referral services relating to employment or employment qualifications. Pursuant to N.J.S.A. 34:8-43 et seq., a career counseling service is licensed as an employment agency. A career counseling service shall not include career consulting or outplacement organizations required to be registered under N.J.S.A. 34:8-65.

“Consulting firm” means any person required to be registered under N.J.S.A. 34:8-64 who: identifies, appraises, refers or recommends individuals to be considered for employment by the employer; and is compensated for services solely by payments from the employer and is not in any instance, compensated, directly or indirectly, by an individual who is identified, appraised, referred or recommended. (Consulting firms are commonly known as “executive search firms” or “headhunters.”)

“Director” means the Director of the Division of Consumer Affairs or his or her designee.

“Division” means the Division of Consumer Affairs, Department of Law and Public Safety, 124 Halsey Street, Newark, New Jersey 07102.

“Employer” means a person seeking to obtain individuals to perform services, tasks, or labor for which a salary, wage, or other compensation or benefits are to be paid. For purposes of the Act alone, an employment agency is not an “employer,” except of its own agents.

“Employment” means hiring or engaging the services of a person.

“Employment agency” means any person who, through its agents or otherwise, for a fee, charge or commission:

1. Procures, or obtains, or offers, promises or attempts to procure, obtain, or assist in procuring or obtaining employment for a job seeker or employees for an employer;
2. Supplies job seekers to employers seeking employees on a part-time or temporary assignment basis who has not filed as a temporary help service pursuant to the provisions of N.J.S.A. 56:8-1.1;
3. Procures, obtains, offers, promises or attempts to procure or obtain employment or engagements for actors, actresses, performing artists, vocalists, musicians or models;
4. Acts as a placement firm, career counseling service, or resume service;
5. Acts as a nurses’ registry, as defined hereinafter;
6. Places health care personnel in private homes or on private duty; or
7. Places household workers in domestic positions, including salaried “nannies” or “au pairs.”

“Executive Director” means the Executive Director of the Office of Consumer Protection.

“Fee, charge or commission” means any payment of money, or promise to pay money to a person in consideration for performance of any service for which licensure or registration is required by the Act, or the excess of money received by a person furnishing employment or job seekers over what he has paid for transportation, transfer of baggage or lodging for a job seeker. “Fee, charge or commission” shall also include the difference between the amount of money received by any person who either furnishes job seekers or performers for any entertainment, exhibition or performance, or who furnishes baby sitters for any occasion, and the amount paid by the person to the job seekers, performers or baby sitters.

“Integrated” means sharing a common business structure as well as any one or more of the following: the same trade name, office space, management, personnel, advertising,

business and personnel records, office systems and/or equipment, such as telephone and/or telecopier.

“Job listing service” means any person required to be registered under N.J.S.A. 34:8-66 who, by advertisement or other means, offers to provide job seekers with a list of employers, a list of job openings or a similar publication, or prepares resumes or lists of applicants for distribution to potential employers, where a fee or other valuable consideration is exacted or attempted to be collected, either directly or indirectly.

“Job order” is a request received from a client for job seekers and is recorded by the employment and personnel service in written form. The following minimum information is required to be recorded:

1. The name of the company;
2. The address of the company;
3. The name of the person placing the order;
4. The job title;
5. The salary; and
6. A brief description of the job.

“Job seeker” means any individual seeking employment, career guidance or counseling or employment-related services or products.

“License” means a license issued by the Director to any person:

1. To carry on the business of an employment agency, career counseling service, or booking agency; and/or
2. To perform, as an agent of the agency, any of the functions related to the operation of these agencies.

“Managing agent” means any individual or entity that controls, supervises, or has the responsibility to direct day-to-day operations of an employment agency or health care service firm.”

“Nurses’ registry” means any person who operates a firm which directly or indirectly procures, assigns, or supplies, or offers, arranges or attempts to procure, assign or supply temporary or permanent personnel service(s) classified as the practice of nursing, and receives or attempts to receive a payment, fee, charge or commission for such service(s). Under N.J.S.A. 34:8-43 et seq., a nurses’ registry is licensed as an employment agency.

“Performing artists” means musical, theatrical, vaudeville, film, television, or radio performers, as well as models, whether employed or engaged individually or as a group, and athletes not under the jurisdiction of the Athletic Control Board.

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

“Prepaid computer job matching service” means any person required to be registered under N.J.S.A. 34:8-66 who is engaged in the business of matching job seekers with employment opportunities, pursuant to an arrangement under which the job seeker is required to pay a fee in advance of, or contemporaneously with, the supplying of the matching, but which does not otherwise involve services for the procurement of employment by the person conducting the service.

“Primary location” means an address used for 90 or more calendar days by a person for the conduct of an activity regulated under the Act.

“Principal owner” means any person who, directly or indirectly, holds a beneficial interest or ownership in an applicant or who has the ability to control an applicant.

“Product” means any tangible thing that is the result of labor or effort, thus any merchandise, object, wares, goods, commodity or item offered, directly or indirectly, for sale to the public or a job seeker.

“Registration” means a registration issued by the Director to any person:

1. To carry on the business of a consulting firm, temporary help service firm, career consulting or outplacement organization, job listing service or prepaid computer job matching service; or
2. To perform as an agent of any of the above-listed entities except for temporary help service firms and consulting firms.

“Section” means the Regulated Business Section of the Office of Consumer Protection, created as a result of the transfer of the Bureau of Employment and Personnel Services Unit and the Charities Registration Section to the Office of Consumer Protection pursuant to Reorganization Plan No. 002 of 1992.

“Service” means any act offered or rendered by a person supplying employment or personnel services or products, in order to implement the provisions of an agreement between that person and a job seeker or employer.

“Temporary employment” means employment in which the duration is fixed as some definite agreed period of time or by the occurrence of some specified event, where the jobseeker is employed by a client.

“Temporary help service firm” means any person who operates a business which consists of employing individuals directly or indirectly for the purpose of assigning the employed individuals to assist the firm’s customers in the handling of the customers’ temporary, excess or special work loads, and who, in addition to the payment of wages or salaries to the employed individuals while on assignment, pays or is required to pay Federal social security taxes and State and Federal unemployment insurance; carries or is required to carry worker’s compensation insurance as required by State law; and sustains responsibility for the actions of the employed individuals while they render services to the firm’s customers. This definition applies to “temporary help service firm” as the term is used in both N.J.S.A. 34:8-43 et seq. and N.J.S.A. 56:8-1.1.

Amended by R.1995 d.190, effective April 3, 1995.  
See: 26 N.J.R. 4316(a), 27 N.J.R. 1430(a).

## SUBCHAPTER 2. EMPLOYMENT AGENCIES

### 13:45B-2.1 Employment agency license requirements

(a) In order to open, conduct, or maintain an employment agency, the owner shall obtain an employment agency license by application to the Director and fulfillment of all requirements for such license. In addition to any other information the Director may require, an applicant for an employment agency license shall provide:

1. The complete name, business address, and telephone number of the owner(s); if a corporation, the name, address and telephone number of its officers and directors;
2. The business structure of the agency, that is, whether it is a sole proprietorship, a partnership, or a corporation; if a corporation, the state where it is incorporated;
3. The name, address, and telephone number of the person who is to be contacted on any matter related to the Act or these rules;
4. The type of services to be provided to the public;
5. Affidavits of at least two New Jersey citizens who have known the applicant (or the chief executive officer of a corporate applicant) for at least five years, attesting to the applicant’s good moral character. If an applicant finds it impossible to submit affidavits from two New Jersey citizens, the applicant may substitute affidavits of two citizens of any state who have known the applicant for at least five years. In that case, however, the applicant shall also submit an affidavit substantiating why it is impossible for him or her to obtain the character affidavits from the required number of New Jersey citizens. All affidavits shall contain the address and the telephone number of the person signing the affidavit; and

6. A disclosure statement as to whether the applicant (if a corporation, every officer and director) has ever been convicted of any crime as defined in N.J.S.A. 34:8-44a(1), (2), (3) and the nature of that crime or the equivalent under the laws of any jurisdiction.

(b) If the employment agency provides health care services, the applicant for an employment agency license shall include the following information on the application form in addition to the information required pursuant to (a) above:

1. The name, residence and business street address, and business telephone number of each person with an ownership interest in the agency and the percentage of ownership held;

2. The name, residence and business street address and business telephone number of each person who is a managing agent of the agency; or, if the managing agent is a corporation, association or other company, its name, street address and telephone number and the names and addresses of its officers and directors; and

3. The name and address of malpractice insurance carrier and malpractice insurance policy number.

(c) Every person, including an owner of a licensed employment agency, who places or refers jobseekers or furnishes information as to where the help or employment may be obtained, or who personally manages, operates, or carries on the business of an employment agency, shall obtain an employment agent's license by application to the Section and fulfill all requirements for such license.

(d) The holder of an employment agency license shall be under a continuing obligation to inform the Executive Director of any change in information contained in a license or license application, such as change of address, change of ownership, change of contact person, conviction of a crime, etc.

(e) An employment agency license may not be transferred by the licensee to another person or amended without the written consent of the Director, and payment of the total statutory annual fee by the new holder shall be required in order to effect the transfer, regardless of the date of original issuance or renewal.

(f) The Executive Director shall act upon any application for a license within 30 days after receiving it, except that the Director may extend the maximum time for acting upon an application to 60 days for the purpose of allowing an applicant to submit additional information or if a hearing on an application is required.

Amended by R.1995 d.190, effective April 3, 1995.  
See: 26 N.J.R. 4316(a), 27 N.J.R. 1430(a).

#### Case Notes

Employment agency statute applies only to New Jersey employment agencies. *Robert T. Winzinger, Inc. v. Management Recruiters of Bucks County, Inc.*, C.A.3 (N.J.)1988, 841 F.2d 497.

#### 13:45B-2.2 Posting

(a) Each employment agency shall display its license in a prominent place where it may be easily seen and read by all persons visiting the agency.

(b) Each person required to have an employment agent's license shall display such license in such place and manner as to make it easily seen and read by persons doing business with such licensee.

(c) There shall be posted in each employment agency the agency's schedule of fees, as well as a certified abstract of the Act and these rules. Such posting shall be in a manner and place as to be readily seen and readable by persons doing business with the employment agency. The employment agency shall also have full copies of the Act and these rules available for any job seeker's or employer's review. The certified abstract shall be available from the Section for a fee of \$5.00.

Amended by R.1995 d.190, effective April 3, 1995.  
See: 26 N.J.R. 4316(a), 27 N.J.R. 1430(a).

#### 13:45B-2.3 Bond required

(a) Before an Employment Agency License is issued, the applicant shall deposit with the Director an original bond in the sum of \$10,000, with a duly authorized surety company as surety, to be approved by the Director.

(b) The bond shall be payable to the State of New Jersey with the condition that the person applying for the license will comply with the Act and will pay all damages occasioned to any person by reason of any misrepresentation, deceptive or misleading act or practice or any unlawful act or omission of any licensed person, agents, or employees, while acting within the scope of their employment, made, committed, or omitted in the business conducted under the license or caused by any violation of the Act and this chapter in carrying on the business for which the license is granted. In case of a breach of the condition of any bond, application may be made to the Director by the person injured by the breach for leave to sue upon the bond, which leave shall be granted by the Director if it is proven to his or her satisfaction that the condition of the bond has been breached and the person has been injured. The person obtaining leave to sue shall be furnished with a certified copy of the bond and shall be authorized to institute suit on the bond in his or her name for the recovery of damages sustained by the breach.

(c) If at any time, in the opinion of the Director, the surety on any bond shall become financially irresponsible, the person holding the license shall, upon notice by registered mail, return receipt requested from the Director,

provide a new bond, subject to the provisions of this section. Failure to provide a new bond within 10 days after such notice shall operate at the direction of the Director automatically as revocation of the registration. The 10 days shall begin to run on the day following the surety's receipt of the notice. However, revocation may be stayed at the discretion of the Director.

(d) If the surety contemplates cancellation of the bond, the surety shall be withdrawn upon 60 days advance written notice by registered mail to the Director, the 60 days shall begin to run on the day following the Director's receipt of the notice. A provision regarding this notice of withdrawal shall appear in the bond.

(e) The bond shall be retained by the Section until 90 days after either the expiration or revocation of the license.

Amended by R.1995 d.190, effective April 3, 1995.  
See: 26 N.J.R. 4316(a), 27 N.J.R. 1430(a).

#### 13:45B-2.4 Records

(a) To effectuate the purposes of the Act, every holder of an employment agency license, as well as every representative authorized by the owner to supervise or conduct the operation of the employment agency, shall keep and maintain, readily available for inspection by the Director or the Director's duly authorized representative for a period of at least two years, the following:

1. All requests for job seekers (job orders) or applications for employment which shall include the name and address of the applicant, the date of application and the following additional information:

i. When the application is for employment, a reasonably accurate description of the types or classes of employment and such other facts as the applicant may wish to record;

ii. On the job order, the information shall include a reasonably accurate description of the job or jobs to be filled, whether the job(s) is temporary or permanent, the address or location at which the work is to be performed, the range of salary and the conditions of employment offered;

iii. Memorializations of applications for employment and/or job orders made by telephone or other oral communication, which shall be kept in writing on standard forms. Copies of these forms shall be filed with the Chief prior to their use by the employment agency. However, the written records of oral job orders may be kept in a book or binder used exclusively for such purpose; and

iv. For the purpose of convenience, there may be recorded on the application forms such additional information as is not in violation of any law of the State of New Jersey;

2. For all advertisements published or disseminated by the employment agency:

i. A record containing complete information as to the date and manner of publication, with the name of the paper, periodical or other media in or through which the advertisement was published or disseminated;

ii. Copies of advertisements published through all media, including such items as letterheads and programs; and

iii. The text of any telemarketed message, the date disseminated, and the approximate number of recipients;

3. A record of fees charged, collected, and refunded, and such accounting record as may be necessary to enable the Section to readily verify the record of fees charged, fees collected, and refunds made;

4. All correspondence concerning references of job seekers including written records of information secured by telephone or other oral communication. In cases where the job seeker applies for a position of trust or work with a family and the employer waives references, written records of such waivers shall be kept available for inspection by the Section; and

5. Copies of all contracts between job seekers or employers and the employment agency.

Amended by R.1995 d.190, effective April 3, 1995.  
See: 26 N.J.R. 4316(a), 27 N.J.R. 1430(a).

#### 13:45B-2.5 Agreements; fee schedules

(a) Agreements between an employment agency and an employer or between an employment agency and a job seeker shall be in writing and shall include, but not be limited to:

i. The employment agency's fee schedule;

ii. The time at which a fee becomes due and owing to the employment agency;

iii. The manner in which the fee is to be paid, by whom, and at what intervals, if not paid in a lump sum; and

iv. The conditions under which a refund or adjustment in fee will be made, and the amount of the refund or adjustment, which may be expressed as a percentage.

(b) All agreements and writings required to complete any transaction between an employment agency and a job seeker shall comply with the Plain Language Act, N.J.S.A. 56:12-1 et seq.

(c) The employment agency shall provide each job seeker with an exact copy of every writing the job seeker has signed, and every document incorporated by reference in the written agreement between the employment agency and the job seeker. The employment agency shall also provide each job seeker with a receipt stating the name of the job seeker, the name and address of the employment agency and its agent, the date and amount of the fee and the purpose for which it was paid.

(d) Upon application for licensure, an employment agency shall file with the Section a copy of the form(s) of contract used or to be used for all agreements between the employment agency and job seekers.

(e) Every employment agency shall file with the Section for the Executive Director's approval, the employment agency's proposed schedule of fees to be charged for any service rendered or product sold to job seekers. The Executive Director, who shall respond within 14 days of receipt, shall not approve the fee schedule unless he or she is satisfied that the fee schedule is in a form which makes the schedule reasonably understandable by job seekers and that the fee schedule is in compliance with all applicable provisions of the Act. The schedule of fees may thereafter be changed or supplemented by filing an amended or supplemental schedule with the Section. The changes shall not become effective until approval has been granted by the Executive Director and the amended or supplemental fee schedule has been posted on agency premises pursuant to N.J.A.C. 13:45B-2.2(c). The agency shall adhere to the schedule in charging for these services or products.

(f) An employment agency shall:

1. Compute fees paid by a job seeker seeking employment on the basis of permanent employment, unless the employment is temporary employment. Where temporary employment merges into permanent employment, or where a job seeker accepts permanent employment within 30 days after the termination of temporary employment, the permanent employment may be considered the result of the references to the temporary position and the fee may be based on the permanent employment with due credit given for the payment made for the temporary employment; and

2. Not accept payment of a fee or attempt to collect any fee from a job seeker for a service rendered or product sold where employment has not been accepted except:

- i. That these requirements shall not apply to any career counseling service if that service receives no prepayment for services or products and provides services or products strictly on an hourly basis, with no financial obligation required of the job seeker beyond the hourly fee for the services or products rendered. However, a career counseling service shall be licensed

as an Employment Agency and shall comply with all other requirements applicable to employment agencies;

- ii. Entertainment agencies which offer placement, directly or indirectly, to a performing artist may accept a fee if they adhere to the provisions of N.J.A.C. 13:45B-6. However, these agencies shall be licensed as an employment agency and shall comply with all other requirements applicable to employment agencies; and

- iii. Employment agencies which offer resume services or products to a job seeker may accept a fee for these services or products if the fee for such a service or product is included on the fee schedule filed with the Section and the fee is not collected prior to the delivery of the product or service;

3. Not charge to a job seeker who obtains employment and who is discharged without cause or who voluntarily terminates employment for just cause more than one percent of the scheduled fee for each day worked. For purposes of this subsection, the employment agency shall repay to any job seeker so discharged or terminated any excess of the maximum fee in accordance with the fee schedule, allowing three days' time to determine that the termination was not due to any fault on the part of the job seeker. The employment agency may, however, by separate written agreement between the employment agency and the job seeker, retain the fee or any part of the fee which has been paid for the job from which the job seeker has been discharged without cause or terminated, if the employment agency furnishes the job seeker with another job and allows due credit for the retained payment;

4. Not charge more than 30 percent of the scheduled fee to a job seeker who either fails to report for duty after accepting employment or voluntarily terminates employment without just cause within 30 days of commencement of employment; and

5. Obtain a bona fide order for employment prior to collecting any fee from a job seeker or sending out a job seeker to any place of employment. Except as may be otherwise provided in this chapter, no advance fee or monetary assessment of any kind shall be charged, demanded, collected, or received by the employment agency from a job seeker seeking employment until employment has been obtained by or through the efforts of the employment agency.

Amended by R.1995 d.190, effective April 3, 1995.  
See: 26 N.J.R. 4316(a), 27 N.J.R. 1430(a).

### 13:45B-2.6 Employment agent's license qualifications

(a) Before being permitted to sit for the written examination as required by the Act and by this chapter, an applicant for an employment agent's license shall submit the following to the Section. All affidavits shall include the address and telephone number of the affiant:

1. Affidavits of the applicant and the holder of the employment agency license by whom the applicant is to be employed, and such other evidence as the Director may reasonably require, indicating that:

- i. The applicant has, for a period of at least one year, been engaged actively, lawfully and reputably in business in the capacity of owner or employee, or in a licensed profession or occupation; and
- ii. The applicant has, for a period of at least six months, been employed in the handling of personnel problems including the securing of help for employers and jobs for employees in the types or classes of occupations for which application is made; and

2. Affidavits attesting to the applicant's good moral character from two New Jersey citizens who have known the applicant for at least one year. If the applicant finds it impossible to submit such affidavits from two New Jersey citizens, the applicant may substitute the following:

- i. Affidavits from two citizens of any state who have known the applicant for at least one year; and
- ii. An affidavit substantiating why it is impossible to obtain affidavits from two New Jersey citizens.

(b) If the holder of an employment agent's license has his or her employment terminated, the licensed agency's owner shall notify the Executive Director within five business days of such termination. Upon such notification, the Executive Director shall cancel the employment agent's license held by that person; the person is nevertheless entitled to a new license for the unexpired term of the old license, upon payment of the transfer fee, if employed elsewhere by a properly-licensed employment agency owner. However, the Director may refuse to issue the new license for good cause consistent with the provisions of the Act.

(c) The holder of an employment agent's license shall be under a continuing obligation to inform the Executive Director of any change in information contained in a license or license application, such as change of address, conviction of a crime, etc.

Amended by R.1995 d.190, effective April 3, 1995.  
See: 26 N.J.R. 4316(a), 27 N.J.R. 1430(a).

### 13:45B-2.7 Employment agent's conditional license qualifications

(a) For the purpose of enabling individuals to secure experience and knowledge to qualify them as an agent, the Director may issue a conditional license authorizing the holder to perform functions requiring a license, when acting under the direct supervision of a duly qualified licensed agent.

(b) Before being granted an agent's conditional license, an applicant shall submit the following to the Section. All affidavits shall include the address and telephone number of the affiant:

1. An affidavit and such other evidence as the Director may reasonably require establishing that the applicant has at least one year of business experience or equivalent education;
2. Two affidavits attesting to the applicant's good moral character, pursuant to the provisions of N.J.A.C. 13:45B-2.6(a)2;
3. Evidence of graduation from a duly recognized high school or a Graduate Equivalency Diploma or successful passage of the written licensing examination;
4. The name, business address and employment agency license number of the licensee who will be supervising the applicant; and
5. The name and license number of the duly licensed agent on premise who will supervise the conditional agent.

(c) The holder of an agent's conditional license shall be under a continuing obligation to inform the Executive Director of any change in information contained in a license or license application, such as change of address, conviction of a crime, etc.

(d) A conditional license remains effective for one year only.

Amended by R.1995 d.190, effective April 3, 1995.  
See: 26 N.J.R. 4316(a), 27 N.J.R. 1430(a).

### 13:45B-2.8 Identification and introductory card

(a) The employment agency shall furnish to each job seeker who is sent to a prospective employer for an interview or for future employment in a job for which no order has been given to the agency, a company card or letterhead containing the name and address of the agency, the names of the job seeker and prospective employer, the address of the prospective employer, and any other particulars the agency may determine are necessary. On every card or letterhead, there shall be printed in bold-faced type the following:

"This card of introduction is given to \_\_\_\_\_ (name of job seeker) with the understanding that there is no obligation to this employment agency for any fee until, as a result of the services rendered by the agency, \_\_\_\_\_ (name of job seeker) is employed in a job with respect to which the agency received a bona fide order from an employer. \_\_\_\_\_ (name of job seeker) has agreed to pay the fee under the foregoing conditions if the fee is not paid by an employer."

(b) The employment agency shall require all job seekers applying for positions of trust or work with private families to furnish the agency with names and addresses of individuals available as character references, and shall communicate, orally or in writing, with at least one of the individuals given by the job seeker as a character reference.

1. If the job seeker has not furnished the name of any individuals available as character references, or if no favorable statement has been received from a character reference, the employment agency shall so advise the prospective employer to whom the job seeker is referred. This information shall be written upon the referral slip given by the employment agency to the job seeker to present to the prospective employer. The written result of the verification to determine the character and responsibility of any job seeker shall be kept on file in the employment agency subject to examination by the Executive Director.

2. If the employer voluntarily waives, in writing, a verification of references, the licensed employment agency shall not be required to make the verification.

Amended by R.1995 d.190, effective April 3, 1995.  
See: 26 N.J.R. 4316(a), 27 N.J.R. 1430(a).

### SUBCHAPTER 3. BUSINESS LOCATIONS

#### 13:45B-3.1 Business locations; special permits

(a) Any building or part thereof in which an employment agency is conducted or operated shall be maintained with due regard to reasonably safeguarding such confidential information as may properly be given to the agency.

(b) An employment agency license, or registration under N.J.S.A. 34:8-65 or 66, shall not authorize activities at any place other than the place designated in the license or registration except upon issuance of a special permit by the Director, as follows:

1. Where an activity is to take place away from the premises designated in the license, application for a special permit shall be made on a form supplied by the Section, which must be received by the Section no later than seven business days before the event.

2. Each separate location shall require a separate special permit.

3. The fee for each special permit shall be \$10.00. A check or money order for that sum shall accompany the application.

4. The special permit shall be prominently displayed in the entrance to the event in a location where it is clearly visible to all patrons.

(c) An employment agency, or any licensed or registered person, shall not conduct business or any phase thereof, in any room or place where:

1. An individual sleeps or conducts his or her household affairs, unless the business premises have separate ingress and egress from the residential premises; this provision shall not apply to persons who do not have any personal contact with either job seekers or prospective employers on their business premises; or

2. Premises which are rented or leased on an hourly, daily, weekly, or other transient basis unless approved by special permit, as set forth in (b) above; this provision shall not apply to consulting firms.

(d) The following shall apply to entertainment showcases:

1. A special permit is required when the services of any performing artist are offered to the public at a specific time and location, such being known as an entertainment showcase, if the services are being offered by a person who will be accepting a fee, commission or charge when the performer books an engagement with an employer. (Only licensed booking agencies may offer this service). The permit is required whether performers appear in person or their services are offered by electronic means.

2. If services are offered by electronic means for a prospective employer in the home of the prospective employer, a special permit is not required. However, at the beginning of any electronic presentation, the name, address and license number of the entertainment agency and the name and address of this Section shall be displayed on an electronic screen for a minimum period of 20 seconds or, if any other type of electronic presentation is given, the above information shall be supplied in written form.

Amended by R.1995 d.190, effective April 3, 1995.  
See: 26 N.J.R. 4316(a), 27 N.J.R. 1430(a).

### SUBCHAPTER 4. EXAMINATIONS AND VARIOUS CLASSIFICATIONS OF EMPLOYMENT AND PERSONNEL SERVICES

#### 13:45B-4.1 Examination subjects

(a) Each applicant for an employment agent's license shall, in the manner and at the time and place designated by the Executive Director, answer written questions concerning the following:

1. The provisions of the Act;
2. This chapter; and

3. The applicant's knowledge of and experience in the fields of employment specified in the application.

Amended by R.1995 d.190, effective April 3, 1995.  
See: 26 N.J.R. 4316(a), 27 N.J.R. 1430(a).

#### 13:45B-4.2 "Aeronautical" classification

Applicants for an employment agent's license who include "aeronautical" in the type or class of occupation in which they intend to furnish help or employment shall furnish to the Executive Director a written statement from the Division of Aeronautics in the State Department of Transportation certifying to the Executive Director that, in the opinion of the Division of Aeronautics, the applicant has sufficient knowledge of the types of licenses required by persons to be legally engaged in the operation, maintenance or repair of aircraft.

Amended by R.1995 d.190, effective April 3, 1995.  
See: 26 N.J.R. 4316(a), 27 N.J.R. 1430(a).

#### 13:45B-4.3 (Reserved)

Repealed by R.1995 d.190, effective April 3, 1995.  
See: 26 N.J.R. 4316(a), 27 N.J.R. 1430(a).

Formerly "Nursing registry" and 'nursing' and/or 'health care services' classification".

#### 13:45B-4.4 (Reserved)

#### 13:45B-4.5 "Career counseling" classification

(a) An applicant for an employment agent's license who designates their field of employment as "career counseling" as a type or class of services which they intend to provide are persons other than those required to be registered pursuant to N.J.A.C. 13:45B-9.1 (that is, consulting firms, career consulting or outplacement organizations, and pre-paid computer job matching or job listing services) and who provides or offers to provide the following services for a fee charged to the job seeker shall be classified as a career counseling agent:

1. Vocational guidance;
2. Aptitude, achievement or vocational testing beyond measurement of single skills, such as typing;
3. Career counseling, management, evaluation or planning;
4. Development of resumes and other promotional materials relating to the preparation for employment;
5. Referral services relating to employment or employment qualifications; or
6. Executive or personnel consulting.

(b) To be classified as a career counseling agent, an applicant shall:

1. Hold a graduate degree in counseling or in a related professional field which will ensure adequate and efficient service to clients;

2. Have at least one year of career counseling experience under the supervision of a certified or licensed career counselor; and

3. Pass the career counseling examination administered by the Section.

(c) A career counseling agent shall comply with all requirements applicable to holders of an employment agent's license.

Amended by R.1995 d.190, effective April 3, 1995.  
See: 26 N.J.R. 4316(a), 27 N.J.R. 1430(a).

#### 13:45B-4.6 Temporary placement operation (functioning in conjunction with an employment agency and integrated)

(a) For purposes of this section, "temporary placement operation" means an operation integrated with a licensed employment agency that assigns job seekers to assist the agency's customers in handling temporary, excess, or special work loads, for a fee paid by the job seeker or the customer. A "temporary placement operation" differs from a temporary help service firm in that neither the temporary placement operation nor the employment agency with which it is integrated does any of the following things:

1. Pays a wage or salary to the employed individual;
2. Pays or is required to pay Federal social security taxes and State and Federal unemployment insurance;
3. Is required to carry workers' compensation insurance covering the employed individual; or
4. Sustains responsibility for the actions of the employed individuals while they render services to the agency's customers.

(b) If a licensed employment agency provides temporary placement services as described in (a) above, the temporary placement operation function shall be subject to the requirements of N.J.S.A. 34:8-43 et seq. and N.J.A.C. 13:45B-1 through 4 and 7, 8, 12 and 13, as well as this section.

(c) Employment agencies may integrate the permanent placement and temporary placement operations, provided that:

1. In addition to the fee schedule for permanent placements, employment agencies shall submit a fee schedule for temporary placements;
2. An employment agency shall charge the employer or the job seeker a fee based on the fee schedule the agency has submitted to the Section;
3. All personnel acting as representatives for an employment agency, who are soliciting business, furnishing help or employment, or furnishing information as to where help or employment may be obtained, or who manage, operate or carry on the business of an employment agency are required to be licensed;

4. An employment agency is not permitted to conduct business at an unlicensed location, unless the agency holds a special permit for an activity, pursuant to N.J.A.C. 13:45B-3.1(b) and pays a fee of \$10.00 as set forth in N.J.A.C. 13:45B-7.1; and

5. Job seekers are clearly informed in writing that a particular position is temporary or permanent.

Amended by R.1995 d.190, effective April 3, 1995.  
See: 26 N.J.R. 4316(a), 27 N.J.R. 1430(a).

#### **13:45B-4.7 Employment agency providing temporary help**

An employment agency providing temporary help shall comply with all requirements in this chapter that apply to employment agencies. All personnel acting as representatives for an employment agency, who are soliciting business, furnishing help or employment, or furnishing information as to where help or employment may be obtained, or who manage, operate or carry on the business of an employment agency are required to be licensed.

Amended by R.1995 d.190, effective April 3, 1995.  
See: 26 N.J.R. 4316(a), 27 N.J.R. 1430(a).

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### SUBCHAPTER 5. (RESERVED)

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### SUBCHAPTER 6. ENTERTAINMENT AGENCIES

#### **13:45B-6.1 Purpose and scope**

(a) The rules contained in this subchapter implement the Bureau of Employment and Personnel Services Act, N.J.S.A. 34:8-43 et seq., and supplement rules in this chapter that govern the operation of entertainment agencies and agents, under which booking agencies and employment agencies and agents who procure, obtain, offer, promises or attempts to procure or obtain employment or engagements for actors, actresses, performing artists, vocalists, musicians or models in this State.

(b) This subchapter shall apply to all persons, as defined in N.J.A.C. 13:45B-1.2, operating entertainment agencies located in New Jersey, or agencies wherever located that place performing artists in temporary or permanent positions located in New Jersey, or that engage in single or repeated acts of solicitation to employees or job seekers resident in New Jersey, whether by mail, newspaper, magazine, telephone, sales/TV, radio/TV, poster, billboard, or any other media, or in person.

#### **13:45B-6.2 Definitions**

For the purposes of this subchapter, the following words and terms shall have the following meanings, unless the context clearly indicates otherwise:

“Booking agency” means any person which procures, offers, promises or attempts to procure employment for performing artists or athletes not under the jurisdiction of the Athletic Control Board and which collects a fee for providing such employment; a booking agency is licensed as an employment agency.

“Booking agent” means any person, as defined in N.J.S.A. 56:8-1(d), who performs any solicitation or recruiting function for or on behalf of any booking agency; a booking agent is licensed as an employment agent.

“Entertainment” agency means a booking agency or an employment agency which procures, obtains, offers, promises or attempts to procure or obtain employment or engagements for actors, actresses, performing artists, vocalists, musicians or models.

“Performing artists” means musical, theatrical, vaudeville, film, television, or radio performers, as well as models, whether employed or engaged individually or as a group, and athletes not under the jurisdiction of the Athletic Control Board.

#### **13:45B-6.3 Entertainment agency licenses; posting**

(a) In every entertainment agency operated and conducted under the Act and this chapter, the license under which the entertainment agency is conducted and operated shall be displayed in a prominent place where it may be easily seen and read by all persons visiting the entertainment agency.

(b) Each person required to have an agent’s license shall display such license in such place and manner as to make it readily visible and legible by persons doing business with such licensee.

(c) There shall be posted in each entertainment agency the agency’s schedule of fees, as well as a certified abstract of the Act and this chapter. Such posting shall be in a manner and place as to be readily visible and legible by persons doing business with the agency. The entertainment agency shall also have full copies of the Act and this chapter available for any job seeker’s or employer’s review. The certified abstract shall be available from the Bureau for a fee of \$5.00.

#### **13:45B-6.4 Entertainment agency contracts**

(a) Each performing artist shall be supplied with a copy of any contract with the entertainment agency signed by the artist.

(b) Each entertainment agency shall file a copy of the form(s) of any contract used or to be used by the agency with the Regulated Business Section of the Office of Consumer Protection, 124 Halsey Street, P.O. Box 45028, Newark, New Jersey 07102.

(c) Copies of all executed contracts between the entertainment agency and performing artists shall be maintained by the agency in a form suitable for inspection by the Section. These copies shall be made available for inspection by representatives of the Section.

(d) If the entertainment agent's contract with the performing artist includes products, such as, but not limited to, photographs or a photographic publication, the contract shall state the exact quantity, quality, and cost of the item(s) to be supplied, and the date of delivery or publication.

(e) If date of delivery or publication is more than 60 days following the date of the contract, no more than one-third of any fee, charge or commission shall be collected by the licensed entertainment agency for its products prior to delivery.

(f) If the entertainment agency fails to deliver products or services by the date of delivery as specified in the contract, the job seeker is entitled to a full refund of monies paid for the promised service and/or product. The job seeker may waive the right to a refund by acknowledging and waiving the right in writing.

Amended by R.1995 d.190, effective April 3, 1995.  
See: 26 N.J.R. 4316(a), 27 N.J.R. 1430(a).

**13:45B-6.5 Entertainment agency advertising**

(a) All advertisements shall contain the name, address as it appears on the license, and license number of the entertainment agency.

(b) Copies of all entertainment agency advertisements shall be maintained by the agency for two years following publication or dissemination in a form suitable for inspection by the Division, and made available for inspection by representative of the Division.

(c) While performing the functions of an entertainment agent, a booking agent shall carry and provide to job seekers and employers a business card containing his or her license number.

**13:45B-6.6 Information required**

(a) Information required by N.J.S.A. 34:8-43 et seq. and this subchapter shall be provided to the Regulated Business Section, Office of Consumer Protection, 124 Halsey Street, Newark, New Jersey 07102 (Mailing address: P.O. Box 45028, Newark, New Jersey 07101) on January 1 of each year. Where the entertainment agency begins operation after January 1, the information required by N.J.S.A. 34:8-43 et seq. and this subchapter shall be provided with the agency's application. Application forms shall be supplied by the Section.

(b) Completed forms shall be accompanied by the fee required under N.J.S.A. 34:8-50 and the bond required pursuant to N.J.S.A. 34:8-49.

Amended by R.1995 d.190, effective April 3, 1995.  
See: 26 N.J.R. 4316(a), 27 N.J.R. 1430(a).

**SUBCHAPTER 7. FEES AND EXPIRATION DATES**

**13:45B-7.1 Fee schedule**

The following fees shall be charged by the Office of Consumer Protection, Regulated Business Section:

Employment agency annual license .....	\$250.00
Consulting firm annual registration .....	\$250.00
Career consulting or outplacement firm annual registration .....	\$250.00
Health care service firm annual registration, each primary location .....	\$500.00
Job listing service and registration .....	\$250.00
Prepaid computer job matching service annual registration .....	\$250.00
Temporary help service firm annual registration, primary location .....	\$250.00
Temporary help service firm, permit for operation of each other location .....	\$10.00
Agent's annual license .....	\$25.00
Agent's conditional license .....	\$25.00
Transfer of agent's license .....	\$10.00
Agent-registrants .....	\$25.00
Fee for abstract of law .....	\$5.00
Examination fee .....	\$25.00
Late fee for renewals .....	\$25.00
Special (off-premises) permit .....	\$10.00

Amended by R.1995 d.190, effective April 3, 1995.  
See: 26 N.J.R. 4316(a), 27 N.J.R. 1430(a).

**13:45B-7.2 License and registration expiration**

(a) All licenses shall expire on January 1 of the year following their issuance.

(b) All registrations shall expire on July 1 of each year.

**SUBCHAPTER 8. OUT-OF-STATE BUSINESSES**

**13:45B-8.1 Application**

All provisions of N.J.A.C. 13:45B-1 through N.J.A.C. 13:45B-13 shall apply to any person engaging in any of the activities regulated by N.J.S.A. 34:8-43 et seq. in New Jersey including persons whose residence or principal place of business is located outside of this State.

**13:45B-8.2 Registered agent**

Each out-of-State holder of a New Jersey employment agency license, or out-of-State entity required to be registered under the Act, shall register with the Executive Director the name and address of a New Jersey agent for service of process and other matters.

Amended by R.1995 d.190, effective April 3, 1995.  
See: 26 N.J.R. 4316(a), 27 N.J.R. 1430(a).

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**SUBCHAPTER 9. (RESERVED)**


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**SUBCHAPTER 10. REGISTRATION FOR CAREER  
CONSULTING OR OUTPLACEMENT  
ORGANIZATIONS**
**13:45B-10.1 Registration process**

(a) The following entities are required to be registered with the Regulated Business Section of the Office of Consumer Protection in order to operate within New Jersey:

1. Career consulting or outplacement organizations, as defined in N.J.A.C. 13:45B-1.2, and every agent authorized and empowered by the owner of the registered organization to solicit business or otherwise act as an agent of the organization.

(b) An application for registration and an abstract of the law covering statutory requirements for the operation in New Jersey of registered services, shall be supplied by the Section upon request.

(c) The application form shall include, but not be limited to:

1. The name and business address of each primary location of the registered service and any fictitious or trade name used;

2. The category of registered service and the types of products and employment and personnel services it will offer;

3. The names and home addresses of the principal owners or officers of the service; and

4. A disclosure statement covering conviction of crime as set forth in N.J.S.A. 34:8-44, if any, of any principal owner or officer or any agent of the service.

(d) Upon application for registration, a prospective registrant shall file with the Section a copy of the form(s) of contract used or to be used by the registrant in providing services to job seekers.

(e) Registrants shall be under a continuing obligation to inform the Section of any change or addition in the application information, such as change of address or conviction of a crime, within 30 days of that change or addition.

(f) The registration fee as set forth in N.J.A.C. 13:45B-7.1 shall be due on July 1, 1991, and annually thereafter.

(g) Upon initial registration with the Section and annually thereafter, every career consultant or outplacement organization and every prepaid computer job matching or listing service shall deposit with the Director an original bond in the sum of \$10,000 with a duly authorized surety company as surety, to be approved by the Director. The bond shall be payable to the State of New Jersey and shall provide that the person applying for registration will comply with the Act and this chapter and will pay all damages occasioned to any person by reason of any misrepresentation, deceptive or misleading act or practice or any unlawful act or omission of any licensed or registered person, agents, or employees, while acting within the scope of their employment, made, committed or omitted in the business conducted under the license or registration or caused by any violation of this act in carrying on the business for which the license or registration is granted. In case of a breach of the condition of any bond, application may be made to the Director by the person injured by the breach for leave to sue upon the bond, which leave shall be granted by the Director if it is proven to his or her satisfaction that the condition of the bond has been breached and the person has been injured. The person obtaining leave to sue shall be furnished with a certified copy of the bond and shall be authorized to institute suit on the bond in their name for the recovery of damages sustained by the breach.

1. If at any time, in the opinion of the Director, the surety on any bond shall become fiscally irresponsible, the person holding the license or registration shall, upon notice from the Director, by registered mail, return receipt requested, provide a new bond, subject to the provisions of this section. The failure to provide a new bond within 10 days after such notice shall, at the direction of the Director, operate as revocation of the registration. The 10 days shall begin to run on the day following the surety's receipt of the notice. However, revocation may be stayed at the discretion of the Director.

2. If the surety contemplates cancellation of the bond, the surety shall be withdrawn upon 60 days advance written notice by registered mail to the Director. The 60 days shall begin to run from the day following the Director's receipt of the notice. A provision regarding this notice of withdrawal shall appear in the bond.

3. The bond shall be retained by the Section until 90 days after either the expiration or revocation of the registration, as appropriate.

(h) The requirements of this section shall not apply to any person that receives no prepayment for services or products from a job seeker and that:

1. Provides services or products strictly on an hourly basis, with no financial obligation required of the job seeker beyond the hourly fee for services or products rendered; or
2. Provides outplacement services exclusively as part of a job seeker's benefit or severance package with a current or former employer.

Amended by R.1995 d. 190, effective April 3, 1995.  
See: 26 N.J.R. 4316(a), 27 N.J.R. 1430(a).

(e) Registrants shall be under a continuing obligation to inform the Section of any change or addition in the application information, such as change of address or conviction of a crime, within 30 days of that change or addition.

(f) The registration fee as set forth in N.J.A.C. 13:45B-7.1 shall be due on July 1, 1991, and annually thereafter.

(g) Upon initial registration with the Section and annually thereafter, every prepaid computer job matching or listing service shall deposit with the Director an original bond in the sum of \$10,000 and shall be subject to all bonding requirements set forth in N.J.A.C. 13:45B-10.1(g).

Amended by R.1995 d. 190, effective April 3, 1995.  
See: 26 N.J.R. 4316(a), 27 N.J.R. 1430(a).

## SUBCHAPTER 11. PREPAID COMPUTER JOB MATCHING OR JOB LISTING SERVICES

### 13:45B-11.1 Registration process

(a) The following entities are required to be registered with the Section in order to operate within New Jersey:

1. Prepaid computer job matching or job listing services, as defined in N.J.A.C. 13:45B-1.2, and every agent authorized and empowered by the owner of the registered organization to solicit business or otherwise act as an agent of the organization.

(b) An application for registration and an abstract of the law, covering statutory requirements for the operation in New Jersey of registered services, shall be supplied by the Section upon request.

(c) The application form shall include, but not be limited to:

1. The name and business address of each primary location of the registered service and any fictitious or trade name used;
2. The category of registered service and the types of products and employment and personnel services it will offer;
3. The names and home addresses of the principal owners or officers of the service; and
4. A disclosure statement covering conviction of crime as set forth in N.J.S.A. 34:8-44, if any, of any principal owner or officer or any agent of the service.

(d) Upon application for registration, a prospective registrant shall file with the Section a copy of the form(s) of contract used or to be used by the registrant in providing services to job seekers.

## SUBCHAPTER 12. ADVERTISING AND SOLICITATIONS

### 13:45B-12.1 Advertisements and solicitations

(a) All advertisements offering employment or personnel services or products shall include the advertiser's business name and address as they appear on the license or registration form of the licensed or registered firm. Advertisements for positions within the licensed or registered firm shall also include the advertiser's business name and address as they appear on the license or registration form of the firm.

(b) No person shall misrepresent the identity of an individual or the identity of a company in an advertisement or in a personal, telephoned, telecopied, or mailed solicitation. All advertising and solicitations by any person must disclose the name of the company offering the employment services or products.

(c) Newspaper advertising pertaining to services offered or provided in this State by career consulting or outplacement organizations appearing within or adjacent to help-wanted advertising shall contain the phrase "not an employment agency" in a clear, conspicuous, prominent manner, and in no less than 10-point bold-face type, except that a classified advertisement shall contain the phrase in type no smaller than its text, and in all capital letters.

(d) Any advertising or solicitation for a booking agency shall contain the name, address, and license number of the booking agency.

(e) Copies of all advertisements and solicitations shall be maintained by the licensed or registered firm or entertainment agency in a form suitable for inspection and shall be made available for inspection by the Section for two years following publication or dissemination.

(f) A record of all advertisements and solicitations with date and place of publication or dissemination, including identification of media used, shall be maintained in a form suitable for inspection and made available upon request of representatives of the Section for two years following publication or dissemination.

(g) This section shall not apply to temporary help service firms or consulting firms, as defined in N.J.A.C. 13:45B-1.2.

Amended by R.1995 d. 190, effective April 3, 1995.  
See: 26 N.J.R. 4316(a), 27 N.J.R. 1430(a).

## SUBCHAPTER 13. VIOLATIONS

### 13:45B-13.1 Violations

(a) A violation of any applicable provision of this chapter by a licensee shall be deemed to be a violation of the Bureau of Employment and Personnel Services Act, N.J.S.A. 34:8-43 et seq. and, if applicable, the Consumer Fraud Act, N.J.S.A. 56:8-1 et seq. and shall be subject to the penalties and sanctions provided for thereunder.

(b) A violation of any applicable provision of this chapter by a registrant or its agent shall be deemed to be a violation of the Bureau of Employment and Personnel Service Act, N.J.S.A. 34:8-43 et seq. and if applicable, the Consumer Fraud Act, N.J.S.A. 56:8-1 et seq. and shall be subject to the penalties and sanctions provided for thereunder.

(c) Nothing in this chapter shall be interpreted to prohibit prosecution of any practices by a licensee or registrant which may be unlawful under any other State or Federal law.

(d) N.J.S.A. 34:8-52f is applicable to those firms which charge fees to job seekers, not potential employers.

(e) Nothing in the Employment and Personnel Services Act or this chapter shall be construed to prevent qualified members of other professional groups such as members of the clergy, authorized practitioners, school guidance counselors, or psychologists from providing career counseling services consistent with the accepted standards of their respective professions, provided, however, that they do not hold themselves out to the public by any title or description stating or implying that they are career counselors or are licensed to practice career counseling.

(f) The Director may refuse to issue, and may revoke, any license or registration for failure to comply with, or violation of, the provisions of the Act and this chapter or for any other good cause shown, within the meaning and purpose of the Act and this chapter. A refusal or revocation shall not be made except upon reasonable notice to, and opportunity to be heard by the applicant or licensee or registrant. The

Director may, if he or she finds it to be in the public interest, suspend a license or registration for any period of time that he or she determines to be proper or assess a penalty in lieu of suspension, or both, and may issue a new license or registration, notwithstanding the revocation of a prior license or registration, provided that he or she finds the application to have become entitled to the new license or registration.

(g) To accomplish the objectives and carry out the duties prescribed by the Act, and this chapter the Director may issue subpoenas to any person, administer an oath or affirmation to any person, conduct hearings in aid of investigation or inquiry, promulgate rules and regulations, and prescribe forms as may be necessary.

(h) Whenever it appears to the Director that a person has engaged in, is engaging in, or is about to engage in, any practice declared to be unlawful by the Act and this chapter, or whenever the Director believes it to be in the public interest that an investigation should be made to ascertain whether a person has engaged in, is engaging in, or is about to engage in, any unlawful practice, the Director may:

1. Require the person to file, on forms prescribed by the Director, a written statement or report, under oath or otherwise, concerning the facts and circumstances regarding the practice which is under investigation;

2. Examine under oath any person in connection with the practice under investigation;

3. Examine any record, book, document, account, contract, or paper as he or she deems necessary; and

4. Pursuant to an order of the Superior Court, impound any record, book, document, account, contract, or paper that is produced in accordance with the Act and this chapter, and retain it until the completion of all proceedings in connection with the materials produced.

(i) Service by the Director of any notice requiring a person to file a statement or report, or of any subpoena upon the person, shall be made personally within this State, but if this cannot be done, substituted service may be made in the following manner;

1. Personal service outside this State;

2. The mailing by registered or certified mail to the last known place of business or residence inside or outside the State of the person;

3. As to any person other than an individual, in accordance with the Rules Governing the Courts of the State of New Jersey pertaining to service of process, provided, however, that service shall be made by the Director; or

4. Any service as the Superior Court may direct in lieu of personal service within the State.

(j) If a person fails or refuses to file any statement or report requested by the Director, or obey any subpoena issued by the Director, the Director may seek and obtain an order from the Superior Court:

1. Adjudging the person in contempt of court;
2. Granting injunctive relief, without notice, restraining any and all acts and practices for which a license is required in the provisions of the Act and this chapter;
3. Directing the payment of reasonable attorneys' fees and costs of the investigation and suit; and
4. Granting any other relief as may be required, until the person files the statement or report, or obeys the subpoena.

(k) Whenever it appears to the Director that a person has engaged in, is engaging in, or is about to engage in, any practice which is a violation of the provisions of the Act and this chapter, the Director may seek and obtain in a summary action in the Superior Court an injunction prohibiting the person from continuing the practices or engaging therein or doing any acts in furtherance thereof.

1. In addition to any other remedy, the court may: enjoin an individual from managing or owning any business organization within this State, and from serving as an officer, director, trustee, member of any executive board of similar governing body, principal, manager, stockholder owning 10 percent or more of the aggregate outstanding capital stock of all classes of any corporation doing business in this State; vacate or annul the character of a corporation created by or under the laws of this State; revoke the certificate of authority to do business in this State of a foreign corporation; and revoke any licenses issued pursuant to law to the person of any unlawful practices, or which may be necessary to restore to any person in interest any moneys or property, real or personal, which may have been acquired by means of any practices declared to be unlawful.

(l) Whenever it appears to the Director that a person has engaged in, is engaging in, or is about to engage in, any practice which is a violation of the Act and this chapter, the Director may hold hearings on the violation and upon finding the violation to have been committed, may enter an order:

1. Directing the person to cease and desist or refrain from committing the practice in the future;
2. Directing the person to restore any person in interest any moneys or property, real or personal, which may have been acquired by means of any unlawful practice;
3. Assessing reasonable attorneys' fees and costs of investigation and suit; and

4. Directing the person to reimburse the job seeker for transportation expenses if no employment of the kind applied for exists at the place to which the job seeker is sent and the person did not have a bona fide order, either oral or written, from the prospective employer.

(m) Whenever it appears to the Director that a person against whom a cease and desist order has been entered has violated the order, the Director may bring a summary proceeding in the Superior Court based upon the violation. A person found to have violated a cease and desist order shall be liable for civil penalties in the amount of not less than \$1,000 or more than \$25,000 for each violation of the order, together with reasonable attorneys' fees and cost of investigation and suit. If any person fails to pay a civil penalty imposed by the court for violation of a cease and desist order, the court imposing the penalty is authorized, upon application of the Director, to grant any relief which may be obtained under any statute or court rule governing the collection and enforcement of penalties.

(n) In addition to any other penalty provided by law, a person which violates any of the provisions of the Act or this chapter shall be liable for a penalty of not more than \$2,000 for the first offense and not more than \$5,000 for the second and each subsequent offense.

(o) In any action or proceeding brought under the Act or this chapter the Director may recover reasonable attorneys' fees and costs of investigation and suit.

(p) Upon the failure of a person to comply within 10 days after service of any order of the Director directing payment of penalties, costs, attorneys' fees, reimbursement, or restoration of moneys or property, the Director may issue a certificate to the Clerk of the Superior Court that the person is indebted to the State for these payments. A copy of the certificate shall be served upon the person against whom the order was entered. The clerk shall immediately enter upon his record of docketed judgments the name of the person so indebted, a designation of the statutes under which the payments are imposed, the amount of each payment imposed, and a listing of property ordered restored, and the date of the certification. The entry shall have the same force and effect as the entry to the docketed judgment in the Superior Court. The entry, however, shall be without prejudice to the right of appeal to the Appellate Division of the Superior Court from the final order of the Director.

#### **13:45B-13.2 Standards for issuance and renewal of licenses and registrations**

(a) No license or registration required by the provisions of the Act shall be issued until it has been established to the satisfaction of the Director that all of the provisions of the Act and this chapter relative to the issuance of such license or registration have been fully complied with.

(b) Prior to any suspension, revocation or refusal to renew a license or registration, the licensee or registrant shall have the right to request a hearing which shall be conducted pursuant to the Administrative Procedure Rules, N.J.A.C. 1:1.

## SUBCHAPTER 14. HEALTH CARE SERVICE FIRMS

### Authority

N.J.S.A. 34:8-54 and 56:8-1 et seq.

### Source and Effective Date

R.1995 d. 190, effective April 3, 1995.  
See: 26 N.J.R. 4316(a), 27 N.J.R. 1430(a).

### 13:45B-14.1 Authority, purpose and scope

(a) The authority for this subchapter is derived from N.J.S.A. 34:8-43 under the definition of "employment agency."

(b) Firms providing health care services are licensed and/or registered under several categories pursuant to the Consumer Fraud Act, N.J.S.A. 56:8-1 et seq., and the Employment and Personnel Services Act, N.J.S.A. 34:8-43 et seq. In order to consolidate these firms into an appropriate category and subject all firms operating in a similar manner to uniform regulation, the Director is hereby identifying a new class of licensure: "health care service firm."

(c) This subchapter applies to all persons operating a health care service firm, as defined by N.J.A.C. 13:45B-14.2, including persons whose residence or principal place of business is located outside of this State.

### 13:45B-14.2 Definitions

As used in this subchapter, the following terms shall have the following meanings unless the context clearly indicates otherwise:

"Health care service firm" means any person who operates a firm that employs individuals directly or indirectly for the purpose of assigning the employed individuals to provide health care services either directly in the home or at a caregiving facility, and who, in addition to paying wages or salaries to the employed individuals while on assignment, pays or is required to pay Federal social security taxes and State and Federal unemployment insurance; carries or is required to carry worker's compensation insurance; and sustains responsibility for the action of the employed individuals while they render health care services.

"Health care services" means:

1. Any services rendered for the purpose of maintaining or restoring an individual's physical or mental health; or
2. Any health related services for which licensure is required as a pre-condition to the rendering of such services.

### 13:45B-14.3 Initial registration requirements

(a) Except as set forth in N.J.A.C. 13:45B-14.4, each health care service firm shall register with the Division by submitting the following, on forms provided by the Director:

1. A registration form which shall include the following information:
  - i. The name of the health care service firm and any fictitious or trade name used in its operation;
  - ii. Each primary location including street and street number of the building(s) and place(s) where its business is to be conducted;
  - iii. The name and residence address of each officer, director, and principal;
  - iv. The name, residence and business street address, and business telephone number of each person with an ownership interest of 10 percent or more in the agency and the percentage of ownership held; and
  - v. The name, residence and business street address and business telephone number of each person who is a managing agent of the agency; or, if the managing agent is a corporation, association or other company, its name, street address and telephone number and the names and addresses of its officers and directors;

2. A certification of each officer, director, principal or owner setting forth whether he or she has ever been convicted of a crime as set forth in N.J.S.A. 34:8-44; and

3. A bond of \$10,000 to secure compliance with P.L. 1989, c. 331 (N.J.S.A. 34:8-43 et seq.). The Director may waive the bond requirement for any corporation or entity having a net worth of \$100,000 or more. In order to obtain a waiver, the health care service firm shall provide a copy of a certified financial report prepared by a certified public accountant or licensed accountant establishing a net worth of \$100,000 or greater.

(b) A health care service firm shall provide the information set forth in (a)iv and v above prior to any change in ownership or management.

(c) If any information required to be included on the application changes, the health care service firm shall provide that information to the Section, in writing, within 30 calendar days of the change.

(d) In the event an officer, director, principal or owner is convicted of a crime subsequent to filing the affidavit required by (a) above, the health care service firm shall obtain

a new affidavit from that individual and shall file the affidavit with the Section within 30 days of the conviction.

**13:45B-14.4 Firms registered prior to April 3, 1995 and meeting the definition of health care service firm**

(a) A firm registered prior to April 3, 1995 and meeting the definition of a health care service firm shall not be required to comply with the initial registration requirements of N.J.A.C. 13:45B-14.3(a)1 and 2. Such entity shall, however, comply with the provisions of N.J.A.C. 13:45B-14.3(a)3 by ensuring that it has filed a \$10,000 bond with the Director, unless the Director has waived the bond requirement for the reasons set forth therein.

(b) The firm shall return the old certificate of registration to the Division by May 3, 1995. The Division will issue a new certificate within 15 days after receipt of the old certificate.

**13:45B-14.5 Registration renewal**

(a) A health care service firm shall renew registration on or prior to July 1 of each year by submitting the following, on forms provided by the Director.

1. A renewal application which shall provide the information set forth in N.J.A.C. 13:45B-14.3(a)1 above: a certification that no new principals or owners have been added since the previous renewal; and a list of primary locations.

2. A \$10,000 bond, unless the health care service firm has a perpetual bond or the Director has waived the bond requirement for the reasons set forth in N.J.A.C. 13:45B-14.3(a)3.

**13:45B-14.6 Prohibited acts**

(a) A health care service firm shall not:

1. Provide or offer to provide health care services without first obtaining a registration;

2. Charge a fee or a liquidated damage charge to any individual employed by the health care service or in connection with employment by the firm. If a fee or liquidated damage charge is imposed, the health care service firm shall obtain a license as an employment agency pursuant to N.J.A.C. 13:45B-2;

3. Prevent or inhibit, by contract, any of the individuals it employs from becoming employed by any other person. If the health care service firm charges an individual pursuant to such contract a fee when the individual becomes employed by any other person, the health care service firm shall obtain a license as an employment agency pursuant to N.J.A.C. 13:45B-2; or

4. Knowingly send individuals it employs to, or knowingly continue to render services to, any health care facility not under the jurisdiction of the National Labor Relations Board where a strike or lockout is in progress, for the purpose of replacing individuals who are striking or who are locked out.

**SUBCHAPTER 15. PLACEMENT OF HEALTH CARE PRACTITIONERS**

**Authority**

N.J.S.A. 34:8-54 and 56:8-1 et seq.

**Source and Effective Date**

R.1995 d.190, effective April 3, 1995.  
See: 26 N.J.R. 4316(a), 27 N.J.R. 1430(a).

**13:45B-15.1 Definitions**

As used in this subchapter, the following terms shall have the following meanings unless the context clearly indicates otherwise:

“Agency” means a health care service firm as defined in N.J.A.C. 13:45B-14.2 or an employment agency licensed pursuant to N.J.S.A. 34:8-47 and 48 and operating as a nurses’ registry. Agency also means any holder of an employment agency license who places or employs a health care practitioner.

“Health care practitioner” means an individual placed or employed by an agency for the purpose of rendering health care services; as defined in N.J.A.C. 13:45B-14.2, to an individual. Health care practitioner shall include, but not be limited to, an acupuncturist, athletic trainer, chiropractor, dentist, marriage counsellor, optometrist, orthotist, prosthetist, pharmacist, physician assistant, physician or surgeon, physical, occupational or speech therapist, podiatrist, psychologist, registered nurse, licensed practical nurse, nurse practitioner, a home health aide, or a nurse’s aide, respiratory therapist or social worker. The term shall also include an individual placed by an agency for the purpose of rendering health care services where a license under State law is not required.

“Health care practitioner supervisor” means a New Jersey licensed physician, or a registered nurse in good standing holding at least a Bachelor of Science degree, with a major in nursing and at least two years of full time or full time equivalent experience as a registered professional nurse within the five year period immediately preceding employment with an agency. One year of said experience shall have been in community health, public health or home care.

“Home care setting” means the personal residence of a patient receiving services of a health care practitioner.

“Licensed” means holding any certification, registration or license required by law as a precondition to the practice of a regulated profession or occupation.

### 13:45B-15.2 Application form; minimum information required

(a) An agency shall create an application form for each applicant seeking placement or employment by or through the agency. The application form shall require the following minimum information:

1. The applicant’s name, address and telephone number;
2. The applicant’s Social Security Number;
3. The type of license held (R.N., L.P.N., H.H.A., N.A.);
4. The license-issuing authority or board;
5. The license number;
6. The license expiration date;
7. The names and addresses of all institutions, patients and agencies worked for within the one year period preceding the date of application, a statement of reasons for leaving each employer and the name(s) of all supervisors having knowledge of the applicant’s performance at each location. If the applicant has been employed by more than five employers within the stated one year period, the applicant shall be required to disclose only the five employers immediately preceding the date of application;
8. Areas of actual working experience and period of time during which experience was acquired (for example, I.C.U.—one year, med surg—one year, private residence—one year);
9. The applicant’s education (diplomas/degrees held);
10. The applicant’s malpractice insurance carrier (name and address), where applicable; and
11. The applicant’s malpractice insurance policy number, where applicable.

(c) An application form shall contain the following duly executed authorization:

I, \_\_\_ (Applicant) \_\_\_, hereby authorize \_\_\_ (agency) \_\_\_ to request and receive from all prior employers within one year of the date of this application, any and all pertinent information concerning my prior employment and its termination, including the reasons for such termination.

### 13:45B-15.3 General duties

(a) An agency shall comply with accepted professional standards and principles that apply to furnishing services to be provided by health care practitioners.

(b) An agency shall comply with all Federal, State and local laws and shall not direct, request, condone or aid or abet any health care practitioner in the performance of an unlawful act.

(c) An agency shall employ not less than one health care practitioner supervisor who shall be licensed as an employment agent, provided, however, that a health care service firm may employ a health care practitioner supervisor who need not be licensed as an employment agent.

(d) The agency with the assistance of the health care practitioner supervisor shall be responsible for establishing such practices and procedures as may be necessary to assure the agency’s compliance with this subchapter.

(e) An agency shall not submit, record or convey to another agency information which the agency knows or has reason to know is false, deceptive or misleading.

(f) An agency shall make available for inspection by the Executive Director of the Office of Consumer Protection, or by his or her designated agent, any book, record or account required by law, including these regulations, to be made, maintained or kept.

(g) An agency shall retain all records required to be maintained by this regulation for a period of seven years from the date on which the record is required to be made.

(h) An agency shall either maintain, or ensure the existence of, a general liability insurance policy which shall insure against any placed health care practitioner’s negligence, malpractice or any other unlawful conduct occurring within the scope of the health care practitioner’s placement. The policy shall be in the amount of not less than \$1,000,000.

(i) An agency shall, upon receipt of a duly authorized release, provide to another agency a copy of all mandated testing and immunization results for the health care practitioner.

(j) The agency and the health care practitioner supervisor shall immediately report any violation of this subchapter to the Executive Director of the Office of Consumer Protection.

(k) The agency and the health care practitioner shall cooperate in providing information to any investigation conducted to determine whether a violation of this subchapter or any applicable statute has occurred.

(l) An agency’s failure to comply with this subchapter may be deemed good cause within the meaning of N.J.S.A. 34:8-53, upon notice to the agency and an opportunity to be heard, for the suspension or revocation of licensure or for such other relief or sanctions as may be authorized by law.

**13:45B-15.4 Duty to refer only licensed individuals**

(a) When licensure to perform a health care service or function is required by law, an agency shall refer or place only those health care practitioners who are currently licensed or certified and in good standing with their respective New Jersey licensing or registration boards.

(b) A nurses' registry shall not furnish broker services to anyone other than a registered nurse, a practical nurse, or a nurse practitioner/clinical nurse specialist licensed by the State Board of Nursing.

(c) The agency shall, through its health care practitioner supervisor or other designated individual, verify the license status of each individual to be placed or referred prior to the referral or placement. Licensure shall be verified only by personally inspecting the original of the current biennial registration or license issued to the individual to be referred or placed.

(d) The agency shall maintain a copy of the license or registration with the following notation conspicuously written across the entire face of the license: "COPY OF ORIGINAL NOT VALID FOR VERIFYING CURRENT LICENSURE STATUS."

(e) The agency shall maintain a record of licensure verification in which the following information is recorded:

1. The registrant's name and address;
2. The New Jersey board or agency issuing license or registration;
3. The license or registration number;
4. The period for which licensure or registration was issued;
5. The date of license inspection; and
6. The name of the individual making the inspection on behalf of the licensee.

(f) When the agency knows or has reason to know that the license of any health care practitioner placed or referred has been suspended, revoked or otherwise limited or restricted so as to preclude the rendering of the health care service for which employment or placement was intended, the agency shall verify the licensure status at the earliest possible time. Upon a determination that the license has been suspended, revoked or otherwise limited or restricted, the agency shall directly terminate the health care practitioner's employment and notify the individual or entity currently receiving services from the health care practitioner that the practitioner's authority to practice has been suspended or revoked.

**13:45B-15.5 Duty to match credentials to need**

(a) An agency shall make diligent inquiry of employers and applicants for employment in order to ascertain the relevant needs of the place of employment and the applicant's qualifications. An agency shall not place or refer an applicant whose qualifications do not reasonably match the needs and requirements of an employer.

(b) An agency shall create a job order for every position, or type of position within a single institution, for which a referral or placement is to be made. The following minimum information shall be entered on the job order:

1. A description of setting (for example, pediatrics, I.C.U., C.C.U., med-surg, home/residence of client);
2. The hours to be worked;
3. The title of position (for example, supervising nurse, staff nurse, charge nurse, clinical specialist);
4. Duties;
5. Special skills or certifications required;
6. Special equipment to be operated; and
7. Special employer policies or limitations to be required.

**13:45B-15.6 Duty to verify work history**

(a) Prior to placing or referring an applicant, an agency shall:

1. Verify the applicant's work history by confirming employment at all disclosed employment locations for the one year period prior to the date of the application; and
2. Inquire of all employers disclosed on the application form the reason for any termination, resignation or cessation of employment.

(b) The agency shall record the information required by (a) above and the name and title of the individual providing the information.

**13:45B-15.7 through 13:45B-15.8 (Reserved)****13:45B-15.9 Duties relating to placements in home care settings**

(a) Prior to referring or placing a health care practitioner in a home care setting, an agency shall assure that an appropriately licensed person evaluates the patient's needs and establishes, in writing, a plan of care. The health care practitioner preparing the plan of care shall sign it and indicate thereon his or her license designation.

(b) An agency shall make referrals or placements consistent with the level of care indicated in the plan of care.

(c) Unless the circumstances of the patient's care or another specific regulatory standard requires otherwise, the health care practitioner supervisor shall, not less than once during each 30-day period during which the health care practitioner is rendering services in the home care setting:

1. Inquire of the health care practitioner and such other persons as may be necessary whether the plan of care is adequate to meet the patient's needs; and

2. Make reasonable inquiry to determine whether the plan of care is being discharged appropriately by the health care practitioner.

(d) The health care practitioner supervisor shall record the responses received.

(e) If the responses indicate that the plan of care needs to be reassessed or revised, the health care practitioner

supervisor shall ensure that an appropriately licensed person immediately reassesses or revises the plan.

(f) If the responses indicate that the health care practitioner is not discharging the plan of care appropriately, the agency shall immediately take necessary corrective action.

(g) The health care practitioner supervisor shall make an on-site, in home evaluation of the plan of care not less than once during each 60 day period during which the agency has placed or referred a health care practitioner in the home care setting.

(h) The agency shall maintain the original of the plan of care and any revised plan of care and shall give copies to the patient or the patient's representative.