

viii. Use of a flat bed tow truck, a flat fee, which shall be charged if a motor vehicle can be transported only by a flat bed tow truck;

ix. Use of special equipment other than the first tow truck to recover a motor vehicle that cannot be recovered by winching or pieces of a motor vehicle that cannot be moved by hand, which may be both a labor and an equipment charge billed in half-hour increments;

x. Decoupling;

xi. Storage at a towing company's storage facility;

xii. More than three trips to the motor vehicle in storage, which may be invoiced as an administrative fee, which shall be a flat fee; and

xiii. Releasing a motor vehicle from a towing company's storage facility after normal business hours or on weekends, which shall be a flat fee.

(b) A towing company that engages in private property towing or other non-consensual towing shall not charge for the use of a flat bed tow truck if a motor vehicle can safely be towed in an upright position by another type of tow truck, even if the private property towing company chooses to use a flat bed tow truck for the tow.

(c) A towing company that engages in private property towing or other non-consensual towing may charge for the tolls it incurs driving to the site from which a motor vehicle will be towed and while towing the motor vehicle from that site to the towing company's storage facility.

(d) A towing company that engages in private property towing or other non-consensual towing shall calculate storage fees based upon full 24-hour periods a motor vehicle is in the storage facility. For example, if a motor vehicle is towed to a storage facility at 7:00 P.M. on one day and the owner of the motor vehicle picks up the motor vehicle before 7:00 P.M. the next day, the towing company shall charge the owner of the motor vehicle only for one day of storage. If a motor vehicle is stored for more than 24 hours, but less than 48 hours, the towing company may charge for two days of storage.

(e) A towing company shall not charge any fee for private property towing or other nonconsensual towing and related storage services not included in (a) above.

(f) If a towing company charges a consumer a fee for a private property or other non-consensual towing service that is disputed by the consumer, the parties shall use good faith efforts to resolve the dispute. If the parties are unable to resolve the dispute and the Director determines the fee to be unreasonable under N.J.A.C. 13:45A-31.5, the Director may order the towing company to reimburse the consumer for an amount equal to the difference between the charged fee and a reasonable fee, plus interest, as calculated pursuant to (g) below.

(g) The interest rate imposed pursuant to (f) above shall be based on the average rate of return, to the nearest whole or one-half percent, for the corresponding preceding fiscal year terminating on June 30, of the State of New Jersey Cash Management Fund (State accounts) as reported by the Division of Investment of the Department of the Treasury.

(h) A towing company performing a private property tow or other non-consensual tow shall take the motor vehicle being towed to the towing company's storage facility having the capacity to receive it that is nearest to the site from which the motor vehicle is towed.

(i) A bill for a private property tow or other non-consensual tow shall include the time at which a towed motor vehicle was delivered to a towing company's storage facility.

13:45A-31.5 Unreasonable fees

(a) A fee for private property towing or other non-consensual towing services, and storage services, shall be presumed unreasonable if it is:

1. More than 25 percent higher than the fee charged by the towing company or storage facility for the same services when provided with the consent of the owner or operator of the motor vehicle; or
2. More than 50 percent higher than the fee charged for such other non-consensual towing or related storage service by other towing companies or storage facilities operating in the municipality from which the vehicle was towed.

(b) Notwithstanding (a) above, a fee will be presumed unreasonable if it exceeds the maximum amount that may be charged for the service according to a schedule of fees set forth in a municipal ordinance adopted pursuant to section 1 of P.L. 1979, c. 101 (N.J.S.A. 40:48-2.49) from the municipality in which the vehicle to be towed is situated.

13:45A-31.6 Towing motor vehicles from private property

(a) A private property towing company shall not remove a motor vehicle from private property without the consent of the owner or operator of the motor vehicle, unless:

1. The private property towing company has entered into a written contract with the owner of the private property to provide private property towing services;
2. The owner of the private property has posted a sign, in a conspicuous place at each vehicular entrance, at least 36 inches high and 36 inches wide stating:
 - i. The purposes for which parking is authorized and the times during which such parking is permitted;
 - ii. That unauthorized parking is prohibited and unauthorized motor vehicles will be towed at the owner's expense;

iii. The name, address and telephone number of the private property towing company that will perform the private property towing;

iv. The charges for the private property towing and storage of towed motor vehicles;

v. The street address of the storage facility where towed motor vehicles can be redeemed after payment of the posted charges and the times during which a motor vehicle may be redeemed; and

vi. That a consumer may contact the Division of Consumer Affairs by calling 1-800-242-5846, prompt number 4;

3. The property owner has authorized the private property towing company to remove the motor vehicle; and

4. The private property towing company tows the motor vehicle to a secure storage facility having the capacity to receive it that is nearest to the site from which the motor vehicle is towed.

(b) The provisions of (a) above shall not apply if a motor vehicle is parked:

1. On a lot or parcel on which is situated a single-family unit;

2. On a lot or parcel on which is situated an owner occupied multi-unit structure of not more than six units; or

3. In front of any driveway or garage entrance where the motor vehicle is blocking access to that driveway or entrance.

(c) The provisions of (a)2 above shall not apply if the private property from which the motor vehicle is to be towed is a residential community in which parking spaces are assigned to community residents and:

1. The assigned spaces are clearly marked as such;

2. There is documented approval from the private property owner authorizing the removal of the motor vehicle; and

3. A sign is posted in a conspicuous place at all vehicular entrances that:

i. States that unauthorized parking in an assigned space is prohibited;

ii. States that unauthorized vehicles will be towed at the owner's expense; and

iii. Includes information, or a telephone number, enabling the motor vehicle owner or operator to obtain information as to the location of the towed motor vehicle.

(d) The exemption in (c) above shall not apply to a private parking lot or parcel owned or assigned to a commercial or

other nonresidential entity located in the residential community.

13:45A-31.7 Storage facilities

(a) A towing company that engages in private property towing or other non-consensual towing shall tow motor vehicles only to storage facilities that:

1. Have business offices open to the public between 8:00 A.M. and 6:00 P.M. at least five days a week; and

2. Are secure storage facilities.

(b) A towing company that engages in private property towing or other non-consensual towing shall provide or arrange for after-hours release of stored motor vehicles.

(c) A towing company that does not release a stored motor vehicle to its owner, or other person authorized to take the motor vehicle, during normal business hours when requested, as required by (a)1 above, shall not charge a fee for after-hours release of the stored motor vehicle.

13:45A-31.8 Private property towing practices

(a) A private property towing company shall not provide any benefit to a person for information regarding a motor vehicle that may be towed from private property.

(b) A private property towing company shall not refuse to release to the owner or operator, a motor vehicle that has been hooked or lifted but not removed from private property.

(c) A private property towing company releasing a motor vehicle pursuant to (b) above may charge the owner or operator of the motor vehicle a decoupling fee; it shall not charge the owner or operator any other fees.

13:45A-31.9 Recordkeeping

(a) A towing company that performs private property or other non-consensual towing shall retain, for three years, the following records:

1. Invoices for both consensual towing and non-consensual towing services;

2. Job orders;

3. Documentation of waiting time;

4. Logs, which shall include the time when a towed motor vehicle was delivered to the towing company's storage facility from a private property or other non-consensual tow and the date and purpose of each trip to the motor vehicle in storage;

5. Documents relating to private property and other non-consensual towing services performed and rates charged for services; and

6. Any contracts under which the private property towing company is authorized to perform private property towing services.

(b) A towing company that engages in private property towing or other non-consensual towing shall make records retained pursuant to (a) above available for review by the Division upon request.

13:45A-31.10 Violations

A violation of any of the rules in this subchapter shall be considered an unlawful practice under P.L. 1960, c. 39 (N.J.S.A. 56:8-1 et seq.).

SUBCHAPTER 32. PRESCRIPTION DRUG RETAIL PRICE LIST

13:45A-32.1 Prescription drug retail price list; maintenance; posting of notice

(a) A pharmacy shall maintain a prescription drug retail price list containing the names of the 150 most frequently prescribed drugs in their most commonly prescribed dosage, made available to the pharmacy by the Director of the Division of Consumer Affairs pursuant to N.J.S.A. 45:14-82. The prescription drug retail price list shall contain the retail price charged by the pharmacy for each listed drug's most commonly prescribed dosage, in quantities of 30, 60 or 90 units, if applicable, and shall include the drug's price per unit. The date when the list was last updated by the pharmacy shall be noted on the list.

(b) A pharmacy shall conspicuously post an advisory statement prepared by the Division of Consumer Affairs and available for download on the Division's website at www.njconsumeraffairs.gov, at or adjacent to the prescription dispensing area, in the patient waiting area or in any area where prescription drugs are delivered, which is accessible by the general public, notifying consumers about the following:

1. The availability of the pharmacy's prescription drug retail list, the consumer's right to ask for the current retail price that the pharmacy is charging for any drug on the price list and the availability of additional prescription drug price information from the Division of Consumer Affairs;
2. The right to obtain price comparison information for generic prescription drugs; and
3. The need to tell the pharmacist and the consumer's healthcare practitioner about all medications the consumer may be taking and to ask the pharmacist and the healthcare practitioner how to avoid harmful interactions between any drugs they may be taking.

(c) A pharmacy shall make a written prescription drug retail price list available to consumers for review upon request. The list shall be printed in at least 12-point type.

(d) A pharmacy may change the retail price for any of the drugs included on its prescription drug retail price list at any time, provided the prescription drug retail price list is updated as soon as possible, but at least weekly, to reflect the new retail price charged by the pharmacy.

(e) The Director of the Division of Consumer Affairs shall refer any pharmacy that fails to comply with this section to the Board of Pharmacy for appropriate disciplinary action.

SUBCHAPTER 33. COMPASSIONATE USE MEDICAL MARIJUANA

13:45A-33.1 Purpose and scope

(a) The rules in this subchapter implement the provisions of N.J.S.A. 45:1-45.1 (Section 11 of P.L. 2009, c. 307), which require the Division of Consumer Affairs to collect information concerning the dispensing of medical marijuana pursuant to the New Jersey Compassionate Use Medical Marijuana Act.

(b) The rules in this subchapter shall apply to physicians and alternative treatment centers authorized to participate in the distribution of medical marijuana pursuant to rules adopted by the State Board of Medical Examiners and by the Department of Health and Senior Services.

13:45A-33.2 Physician reporting requirements

(a) A physician who provides certifications and written instructions for patient use of medical marijuana shall electronically transmit the following information to the Division of Consumer Affairs within one week of issuing written instructions to a patient and/or caregiver:

1. Physician name, address and telephone number;
2. Physician license number and CDS registration number;
3. Patient name, address, telephone number and date of birth;
4. If applicable, caregiver name, address, telephone number and date of birth;
5. Patient or, if applicable, caregiver registry identification number;
6. Alternative treatment center designated in the written instructions;
7. Date written instructions issued;
8. Patient diagnosis; and
9. Quantity of marijuana authorized under the written instructions.

13:45A-33.3 Alternative treatment center reporting requirements

(a) An alternative treatment center permitted by the Department of Health and Senior Services shall electronically transmit the following information to the Division of Consumer Affairs within one week of dispensing medical marijuana to a qualifying patient or caregiver:

1. Alternative treatment center permit number;
2. Patient name, address, telephone number and date of birth;
3. If applicable, caregiver name, address, telephone number and date of birth;
4. Physician name, address and telephone number;
5. Physician license number and CDS registration number;
6. Patient or, if applicable, caregiver registry identification number;
7. Quantity of marijuana dispensed;
8. Date dispensed; and
9. Source of payment.

13:45A-33.4 Electronic format required for the transmission of information; exemption

(a) Physicians and alternative treatment centers shall transmit the information required by N.J.A.C. 13:45A-33.2 and 33.3 electronically in a format specified by Division of Consumer Affairs (Division).

(b) In the event that a physician or alternative treatment center cannot electronically transmit the required information to the Division, the physician or alternative treatment center

shall request a waiver of the electronic transmission requirements of this subchapter from the Division. The waiver request shall be in writing and shall document the reasons for the inability to electronically transmit the required information. The waiver request shall also specify the format the physician or alternative treatment center requests permission to use for submission of required information to the Division.

13:45A-33.5 Frequency requirements for transmitting information; confidentiality

(a) Physicians and alternative treatment centers shall transmit required information to the Division of Consumer Affairs (Division) at least once a week on the day and at the time specified by the Division.

(b) If a physician or alternative treatment center discovers an omission or error in the transmitted information, the physician or alternative treatment center shall immediately notify the Division and shall submit the omitted or corrected information to the Division during the next scheduled reporting period after the discovery.

(c) Physicians and alternative treatment centers shall transmit required information in such a manner as to ensure the confidentiality of patient information in compliance with all Federal and State laws, rules and regulations, including the Federal Health Insurance Portability and Accountability Act of 1996, PL 104-191.

13:45A-33.6 Waiver

The Division of Consumer Affairs (Division) may waive the reporting requirements for physicians and/or alternative treatment centers imposed under this subchapter if the Division is able to obtain the requested information from the Department of Health and Senior Services in an electronic format.