

2. The words "Master HVACR contractor license number" or "Master HVACR contractor Lic. #" followed by the license number of the master HVACR contractor.

(d) Every master HVACR contractor whose name, office address, or license number appears or is mentioned in any advertisement of any kind or character shall be presumed to have caused, permitted, or approved the advertising and shall be personally responsible for its content and character.

(e) If a master HVACR contractor intends to subcontract, in a calendar year, more than one-third of the HVACR work that he or she contracts to perform, or subcontracted in the previous calendar year more than one-third of the HVACR work that he or she contracted to perform, all advertising by the master HVACR contractor shall state: "A substantial part of the HVACR work which we undertake may be subcontracted to independent licensed HVACR contractors."

13:32A-5.2 Bona fide representative; reporting responsibilities

(a) A master HVACR contractor seeking to act as a bona fide representative shall comply with the following within 30 days of assuming the role of a bona fide representative:

1. Register with the Board, providing the name of the HVACR business, its address and if the HVACR business is a corporation, the names of the officers of record;

2. Provide to the Board proof that the HVACR business has consented that the bona fide representative will act as the agent for service of process within this State. Such proof shall be in writing and on a form provided by the Board; and

3. Provide to the Board the acceptance of liability by the HVACR business for any monetary penalty, monies to be paid for restoration to consumers of fees paid for services or for delays suffered by consumers, and costs assessed against the bona fide representative while acting within the scope of his or her employment on behalf of the HVACR business. Such acceptance of liability shall be in writing and on a form provided by the Board.

(b) If a bona fide representative for an HVACR business withdraws as the bona fide representative, the HVACR business may continue to operate for 60 days without a bona fide representative provided that:

1. A master HVACR contractor supervises all work to be conducted in the same manner as required by a bona fide representative pursuant to N.J.A.C. 13:32A-5.3(a)3;

2. The bona fide representative and the HVACR business notifies the Board within 10 days of the withdrawal of the bona fide representative; and

3. The supervising master HVACR contractor licensee notifies the Board within 10 days of being appointed as the supervising master HVACR contractor.

(c) If the bona fide representative for any HVACR business is unable to perform the duties of a bona fide representative because of death, illness, or disability, the HVACR business may continue to operate for six months without a bona fide representative provided that:

1. A master HVACR contractor supervises all work to be conducted in the same manner as required by a bona fide representative pursuant to N.J.A.C. 13:32A-5.3(a)3; and

2. The supervising master HVACR contractor and the HVACR business notify the Board within 10 days of the death, illness, or disability of the bona fide representative.

13:32A-5.3 Bona fide representative responsibilities

(a) A bona fide representative registered with the Board pursuant to N.J.A.C. 13:32A-5.2 shall:

1. Give notice to the Board in writing concerning any change in the name or address of the entity within 10 days of the change;

2. Secure or instruct an authorized employee, or an independent master HVACR contractor, to secure all necessary permits as may be required by State and local law for the performance of HVACR work to be performed by the HVACR business. In making an application for permit issuance, the authorized employee or independent master HVACR contractor shall have in his or her possession a letter authorizing him or her to make the application. A letter of authorization may authorize a permit application for a specific period of time, not to exceed 60 days, and shall have affixed to it the seal of the bona fide representative. In all circumstances, the permit shall be signed by a master HVACR contractor and all work shall be supervised in the manner set forth in (a)3 below;

3. Supervise the performance of all HVACR work performed by the HVACR business as follows:

i. If the person performing the work is a master HVACR contractor, the bona fide representative shall require at the beginning of the job an initial report on the work to be performed and upon completion of the job a final report on the work performed;

ii. If the person performing the work is an HVACR journeyman, the bona fide representative or a master HVACR contractor employed by the HVACR business shall maintain daily contact with the HVACR journeyman either directly, by telephone or through writing and, where the work requires an HVACR permit, shall inspect the work upon completion. Any such contact shall be recorded by the bona fide representative or the master HVACR contractor employed by the HVACR business; and

iii. If the person performing the work is an apprentice, the bona fide representative shall ensure constant on-site supervision by a master HVACR contractor, or an HVACR journey person with at least five years experience, during all times that HVACR services are being performed;

4. Be responsible for any and all violations of N.J.S.A. 45:16A-1 et seq. committed by employees of the HVACR business if said violations were committed during the course of work that he or she was required to supervise;

5. Serve as a bona fide representative for only one HVACR business; and

6. Maintain a place of business in the State of New Jersey or designate, and notify the Board of the identity of, an agent or entity in New Jersey for service of process.

(b) Nothing in this chapter shall preclude the Board from proceeding against both the bona fide representative for an HVACR business or any other master HVACR contractor employed by such a business who can be shown to have violated N.J.S.A. 45:16A-1 et seq. or Board rules. Nothing shall preclude any person entitled to maintain an action on a bond from proceeding pursuant to N.J.A.C. 13:32A-5.6 against the bona fide representative and any other master HVACR contractor who has failed to perform the duties required by N.J.S.A. 45:16A-1 et seq.

(c) The bona fide representative of any HVACR business that contracts to provide HVACR services to a consumer and wishes to subcontract that HVACR work to another HVACR business shall:

1. Subcontract only to a business whose sole proprietor is a licensed master HVACR contractor or which has a bona fide representative who is registered with the Board. The bona fide representative for the original master HVACR contractor shall be responsible for ensuring that the subcontractor has a registered bona fide representative;

2. Require of the subcontractor that a copy of any permit applications, permits, and changes in application or permit shall be delivered to the original HVACR business within five business days of the date the application or permit is filed;

3. Notify the consumer, prior to the beginning of any work, that the work has been subcontracted to another HVACR business and provide the consumer with the name, address, and telephone number of the subcontractor and the name and license number of the subcontractor's bona fide representative;

4. Advise the consumer prior to the beginning of any work that he or she has the right to terminate the contract prior to the beginning of any work because of the subcontracting;

5. Notify the consumer that the original HVACR business as well as the subcontractor remain liable for any defects, damages, or other losses that may result from the negligence, misconduct, or insolvency of the subcontractor;

6. Require that the subcontractor immediately notify the original HVACR business of any complaints by the consumer or the consumer's representative or by any governmental official; and

7. Supervise the work of the subcontractor in the same manner as required by (a)3i above.

(d) The bona fide representative shall have sufficient knowledge of the HVACR business' bookkeeping system and financial accounts to inform the Board, upon request by the Board, regarding the business' price-setting, billings, costs, subcontractors, overhead costs, and profits.

13:32A-5.4 Supervision

Any HVACR work that a master HVACR contractor agrees to perform, that has not been subcontracted, shall be performed only by the master HVACR contractor or those employees of the master HVACR contractor or the HVACR business whose remuneration is reported on a Form W-2 to the Internal Revenue Service.

13:32A-5.5 Requirement of identification card

(a) At the time of the biennial renewal of the license, the Board shall furnish a wallet size identification card to every master HVACR contractor. The card shall be used exclusively by the master HVACR contractor in the conduct of his or her practice. A master HVACR contractor is required to present the identification card upon request when applying for HVACR permits.

(b) Use of an identification card by any person, other than the master HVACR contractor to whom the identification card is issued or by the agent authorized to act on behalf of the master HVACR contractor, shall be deemed to be the use or employment of dishonesty, fraud, deception, misrepresentation, or false pretense. Such conduct shall be unlawful and may be grounds for the suspension or revocation of the license of the unauthorized user if he or she is already licensed by the Board. With respect to an unlicensed user, such conduct shall be grounds for the refusal to issue a State license in the future, which does not preclude the Board from proceeding against unlicensed practice pursuant to any other law or regulation.

(c) A master HVACR contractor who willfully or negligently allows an unlicensed or unauthorized person to use his or her identification card shall be deemed to have engaged in occupational misconduct and shall be subject to such penalties and sanctions as shall be imposed by the Board pursuant to authority granted by N.J.S.A. 45:16A-1 and 45:1-14 et seq.

13:32A-5.6 Actions on the surety bond

(a) Any person, partnership, or corporation including any political subdivision of State government who has been injured, aggrieved, or damaged through the failure of a master HVACR contractor to perform the duties required by N.J.S.A. 45:16A-1 et seq. or any rule of the Board shall be eligible to receive the financial protection of, and may maintain an action on, the surety bond.

(b) Any restitution to a person, partnership, corporation, or any political subdivision of State government ordered by the Board shall be eligible for the financial protection of the surety bond.

(c) If a bond is used to respond to a claim pursuant to (a) or (b) above, a master HVACR contractor shall replenish the bond so that its sum is \$3,000 as required by N.J.S.A. 45:16A-23.

13:32A-5.7 Change of address; service of process

(a) Every master HVACR contractor shall notify the Board in writing of his or her office address. Every master HVACR contractor shall notify the Board in writing of any change in his or her office within 10 days after such change.

(b) Service of an administrative complaint or other process initiated by the Board, the Attorney General, or the Division of Consumer Affairs at the master HVACR contractor's address on file with the Board shall be deemed adequate notice for the commencement of any inquiry or disciplinary proceeding against the master HVACR contractor.

13:32A-5.8 Unconscionable pricing

(a) A master HVACR contractor shall not charge an unconscionable price for services. A price is unconscionable when, after review of the facts, a master HVACR contractor of ordinary prudence would be left with a definite and firm conviction that the price is so high as to be manifestly unconscionable or overreaching under the circumstances.

(b) Factors that may be considered in determining whether a price is unconscionable include the following:

1. The time and effort required;
2. The novelty or difficulty of the job;
3. The skill required to perform the job properly;

4. Any special conditions placed upon the performance of the job by the person or entity for which the work is being performed;

5. The experience, reputation and ability of the master HVACR contractor to perform the services; and

6. The price customarily charged in the locality for similar services.

(c) Charging an unconscionable price shall constitute occupational misconduct within the meaning of N.J.S.A. 45:1-21(e) and may subject the master HVACR contractor to disciplinary action.

13:32A-5.9 Designations for licensees; prohibitions on unlicensed persons

(a) An active licensee may use the title "licensed master HVACR contractor" or "master HVACR contractor."

(b) No person, firm, partnership, corporation, or other legal entity shall engage in the business of HVACR contracting, advertise as a master HVACR contractor or use the title "licensed master HVACR contractor" or "master HVACR contractor" unless the person is licensed by the Board or the firm, partnership, corporation, or other legal entity has a bona fide representative who is licensed by the Board.

SUBCHAPTER 6. FEES

13:32A-6.1 Fee schedule

(a) The following fees shall be charged by the Board:

1. Application fee without prior registration (non-refundable).....	\$100.00
2. Initial license fee:	
i. If paid during the first year of a biennial renewal period.....	160.00
ii. If paid during the second year of a biennial renewal period.....	80.00
3. License renewal fee, biennial	160.00
4. Late renewal fee.....	50.00
5. Reinstatement fee	150.00
6. Initial pressure seal	25.00
7. Replacement pressure seal.....	25.00
8. Duplicate license fee.....	25.00
9. Replacement wall certificate	40.00
10. Verification of licensure.....	25.00
11. Continuing education sponsor application fee.....	100.00