

CHAPTER 45B

PERSONNEL SERVICES

Authority

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

Source and Effective Date

R.2003 d.136, effective March 4, 2003.
See: 34 N.J.R. 3448(a), 35 N.J.R. 1563(a).

Chapter Expiration Date

Chapter 45B, Personnel Services, expires on March 4, 2008.

Chapter Historical Note

Chapter 45B, Private Employment Agencies, was originally codified in Title 12 as Chapter 55, Private Employment Agencies, consisting of Subchapters 1 through 3, and was filed and became effective prior to September 1, 1969. Chapter 55 of Title 12 was recodified as Chapter 45B of Title 13 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. 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).

Chapter 45B, Private Employment Agencies, was repealed and a new Chapter 45B, Personnel Services, was adopted as R.1992 d.357, effective September 21, 1992.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). 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of Temporary Help Exempt from N.J.S.A. 34:8-43 et seq., and Subchapter 9, Registration for Consulting Firms, were repealed by R.1995 d.106, effective February 21, 1995.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). Subchapter 14, Health Care Service Firms, and Subchapter 15, Placement of Health Care Practitioners, were adopted as R.1995 d.190, effective April 3, 1995. See: 26 N.J.R. 4316(a), 27 N.J.R. 1430(a). Subchapter 5, Consulting Firms, was adopted as R.1996 d.191, effective April 15, 1996. See: 27 N.J.R. 3910(a), 28 N.J.R. 2078(a).

Pursuant to Executive Order No. 66(1978), Chapter 45B, Personnel Services, was readopted as R.1997 d.421, effective September 12, 1997. See: 29 N.J.R. 2622(a), 29 N.J.R. 3509(a), 29 N.J.R. 4291(a).

Chapter 45B, Personnel Services, was readopted as R.2003 d.136, effective March 4, 2003. See: Source and Effective Date.

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. CONSULTING FIRMS

- 13:45B-5.1 Consulting firm providing temporary help services

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.

SUBCHAPTER 15. PLACEMENT OF HEALTH CARE PRACTITIONERS

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 a Bachelor of Science degree in nursing and two years combined public health nursing and progressive professional responsibilities in public health nursing; or three years combined public health nursing and progressive professional responsibilities in public health nursing.

“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.

Amended by R.1995 d.568, effective November 6, 1995.
See: 27 N.J.R. 1366(a), 27 N.J.R. 4440(a).

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 li-

censed 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.

Petition for Rulemaking.
See: 35 N.J.R. 4144(b).

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.