

CHAPTER 45A

ADMINISTRATIVE RULES OF THE
DIVISION OF CONSUMER AFFAIRS

Authority

N.J.S.A. 45:14-57 and 56:8-1 et seq., specifically 56:8-4.

Source and Effective Date

R.2012 d.016, effective December 14, 2011.
See: 43 N.J.R. 1130(a), 44 N.J.R. 166(b).

Chapter Expiration Date

Chapter 45A, Administrative Rules of the Division of Consumer Affairs, expires on December 14, 2018.

Chapter Historical Note

Chapter 45A, Administrative Rules of the Division of Consumer Affairs, Subchapter 1, Deceptive Practices in Mail Order or Catalog Business, was adopted as R.1973 d.176, effective August 1, 1973. See: 5 N.J.R. 151(b), 5 N.J.R. 290(a).

Subchapter 2, Motor Vehicle Advertising Practices, was adopted as R.1973 d.183, effective July 15, 1973. See: 5 N.J.R. 191(a), 5 N.J.R. 290(d).

Subchapter 4, Banned Hazardous Products, was adopted as R.1973 d.222, effective August 15, 1973. See: 5 N.J.R. 229(d), 5 N.J.R. 317(c).

Subchapter 8, Tire Distributors and Dealers, was adopted as R.1973 d.309, effective December 1, 1973. See: 5 N.J.R. 354(a), 5 N.J.R. 390(e).

Subchapter 3, Sale of Meat at Retail, was adopted as R.1973 d.169, effective January 1, 1974. See: 5 N.J.R. 154(a), 5 N.J.R. 239(b).

Subchapter 5, Delivery of Household Furniture and Furnishings, was adopted as R.1973 d.262, effective January 1, 1974. See: 5 N.J.R. 287(a), 5 N.J.R. 357(b).

Subchapter 7, Deceptive Practices Concerning Automotive Repairs and Advertising, was adopted as R.1973 d.307, effective January 1, 1974. See: 5 N.J.R. 351(b), 5 N.J.R. 390(b).

Subchapter 9, Retail Store Advertising and Marketing Practices, was adopted as R.1974 d.15, effective March 1, 1974. See: 5 N.J.R. 422(a), 6 N.J.R. 82(b).

Subchapter 10, Servicing and Repairing of Home Appliances, was adopted as R.1974 d.16, effective March 1, 1974. See: 5 N.J.R. 421(a), 6 N.J.R. 82(c).

Subchapter 12, Sale of Animals, was adopted as R.1975 d.351, effective November 20, 1975. See: 7 N.J.R. 231(b), 7 N.J.R. 571(c).

Subchapter 13, Powers to be Exercised by County and Municipal Officers of Consumer Affairs, was adopted as R.1976 d.245, effective August 3, 1976. See: 8 N.J.R. 233(b), 8 N.J.R. 439(b).

Subchapter 14, Unit Pricing of Consumer Commodities in Retail Establishments, was adopted as R.1976 d.265, effective August 23, 1976. See: 8 N.J.R. 304(a), 8 N.J.R. 439(e).

Subchapter 6, Automotive Sales Practices, was adopted as R.1979 d.392, effective October 1, 1979. See: 11 N.J.R. 386(a), 11 N.J.R. 580(e).

Subchapter 16, Home Improvement Practices, was adopted as R.1980 d.111, effective April 1, 1980. See: 11 N.J.R. 577(a), 12 N.J.R. 209(b).

Subchapter 9, Retail Store Advertising and Marketing Practices, was repealed and Subchapter 9, Merchandise Advertising, was adopted as

new rules by R.1980 d.200, effective May 6, 1980. See: 12 N.J.R. 45(a), 12 N.J.R. 348(b).

Subchapter 17, Sale of Advertising in Journals Relating or Purporting to Relate to Police, Firefighting or Charitable Organizations, was adopted as R.1981 d.294, effective August 6, 1981. See: 13 N.J.R. 235(b), 13 N.J.R. 520(b).

Subchapter 15, Disclosure of Refund Policy in Retail Establishment, was adopted as R.1982 d.29, effective February 1, 1982. See: 13 N.J.R. 665(a), 14 N.J.R. 160(a).

Subchapter 21, Representations Concerning and Requirements for the Sale of Kosher Food, was adopted as R.1984 d.113, effective April 2, 1984. See: 16 N.J.R. 220(a), 16 N.J.R. 741(a).

Subchapter 20, Resale of Tickets of Admission to Places of Entertainment, was adopted as R.1984 d.196, effective May 21, 1984. See: 16 N.J.R. 417(a), 16 N.J.R. 1281(b).

Pursuant to Executive Order No. 66(1978), Subchapter 6, Deceptive Practices Concerning Automotive Practices, was readopted as R.1984 d.526, effective October 24, 1984. See: 16 N.J.R. 2349(a), 16 N.J.R. 3214(a).

Subchapter 7, Deceptive Practices Concerning Automotive Repairs and Advertising, was readopted as R.1984 d.527, effective October 24, 1984. See: 16 N.J.R. 2350(a), 16 N.J.R. 3214(b).

Pursuant to Executive Order No. 66(1978), Subchapter 16, Home Improvement Practices, expired April 1, 1985.

Pursuant to Executive Order No. 66(1978), Subchapter 9, Merchandise Advertising, was readopted as R.1985 d.256, effective April 29, 1985. See: 17 N.J.R. 678(a), 17 N.J.R. 1323(b).

Subchapter 16, Home Improvement Practices, was adopted as new rules by R.1985 d.255, effective May 20, 1985. See: 17 N.J.R. 679(a), 17 N.J.R. 1325(a).

Subchapter 23, Deceptive Practices Concerning Watercraft Repair, was adopted as R.1985 d.306, effective June 17, 1985. See: 17 N.J.R. 680(a), 17 N.J.R. 1581(a).

Subchapter 22, Inspections of Kosher Meat Dealers, Kosher Poultry Dealers, and Dealers of Kosher Food and Food Products; Records Required to be Maintained by Kosher Meat Dealers and Kosher Poultry Dealers, was adopted as R.1985 d.407, effective August 5, 1985. See: 17 N.J.R. 1241(a), 17 N.J.R. 1901(b).

Pursuant to Executive Order No. 66(1978), Subchapter 14, Unit Pricing of Consumer Commodities in Retail Establishments, expired on October 9, 1985.

Subchapter 14, Unit Pricing of Consumer Commodities in Retail Establishments, was adopted as new rules by R.1985 d.643, effective December 16, 1985. See: 17 N.J.R. 2232(b), 17 N.J.R. 2991(c).

Subchapter 2, Motor Vehicle Advertising Practices, was repealed and Subchapter 2, Motor Vehicle Advertising Practices, was adopted as new rules by R.1987 d.341, effective August 17, 1987. See: 19 N.J.R. 1056(a), 19 N.J.R. 1562(c).

Subchapter 21, Representations Concerning and Requirements for the Sale of Kosher Food, and Subchapter 22, Inspections of Kosher Meat Dealers, Kosher Poultry Dealers, and Dealers of Kosher Food and Food Products; Records Required to be Maintained by Kosher Meat Dealers and Kosher Poultry Dealers, were repealed and Subchapter 21, Sale of Kosher Products, and Subchapter 22, Inspections of Kosher Meat Dealers, Kosher Poultry Dealers, and Dealers of Kosher Food and Food Products; Records Required to be Maintained by Kosher Meat Dealers and Kosher Poultry Dealers, were adopted as new rules by R.1987 d.450, effective November 2, 1987. See: 19 N.J.R. 1060(a), 19 N.J.R. 2060(d).

Subchapter 25, Sellers of Health Club Services, was adopted as R.1988 d.23, effective January 4, 1988. See: 19 N.J.R. 1967(a), 20 N.J.R. 103(a).

Subchapter 12, Sale of Animals, was repealed and Subchapter 12, Sale of Animals, was adopted as new rules by R.1988 d.271, effective June 20, 1988. See: 19 N.J.R. 853(a), 20 N.J.R. 501(b), 20 N.J.R. 1463(a).

Subchapter 25, Sellers of Health Club Services, was repealed and Subchapter 25, Sellers of Health Club Services, was adopted as new rules by R.1988 d.520, effective November 7, 1988. See: 20 N.J.R. 2036(a), 20 N.J.R. 2790(b).

Subchapter 26, Automotive Dispute Resolutions, was adopted as R.1989 d.65, effective February 6, 1989. See: 20 N.J.R. 2681(b), 21 N.J.R. 339(b).

Subchapter 2, Motor Vehicle Advertising Practices, was repealed and Subchapter 2, Motor Vehicle Advertising Practices, was adopted as new rules by R.1989 d.253, effective May 15, 1989. See: 21 N.J.R. 115(a), 21 N.J.R. 1368(a).

Subchapter 17, Sale of Advertising in Journals Relating or Purporting to Relate to Police, Firefighting or Charitable Organizations, was repealed by R.1990 d.606, effective December 17, 1990. See: 22 N.J.R. 2396(a), 22 N.J.R. 3758(a).

Subchapter 19, Petition for Rulemaking, was adopted as R.1990 d.371, effective August 6, 1990. See: 22 N.J.R. 786(a), 22 N.J.R. 2331(c).

Petition for Rulemaking. See: 22 N.J.R. 3166(b).

Pursuant to Executive Order No. 66(1978), Chapter 45A, Administrative Rules of the Division of Consumer Affairs, was readopted as R.1990 d.606, effective November 9, 1990. See: 22 N.J.R. 2396(a), 22 N.J.R. 3758(a).

Subchapter 24, Toy and Bicycle Safety, was adopted as R.1993 d.372, effective July 19, 1993. See: 24 N.J.R. 3019(b), 24 N.J.R. 3666(a), 25 N.J.R. 3235(a).

Subchapter 21, Sale of Kosher Products, and Subchapter 22, Inspections of Kosher Meat Dealers, Kosher Poultry Dealers, and Dealers of Kosher Food and Food Products; Records Required to be Maintained by Kosher Meat Dealers and Kosher Poultry Dealers, were repealed and Subchapter 21, Regulations Concerning the Sale of Food Represented as Kosher, was adopted as new rules by R.1994 d.204, effective April 18, 1994. See: 25 N.J.R. 3086(a), 26 N.J.R. 1667(a).

Pursuant to Executive Order No. 66(1978), Chapter 45A, Administrative Rules of the Division of Consumer Affairs, was readopted as R.1995 d.618, effective November 6, 1995, and Subchapter 2, Motor Vehicle Advertising Practices, Subchapter 6, Deceptive Practices Concerning Automotive Sales Practices, Subchapter 7, Deceptive Practices Concerning Automotive Repairs and Advertising, and Subchapter 8, Tire Distributors and Dealers, were recodified as Subchapter 26A, Motor Vehicle Advertising Practices, Subchapter 26B, Automotive Sales Practices, Subchapter 26C, Automotive Repairs, and Subchapter 26D, Tire Distributors and Dealers, by R.1995 d.618, effective December 4, 1995. See: 27 N.J.R. 3566(a), 27 N.J.R. 4899(b).

Subchapter 28, Motor Vehicle Leasing, was adopted as R.1996 d.129, effective March 4, 1996. See: 27 N.J.R. 4130(a), 28 N.J.R. 1394(b).

Subchapter 26E, Motorized Wheelchair Dispute Resolution, was adopted as R.1996 d.407, effective August 19, 1996. See: 28 N.J.R. 2320(a), 28 N.J.R. 3965(a).

Subchapter 26F, Unfair Trade Practices—Used Motor Vehicles—Sale and Warranty, was adopted as R.1999 d.45, effective February 1, 1999. See: 30 N.J.R. 518(a), 31 N.J.R. 446(a).

Pursuant to Executive Order No. 66(1978), Chapter 45A, Administrative Rules of the Division of Consumer Affairs, was readopted as R.2000 d.460, effective October 20, 2000. See: 32 N.J.R. 3282(a), 32 N.J.R. 4126(a).

Subchapter 29, Property Condition Disclosure, was adopted as new rules by R.2004 d.193, effective May 17, 2004. See: 35 N.J.R. 1644(a), 36 N.J.R. 2534(a).

Subchapter 27, New Jersey Uniform Prescription Blanks Program, was adopted as new rules by R.2004 d.238, effective June 21, 2004. See: 35 N.J.R. 4172(a), 36 N.J.R. 3059(a).

Subchapter 22, Halal Food, adopted as new rules by R.2004 d.337, effective September 7, 2004. See: 35 N.J.R. 3754(a), 36 N.J.R. 4152(b).

Subchapter 17, Home Improvement Contractor Registration, was adopted as new rules by R.2004 d.418, effective November 1, 2004 (operative November 9, 2004). See: 36 N.J.R. 3506(a), 36 N.J.R. 4984(a).

Chapter 45A, Administrative Rules of the Division of Consumer Affairs, was readopted as R.2006 d.141, effective March 21, 2006. See: 37 N.J.R. 4369(a), 38 N.J.R. 1760(a).

Subchapter 4, Banned Hazardous Products, was renamed Rules Concerning Hazardous Products by R.2007 d.342, effective November 5, 2007. See: 39 N.J.R. 2321(a), 39 N.J.R. 4850(a).

Subchapter 24A, Flame Resistance Standards for Tents and Sleeping Bags, was adopted as new rules by R.2008 d.111, effective May 5, 2008. See: 39 N.J.R. 5056(a), 40 N.J.R. 2287(a).

Subchapter 30, Vehicle Protection Product Warranties, was adopted as new rules by R.2009 d.192, effective June 15, 2009. See: 40 N.J.R. 6404(a), 41 N.J.R. 2493(a).

Subchapter 6, Internet Dating Services, was adopted as new rules by R.2009 d.240, effective August 3, 2009. See: 40 N.J.R. 3957(a), 41 N.J.R. 2977(a).

Subchapter 8, Prepaid Calling Cards, was adopted as new rules by R.2010 d.016, effective January 19, 2010. See: 41 N.J.R. 1970(a), 42 N.J.R. 497(a).

Subchapter 31, Private Property and Non-consensual Towing Companies, was adopted as new rules by R.2010 d.017, effective January 19, 2010. See: 41 N.J.R. 2206(a), 42 N.J.R. 502(a).

Subchapter 32, Prescription Drug Retail Price List, was adopted as new rules by R.2011 d.168, effective June 20, 2011. See: 42 N.J.R. 1327(a), 43 N.J.R. 1424(b).

Subchapter 33, Compassionate Use Medical Marijuana, was adopted as new rules by R.2011 d.293, effective December 5, 2011. See: 42 N.J.R. 2743(a), 43 N.J.R. 3194(a).

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 45A, Administrative Rules of the Division of Consumer Affairs, was scheduled to expire on September 17, 2013. See: 43 N.J.R. 1203(a).

Chapter 45A, Administrative Rules of the Division of Consumer Affairs, was readopted as R.2012 d.016, effective December 14, 2011. As a part of R.2012 d.016, Subchapter 15, Disclosure of Refund Policy in Retail Establishment, was repealed, effective January 17, 2012. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. DECEPTIVE MAIL ORDER PRACTICES

13:45A-1.1 General provisions

(a) Without limiting any other practices which may be unlawful under the Consumer Fraud Act, N.J.S.A. 56:8-1 et seq., this rule makes unlawful thereunder some specific practices in the mail order or catalog business.

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.