

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**Subchapter Historical Note**

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

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 or personal care services either directly in the home or at a care-giving 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, registration or certification is required as a pre-condition to the rendering of such services.

Personal care services include bathing, toileting, transferring, dressing, grooming, and assistance with ambulation, exercise, or other aspects of personal hygiene.

Amended by R.2005 d.53, effective February 7, 2005.

See: 36 N.J.R. 2584(a), 37 N.J.R. 504(a).

In "Health care service firm", inserted "or personal care" following "individuals to provide health care"; in "Health care services", inserted ", registration or certification" following "related services for which licensure" in 2; added "Personal care 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 and the names of health care companies related through joint ownership, boards of directors, officers, incorporators or principals;

ii. Each primary location including street and street number of the building(s) and place(s) where its business is to be conducted and the addresses of all health care companies related through joint ownership, boards of directors, officers, incorporators or principals;

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;

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; and

4. A list of any licenses held in another state by the health care service firm, or by any officer, director, owner or principal of the health care service firm, to provide health care services in another state, a description of any actions taken by another state on those licenses, including violations of health or labor laws, and a description of any violations of Federal law by the health care service firm or any principal of the health care service firm.

(b) A health care service firm shall provide the information set forth in (a)liv 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.

Amended by R.2005 d.53, effective February 7, 2005.

See: 36 N.J.R. 2584(a), 37 N.J.R. 504(a).

In (a), rewrote i and ii in l, added 4.

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; a certification that no new officers, directors, principals or owners have been added since the previous renewal; a list of primary locations; an updated description of any action taken by another state upon a license held by the health care service firm or by any officer, director, owner or principal of the health care service firm; and an updated description of any violations of Federal or New Jersey State law by the health care service firm or any officer, director, owner or principal of the health care service firm.

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.

Amended by R.2005 d.53, effective February 7, 2005.

See: 36 N.J.R. 2584(a), 37 N.J.R. 504(a).

Rewrote (a)1.

13:45B-14.6 Prohibited acts

(a) A health care service firm shall not:

1. Recruit or advertise for health care service staff, provide or offer to provide health care services to potential employees, or contract with a health care facility to provide health care services without first obtaining 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.

Amended by R.2005 d.53, effective February 7, 2005.

See: 36 N.J.R. 2584(a), 37 N.J.R. 504(a).

Rewrote (a)1.

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).