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**ISSUE DATE: JUNE 16, 2008**  
**RULE ADOPTIONS**  
LAW AND PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
**OFFICE OF THE DIRECTOR**

Adopted New Rules: N.J.A.C. 13:45B-2.9, 5.2, 13.7 and 13.8

Uncertified and Unlicensed Individuals; Information for Patient/Employers

Proposed: June 18, 2007 at 39 N.J.R. 2323(a).

Adopted: September 26, 2007, by Lawrence DeMarzo, Acting Director, Division of Consumer Affairs.

Filed: May 15, 2008 as R.2008 d.155, with technical changes not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 34:8-54.

Effective Date: June 16, 2008.

Expiration Date: August 31, 2008.

**Summary of Agency-Initiated Changes Upon Adoption:**

N.J.S.A. 34:8-79 requires that a employment agency, consulting firm or health care service firm, which sends an uncertified or unlicensed individual to a patient/employer's home provide, among other things, written notification that the individual is not certified or licensed. As proposed, N.J.A.C. 13:45B-2.9, 5.2 and 14.8 did not require that this notification be in writing. In order to comply with statutory requirements, the Director is changing N.J.A.C. 13:45A-2.9, 5.2 and 14.8 upon adoption to require that the notification be in writing. Effective April 21, 2008, the Department recodified N.J.A.C. 13:45B-14 as 13:45B-13, therefore, this recodification is applied to adopted new N.J.A.C. 13:45B-14.7 and 14.8 (see 40 N.J.R. 91(b), 2118(a).)

**Federal Standards Statement**

A Federal standards analysis is not required because there are no Federal laws or standards applicable to the adopted new rules.

Full text of the adopted new rules follows (additions to proposal indicated in boldface with asterisks \*thus\*; deletions from proposal indicated in brackets with asterisks \*[thus]\*):

**13:45B-2.9 Uncertified and unlicensed individuals providing home-based services**

(a) When an employment agency sends an individual who is not licensed or certified as a homemaker-home health aide or health care professional to a patient/employer's home to provide home-based services, the employment agency shall provide to the patient/employer:

1. \*[Notification]\* \*Written notification\* that the individual is not a certified homemaker-home health aide or licensed or certified by the Division of Consumer Affairs as a health care professional;

2. A written statement, on the employment agency's letterhead, indicating:

i. The name and address of the individual; and

ii. The title of any course the individual successfully completed that prepared the individual to provide services to the patient/employer, the date the course was completed and the place at which the course was taken;

3. Certification from the employment agency that the individual is a United States citizen or legally-documented alien who can legally work in the United States; and

4. Certification from the employment agency that it has verified the individual's employment history or has obtained at least two character references for the individual.

(b) The information required by (a) above shall be provided to a patient/employer at least 24 hours prior to the provision of services.

(c) A patient/employer may waive the right to obtain the information required by (a) above within the time frame set forth in (b) above. Such waiver must be in writing and must be maintained for at least two years by the employment agency. When a patient/employer has waived his or her right to obtain the information within the time frame set forth in (b) above, the information required by (a) above shall be provided to the patient/employer prior to the provision of services.

### **13:45B-5.2 Uncertified and unlicensed individuals providing home-based services**

(a) When a consulting firm sends an individual who is not licensed or certified as a health care professional to a patient/employer's home to provide home-based services, the consulting firm shall provide to the patient/employer:

1. \*[Notification]\* \*Written notification\* that the individual is not a certified homemaker-home health aide or licensed or certified as a health care professional by the Division of Consumer Affairs;

2. A written statement, on the consulting firm's letterhead, indicating:

i. The name and address of the individual; and

ii. The title of any course the individual successfully completed that prepared the individual to provide services to the patient/employer, the date the course was completed and the place at which the course was taken;

3. Certification from the consulting firm that the individual is a United States citizen or legally-documented alien who can legally work in the United States; and

4. Certification from the consulting firm that it has verified the individual's employment history or has obtained at least two character references for the individual.

(b) The information required by (a) above shall be provided to patient/employers at least 24 hours prior to the provision of services.

(c) A patient/employer may waive the right to obtain the information required by (a) above within the time frame set forth in (b) above. Such waiver must be in writing and must be maintained for at least two years by the consulting firm. When a patient/employer has waived his or her right to obtain the information within the time frame set forth in (b) above, the information required by (a) above shall be provided to the patient/employer prior to the provision of services.

### **13:45B-\*[14.7]\*\*13.7\* Information for patient/employers**

(a) Every certified home-maker home health aide or health care professional regulated by the Division shall wear an identification tag at all times while providing care to patient/employers receiving home-based services. The identification tag shall include the individual's first name or initial, the full surname, the term reflecting the individual's level of licensure or certification and a photograph of the individual. The letters on the tag shall be of equal size, in type not smaller than one-quarter inch. The size of the identification tag shall be equal to or greater than that of any other identification worn by the individual.

(b) Every health care service firm shall provide patient/employers with a copy of the Consumer Guide to Homemaker-

Home Health Aides published by the New Jersey Board of Nursing.

(c) The information required by (b) above shall be provided to patient/employers at least 24 hours prior to the provision of services.

(d) A patient/employer may waive the right to obtain the information required by (b) above within the time frame set forth in (c) above. Such waiver must be in writing and must be maintained for at least two years by the health care service firm. When a patient/employer has waived his or her right to obtain the information within the time frame set forth in (c) above, the information required by (b) above shall be provided to the patient/employer prior to the provision of services.

**13:45B-~~[14.8]~~13.8\* Uncertified and unlicensed individuals providing home-based services**

(a) When a health care service firm sends an individual who is not licensed or certified as a health care professional to a patient/employer's home to provide home-based services, the health care service firm shall provide to the patient/employer:

1. ~~[Notification]~~ \*Written notification\* that the individual is not a certified homemaker-home health aide or licensed or certified by the Division of Consumer Affairs as a health care professional;
2. A written statement, on the health care service firm's letterhead, indicating:
  - i. The name and address of the individual; and
  - ii. The title of any course the individual successfully completed that prepared the individual to provide services to the patient/employer, the date the course was completed and the place at which the course was taken;
3. Certification from the health care service firm that the individual is a United States citizen or legally-documented alien who can legally work in the United States; and
4. Certification from the health care service firm that it has verified the individual's employment history or has obtained two character references for the individual.

(b) The information required by (a) above shall be provided to patient/employers at least 24 hours prior to the provision of services.

(c) A patient/employer may waive the right to obtain the information required by (a) above within the time frame set forth in (b) above. Such waiver must be in writing and must be maintained for at least two years by the health care service firm. When a patient/employer has waived his or her right to obtain the information within the time frame set forth in (b) above, the information required by (a) above shall be provided to the patient/employer prior to the provision of services.