

RULE ADOPTIONS  
VOLUME 43, ISSUE 06  
ISSUE DATE: MARCH 21, 2011  
LAW AND PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
OFFICE OF THE DIRECTOR

**Adopted New Rules: N.J.A.C. 13:45G**

**Disposition of Consumer Complaints**

Proposed: November 15, 2010 at 42 N.J.R. 2745(a).

Adopted: February 1, 2011 by Thomas R. Calcagni, Acting Director, Division of Consumer Affairs.

Filed: February 15, 2011 as R.2011 d.091, **without change**.

Authority: P.L. 2010, c. 17 (N.J.S.A. 45:1-18).

Effective Date: March 21, 2011.

Expiration Date: March 21, 2016.

**Federal Standards Statement**

A Federal standards analysis is not required because the new rules are adopted pursuant to State statute and are not subject to any Federal requirements or standards.

**Full text** of the adopted new rules follows:

CHAPTER 45G

DISPOSITION OF CONSUMER COMPLAINTS

SUBCHAPTER 1. DISPOSITION OF CONSUMER COMPLAINTS

13:45G-1.1 Purpose

The rules in this chapter implement the provisions of P.L. 2010, c. 17, which require that a final disposition of a consumer complaint filed with a board, the Director through the Attorney General, or the Attorney General be rendered within 120 days of the filing of the complaint, subject to certain events that toll the 120-day period.

13:45G-1.2 Scope

The rules in this chapter apply to the disposition of consumer complaints against a licensee of any of the boards designated in N.J.S.A. 45:1-15 received by the board, the Director through the Attorney General, or the Attorney General on or after November 2, 2010.

13:45G-1.3 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise:

"Administrative hearing in a contested case" for the purpose of this chapter commences with the filing by or on behalf of a board of an administrative complaint, provisional order of discipline, notice of violation, uniform penalty letter, or other charging document against a licensee based on a consumer complaint and concludes upon the filing or execution

of the board's final disposition.

"Attorney General's designee" means a senior member of the staff of the Attorney General, the Director of the Division of Consumer Affairs, or a Deputy Director of the Division of Consumer Affairs designated by the Attorney General to approve the tolling of the 120-day period within which a board, the Director or the Attorney General shall render a final disposition of a consumer complaint.

"Board" means any of the boards listed in N.J.S.A. 45:1-15.

"Consumer" means an individual who seeks or receives services provided by a licensee or a person who is authorized to act on behalf of that individual.

"Consumer complaint" means an accusation made by a consumer against a licensee, supported by all of the information and documentation available to the complainant that the board, Director through the Attorney General or Attorney General deems necessary to resolve the accusation or refer the matter for investigation.

"Director" means the Director of the Division of Consumer Affairs.

"Documented approval" means a writing, including an e-mail or other electronic document, made by the Attorney General or the Attorney General's designee approving the tolling of the 120-day period for the resolution of a consumer complaint.

"Final disposition" of a consumer complaint means an oral or written order, entered after a hearing or other opportunity to be heard or by consent, or other document authorized by the board imposing discipline on a licensee, taking action against a licensee not constituting discipline, or finding that there is no cause for action.

#### 13:45G-1.4 Time period for disposition of consumer complaints

(a) A board, the Director through the Attorney General, or the Attorney General shall render a final disposition of a consumer complaint within 120 days of the filing of the complaint, except that the 120-day period shall be tolled, based upon the documented approval of the Attorney General or the Attorney General's designee, whenever additional time is required:

1. To obtain information, records or evidence, necessary for the investigation of the consumer complaint, from the licensee or a third party, through an informal request or the exercise of investigative authorities as set forth at N.J.S.A. 45:1-18;
2. To obtain information, records or evidence, provided by or on behalf of a licensee that, in the licensee's view, materially refutes the findings upon which a settlement is premised or warrants an alternative disposition. Obtaining information, records or evidence includes an evaluation by the board of the material provided by or on behalf of the licensee in response to an offer of settlement, which shall be considered at the next regularly scheduled meeting of the board held on or after the 15th day after receipt of the material;
3. For the board, Director or the Attorney General, as the case may be, to consider additional information furnished by the consumer more than 30 days after the filing of the complaint;
4. To conduct an administrative hearing in a contested case;
5. For expert consultation related to the subject matter under investigation;
6. Because a complaint is, or becomes, the subject of a criminal investigation or prosecution; or
7. For other good cause shown due to extraordinary or unforeseen circumstances.

(b) Documented approval will be deemed to have been automatically granted by the Attorney General or the Attorney General's designee to obtain and review a response to a perfected consumer complaint from the licensee named in the complaint, for a period of 21 days or until the next meeting of the board following receipt of the complaint, whichever occurs later.

[page=735] 13:45G-1.5 Perfecting a consumer complaint

(a) A consumer who wants to file a consumer complaint against a licensee shall include in or with communications to a board, the Director through the Attorney General or the Attorney General all of the information about the matter available to the consumer, together with supporting documentation.

(b) If a communication from a consumer received by a board, the Director through the Attorney General or the Attorney General is in the nature of an accusation against a licensee, but does not contain, or is not accompanied by, sufficient information necessary to resolve the accusation or refer the matter for investigation, the recipient shall send the consumer, in the same manner as the consumer's communication was sent, an acknowledgment of receipt of the communication, advice that the communication did not contain all of the information necessary to constitute a consumer complaint, and a request for additional information.

(c) When the board, the Director through the Attorney General or the Attorney General receives communications and information, including supplemental information as requested under (b) above, from the consumer constituting a consumer complaint, it shall notify the consumer that the consumer's communications and accompanying information is or has been deemed to be a completed consumer complaint, indicating the date the consumer complaint was received or the date that the consumer complaint was deemed to be complete.

13:45G-1.6 Report to the Attorney General

A board and the Director shall each submit to the Attorney General a monthly report required under P.L. 2010, c. 17. The report shall include the number of complaints pending on the first day of the preceding month, the number of complaints for which tolling of the 120 days was approved within the preceding month, the number of complaints brought to final disposition during the preceding month within the 120-day period from filing (regardless of whether tolling had been approved), and the number of complaints brought to final disposition during the preceding month after more than 120 days from filing for which tolling of the 120-day period had been approved.