

NEW JERSEY REGISTER
VOLUME 40, ISSUE 8
ISSUE DATE: APRIL 21, 2008
RULE ADOPTIONS
LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
REGULATED BUSINESS SECTION

Adopted New Rules: N.J.A.C. 13:45B-12

Adopted Recodifications with Amendments: N.J.A.C. 13:45B-14 and 15 as 13 and 14

Adopted Recodification: N.J.A.C. 13:45B-12 and 13 as 15 and 16

Adopted Amendments: N.J.A.C. 13:45B-4.6 and 8.1

Registration Requirements for Temporary Help Service Firms; Transportation of Employed Individuals by Temporary Help Service Firms

Proposed: January 7, 2008 at 40 N.J.R. 91(b).

Adopted: March 10, 2008 by the Division of Consumer Affairs, Lawrence DeMarzo, Acting Director, in Consultation with the New Jersey Motor Vehicle Commission.

Filed: March 17, 2008 as R.2008 d.92, without change.

Authority: N.J.S.A. 56:8-1.1, 52:17B-122 and 17B-124, and 34:8-43 and 34:8-44.

Effective Date: April 21, 2008.

Expiration Date: August 31, 2008.

Federal Standards Statement

A Federal standards analysis is not required because the adopted new rules and adopted rule amendments are subject to State statutory requirements and are not subject to any Federal requirements.

Full text of the adoption follows:

13:45B-4.6 Temporary placement operation (functioning in conjunction with an employment agency and integrated)

(a) (No change.)

(b) If a licensed employment agency provides temporary placement services as described in (a) above, the temporary placement operation function shall be subject to the requirements of N.J.S.A. 34:8-43 et seq. and N.J.A.C. 13:45B-1 through 4 and 7, 8, 15 and 16, as well as this section.

(c) (No change.)

SUBCHAPTER 8. OUT-OF-STATE BUSINESSES

13:45B-8.1 Application

All provisions of N.J.A.C. 13:45B-1 through 16 shall apply to any person engaging in any of the activities regulated by N.J.S.A. 34:8-43 et seq. or 56:8-1.1 in New Jersey, including persons whose residence or principal place of business is located outside of this State.

SUBCHAPTER 12. TEMPORARY HELP SERVICE FIRMS

13:45B-12.1 Purpose and scope

(a) The rules of this subchapter are being promulgated pursuant to N.J.S.A. 56:8-1.1, in order to set forth the registration requirements for temporary help service firms and to set forth the recordkeeping requirements for temporary help service firms that transport, or provide transportation for, employees to or from the work site. The rules are intended to improve the safety of vehicles used by temporary help service firms to transport employees to or from the work site.

(b) This subchapter shall apply to any temporary help service firm regulated under N.J.S.A. 56:8-1.1 or 34:8-43 et seq., and as defined in N.J.A.C. 13:45B-1.2.

13:45B-12.2 Registration process

(a) All temporary help service firms, as defined in N.J.A.C. 13:45B-1.2, shall register annually with the Section in order to operate as a temporary help service firm in New Jersey.

(b) An application for registration and an abstract of the law covering the statutory requirements for the operation of registered services in New Jersey shall be supplied by the Section upon request.

(c) To register as a temporary help service firm, an applicant shall submit annually:

1. A completed application form provided by the Division under (b) above containing the information required by N.J.S.A. 56:8-1.1 and such other information as the Division may require;

2. The registration fee, as set forth in N.J.A.C. 13:45B-7.1; and

3. A \$ 1,000 bond, unless the bond has been waived by the Director for those entities having a net worth of \$ 100,000 or more.

(d) In order to obtain the bond waiver as set forth in (c)3 above, the temporary help service firm shall provide a copy of a certified financial report prepared by a certified public accountant or public accountant establishing that the temporary help service firm has a net worth of \$ 100,000 or greater.

(e) The issuance of a registration shall be subject to the requirements of the New Jersey Child Support Program Improvement Act, N.J.S.A. 2A:17-56.41 et seq.

(f) The issuance of a registration shall be subject to compliance with the provisions of N.J.S.A. 34:8-44.

(g) Registrants shall be under a continuing obligation to inform the Section of any change in or addition to the application information, within 30 days of that change or addition.

(h) If the temporary help service firm uses any location other than its primary location for recruiting applicants, including any mobile locations not disclosed in its application, it shall notify the Section in writing before using that secondary location.

13:45B-12.3 Temporary help service firms' duties when providing transportation to employed individuals

(a) Every temporary help service firm that provides, to individuals it employs, transportation services in any vehicle owned, leased or otherwise under the control of the firm, in order for those individuals to get to or return from the work site, shall comply with the provisions of N.J.S.A. 48:4-3 et seq., if applicable, and any other statutes or regulations applicable to the vehicle or its use or operation, including those statutes or regulations pertaining to the vehicle operator's license, any insurance and maintenance requirements and the capacity restrictions placed on the vehicle. Every temporary help service firm shall keep on file all documentation necessary to demonstrate compliance with any applicable statute or regulation and a copy of the New Jersey motor vehicle registration, the lease agreement,

if applicable, and any other documents evidencing control that contain the make, model and vehicle identification number of the vehicle.

(b) Every temporary help service firm that refers or directs the individuals it employs to use the transportation services of any other provider or providers, or provides no practical alternative to the use of those services, shall obtain and keep on file all necessary documentation to show that each provider of transportation used by the temporary help service firm is in compliance with the requirements of N.J.S.A. 48:4-3 et seq., if applicable, and any other statutes or regulations applicable to the vehicle or its use or operation, including those statutes or regulations pertaining to the vehicle operator's license, any insurance and maintenance requirements and the capacity restrictions placed on the vehicle. In addition, the temporary help service firm shall retain and keep on file any written contract or other agreement between the temporary help service firm and any provider of transportation pertaining to the transportation of employees.

(c) The requirements in (a) and (b) above shall not apply where there is public transportation available at the times needed to and from the work site or where the firm requires its employees to use their own vehicle or other transportation of their choice for transportation to and from the work site.

(d) A temporary help service firm shall not require an individual it employs to use transportation it provides or transportation provided by another, if the employed individual has other transportation available, including public transportation, to get to or from the work site.

(e) Any temporary help service firm, to which (a) or (b) above applies, shall maintain for each vehicle a daily manifest of the employed individuals being transported to or returning from the work site and the vehicle operators' names and license numbers.

(f) Every temporary help service firm, to which (a) or (b) applies, shall provide to the employed individual a written statement in duplicate, in his or her native language, if the temporary help service firm advertises for employment in that language, to be signed by the employed individual, that indicates that he or she is taking the transportation provided by the temporary help services firm because it is the only means by which the employed individual can get to or return from the work site. A signed copy of the statement shall be retained by the employer.

(g) Every temporary help service firm that provides transportation as set forth in (a) or (b) above shall maintain and make available for inspection by the Division for a period of not less than five years all documentation required by (a), (b), (e) and (f) above.

(h) The Division may randomly audit the records maintained under (g) above.

13:45B-12.4 Violations

(a) A failure to comply with this subchapter shall be considered an unlawful practice and a violation of the Consumer Fraud Act, N.J.S.A. 56:8-1 et seq.

(b) In addition to (a) above, a failure to comply with N.J.A.C. 13:45B-12.3 shall be considered a violation of N.J.S.A. 48:4-3 et seq. Any temporary help services firm to which N.J.A.C. 13:45B-12.3 applies that is found to be in violation of N.J.S.A. 56:8-1 et seq. or 48:4-3 et seq. will be subject to the penalties under those acts and shall be jointly and severally liable with the provider of transportation services for any injury that occurs to individuals while being transported in a vehicle owned, leased or otherwise under the control of the provider.

(c) A temporary help service firm that has failed to comply with the provisions of N.J.A.C. 13:45B-12.3 on more than one occasion may have its registration suspended or revoked by the Director.

(d) A temporary help service firm that has provided false information to the Section on its initial registration application or its registration renewal application, with regard to the types of transportation provided by the temporary help service firm, if any, shall be subject to the provisions of N.J.A.C. 13:45B-16.1.

(e) A violation of a statute or regulation of any other State agency under (a), (b) or (c) above shall be reported by the Section to the State agency having jurisdiction.

(f) No penalty shall be assessed for any violation of the recordkeeping requirements of N.J.A.C. 13:45B-12.3 before January 24, 2008.

SUBCHAPTER 13. HEALTH CARE SERVICE FIRMS

13:45B-13.1 Authority, purpose and scope

(a)-(b) (No change.)

(c) This subchapter applies to all persons operating a health care service firm, as defined by N.J.A.C. 13:45B-13.2, including persons whose residence or principal place of business is located outside of this State.

13:45B-13.2 (No change in text.)

13:45B-13.3 Initial registration requirements

(a) Except as set forth in N.J.A.C. 13:45B-13.4, each health care service firm shall register with the Division by submitting the following, on forms provided by the Director:

1.-4. (No change.)

(b)-(d) (No change.)

13:45B-13.4 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-13.3(a)1 and 2. Such entity shall, however, comply with the provisions of N.J.A.C. 13:45B-13.3(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) (No change.)

13:45B-13.5 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-13.3(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-13.3(a)3.

13:45B-13.6 (No change in text.)

SUBCHAPTER 14. PLACEMENT OF HEALTH CARE PRACTITIONERS

13:45B-14.1 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-13.2 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-13.2, 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, 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.

. . . Recodify existing N.J.A.C. 13:45B-15.2 through 15.9 as 13:45B-14.2 through 14.9 (No change in text.)

Recodify existing N.J.A.C. 13:45B-12 and 13 as 13:45B-15 and 16 (No change in text.)