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**RULE ADOPTIONS**

**LAW AND PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS**

44 N.J.R. 2059(a)

**Adopted New Rules: N.J.A.C. 13:45A-34**

**International Labor Matching Organizations and International Matchmaking Organizations**

Proposed: April 16, 2012 at 44 N.J.R. 1185(a).

Adopted: June 27, 2012 by Eric T. Kanefsky, Acting Director, **Division of Consumer Affairs**.

Filed: July 2, 2012 as R.2012 d.141, **with technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: P.L. 2009, c. 152 (N.J.S.A. 56:8-185 through 56:8-194).

Effective Date: August 6, 2012.

Expiration Date: December 14, 2018.

**Summary** of Public Comment and Agency Response:

The official comment period ended June 15, 2012. **The Director received no comments.**

**Federal Standards Statement**

A Federal standards analysis is not required because the adopted new rules are governed by P.L. 2009, c. 152, N.J.S.A. 56:8-185 through 56:8-194, and are not subject to any Federal requirements or standards.

[page=2060] **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]\*):

SUBCHAPTER 34. INTERNATIONAL LABOR MATCHING ORGANIZATIONS AND INTERNATIONAL MATCHMAKING ORGANIZATIONS

### 13: 45A-34.1 Purpose and scope

(a) The rules in this subchapter implement the provisions of P.L. 2009, c. 152, N.J.S.A. 56:8-185 et seq., concerning international labor matching organizations and international matchmaking organizations and establish procedures for the registration of such organizations.

(b) The rules in this subchapter shall apply to owners, prospective owners, and employees of international labor matching organizations and international matchmaking organizations that are required to register with the Division pursuant to N.J.S.A. 56:8-185 et seq., and N.J.A.C. 13:45A-34.3, and to owners, prospective owners, and employees of such organizations that choose to voluntarily register with the Division.

### 13: 45A-34.2 Definitions

The following words and terms when used in this subchapter shall have the following meanings, unless the context indicates otherwise.

"Client" means a resident of New Jersey for whom an international labor matching organization seeks to locate labor assistance from citizens of a foreign country residing outside of the United States, or for whom an international matchmaking organization renders dating, matrimonial, or social referral services involving citizens of a foreign country residing outside of the United States.

"Criminal history record background check" means a determination whether a person has a criminal record by cross-referencing that person's name and fingerprints with those on file with the Federal Bureau of Investigation, Identification Division, and the State Bureau of Identification in the Division of State Police.

"Director" means the Director of the **Division of Consumer Affairs** in the Department of Law and Public Safety.

"Division" means the **Division of Consumer Affairs** in the Department of Law and Public Safety.

"Doing business in the United States" means that the international labor matching organization or the international matchmaking organization has a physical business office in the United States.

"Employee" means an employee of an international labor matching organization or international matchmaking organization whose job description or functional duties entail the solicitation of, or access to, personal information of New Jersey clients and recruits.

"International labor matching organization" means a corporation, partnership, sole proprietorship, or other entity doing business in the United States, whose primary purpose is to offer to New Jersey residents, opportunities to locate labor assistance from foreign recruits residing outside of the United States for the purpose of bringing the foreign recruit to New Jersey. The phrase "whose primary purpose is to offer to New Jersey residents" means that for the previous fiscal year, more than 50 percent of the organization's business consisted of clients seeking labor assistance who resided in New Jersey and that more than 50 percent of the organization's business consisted of placements for labor assistance sought by the New Jersey clients that were for foreign recruits.

"International matchmaking organization" means a corporation, partnership, sole proprietorship, or other entity doing business in the United States whose primary purpose is offering, including to New Jersey residents, dating, matrimonial, or social referral services involving citizens of foreign countries who are not residing in the United States, such as: (1) an exchange of names, telephone numbers, addresses, or statistics; (2) a selection of photographs; or (3) providing a social environment for introducing clients to recruits in a country other than the United States. The term shall not include an on-line personal services organization. The phrase "whose primary purpose is offering, including to New Jersey residents," means that for the previous fiscal year, more than 50 percent of the organization's business consisted of placements for dating, matrimonial, or social referral services involving foreign recruits and that more than 10 percent of such placements are for New Jersey clients.

"On-line personal services organization" means a corporation, partnership, sole proprietorship, or other entity that does business in the United States and for profit provides an on-line forum for persons to post personal profiles as a means of self-referral for dating, matrimonial, or other social purpose.

"Recruit" means a citizen of a foreign country residing outside of the United States who is recruited by an international labor matching organization for the purpose of bringing the laborer to New Jersey, or by an international matchmaking organization for the purpose of providing dating, matrimonial or social referral services.

### 13: 45A-34.3 Registration

(a) On or before \*[(90 days after the effective date of this subchapter)]\* **November 4, 2012\***, an international labor matching organization or an international matchmaking organization shall apply for registration with the **Division of Consumer Affairs**, and to have each owner, prospective owner, and employee of the organization certified by the Division as eligible to provide labor matching or matchmaking services to New Jersey residents. The organization shall be permitted to continue offering its services to New Jersey residents for 90 days after the date of application. If the organization has not satisfied the criteria for registration within 90 days after application, the organization may submit a written request for extension to the Division. An extension granted under this subsection shall not exceed 90 days.

(b) An organization that performs the services of an international labor matching organization or an international matchmaking organization but is not required to register with the Division on \*[(the effective date of this subchapter)]\* **August 6, 2012\*** because the organization is not an international labor matching organization or an international matchmaking organization shall apply for registration with the Division within 90 days after the close of the fiscal year in which the organization satisfied the criteria in this section. The organization shall be permitted to continue offering its services to New Jersey residents for 90 days after the date of application. If the organization has not completed the registration process within 90 days after application, the organization may submit a written request for extension to the Division. An extension granted under this subsection shall not exceed 90 days.

(c) The Division shall maintain a list of all international labor matching organizations and international matchmaking organizations registered under this subchapter and shall make this list available to the public on the Division's website at [www.njconsumeraffairs.gov](http://www.njconsumeraffairs.gov).

(d) An organization that performs the services of an international labor matching organization or an international matchmaking organization but is not required to register with the Division because the organization is not an international labor matching organization or an international matchmaking organization as defined in N.J.A.C. 13:45A-34.2 may voluntarily register with the Division. An organization voluntarily registering with the Division shall comply with all requirements in this subchapter and shall be included in the list of organizations maintained by the Division and made available to the public pursuant to (c) above.

(e) An international labor matching organization or an international matchmaking organization applying for registration shall submit the following to the Division:

1. A completed application for registration, which shall contain:

i. The name, residence, and business address of all owners and prospective owners;

ii. The name and residence address of all employees; and

iii. The name and business address of a designated agent in New Jersey for service of process;

2. Written consent for the initiation of a criminal history record background check from each owner, prospective owner, and employee named in the application to determine whether any disqualifying criminal convictions, consistent with N.J.A.C. 13:45A-34.4, exist. A separate, signed consent form shall be submitted for each owner, prospective owner, or employee. Each owner, prospective owner, or employee shall also submit his or her fingerprints. The criminal history background check shall be conducted by the State Bureau of Identification in the Division of State Police and the Federal Bureau of Investigation.

i. The Division shall not certify as eligible to own an international labor matching organization or international matchmaking organization, or as eligible to be employed by such organization, any owner, prospective owner, or employee who refuses to consent to, or otherwise [page=2061] refuses to cooperate in, the securing of a criminal history record background check;

3. The criminal history record background check fee payable to the State vendor for digital fingerprinting for each owner, prospective owner, and employee named in the application; and

4. A registration fee of \$ 100.00 payable to the Division.

(f) The Division shall issue a registration to an international labor matching organization or an international matchmaking organization, and shall issue to each owner, prospective owner, and employee of the organization a certification that the individual is eligible to provide labor matching or matchmaking services in New Jersey, following receipt of the results of a criminal history record background check revealing that the individuals have not been convicted of a disqualifying offense, as set forth in N.J.A.C. 13:45A-34.4.

(g) An international labor matching organization or international matchmaking organization shall file a supplemental registration application with the Division immediately upon hiring a new employee or obtaining a new owner. The supplemental application shall include written consent from the new employee or new owner for the initiation of a criminal history record background check and shall be accompanied by the criminal history record background

check fee, unless the new employee or new owner has previously been certified by the Division as eligible to be employed by, or eligible to own, an international labor matching organization or international matchmaking organization. Unless the new employee or new owner has been previously certified by the Division, the new employee or new owner shall not provide labor matching or matching services to New Jersey residents until being certified by the Division to provide such services.

(h) Falsification of any information on the registration application may result in the denial of registration, or the suspension or revocation of registration and the assessment of penalties pursuant to the Consumer Fraud Act, N.J.S.A. 56:8-1 et seq.

(i) An international labor matching organization or an international matchmaking organization shall notify the Division of any changes in the information submitted as part of organization's registration and/or supplemental registration application within 10 business days of such change.

(j) No international labor matching organization or international matchmaking organization required to register shall operate unless registered with the Division.

#### 13:45A-34.4 Disqualifying crimes; petition for review

(a) A person whose criminal history record background check reveals a conviction for any of the following crimes and offenses shall be disqualified from owning or being employed by an international labor matching organization or an international matchmaking organization:

1. If the conviction was in New Jersey for a crime:

i. Involving danger to the person as set forth in N.J.S.A. 2C:11-1 et seq., 2C:12-1 et seq., 2C:13-1 et seq., 2C:14-1 et seq., or 2C:15-1 et seq.;

ii. Against others, including family and children, as set forth in N.J.S.A. 2C:24-1 et seq., or of domestic violence as set forth in N.J.S.A. 2C:25-17 et seq.;

iii. Involving theft as set forth in N.J.S.A. 2C:20-1 et seq.;

iv. Involving any controlled dangerous substance or analog as set forth in N.J.S.A. 2C:35-1 et seq., except N.J.S.A. 2C:35-10.a.(4);

v. Involving terrorism as set forth in N.J.S.A. 2C:38-1 et seq.; or

vi. Involving prostitution and related offenses as set forth in N.J.S.A. 2C:34-1; or

2. If the conviction was in another state or jurisdiction for conduct constituting any of the crimes described in (a)1 above under equivalent statutes in that state or jurisdiction.

(b) An owner, prospective owner, or employee who is notified by the Division that his or her criminal history record background check has revealed a disqualifying criminal conviction may, within 30 days after receipt of that notice, petition the Division for a review of his or her application. The request shall be in writing and shall cite reasons to substantiate the request for review, which may include, challenging the accuracy of the reported criminal record information or the submission of clear and convincing evidence of rehabilitation.

(c) In determining whether an applicant has affirmatively demonstrated rehabilitation, the Director shall consider the following:

1. The nature and seriousness of the offense;
2. The circumstances under which the offense occurred;
3. The date of the offense;
4. The age of the person when the offense was committed;
5. Whether the offense was repeated;
6. Social conditions that may have contributed to the offense; and
7. Any evidence of rehabilitation, including good conduct in the community; counseling, psychological, or psychiatric treatment; additional academic or vocational training; or personal recommendations.

(d) Within 30 days of being notified by the Division that an owner or employee's criminal history record background check has revealed a disqualifying criminal conviction, an international labor matching or matchmaking organization shall submit a certification that the owner or employee is no longer associated with the organization. Failure to comply with the requirements of this subsection may result in the suspension or revocation of the organization's registration and/or the imposition of penalties pursuant to N.J.S.A. 45:8-1 et seq.

#### 13:45A-34.5 Information provided to recruits

(a) An international labor matching organization or an international matchmaking organization shall advise a recruit in writing, in the recruit's native language, that the recruit has the right to ask for criminal history record information on all clients he or she may be placed in contact with.

1. Upon receipt of a request for information from a recruit, an international labor matching organization or an international matchmaking organization shall refrain from providing any further services to the recruit or to the client to facilitate future interaction between the recruit and the client until the client has submitted to the organization a complete transcript of his or her criminal history record obtained from the State Bureau of Identification in the Division of State Police, and the organization has provided this information to the recruit. The client shall bear the cost for the criminal history record background check, including all costs of administering and processing the check.

(b) An international labor organization or an international matchmaking organization shall provide a recruit in writing with the telephone numbers for the Statewide Domestic Violence Hotline, available at <http://www.state.nj.us/dca/divisions/dow/programs/sdvh.html>, and the National Domestic Violence Hotline, available at <http://www.thehotline.org/>, and shall direct the recruit to the booklet entitled "Domestic Violence: The Law and You" available from the New Jersey Department of Community Affairs, Division on Women, at [http://www.state.nj.us/dca/divisions/dow/publications/pdfs/dvthelawandyou\\_english.pdf](http://www.state.nj.us/dca/divisions/dow/publications/pdfs/dvthelawandyou_english.pdf). An international labor matching organization and an international matchmaking organization shall make the booklet available in the native language of the recruit if requested.

### 13: 45A-34.6 Recordkeeping

(a) An international labor matching organization or an international matchmaking organization shall retain a copy of the organization's registration. The organization shall also retain a copy of the certification of each owner, prospective owner, and employee for the duration of the owner's, prospective owner's, or employee's affiliation with the organization. The certifications shall be made available upon request to members of the general public.

(b) An international labor matching organization or an international matchmaking organization shall maintain its business records for a minimum of three fiscal years. Such records shall be made available to the Division upon request.

### 13: 45A-34.7 Violations

Any violations of this subchapter shall be deemed a violation of the Consumer Fraud Act and may subject an organization or person to the assessment of penalties pursuant to N.J.S.A. 56:8-1 et seq.

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