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RULE ADOPTIONS

Reporter

50 N.J.R. 1287(a)

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

Agency

LAW AND PUBLIC SAFETY > DIVISION OF CONSUMER AFFAIRS > **ELEVATOR,
ESCALATOR, AND MOVING WALKWAY MECHANICS LICENSING BOARD**

Administrative Code Citation

Adopted New Rules: N.J.A.C. 13:44M

Text

Elevator, Escalator, and Moving Walkway Mechanics Licensing Board Rules

Proposed: May 1, 2017, at 49 N.J.R. 998(a) (see also 49 N.J.R. 3098(a)).

Adopted: October 23, 2017, by the Elevator, Escalator, and Moving Walkway Mechanics Licensing Board, James Boydston, Chairman.

Filed: April 23, 2018, as R.2018 d.113, **with non-substantial changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 45:14H-3.

Effective Date: May 21, 2018.

Expiration Date: May 21, 2025.

Summary of Public Comments and Agency Responses:

The official comment period ended September 20, 2017. The Board received comments from the following individuals:

1. Dominick Mondì, President, Associated Builders & Contractors--New Jersey
2. Matt Pincus, President, Pincus Elevator Company, Inc.
3. Scott Wallace Sr., Accredited Home Elevator Co.
4. Tom Archie, Director of Regulatory Affairs, PFlow Industries, Inc.

1. COMMENT: A commenter is concerned with legislation governing elevator, escalator, and moving walkway mechanics that requires the publication of every licensee's name and address. The commenter contends that this is an invasion of privacy and unnecessary as licensees are not public contractors. The commenter contends that this requirement does not protect consumers in New Jersey and will increase costs to consumers and businesses.

RESPONSE: N.J.S.A. 45:14H-3.e requires the publication of licensees' names and addresses. The Board is required to follow this statutory requirement, but it does not view such publication as a violation of privacy interests.

2. COMMENT: Two commenters are concerned that the Regulatory Flexibility Statement in the notice of proposal could be burdensome to elevator mechanics if it categorizes them as small businesses. The commenters contend that this could require mechanics to obtain insurance, meet recordkeeping requirements, and pay new taxes and registration fees.

RESPONSE: The Regulatory Flexibility Statement recognized that some elevator mechanics could be small businesses. This recognition does not dictate that elevator mechanics are small businesses; nor does it require that elevator mechanics obtain insurance, meet recordkeeping requirements, or pay taxes or registration fees.

3. COMMENT: Two commenters contend that providing a New Jersey specific examination would provide applicants with a simple way to obtain licensure without the burdensome requirements imposed by the new regulations.

RESPONSE: The Board does not believe that standards to qualify for licensure are unduly burdensome. The examinations identified in N.J.A.C. 13:44M-2.1, the National Association of Elevator Contractors (NAEC), Certified Elevator Technician (CET) examination, and National Elevator Industry Educational Program (NEIEP) examination, are the existing industry examinations. Creating a New Jersey specific examination would not provide a less burdensome avenue for licensure and would unnecessarily burden the Board.

4. COMMENT: Two commenters point out that N.J.A.C. 13:44M addresses individuals working on equipment covered by American Society of Mechanical Engineers (ASME) A18.1 (Safety Standard for Platform Lifts and Stairway Chairlifts), which deals with commercial accessibility. The commenters contend that there are companies that limit their business to lifts that are subject to ASME A18.1 and that the only education for such companies is the NAEC Certified Accessibility and Private Residence Lift Technician (CAT) program. The commenters point out that Board regulations only recognize the NAEC CAT program and the NEIEP, which require elevator and escalator on-the-job training.

RESPONSE: The commenters are correct that the definition of "elevator, escalator, or moving walkway" in N.J.A.C. 13:44M-2.1 covers equipment covered by ASME A18.1. The Board developed this definition based on Department of Community Affairs' (Department) rule, N.J.A.C. 5:23-12.1. It is appropriate for the Board and the Department's definitions of elevators, escalators, and moving walkways to be consistent. Individuals who limit their business to lifts that are subject to ASME A18.1 will be required to obtain licensure as elevator mechanics.

5. COMMENT: A commenter contends that vertical reciprocating conveyors are excluded from elevator regulations in ASME 17.1 and in the definition of "elevators" in N.J.A.C. 5:23-12.1. The commenter points out that vertical reciprocating conveyors are not excluded in the definition of "elevator, escalator, or moving walkway" in N.J.A.C. 13:44M-1.2, and recommends that the definition be amended to specifically exclude vertical reciprocating conveyors. The commenter contends that vertical reciprocating conveyors are installed and serviced by millwrights and iron workers and that education programs for elevator mechanics do not include vertical reciprocating conveyors.

RESPONSE: The commenter is correct that the definition of "elevators" in N.J.A.C. 5:23-12.1 specifically excludes conveying devices. The rule also excludes process equipment and mine elevators. In order to maintain consistency with Department of Community Affairs' rules, the Board has changed N.J.A.C. 13:44M-1.2 upon adoption to exclude such devices.

6. COMMENT: Two commenters are concerned that applicants for licensure through grandfathering will be required to complete 6,000 hours of work experience in New Jersey and ask how the completion of hours will be proven. The commenters contend that requiring hours to be completed in New Jersey violate reciprocal arrangements with other states and could be violations of the Interstate Commerce Clause of the United States Constitution.

RESPONSE: N.J.A.C. 13:44M-2.3(b) sets forth how an applicant will establish that he or she has completed the required hours of experience. N.J.S.A. 45:14H-9 requires that work experience be completed in New Jersey. This requirement is rationally related to the concern of protecting the health, safety, and welfare of New Jersey citizens, as there may exist differences in customs or standards between New Jersey elevator mechanics and out-of-State mechanics that could result in harm.

7. COMMENT: Two commenters point out that N.J.A.C. 13:44M-2.3 requires that the 6,000 hours of work experience be in elevator, escalators, and moving walkways. The commenters are concerned that this regulation does not reference accessibility equipment covered by ASME A18.1 and question whether accessibility companies will be able to obtain licensure.

RESPONSE: The definition of "elevator, escalator, or moving walkway" in N.J.A.C. 13:44M-1.2 specifically includes devices within the scope of ASME A18.1. As such, individuals who complete 6,000 hours of work experience on accessibility equipment covered by ASME A18.1 within the last five years will qualify for licensure.

8. COMMENT: Two commenters contend that N.J.A.C. 13:44M-2.3 does not permit unionized contractors to obtain a license. The commenters recommend that the Board create a process, such as an examination, through which elevator mechanics who have not completed certified education programs may obtain licensure through grandfathering.

RESPONSE: The Board does not agree that N.J.A.C. 13:44M-2.3 does not permit unionized contractors to obtain a license. As long as such individuals complete 6,000 hours of work experience within the last five years, they will qualify for licensure without having to complete certified education programs.

9. COMMENT: Two commenters were concerned that N.J.A.C. 13:44M-2.3 requires applicants to provide hourly wages. The commenters believe this is unnecessary and an invasion of personal and company privacy.

[page=1288] RESPONSE: The Board agrees that information regarding hourly wages could be an invasion of personal and company privacy. Such disclosure does not provide necessary information regarding the work experience of an applicant for licensure. The Board has changed N.J.A.C. 13:44M-2.3(b) upon adoption to remove reference to hourly wages. The Board has also changed N.J.A.C. 13:44M-2.3(a) to correct a cross-reference to the examination requirements in N.J.A.C. 13:44M-2.1.

10. COMMENT: Two commenters question whether the Board will provide an opportunity for licensees to obtain the bond required by N.J.A.C. 13:44M-2.4.

RESPONSE: The Board will not provide an opportunity to obtain a bond.

11. COMMENT: Two commenters point out that N.J.A.C. 13:44M-5.5 requires a licensed elevator mechanic to notify an owner or lessee of an elevator of conditions not in compliance with the Elevator Safety Subcode of the Uniform Construction Code. The commenters are concerned as the burden of notification is placed on licensed mechanics and not the company contracting to perform the work.

RESPONSE: N.J.S.A. 45:14H-11 requires a licensee to notify the Board or owner or lessee of an elevator of a condition not in compliance with elevator subcodes. The Board cannot remove this notification requirement, but it has changed N.J.A.C. 13:44M-5.5, so that a licensed elevator mechanic could satisfy the notification requirement by notifying an owner's or lessee's representative of such conditions.

Federal Standards Statement

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

Regulations

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]*):

CHAPTER 44M

ELEVATOR, ESCALATOR, AND MOVING WALKWAY MECHANICS LICENSING BOARD RULES

SUBCHAPTER 1. PURPOSE AND SCOPE; DEFINITIONS

13:44M-1.1 Purpose and scope

(a) The rules contained in this chapter provide for the licensing and regulation of elevator mechanics, implementing the provisions of the Elevator, Escalator, and Moving Walkway License Law, P.L. 2012, c. 71 (N.J.S.A. 45:14H-1 et seq.).

(b) This chapter does not apply to any person who installs, constructs, alters, services, repairs, tests, or maintains a stairway chairlift in a dwelling unit.

13:44M-1.2 Definitions

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

"ASME" means the American Society of Mechanical Engineers.

"Board" means the Elevator, Escalator, and Moving Walkway Mechanics Licensing Board.

"CET" means the Certified Elevator Technician certification offered by the NAEC.

" Dwelling unit " means a single unit providing complete, independent living facilities for one or more persons living as a single housekeeping unit, including permanent provisions for living, sleeping, eating, cooking, and sanitation. " Dwelling unit " also includes outside access dedicated solely to that unit.

" Elevator, escalator, or moving walkway " means a hoisting and lowering device equipped with a car or platform that moves in guides for the transportation of individuals or freight in a substantially vertical direction through successive floors or levels of a building or structure; or a power driven, inclined, continuous stairway used for raising or lowering passengers; or a type of passenger carrying device on which passengers stand or walk, and in which the passenger carrying surface remains parallel to its direction of motion and is uninterrupted. This includes elevators, escalators, moving walks, dumbwaiters, wheelchair lifts, manlifts, stairway chairlifts that are not within a dwelling unit and any device within the scope of ASME A17.1 (Safety Code for Elevators and Escalators), ASME A18.1 (Safety Standard for Platform Lifts and Stairway Chairlifts), or ASME A90.1 (Safety Standards for Belt Manlifts), published by the ASME, 2004 Edition, ASME, PO Box 2900, 22 Law Drive, Fairfield, NJ 07007-2900, which are incorporated herein by reference, as amended and supplemented. **" Elevator, escalator, or moving walkway " does not include any conveying devices, process equipment, and mine elevators. Conveying devices include personnel hoists, material hoists, conveyors, and any other device outside of the scope of ASME A17.1, A18.1, or A90.1.***

" Licensed elevator mechanic " means an individual who holds a current, valid license issued by the Board.

" NAEC " means the National Association of Elevator Contractors.

" NEIEP " means the National Elevator Industry Educational Program.

" Stairway chairlift " means a lifting device that has a foot rest and seat, which is attached to stairs.

SUBCHAPTER 2. LICENSURE

13:44M-2.1 Application for license

(a) An applicant for an elevator mechanic license shall submit to the Board:

1. A completed application, on a form provided by the Board, including a full street name and number;
2. Proof that the applicant is at least 21 years of age;
3. Proof that the applicant has met the experience requirements of (b) below;
4. Proof that the applicant has passed either the NAEC CET certification examination or the NEIEP examination; and
5. The application fee as set forth in N.J.A.C. 13:44M-6.1.

(b) An applicant for licensure shall have been employed for at least three years in the elevator, escalator, or moving walkway trade in either:

1. New Jersey; or
2. Another state, if the applicant can show that the years of employment completed in the other state would satisfy the experience and training required to take the NAEC CET certification examination or the NEIEP examination.

13:44M-2.2 Licensure by reciprocity

(a) Upon receipt of a completed application and application fee, the Board shall issue a license to any person who documents that he or she holds a valid, current elevator mechanic license in good standing issued by another state, if:

1. The Board determines that the state that issued the license has or had at the time of issuance, education, training, and examination requirements for licensure substantially equivalent to those in New Jersey;
2. The applicant has been practicing as a licensed elevator mechanic for a period of at least six months within the five years immediately prior to the date of application; and
3. The requirements of (b) below are satisfied.

(b) Prior to the issuance of the license, the Board shall have received:

1. Documentation satisfactory to the Board that the applicant's license is in good standing in any state in which the applicant is or ever was licensed; and

2. Designation of an agent in New Jersey for service of process if the applicant is not a New Jersey resident and does not have an office in New Jersey.

(c) For purposes of this section, "good standing" means that:

1. No action has been taken against the applicant's license by any licensing board;

2. No action adversely affecting the applicant's privileges to practice as an elevator mechanic has been taken by any out-of-State institution, organization, or employer;

3. No disciplinary proceeding is pending that could affect the applicant's privileges to practice as an elevator mechanic;

4. All fines levied by any out-of-State board have been paid; and

5. There is no pending or final action by any criminal authority for violation of law or regulation, or any arrest or conviction for any criminal or quasi-criminal offense under the laws of the United States, New Jersey, or any other state, including: criminal homicide; aggravated [page=1289] assault; sexual assault, criminal sexual contact or lewdness; or any offense involving any controlled dangerous substance or controlled dangerous substance analog.

(d) For purposes of this section, a "substantially equivalent" examination need not be identical to the current examination requirements of this State, but such examination shall be nationally recognized and of comparable scope and rigor.

(e) The Board will consider an applicant's experience to compensate for disparity in substantial equivalence in education and examination requirements under (a) above.

(f) An applicant shall satisfy or shall have satisfied the requirements of N.J.A.C. 13:44M-2.4.

(g) The Board, after the licensee has been given notice and an opportunity to be heard, may revoke any license based on a license issued by another state if the license in the other state was obtained through fraud, deception, or misrepresentation.

(h) The Board shall grant a license pursuant to (a) above only if equal reciprocity is provided for a New Jersey applicant for licensure under the law of that other state.

(i) The Board may grant a license pursuant to (a) above to an applicant who holds a license from another state who does not meet the good standing requirement of (a) above due to a pending action by a licensing board, a pending action by an out-of-State institution, organization, or employer affecting the applicant's privileges to practice, a pending disciplinary proceeding, or a pending criminal charge or arrest for a crime provided the alleged conduct of the applicant that is the subject of the action, proceeding, charge or arrest, assuming it is true, does not demonstrate a serious inability to practice as an elevator mechanic, adversely affect the public health, safety, or welfare or result in economic or physical harm to a person, or create a significant threat of such harm.

13:44M-2.3 Licensure without examination

(a) Prior to*[(12 months after the effective date of this rule)]* **May 21, 2019***, a person may apply for a license as an elevator mechanic without satisfying the examination requirements of N.J.A.C. 13:44M-2.1*[(c)]****(a)*** if that person has either:

1. Completed three years of work experience in the elevator, escalator, and moving walkway industry and has passed the NAEC CET certification examination or the NEIEP examination; or
2. Completed at least 6,000 hours of work experience within the last five years in New Jersey without direct and immediate supervision installing, constructing, altering, servicing, repairing, testing, or maintaining elevators, escalators, and moving walkways.

(b) An applicant who meets the requirements of (a) above shall submit a completed application for licensure, the application fee from N.J.A.C. 13:44M-6.1, and either:

1. Certifications from employers indicating that the applicant has completed the experience requirements of (a) above (which shall include dates of employment, summary of hours worked, *[hourly wage,]* and the type of work performed) and copies of filed income tax returns, W-2 forms, or 1099 forms; or

2. Any two of the following:

i. Building permits reflecting the applicant's name, or a company for which the applicant was an agent who is authorized by the company to secure permits and perform or supervise the work associated with a permit;

ii. Proof of insurance or bonds issued covering the applicant; and/or

iii. Letters of reference from construction code officials who have examined the applicant's work.

13:44M-2.4 Bond; issuance of license

(a) Once the Board has determined that an applicant is qualified for a license, the Board shall inform the applicant that he or she must submit to the Board:

1. A surety bond in the sum of \$ 10,000 in favor of the State of New Jersey as required pursuant to N.J.S.A. 45:14H-12; and

2. The license fee as set forth in N.J.A.C. 13:44M-6.1.

13:44M-2.5 Credit towards licensure for education, training, and experience received while serving as a member of the Armed Forces

(a) An applicant who has served in the Armed Forces of the United States and who does not meet all of the training, education, and experience requirements for licensure under N.J.A.C. 13:44M-2.1 or 2.3 may apply to the Board for recognition of the applicant's training, education, or experience received while serving as a member of the Armed Forces, which the Board shall consider together with any training, education, and experience obtained outside of the Armed Forces, for determining substantial equivalence to the training, education, and experience required for licensure.

(b) The Board shall issue a license to the applicant if the applicant presents evidence to the Board that:

1. The applicant has been honorably discharged from active military service;

2. The relevant training, education, and experience the applicant received in the military, together with any training, education, and experience obtained outside of the military, is substantially equivalent in scope and character to the training, education, and experience required for licensure under N.J.A.C. 13:44M-2.1 or 2.3.

i. An applicant seeking credit for military training and experience shall submit to the Board the applicant's Verification of Military Experience and Training (VMET) Document, DD Form 2586.

ii. An applicant seeking credit for education courses and training completed while in the military shall submit to the Board a Joint Services Transcript of his or her training, education, and experience for a determination that the education courses and/or training completed are substantially equivalent in scope and character to the program required for licensure under N.J.A.C. 13:44M-2.1 or 2.3. For

the purpose of determining substantial equivalence of the applicant's military education or training, the Board shall consider only those education or training courses relevant to practicing as an elevator mechanic that have been evaluated by the American Council on Education for substantial equivalence to civilian elevator mechanic education; and

3. The applicant complies with all other requirements for licensure, including successful completion of a licensing examination.

(c) It is the applicant's responsibility to provide timely and complete evidence of the training, education, and experience gained in the military for review and consideration.

(d) If the applicant's military training, education, and experience, or a portion thereof, is not deemed to be substantially equivalent to that required for licensure, the Board shall credit whatever portion of the military training, education, and experience that is substantially equivalent towards meeting the requirements under N.J.A.C. 13:44M-2.1 or 2.3 for the issuance of the license.

(e) Satisfactory evidence of such training, education, and experience shall be assessed on a case-by-case basis.

SUBCHAPTER 3. RENEWAL OF LICENSURE

13:44M-3.1 License renewal

(a) The Board shall send a notice of renewal to each licensed elevator mechanic, at least 60 days prior to the expiration of the license. The notice of renewal shall explain inactive renewal and advise the licensed elevator mechanic of the option to renew as inactive. If the notice to renew is not sent 60 days prior to the expiration date, no monetary penalties or fines shall apply to the holder for failure to renew, provided that the license is renewed within 60 days from the date the notice is sent or within 30 days following the date of license expiration, whichever is later.

(b) A licensed elevator mechanic shall renew his or her license for a period of two years from the last expiration date. The licensed elevator mechanic shall submit a renewal application to the Board, along with the renewal fee set forth in N.J.A.C. 13:44M-6.1, prior to the date of license expiration.

(c) A licensed elevator mechanic may renew his or her license by choosing inactive status. A licensed elevator mechanic electing to renew as inactive shall not practice as an elevator mechanic, or hold himself or [page=1290] herself out as eligible to practice as an

elevator mechanic, in New Jersey, until such time as the license is returned to active status.

(d) If a licensed elevator mechanic does not renew the license prior to its expiration date, the licensed elevator mechanic may renew the license within 30 days of its expiration by submitting a renewal application, a renewal fee, and a late fee as set forth in N.J.A.C. 13:44M-6.1. During this 30-day period, the license shall be valid and the licensed elevator mechanic shall not be deemed practicing without a license.

(e) A licensed elevator mechanic who fails to submit a renewal application within 30 days of license expiration shall have his or her license suspended without a hearing.

(f) A licensed elevator mechanic who continues to practice as an elevator mechanic with a suspended license shall be deemed to be engaging in unlicensed practice and shall be subject to action consistent with N.J.S.A. 45:1-14 et seq., even if no notice of suspension has been provided to the individual.

13:44M-3.2 License reactivation

(a) A licensed elevator mechanic who holds an inactive license pursuant to N.J.A.C. 13:44M-3.1(c) may apply to the Board for reactivation of an inactive license. A licensed elevator mechanic seeking reactivation of an inactive license shall submit:

1. A renewal application;
2. A certification of employment listing each job held during the period of inactive license, which includes the names, addresses, and telephone numbers of each employer;
3. The renewal fee for the biennial period for which reactivation is sought as set forth in N.J.A.C. 13:44M-6.1; and
4. Evidence of having completed all continuing education credits for the current biennial registration period, consistent with the requirements set forth in N.J.A.C. 13:44M-4.1.

(b) An applicant who holds a valid, current license in good standing issued by another state to practice as an elevator contractor and submits proof of having satisfied that state's continuing education requirements, shall be deemed to have satisfied the requirements of (a)4 above. If the other state does not have any continuing education requirements, the requirements of (a)4 above apply.

(c) If a Board review of an application establishes a basis for concluding that there may be practice deficiencies in need of remediation prior to reactivation, the Board may require the applicant to submit to and successfully pass an examination or an assessment of skills, a refresher course, or other requirements as determined by the Board prior to reactivation of the license. If that examination or assessment identifies deficiencies or educational needs, the Board may require the applicant, as a condition of reactivation of licensure, to take and successfully complete education or training, or to submit to supervision, monitoring, or limitations, as the Board determines necessary to assure that the applicant practices with reasonable skill and safety. The Board may restore the license subject to the applicant's completion of training within a period of time prescribed by the Board following the restoration of the license. In making its determination whether there are practice deficiencies requiring remediation, the Board may consider the following non-exhaustive issues:

1. Length of time license was inactive;
2. Employment history;
3. Professional history;
4. Disciplinary history and any action taken against the applicant's license by any professional or occupational board;
5. Actions affecting the applicant's privileges taken by any institution, organization, or employer related to practicing as an elevator mechanic or other professional or occupational practice in New Jersey, any other state, the District of Columbia, or in any other jurisdiction;
6. Pending proceedings against a professional or occupational license issued to the licensed elevator mechanic by a professional or occupational board in New Jersey, any other state, the District of Columbia, or in any other jurisdiction; and
7. Civil litigation related to practicing as an elevator mechanic or other professional or occupational practice in New Jersey, any other state, the District of Columbia, or in any other jurisdiction.

13:44M-3.3 License reinstatement

(a) A licensed elevator mechanic who has had his or her license suspended pursuant to N.J.A.C. 13:44M-3.1(e) may apply to the Board for reinstatement. A licensed elevator mechanic applying for reinstatement shall submit:

1. A reinstatement application;
2. A certification of employment listing each job held during the period of suspended license, which includes the names, addresses, and telephone numbers of each employer;
3. The renewal fee set forth in N.J.A.C. 13:44M-6.1 for the biennial period for which reinstatement is sought;
4. The past due renewal fee for the biennial period immediately preceding the renewal period for which reinstatement is sought;
5. The reinstatement fee set forth in N.J.A.C. 13:44M-6.1; and
6. Evidence of having completed all continuing education credits for the current biennial registration period, consistent with the requirements set forth in N.J.A.C. 13:44M-4.1.

(b) An applicant who holds a valid, current license in good standing issued by another state to practice as an elevator mechanic and submits proof of having satisfied that state's continuing education requirements, shall be deemed to have satisfied the requirements of (a)6 above. If the other state does not have any continuing education requirements, the requirements of (a)6 above apply.

(c) If a Board review of an application establishes a basis for concluding that there may be practice deficiencies in need of remediation prior to reinstatement, the Board may require the applicant to submit to and successfully pass an examination or an assessment of skills, a refresher course, or other requirements as determined by the Board prior to reinstatement of the license. If that examination or assessment identifies deficiencies or educational needs, the Board may require the applicant, as a condition of reinstatement of licensure, to take and successfully complete education or training, or to submit to supervision, monitoring, or limitations, as the Board determines necessary to assure that the applicant practices with reasonable skill and safety. The Board may restore the license subject to the applicant's completion of training within a period of time prescribed by the Board following the restoration of the license. In making its determination whether there are practice deficiencies requiring remediation, the Board may consider the following non-exhaustive issues:

1. Length of time license was suspended;
2. Employment history;
3. Professional history;

4. Disciplinary history and any action taken against the applicant's license by any professional or occupational board;

5. Actions affecting the applicant's privileges taken by any institution, organization, or employer related practice as an elevator mechanic or other professional or occupational practice in New Jersey, any other state, the District of Columbia, or in any other jurisdiction;

6. Pending proceedings against a professional or occupational license issued to the licensed elevator mechanic by a professional or occupational board in New Jersey, any other state, the District of Columbia, or in any other jurisdiction; and

7. Civil litigation related to practicing as an elevator mechanic or other professional or occupational practice in New Jersey, any other state, the District of Columbia, or in any other jurisdiction.

SUBCHAPTER 4. CONTINUING EDUCATION

13:44M-4.1 Continuing education

(a) Upon biennial license renewal, licensed elevator mechanics shall attest that they have completed courses of continuing education of the types and number of credit hours specified in N.J.A.C. 13:44M-4.2. Falsification of any information submitted on the renewal application may require an appearance before the Board and may subject a licensed elevator mechanic to penalties and/or suspension or revocation of the license pursuant to N.J.S.A. 45:1-21 through 25.

(b) Each applicant for biennial license renewal shall be required to complete during the second year of the preceding biennial period, eight credit hours of continuing education related to the installation, [page=1291] construction, alteration, maintenance, service, repair, or testing of elevators, escalators, and moving walkways.

13:44M-4.2 Continuing education programs

(a) A licensed elevator mechanic may obtain continuing education credit hours from the following:

1. Successful completion of continuing education courses or programs related to the installation, construction, alteration, maintenance, service, repair, or testing of elevators, escalators, and moving walkways, one credit hour for each hour of instruction. Courses and programs shall be approved by, or offered by providers approved by:

i. NEIEP; or

ii. NAEC.

2. Successful completion of a High Hazardous Structure (HHS) course related to the installation, construction, alteration, maintenance, service, repair, or testing of elevators, escalators, and moving walkways offered or approved by the New Jersey Department of Community Affairs.

3. Teaching a new continuing education program related to the installation, construction, alteration, maintenance, service, repair, or testing of elevators, escalators, and moving walkways that is approved pursuant to (a)1 or 2 above. As used in this paragraph, "new" means that the licensed elevator mechanic has never taught or developed curriculum for that course or program in any educational setting; one credit hour for each hour taught up to eight credit hours; and

4. Authorship of a published textbook or a chapter of a textbook directly related to the installation, construction, alteration, maintenance, service, repair, or testing of elevators, escalators, and moving walkways; four credit hours for each chapter up to eight credit hours.

13:44M-4.3 Continuing education audits; records of continuing education

(a) The Board shall perform audits on randomly selected licensed elevator mechanics to determine compliance with continuing education requirements.

(b) A licensed elevator mechanic shall maintain the following documentation for a period of four years after completion of the credit hours and shall submit such documentation to the Board upon request:

1. For attendance at programs or courses: a certificate of completion from the sponsor;

2. For publication of textbook chapter: the published textbook, including the date of publication; and

3. For developing curriculum or teaching a course or program: documentation, including a copy of the curriculum, location, date, and time of course, duration of course by hour, and letter from sponsor confirming that the licensed elevator mechanic developed or taught the course or program.

13:44M-4.4 Waiver of continuing education requirements

(a) The Board may waive the continuing education requirements of this subchapter on an individual basis for reasons of hardship, such as severe illness, disability, or military service.

1. A licensed elevator mechanic seeking a waiver of the continuing education requirements shall apply to the Board in writing at least 90 days prior to license renewal and set forth in specific detail the reasons for requesting the waiver. The licensed elevator mechanic shall provide the Board with supplemental materials that support the request for waiver.

2. A waiver of continuing education requirements granted pursuant to this section shall be effective only for the biennial period in which such waiver is granted. If the condition(s) which necessitated the waiver continue(s) into the next biennial period, a licensed elevator mechanic shall apply to the Board for the renewal of such waiver for the new biennial period.

13:44M-4.5 Additional continuing education requirements

(a) The Board may direct or order a licensed elevator mechanic to complete continuing education credit hours:

1. As part of a disciplinary or remedial measure in addition to the required eight hours of continuing education; or

2. To correct a deficiency in the licensed elevator mechanic's continuing education requirements.

(b) Any continuing education credit hours completed by the licensed elevator mechanic in compliance with an order or directive from the Board as set forth in (a) above shall not be used to satisfy the minimum continuing education requirements as set forth in this subchapter.

SUBCHAPTER 5. PRACTICE REQUIREMENTS

13:44M-5.1 Scope of practice; prohibitions on unlicensed persons

(a) The scope of practice of a licensed elevator mechanic includes the installation, construction, alteration, servicing, repair, testing, and maintenance of elevators, escalators, and moving walkway devices.

(b) Unless actively licensed pursuant to the provisions of this chapter, no person shall use the titles "licensed elevator mechanic," "licensed escalator mechanic," or "licensed moving walkway mechanic."

13:44M-5.2 Supervision

(a) For purposes of this section, the following words and terms shall have the following meaning:

"Commercial property" means any property that is not included in the definition of "residential property."

"Residential property" means dwellings categorized as in Group R-3 or R-5 pursuant to N.J.A.C. 5:23-3.14 or a single dwelling unit, which is the only unit served by an elevator, escalator, or moving walkway.

(b) A licensed elevator mechanic who is supervising an unlicensed person performing the installation, construction, or alteration of elevators, escalators, or moving walkways on a commercial property shall supervise the person as follows:

1. If the unlicensed person is working on a platform lift, as defined in ASME A18.1 (Safety Standard for Platform Lifts and Stairway Chairlifts), the licensed elevator mechanic shall maintain daily contact with the unlicensed person, which may be through electronic means, and the licensed elevator mechanic shall be present when the device or platform lift is inspected. A licensed elevator mechanic shall supervise no more than six unlicensed individuals who are working on such a device or lift;

2. If the unlicensed person is working on a device that is limited to three stories or less, the licensed elevator mechanic shall be physically present on the site where the device is being installed, constructed, or altered at least once a week. A licensed elevator mechanic shall supervise no more than four individuals who are working on such a device; and

3. If the unlicensed person is working on any device not included in (b)1 or 2 above, the licensed elevator mechanic shall be on site while any unlicensed individual is working on such a device. A licensed elevator mechanic shall supervise no more than four individuals working on such a device.

(c) A licensed elevator mechanic who is supervising an unlicensed person performing the installation, construction, or alteration of elevators, escalators, or moving walkways governed by ASME A17.1 sections 5.3, 5.2, and part 7, or by A18.1, on a residential property shall maintain daily contact with the unlicensed person, which may be through electronic means. A licensed elevator mechanic shall supervise no more than eight unlicensed individuals who are performing such work.

(d) When a licensed elevator mechanic is supervising an unlicensed person performing the installation, construction, or alteration of an elevator, escalator, or moving walkway that is limited to three stories or less on a residential property, the licensed elevator mechanic shall be physically present on the site where the device is being installed, constructed, or altered at least once a week. A licensed elevator mechanic shall supervise no more than four individuals who are working on such a device.

(e) When a licensed elevator mechanic supervises an unlicensed person performing the installation, construction, or alteration of an elevator, escalator, or moving walkway on a residential property that is not included in (c) or (d) above, the licensed elevator mechanic shall be on site while the unlicensed individual is working on the device. A licensed elevator mechanic shall supervise no more than four individuals working on such a device.

(f) A licensed elevator mechanic who is supervising an unlicensed person performing the maintenance, service, repair, or testing of an [page=1292] elevator, escalator, or moving walkway shall supervise the person as follows:

1. The licensed elevator mechanic shall maintain daily contact with the unlicensed individual, which may be through electronic means, and the licensed elevator mechanic shall supervise no more than five individuals if the unlicensed individual is working on:

i. Equipment governed by ASME A17.1, not including section 5.3 or part 7, and the work includes: cleaning; oiling; greasing; painting; changing brushes; fixture maintenance; observing the operations of equipment; relamping; replacing combplate teeth; replacing carbons, contacts, and shunts (not including soldered contacts or shunts); replacing door gib inserts; or clearing obstructions; and

ii. Equipment governed by ASME A17.1 section 5.3 or A18.1, or the equipment is a dumbwaiter in a residential property, and the work includes: oiling; greasing; cleaning; observing elevator operations; clearing obstructions; cleaning and adjusting contacts; replacing plug and play devices such as: fixtures, ice cube relays, solid state relays, programmable logic controllers, direct plug in printed circuit boards, and selector heads; replacing fuses, batteries, uninterrupted power supplies, position indicators, lamps, and bulbs; replacement of rollers, guide shoes, valve coils, and seals; adjusting swing door interlocks; replacing collapsible/accordion gates and operators, not including single or multispeed commercial sliding doors; or using a diagnostic tool to identify issues; and

2. If the unlicensed person is performing any work not included in (f)1 above, the licensed elevator mechanic shall be present at the commencement of the work and shall be available for consultation through electronic means after the work has commenced. A licensed elevator mechanic shall supervise no more than five individuals performing such work.

(g) Notwithstanding (b) through (f) above, a licensed elevator mechanic shall supervise no more than a total of eight unlicensed individuals,

regardless of the type of work the unlicensed individuals are performing.

13:44M-5.3 Actions on the surety bond

(a) Any person, partnership, or corporation including any political subdivision of State government who has been injured, aggrieved, or damaged through the failure of a licensed elevator mechanic to perform the duties required by N.J.S.A. 45:14H-1 et seq., or this chapter, shall be eligible to receive the financial protection of, and may maintain an action on, the surety bond.

(b) Any restitution to a person, partnership, corporation, or any political subdivision of State government ordered by the Board shall be eligible for the financial protection of the surety bond.

(c) If a bond is used to respond to a claim pursuant to (a) or (b) above, a licensed elevator mechanic shall replenish the bond, so that its sum is \$ 10,000 as required by N.J.A.C. 13:44M-2.4.

13:44M-5.4 Change of address; service of process

(a) Every licensed elevator mechanic shall notify the Board in writing of his or her address of record. Every licensed elevator mechanic shall notify the Board in writing of any change in his or her address of record within 10 days after such change.

(b) Service of an administrative complaint or other process initiated by the Board, the Attorney General, or the Division of Consumer Affairs at the licensed elevator mechanic's address of record shall be deemed adequate notice for the commencement of any inquiry or disciplinary proceeding against the licensed elevator mechanic.

13:44M-5.5 Reporting conditions not in compliance with Elevator Safety Subcode

(a) If a licensed elevator mechanic becomes aware of a condition that is not in compliance with N.J.A.C. 5:23-12, the Elevator Safety Subcode of the State Uniform Construction Code, regarding elevators, which he or she was not able to fix, he or she shall notify the owner or lessee of the elevator*, **or a representative of the owner or lessee,*** in writing.

(b) If a licensed elevator mechanic is unable to notify the owner or lessee of an elevator*, **or a representative of the owner or lessee,*** as required *[by]* ***under*** (a) above, the licensed elevator mechanic shall notify the Board, in writing, of the condition and the fact that he or she was unable to notify the owner or lessee of the elevator*, **or a representative of the owner or lessee*.**

13:44M-5.6 Identification of licensed elevator mechanic to consumer

Upon completion of any work performed by a licensed elevator mechanic, or at any point prior to the completion of such work, the licensed elevator mechanic shall provide the consumer paying for such work, or his or her designee, with the licensed elevator mechanic's name and license number in writing. Such information may be provided to the consumer as part of an invoice presented to the consumer.

SUBCHAPTER 6. FEES

13:44M-6.1 Fee schedule

(a) The following fees shall be charged by the Board:

1. Application fee without prior registration (non-refundable)...	\$ 100.00
2. Initial license fee:	
i. If paid during the first year of a biennial renewal period...	\$ 260.00
ii. If paid during the second year of a biennial renewal period..	\$ 130.00
3. License renewal fee, biennial.....	\$ 260.00
4. Late renewal fee.....	\$ 50.00
5. Reinstatement fee.....	\$ 150.00
6. Duplicate license fee.....	\$ 25.00
7. Verification of licensure.....	\$ 25.00