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Uniform Enforcement Act
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TITLE 45. PROFESSIONS AND OCCUPATIONS

45:1-1. Persons entitled to practice, etc. under former laws unaffected

Any person now entitled to practice any profession or to engage in any occupation, governed or regulated by the provisions of this title by virtue of any prior law, shall continue to be entitled to practice or engage in the same, notwithstanding the enactment of this title, and the validity of any license or other authorization to practice any such profession or to engage in any such occupation, heretofore issued to any person under any prior law, or of any proceeding pending to obtain such a license or authorization shall not be affected by the enactment of this title but all such persons shall in all other respects be subject to the provisions of this title.

45:1-2.1. Applicability of act.

The provisions of this act shall apply to the following boards and commissions: the New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage and Family Therapy Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the New Jersey Real Estate Commission, the State Board of Court Reporting, the State Board of Veterinary Medical Examiners, the Radiologic Technology Board of Examiners, the Acupuncture Examining Board, the State Board of Chiropractic Examiners, the State Board of Respiratory Care, the State Real Estate Appraiser Board, the State Board of Social Work Examiners, the State Board of Examiners of Heating, Ventilating, Air Conditioning and Refrigeration Contractors, the Elevator, Escalator, and Moving Walkway Mechanics Licensing Board, the State Board of Physical Therapy Examiners, the Orthotics and Prosthetics Board of Examiners, the New Jersey Cemetery Board, the State Board of Polysomnography, the New Jersey Board of Massage and Bodywork Therapy, the Genetic Counseling Advisory Committee and any other entity hereafter created under Title 45 to license or otherwise regulate a profession or occupation.

L.1971, c.60, s.1; amended 1983, c.7, s.19; 1984, c.205, s.40; 1989, c.153, s.22; 1991, c.31, s.16; 1991, c.68, s.27; 1991, c.134, s.15; 1993, c.365, s.18; 1995, c.366, s.20; 2003, c.18, s.18; 2005, c.244, s.14; 2005, c.308, s.8; 2007, c.211, s.29; 2007, c.337, s.10; 2009, c.41, s.11; 2012, c.71, s.13.

45:1-2.2. Membership of certain boards and commissions; appointment, removal, quorum.

a. All members of the several professional boards and commissions shall be appointed by the Governor in the manner prescribed by law; except in appointing members other than those appointed pursuant to subsection b. or subsection c., the Governor shall give due consideration to, but shall not be bound by, recommendations submitted by the appropriate professional organizations of this State.

b. In addition to the membership otherwise prescribed by law, the Governor shall appoint in the same manner as presently prescribed by law for the appointment of members, two additional members to represent the interests of the public, to be known as public members, to each of the following boards and commissions: the New Jersey State Board of Accountancy, the New Jersey State

Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the New Jersey Real Estate Commission, the State Board of Court Reporting, the State Board of Social Work Examiners, the Elevator, Escalator, and Moving Walkway Mechanics Licensing Board, and the State Board of Veterinary Medical Examiners, and one additional public member to each of the following boards: the Board of Examiners of Electrical Contractors, the State Board of Marriage and Family Therapy Examiners, the State Board of Examiners of Master Plumbers, and the State Real Estate Appraiser Board. Each public member shall be appointed for the term prescribed for the other members of the board or commission and until the appointment of his successor. Vacancies shall be filled for the unexpired term only. The Governor may remove any such public member after hearing, for misconduct, incompetency, neglect of duty or for any other sufficient cause.

No public member appointed pursuant to this section shall have any association or relationship with the profession or a member thereof regulated by the board of which he is a member, where such association or relationship would prevent such public member from representing the interest of the public. Such a relationship includes a relationship with members of one's immediate family; and such association includes membership in the profession regulated by the board. To receive services rendered in a customary client relationship will not preclude a prospective public member from appointment. This paragraph shall not apply to individuals who are public members of boards on the effective date of this act.

It shall be the responsibility of the Attorney General to insure that no person with the aforementioned association or relationship or any other questionable or potential conflict of interest shall be appointed to serve as a public member of any board regulated by this section.

Where a board is required to examine the academic and professional credentials of an applicant for licensure or to test such applicant orally, no public member appointed pursuant to this section shall participate in such examination process; provided, however, that public members shall be given notice of and may be present at all such examination processes and deliberations concerning the results thereof, and, provided further, that public members may participate in the development and establishment of the procedures and criteria for such examination processes.

c. The Governor shall designate a department in the Executive Branch of the State Government which is closely related to the profession or occupation regulated by each of the boards or commissions designated in section 1 of P.L.1971, c.60 (C.45:1-2.1) and shall appoint the head of such department, or the holder of a designated office or position in such department, to serve without compensation at the pleasure of the Governor as a member of such board or commission.

d. A majority of the voting members of such boards or commissions shall constitute a quorum thereof and no action of any such board or commission shall be taken except upon the affirmative vote of a majority of the members of the entire board or commission.

L.1971, c.60, s.2; amended 1977, c.285, s.1; 1981, c.295, s.14; 1984, c.205, s.41; 1991, c.68, s.28; 1991, c.134, s.16; 1995, c.366, s.21; 2005, c. 308, s.9; 2012, c.71, s.14.

45:1-2.3. Qualifications; rights and duties

Such additional members:

a. Need not meet the educational and professional requirements for membership on such boards or commissions as provided in the several statutes establishing such boards and commissions; and

b. Shall be voting members subject to the same rights, obligations and duties as other members of their respective boards or commissions.

L.1971, c. 60, s. 3, eff. March 25, 1971.

45:1-2.4. Effect of act on term of member in office

Nothing in this act shall affect the right of a board or commission member in office on the effective date of this act to continue to serve for the term for which he was appointed.

L.1971, c. 60, s. 4, eff. March 25, 1971.

45:1-2.5. Compensation and reimbursement of expenses of members; executive secretaries; compensation and terms; office and meeting places

With respect to the boards or commissions designated in section 1 of P.L.1971, c.60 (C.45:1-2.1), except as otherwise provided in subsection d. of this section, and notwithstanding the provisions of any other law:

a. The officers and members shall be compensated on a per diem basis in the amount of $25.00 or an amount to be determined by the Attorney General, with the approval of the State Treasurer, but not to exceed $100.00 per diem or $2,500.00 annually, and shall be reimbursed for actual expenses reasonably incurred in the performance of their official duties. Such moneys shall be paid according to rules and regulations promulgated by the Attorney General.

b. The executive secretary shall receive such salary as shall be determined by the appointing authority within the limits of available appropriations and shall serve at its pleasure. Any such executive secretary who holds a certificate, license or registration issued by the board or commission by which he is employed shall not during such employment be permitted to engage in any profession or occupation regulated by the board or commission.

c. The head of the department to which such board or commission is assigned shall maintain within any public building, whether owned or leased by the State, suitable quarters for the board's or commission's office and meeting place, provided that no such office or meeting place shall be within premises owned or occupied by an officer or member of such board or commission.

d. The compensation schedule for members of boards and commissions provided in subsection a. of this section shall not apply to the members of the New Jersey Real Estate Commission, who shall be compensated pursuant to R.S.45:15-6 or to members of the State Board of Medical Examiners who shall receive compensation of $150 per diem.

L.1977, c.285, s.2; amended 1981,c.91,s.1; 1985,c.137,s.2; 1989,c.300,s.17.

45:1-2.6. Inapplicability of act to rights under civil service or any pension law or retirement system

Nothing in this act shall deprive any person of any tenure rights or of any right or protection provided him by Title 11 of the Revised Statutes, Civil Service, or any pension law or retirement system.

L.1977, c. 285, s. 3, eff. Nov. 12, 1977.

45:1-3. Expenses of boards paid from income; surplus paid to state treasurer; accounts

Each member of the boards mentioned in section 45:1-2 of this title shall be entitled to his actual traveling and other expenses incurred in the performance of his duties, which sum shall be paid from the license fees and other sources of income of such boards. Such boards shall also be entitled to expend from their income such sums as shall be necessary to defray all proper expenses incurred by them in the performance of their duties, including the compensation of any of their officers or agents whom they are authorized to compensate. Such boards, if authorized to collect an annual registration or license fee from persons licensed by them, may retain in their treasuries the fees so collected and use the same for the purpose of defraying the expenses of securing evidence against and prosecuting persons violating the provisions of the laws with the enforcement of which they are charged, or, in case the revenue of the boards from other sources shall be insufficient to pay the salary of their secretaries and their other expenses, such fees may be expended for such purposes. Such boards shall be entitled to retain, in addition to the above, at least one hundred dollars in their treasuries for the purpose of preparing and holding their examinations. On or before October thirty-first in each year such boards shall pay to the state treasurer all moneys remaining in their treasuries, except as above stated, which sum, when so paid, shall form a part of the state fund. Such boards shall keep accurate accounts of their receipts and expenditures, which accounts shall be subject to audit by the state comptroller.

45:1-3.1. Applicability of act.

The provisions of this act shall apply to the following boards and commissions: the New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage and Family Therapy Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the State Board of Court Reporting, the State Board of Veterinary Medical Examiners, the Radiologic Technology Board of Examiners, the Acupuncture Examining Board, the State Board of Chiropractic Examiners, the State Board of Respiratory Care, the State Real Estate Appraiser Board, the New Jersey Cemetery Board, the State Board of Social Work Examiners, the State Board of Examiners of Heating, Ventilating, Air Conditioning and Refrigeration Contractors, the Elevator, Escalator, and Moving Walkway Mechanics Licensing Board, the State Board of Physical Therapy Examiners, the State Board of Polysomnography, the Orthotics and Prosthetics Board of Examiners, the New Jersey Board of Massage and Bodywork Therapy, the Genetic Counseling Advisory Committee and any other entity hereafter created under Title 45 to license or otherwise regulate a profession or occupation.

L.1974, c.46, s.1; amended 1983, c.7, s.20; 1984, c.205, s.42; 1989, c.153, s.23; 1991, c.31, s.17; 1991, c.68, s.29; 1991, c.134, s.17; 1995, c.366, s.22; 2003, c.18, s.19; 2003, c.261, s.39; 2005, c.244, s.15; 2005, c.308, s.10; 2007, c.211, s.30; 2007, c.337, s.11; 2009, c.41, s.12; 2012, c.71, s.15.

45:1-3.2. Charges for examinations, licensures and other services; establishment or change by rule; standards

Notwithstanding the provisions of Title 45 of the Revised Statutes or any other law to the contrary, any board or commission named in section 1 of this supplementary act may by rule establish, prescribe or change the charges for examinations, licensures and other services it performs, which rule shall first be approved by the head of the department to which such board or commission is assigned and shall be adopted in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c. 410 (c. 52:14B-1).

Any board's or commission's charges established, prescribed or changed pursuant to this section shall be established, prescribed or changed to such extent as shall be necessary to defray all proper expenses incurred by the board or commission in the performance of its duties but such charges shall not be fixed at a level that will raise amounts in excess of the amount estimated to be so required.

L.1974, c. 46, s. 2, eff. June 24, 1974.

45:1-3.3. Administrative fees

The Director of the Division of Consumer Affairs may by rule establish, prescribe, or modify administrative fees charged by boards in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). For purposes of this section, "administrative fees" are charges assessed to licensees, registrants or holders of certificates, as the case may be, for board functions that are not unique to a particular board but are uniform throughout all boards. Administrative fees include, but are not limited to, fees for a duplicate or replacement license, certification or registration, late renewal fee, license reinstatement fee, and the fee for processing change of address.

L.1999,c.403,s.4.

45:1-4. Salary of secretary

The secretary of each of the boards mentioned in section 45:1-2 of this title, whether or not a member thereof, shall be entitled to receive such reasonable salary or compensation for his services as secretary as shall be fixed by such boards, which shall be paid by the boards from their receipts, unless an appropriation is made for the expenses of such boards, in which case the same shall be paid from such appropriation.

45:1-7. Issuance of certain licenses or certificates of registration.

Notwithstanding any of the provisions of Title 45 of the Revised Statutes or of any other law to the contrary, all professional or occupational licenses or certificates of registration, except such licenses or certificates issued to real estate brokers or salesmen pursuant to chapter 15 of Title 45, which prior to the effective date of this act were issued for periods not exceeding one year and were annually renewable, shall, on and after the effective date of this act, be issued for periods of two years and be biennially renewable, except that licenses and business permits issued to electrical contractors and certificates of registration issued to qualified journeymen electricians pursuant to chapter 5A of Title 45 shall be issued for periods of three years and be triennially renewable; provided, however, the boards or commissions in charge of the issuance or renewal of such licenses or certificates may, in order to stagger the expiration dates thereof, provide that those first issued or renewed after the effective date of this act, shall expire

and become void on a date fixed by the respective boards or commissions, not sooner than six months nor later than 29 months, after the date of issue.

The fees for the respective licenses and certificates of registration issued pursuant to this act for periods of less or greater than one year shall be in amounts proportionately less or greater than the fees established by law.

L.1972,c.108,s.1; amended 1991, c.6; 2001, c.21, s.1.

45:1-7.1. Applicability; renewals; reinstatements.

a. Notwithstanding any other act or regulation to the contrary, the provisions of this section shall apply to every holder of a professional or occupational license or certificate of registration or certification issued or renewed by a board specified in section 2 of P.L.1978, c.73 (C.45:1-15), who seeks renewal of that license or certificate.

b. Every holder of a professional or occupational license or certificate of registration or certification, issued or renewed by a board specified in section 2 of P.L.1978, c.73 (C.45:1-15), who seeks renewal shall submit a renewal application and pay a renewal fee prior to the date of expiration of the license or certificate of registration or certification. If the holder does not renew the license or certificate prior to its expiration date, the holder may renew it within 30 days of its expiration date by submitting a renewal application and paying a renewal fee and a late fee. During the 30-day period, the license shall be valid and the licensee shall not be deemed practicing without a license. Any professional or occupational license or certificate of registration or certification not renewed within 30 days of its expiration date shall be suspended without a hearing.

c. Any individual who continues to practice after the 30 days following the expiration date of that individual's license or certificate of registration or certification shall be deemed to be engaged in unlicensed practice of the regulated profession or occupation, even if no notice of suspension has been provided to the individual.

d. A professional or occupational license or certificate of registration or certification suspended pursuant to this section may be reinstated as provided in section 2 of P.L.2013, c.182 (C.45:1-7.4).

e. A board specified in section 2 of P.L.1978, c.73 (C.45:1-15) shall send a notice of renewal to each of its holders of a professional or occupational license or certificate of registration or certification, as applicable, at least 60 days prior to the expiration of the license or certificate. The notice of renewal shall explain inactive renewal and advise the licensee of the option to renew as inactive. If the notice to renew is not sent at least 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.

f. A renewal applicant electing to renew as inactive shall not engage in professional or occupational practice within the State or hold himself out as eligible to engage in professional or occupational practice within the State.

L.1999, c.403, s.5; amended 2013, c.182, s.1.

45:1-7.4. Submissions by applicant seeking reinstatement.

a. An applicant seeking reinstatement of a license or certificate suspended pursuant to section 5 of P.L.1999, c.403 (C.45:1-7.1) shall submit:

(1) A renewal application;

(2) A certification of employment listing each job held during the period of suspended license, registration, or certification, which includes the names, addresses, and telephone numbers of each employer;

(3) Payment of the renewal fee for the biennial or triennial period for which reinstatement is sought;

(4) Payment of the unpaid renewal fee for the biennial or triennial period immediately preceding the renewal period for which reinstatement is sought;

(5) Payment of a reinstatement fee; and

(6) Proof of having satisfied all conditions precedent to renewal, including, but not limited to, the continuing education credits that were required to be completed during the biennial or triennial period immediately prior to the renewal period for which reinstatement is sought.

b. An applicant seeking reactivation of a license or certificate that was in inactive status pursuant to section 5 of P.L.1999, c.403 (C.45:1-7.1) shall submit:

(1) A renewal application;

(2) A certification of employment listing each job held during the period of suspended license, registration, or certification, which includes the names, addresses, and telephone numbers of each employer;

(3) Payment of the renewal fee for the biennial or triennial period for which reinstatement is sought, or, in the discretion of the board, a prorated fee if there is less than one year remaining in the biennial or triennial period; and

(4) Proof of having satisfied all conditions precedent to renewal, including, but not limited to, the continuing education credits that were required to be completed during the biennial or triennial period immediately prior to the renewal period for which reinstatement is sought.

c. An applicant seeking reinstatement of a license or certificate suspended pursuant to section 5 of P.L.1999, c.403 (C.45:1-7.1), or an applicant seeking reactivation of a license or certificate that was in inactive status pursuant to section 5 of P.L.1999, c.403 (C.45:1-7.1), who holds a valid, current, corresponding professional or occupational license, certificate of registration, or certification in good standing issued by another state, who submits proof of having satisfied that state's continuing education requirements for that license, certification of registration, or certification, shall be deemed to have satisfied paragraph (6) of subsection a. and paragraph (4) of subsection b. of this section.

d. To the extent that specific courses are required to satisfy the continuing education requirement for, or are required to have been satisfied prior to, the biennial or triennial period for which renewal is sought, a board may permit those courses to be taken in the 12 months following renewal. Credit for those courses may be applied to the continuing education requirement for the next renewal period.

e. If a board review of an application for reinstatement or reactivation under this section establishes a basis for concluding that there may be practice deficiencies in need of remediation prior to reinstatement or 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 reinstatement or reactivation of the license. If that examination or assessment identifies clinical deficiencies or educational needs, the board may require the applicant, as a condition of reinstatement or reactivation of licensure, to take and successfully complete any education or training, or to submit to any supervision, monitoring, or limitations, as the board determines are necessary to assure that the applicant practices with reasonable skill and safety. The board, in its discretion, may restore the license subject to the applicant's completion of the training within a period of time prescribed by the board following the restoration of the license.

L.2013, c.182, s.2.

45:1-7.5. Issuance of professional or occupational license, certificate of registration, or certification.

a. Upon receipt of a completed application, application fee, consent to a criminal history record background check, if applicable, and requisite fee for such a check, a board shall issue a professional or occupational license, certificate of registration, or certification to any person who documents that the person holds a valid, current corresponding professional or occupational license, certificate of registration, or certification in good standing issued by another state, if:

(1) the state that issued the license has, or had at the time of issuance, education, training, and examination requirements for licensure, registration, or certification substantially equivalent to the current standards of this State, as determined by the board or committee;

(2) the applicant had been practicing in the profession for which licensure in this State is sought, within the five years prior to the date of the application; and

(3) the requirements of subsection b. of this section have been satisfied with respect to the person.

b. Prior to the issuance of the license, certificate of registration, or certification pursuant to subsection a. of this section, the board or committee shall have received or obtained:

(1) documentation reasonably satisfactory to the board that the applicant's license, certificate of registration, or certification in that other state is valid, current, and in good standing;

(2) if a person is seeking licensure as a health care professional as defined in section 1 of P.L.2002, c.104 (C.45:1-28), or if a criminal history record background check is otherwise required prior to licensure in this State, the results of a criminal history record background check of the files of the Criminal Justice Information Services Division in the Federal Bureau of Investigation and the State Bureau of Identification in the Division of State Police that does not disclose a conviction for a disqualifying crime; and

(3) designation of an agent in this State 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 affecting the applicant's privileges to practice that applicant's profession 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 that applicant's profession;

(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, this State, or any other state including, but not limited to: criminal homicide; aggravated assault; sexual assault, criminal sexual contact, or lewdness; or an 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. An applicant's experience may be considered by the board or committee to compensate for disparity in substantial equivalence in education and examination requirements under subsection a. of this section.

f. An applicant shall satisfy or shall have satisfied all applicable prerequisites required for initial licensure in this State, such as obtaining insurance, including malpractice insurance, a surety bond, or a pressure seal.

g. An applicant shall answer truthfully all questions asked of an applicant for initial licensure.

h. Not later than six months after the issuance of the license, the board or committee shall have received documentation reasonably satisfactory to the board verifying the person's education, training, and examination results.

i. A board or committee, 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 obtained through fraud, deception, or misrepresentation.

j. Nothing contained in this section shall preclude a board from requiring an applicant for licensure based on an out-of-State license to take an on-line jurisprudence course or an orientation available to the applicant at any time.

k. Nothing contained in this section shall preclude a board from only granting a license, certificate of registration, or certification without examination to an applicant seeking reciprocity who holds a corresponding license, certificate of registration, or certification from another state if equal reciprocity is provided for a New Jersey applicant for licensure under the law of that other state.

l. Nothing in this section shall preclude a board from exercising its discretion to grant a license, certificate of registration, or certification without examination to an applicant seeking reciprocity who holds a corresponding license, certificate of registration, or certification from another state who does not meet the good standing requirement of subsection a. of this section 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.

m. Notwithstanding any law or regulation to the contrary, the provisions of this section shall apply to every holder of a professional or occupational license or certificate of registration or certification issued or renewed by a board specified in section 2 of P.L.1978, c.73 (C.45:1-15), except that the provisions of this section shall not apply to any holder of a license issued or renewed by the Board of Examiners of Electrical Contractors pursuant to P.L.1962, c.162 (C.45:5A-1 et seq.), the State Board of Examiners of Master Plumbers pursuant to P.L.1968, c. 362 (C.45:14C-1 et seq.), the New Jersey Real Estate Commission pursuant to R.S.45:15-1 et seq., or the State Board of Examiners of Heating, Ventilating, Air Conditioning and Refrigeration Contractors pursuant to P.L.2007, c.211 (C.45:16A-1 et seq.).

L.2013, c.182, s.3.

45:1-8. Contractors; application of s. 45:1-9

The provisions of this act apply to the following classes of contractors:

a. Tree experts, certified pursuant to P.L.1940, c. 100 (C. 13:1-28 et seq.);

b. Home repair contractors, licensed pursuant to P.L.1960, c. 41 (C. 17:16C-62 et seq.);

c. Electrical contractors, licensed pursuant to P.L.1962, c. 162 (C. 45:5A-1 et seq.);

d. Master plumbers, licensed pursuant to P.L.1968, c. 362 (C. 45:14C-1 et seq.);

e. Well drillers, licensed pursuant to P.L.1947, c. 377 (C. 58:4A-5 et seq.); and

f. Any class of contractors who hereafter are licensed by the State.

L.1973, c. 254, s. 1, eff. Nov. 26, 1973.

45:1-9. Indication of license, certificate number.

Any contractor licensed by the State shall indicate his license or certificate number on all contracts, subcontracts, bids, construction permits, and all forms of advertising as a contractor.

L.1973, c.254, s.2; amended 2012, c.71, s.16.

45:1-10. Agreement by practitioner for payments to laboratory for tests without disclosure to patient, third party payor; prohibited.

It shall be unlawful for any person licensed in the State of New Jersey to practice medicine or surgery, dentistry, osteopathy, podiatric medicine or chiropractic to agree with any clinical, bio-analytical or hospital laboratory, wheresoever located, to make payments to such laboratory for individual tests, combination of tests, or test series for patients unless such person discloses on the bills to patients and third party payors the name and address of such laboratory and the net amount or amounts paid or to be paid to such laboratory for individual tests, combination of tests or test series.

L.1973,c.322,s.1; amended 1977, c.323; 2005, c.259, s.36.

45:1-10.1. Responsibility of health care professionals for filing claims.

Effective 12 months after the adoption of regulations establishing standard health care enrollment and claim forms by the Commissioner of Banking and Insurance pursuant to section 1 of P.L.1999, c.154 (C.17B:30-23), a health care professional licensed pursuant to Title 45 of the Revised Statutes is responsible for filing all claims for third party payment, including claims filed on behalf of the licensed professional's patient for any health care service provided by the licensed professional that is eligible for third party payment, except that at the patient's option, the patient may file the claim for third party payment.

a. In the case of a claim filed on behalf of the professional's patient, the professional shall file the claim within 60 days of the last date of service for a course of treatment, on the standard claim form adopted by the Commissioner of Banking and Insurance pursuant to section 1 of P.L.1999, c.154 (C.17B:30-23).

b. In the case of a claim in which the patient has assigned his benefits to the professional, the professional shall file the claim within 180 days of the last date of service for a course of treatment, on the standard claim form adopted by the Commissioner of Banking and Insurance pursuant to section 1 of P.L.1999, c.154 (C.17B:30-23). If the professional does not file the claim within 180 days of the last date of service for a course of treatment, the third party payer shall reserve the right to deny payment of the claim, in accordance with regulations established by the Commissioner of Banking and Insurance, and the professional shall be prohibited from seeking any payment directly from the patient.

(1) In establishing the standards for denial of payment, the Commissioner of Banking and Insurance shall consider the good faith use of information provided by the patient to the professional with respect to the identity of the patient's third party payer, delays in filing a claim related to coordination of benefits between third party payers and any other factors the commissioner deems appropriate, and, accordingly, shall define specific instances where the sanctions permitted pursuant to this subsection shall not apply.

(2) A professional who fails to file a claim within 180 days and whose claim for payment has been denied by the third party payer in accordance with this subsection may, in the discretion of a judge of the Superior Court, be permitted to refile the claim if the third party payer has not been substantially prejudiced thereby. Application to the court for permission to refile a claim shall be made within 14 days of notification of denial of payment and shall be made upon motion based upon affidavits showing sufficient reasons for the failure to file the claim with the third party payer within 180 days.

c. The provisions of this section shall not apply to any claims filed pursuant to P.L.1972, c.70 (C.39:6A-1 et seq.).

d. A health care professional who violates the provisions of subsection a. of this section may be subject to a civil penalty of $250 for each violation plus $50 for each day after the 60th day that the provider fails to submit a claim. The penalty shall be sued for and collected by the Division of Consumer Affairs in the Department of Law and Public Safety pursuant to "the penalty enforcement law," N.J.S.2A:58-1 et seq.

L.1999,c.154,s.13.

45:1-11. Violations; penalty

Any person violating this act shall be guilty of a misdemeanor.

L.1973, c. 322, s. 2, eff. Dec. 18, 1973.

45:1-12. Extra fee for completion of medical claim form, certain practitioners, penalty.

No podiatrist, optometrist or psychologist and no professional service corporation engaging in the practice of podiatric medicine, optometry or psychology in this State shall charge a patient an extra fee for services rendered in completing a medical claim form in connection with a health insurance policy. Any person violating this act shall be subject to a fine of $100.00 for each offense.

Such penalty shall be collected and enforced by summary proceedings pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). The Superior Court and municipal court shall have jurisdiction within its territory of such proceedings. Process shall be either in the nature of a summons or warrant and shall issue in the name of the State, upon the complaint of the State Board of Medical Examiners with respect to podiatrists, the New Jersey State Board of Optometry for optometrists or the State Board of Psychological Examiners for psychologists.

L.1975,c.300,s.1; amended 1991, c.91, s.447; 2005, c.259, s.37.

45:1-14. Legislative findings and declarations; liberal construction of act

The Legislature finds and declares that effective implementation of consumer protection laws and the administration of laws pertaining to the professional and occupational boards located within the Division of Consumer Affairs require uniform investigative and enforcement powers and procedures and uniform standards for license revocation, suspension and other disciplinary proceedings by such boards. This act is deemed remedial, and the provisions hereof should be afforded a liberal construction.

L.1978, c. 73, s. 1, eff. July 13, 1978.

45:1-15. Application of act.

The provisions of this act shall apply to the following boards and all professions or occupations regulated by, through or with the advice of those boards: the New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage and Family Therapy Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the State Board of Court Reporting, the State Board of Veterinary Medical Examiners, the State Board of Chiropractic Examiners, the State Board of Respiratory Care, the State Real Estate Appraiser Board, the State Board of Social Work Examiners, the State Board of Examiners of Heating, Ventilating, Air Conditioning and Refrigeration Contractors, the Elevator, Escalator, and Moving Walkway Mechanics Licensing Board, the State Board of Physical Therapy Examiners, the State Board of Polysomnography, the Professional Counselor Examiners Committee, the New Jersey Cemetery Board, the Orthotics and Prosthetics Board of Examiners, the Occupational Therapy Advisory Council, the Electrologists Advisory

Committee, the Acupuncture Advisory Committee, the Alcohol and Drug Counselor Committee, the Athletic Training Advisory Committee, the Certified Psychoanalysts Advisory Committee, the Fire Alarm, Burglar Alarm, and Locksmith Advisory Committee, the Home Inspection Advisory Committee, the Interior Design Examination and Evaluation Committee, the Hearing Aid Dispensers Examining Committee, the Perfusionists Advisory Committee, the Physician Assistant Advisory Committee, the Audiology and Speech-Language Pathology Advisory Committee, the New Jersey Board of Massage and Bodywork Therapy, the Genetic Counseling Advisory Committee and any other entity hereafter created under Title 45 to license or otherwise regulate a profession or occupation.

L.1978, c.73, s.2; amended 1983, c.7, s.21; 1984, c.205, s.43; 1989, c.153, s.24; 1991, c.31, s.18; 1991, c.68, s.30; 1991, c.134, s.14; 1995, c.366, s.23; 1999, c.403, s.1; 2003, c.18, s.20; 2005, c.244, s.16; 2005, c.308, s.11; 2007, c.211, s.31; 2007, c.337, s.12; 2009, c.41, s.13; 2012, c.71, s.17; 2013, c.253, s.34.

45:1-15.1. Rules, regulations

Consistent with their enabling acts, P.L.1978, c.73 (C.45:1-14 et seq.) and the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the boards and others set forth in section 2 of P.L.1978, c.73 (C.45:1-15) are authorized to adopt rules and regulations to serve the public health, safety and welfare.

L.1999,c.403,s.8.

45:1-15.2. Professional, occupational licenses, registrations, expiration date for individuals with certain types of military service; delayed.

Any license issued by a professional or occupational board designated in section 2 of P.L.1978, c.73 (C.45:1-15), and any registration issued under the "New Jersey Controlled Dangerous Substances Act," P.L.1970, c.226 (C.24:21-1 et al.), shall not expire while the licensee or registrant is an active member of the Armed Forces of the United States and shall be extended for up to 120 days after his or her return from active service. Any late renewal fees, reinstatement fees and other reinstatement requirements shall be waived by the applicable professional or occupational board or the Division of Consumer Affairs upon application by the licensee or registrant within 120 days after he or she returns from active service. If the license or registration is renewed during the 120-day period after his or her return from active service, and the licensee or registrant submits documentation verifying his or her active military service, the licensee or registrant shall only be responsible for normal fees and activities relating to renewal of the license or registration and shall not be charged any additional costs, such as, but not limited to, late fees or delinquency fees.

As used in this section, "active member" means an individual or member of an organized unit ordered into active service in the Armed Forces of the United States by reason of membership in a reserve component of the Armed Forces of the United States or any branch of the Armed Forces of the United States.

L.2008, c.62, s.1.

45:1-15.3. Issuance of certain professional, occupational licenses to veterans with equivalent training.

a. Notwithstanding any other act or regulation to the contrary, a professional or occupational board designated in section 2 of P.L.1978, c.73 (C.45:1-15) that issues a professional or occupational license,

certificate of registration, or certification for which professional training, education, or experience is required shall give credit toward its requirements for licensure or certification for training, education, and experience received while serving as a member of the Armed Forces of the United States that is substantially equivalent to the training, education, or experience required for licensure or certification.

b. A professional or occupational board shall issue a license or certification to an applicant who presents evidence to the board that:

(1) the applicant has been honorably discharged from active military service;

(2) the training, education, and experience the applicant received while serving as a member of the Armed Forces of the United States, together with any training, education, and experience obtained outside of the Armed Forces, is substantially equivalent to training, education, or experience required for licensure or certification; and

(3) the applicant complies with all other requirements for licensure, including, without limitation, any requirement for examination.

c. For the purpose of determining substantial equivalence of education, a professional or occupational board shall consider education courses directly relevant to the profession or occupation for which a license or certification is sought that are part of the applicant's military training or service that meet the equivalence standards of the American Council on Education.

d. For the purpose of determining substantial equivalence of experience, a professional or occupational board shall consider whether the experience gained in the military is of a character equivalent to that which would have been gained in the civilian sector doing similar work.

e. A professional or occupational board may require an applicant to provide such documentation of the applicant's training, education, or experience as deemed necessary by the board to determine substantial equivalency. An applicant seeking credit for military training, experience, or both shall submit to the appropriate professional or occupational board the applicant's Verification of Military Experience and Training (VMET) Document, DD Form 2586.

f. To the extent that an applicant's military training, education, or experience, or a portion thereof, is not deemed substantially equivalent, a professional or occupational board shall credit whatever portion of the military training, education, or experience that is substantially equivalent towards meeting the requirements for the issuance of the license or certificate.

L.2013, c.49, s.1.

45:1-15.4. Rules, regulations.

Each professional or occupational board designated in section 2 of P.L.1978, c.73 (C.45:1-15), subject to the provisions of this act, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall promulgate rules and regulations necessary to implement this act.

L.2013, c.49, s.2.

45:1-15.5. Definitions relative to professional, occupational licenses for certain military spouses.

a. As used in this section:

"Another jurisdiction" means the District of Columbia, a territory of the United States, or a state other than New Jersey.

"Board" means a professional or occupational board designated in section 2 of P.L.1978, c.73 (C.45:1-15) that issues a professional or occupational license, certificate of registration, or certification.

"Nonresident military spouse" means a person who is not domiciled in this State who is the spouse of an active duty member of the Armed Forces of the United States who has been transferred to this State in the course of the member's service, is legally domiciled in this State, or has moved to this State on a permanent change-of-station basis.

b. Notwithstanding the provisions of any law, rule or regulation to the contrary, each board shall issue, upon application, a license to a nonresident military spouse who meets the requirements of this section, so that the nonresident military spouse may practice lawfully the person's profession or occupation. At the discretion of the board, a nonresident military spouse shall receive a license under this subsection:

(1) pursuant to any law, rule, or regulation providing for licensure by endorsement or reciprocity in the profession or occupation regulated by the board; or

(2) pursuant to an application for a temporary courtesy license pursuant to subsection d. of this section.

c. Notwithstanding the provisions of any other law, rule, or regulation to the contrary, each board shall establish criteria for the issuance of a temporary courtesy license to a nonresident military spouse so that the nonresident military spouse may lawfully practice the profession or occupation regulated by that board in this State on a temporary basis, subject to the requirements of subsection d. of this section when applicable.

d. A nonresident military spouse who applies for a temporary courtesy license pursuant to paragraph (2) of subsection b. of this section shall be entitled to receive that license if that person:

(1) holds a current license to practice the profession or occupation in another jurisdiction that the board determines has licensure requirements to practice the profession or occupation that are equivalent to those adopted by the board;

(2) was engaged in the active practice of the profession or occupation in another jurisdiction for at least two of the five years immediately preceding the date of application for the temporary courtesy license, for which purpose relevant full-time experience in the discharge of official duties in the Armed Forces of the United States or an agency of the federal government shall be credited in the counting of years of service;

(3) has not committed an act in another jurisdiction that would have constituted grounds for the denial, suspension, or revocation of a license to practice the profession or occupation in this State;

(4) has not been disciplined, and is not the subject of an investigation of an unresolved complaint, or a review procedure or disciplinary proceeding, which was conducted by, or is pending before, a professional or occupational licensing or credentialing entity in another jurisdiction;

(5) pays for, and authorizes the board to conduct, a criminal history record background check of that person pursuant to P.L.2002, c.104 (C.45:1-28 et seq.) if such check is required to practice the occupation or practice regulated by that board;

(6) pays any fee the board reasonably requires for the issuance of the temporary courtesy license;

(7) has satisfied any continuing education requirements in the jurisdiction where that person holds a current license to practice the profession or occupation, and, at the discretion of the board, completes such continuing education hours or credits as may be required by the board within the time frame the board may establish;

(8) at the discretion of the board and if applicable, successfully completes a New Jersey jurisprudence examination required of resident applicants or any other examination specifically predicated on New Jersey law required for practice in the profession or occupation; and

(9) complies with any other requirements the board may reasonably determine are necessary to effectuate the purposes of this section.

e. A nonresident military spouse who holds a temporary license pursuant to paragraph (2) of subsection b. of this section shall be entitled to the same rights and be subject to the same obligations as provided by the respective board for New Jersey residents, except that revocation or suspension of a nonresident military spouse's license in the nonresident military spouse's state of residence or any jurisdiction in which the nonresident military spouse held licensure shall automatically cause the same revocation or suspension of the person's temporary courtesy license in New Jersey if that revocation or suspension was on the basis of a charge or commission of a criminal offense, competency, or harmful or inappropriate behavior.

f. A board may require a nonresident military spouse who has not been engaged in the active practice of the profession or occupation in another jurisdiction during the two years immediately preceding the application to undergo additional training, testing, mentoring, monitoring or education should the board deem it necessary.

g. A temporary courtesy license issued pursuant to this section shall be valid for a period of one year and may be extended at the discretion of the board for an additional one year upon application of the holder of the temporary courtesy license.

h. Each board shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to carry out the purposes of this section, except that, notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, each board may adopt, immediately upon filing with the Office of Administrative Law, regulations the board deems necessary to implement the provisions of this section, which shall be effective for a period not to exceed six months and may thereafter be amended, adopted, or re-adopted by the board in accordance with the requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).

L.2013, c.264, s.1.

45:1-15.6. Charge for professional, occupations license under certain circumstances; prohibited.

Notwithstanding the provision of any law, rule, or regulation to the contrary, a professional or occupational board, designated in section 2 of P.L.1978, c.73 (C.45:1-15), that issues a professional or occupational license, certificate of registration, or certification shall not charge a license fee for the

issuance of a license to an applicant who holds a driver's license or identification card with a Gold Star Family designation issued pursuant to section 1 of P.L.2013, c.165 (C.39:3-10f6) or section 2 of P.L.1980, c.47 (C.39:3-29.3), respectively.

L.2017, c.175, s.2.

45:1-15.7. Internet to provide secure process for obtaining, renewing professional, occupational licenses, certificates of registration.

Each professional or occupational board designated in section 2 of P.L.1978, c.73 (C.45:1-15), shall provide on its Internet website a secure process to allow applicants to complete online any application documents, including any fee payments, required to obtain an initial license, certificate of registration, or certification, or renewal of an existing license, certificate of registration, or certification, as the case may be, and to submit electronically all necessary documentation for review and approval of that board.

L.2017, c.298, s.1.

45:1-15.8. Rules, regulations.

Each professional or occupational board designated in section 2 of P.L.1978, c.73 (C.45:1-15), pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall promulgate rules and regulations necessary to implement this act.

L.2017, c.298, s.2.

45:1-16. Definitions

As used within this act the following words or terms shall have the indicated definition unless the context clearly indicates otherwise.

"Board" means any professional or occupational licensing board designated in section 2 of this act.

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

"Person" means any natural person or his legal representative, partnership, corporation, company, trust, business entity or association, and any agent, employee, salesman, partner, officer, director, member, stockholder, associate, trustee or cestuis que trust thereof.

L.1978, c. 73, s. 3, eff. July 13, 1978.

45:1-17. Powers of Attorney General to implement act and administer law enforcement activities of boards

In implementing the provisions of this act and administering the law enforcement activities of those professional and occupational boards located within the Division of Consumer Affairs, the Attorney General may:

a. After advice to the board or boards in question of his intent to proceed under this section, and the specific action he intends to take, and the failure of such board or boards to take steps in accordance with the advice of the Attorney General within 30 days of receipt of such advice, promulgate rules and regulations consistent with the provisions of this act and the Administrative Procedure Act, P.L.1968, c. 410 (C. 52:14B-1 et seq.) governing the procedure for administrative hearings before all boards within the Division of Consumer Affairs. Such rules and regulations shall govern administrative complaints, answers thereto, issuance of subpenas, appointment of hearing examiners, adjournments, submission of proposed findings of fact and conclusions of law, the filing of briefs, and such other procedural aspects of administrative hearings before the boards as the Attorney General may deem necessary; provided, however, nothing herein authorized shall be construed to require the Attorney General to promulgate rules regarding prehearing investigative procedures.

b. After advice to the board or boards in question of his intent to proceed under this section, and the specific action he intends to take, and the failure of such board or boards to take steps in accordance with the advice of the Attorney General within 30 days of receipt of such advice, promulgate substantive rules and regulations consistent with the provisions of any statute governing the activities of any licensing agency, board or committee located within the Division of Consumer Affairs, which shall be limited to disciplinary matters and arbitrary restrictions on initial licensure. In addition to promulgating such rules and regulations, the Attorney General may direct that any proposed or existing regulation be amended, abandoned or repealed. Prior to the final adoption of any regulation affecting the activities of any professional or occupational licensing agency, board or committee located within the division and prior to the issuance of any directive to amend, abandon or repeal any regulation, the Attorney General or his designee shall first consult with the agency, board or committee whose activities are affected regarding the proposed action.

c. After a full consideration of all relevant facts and the applicable law, may direct the initiation of any appropriate enforcement action by a professional or occupational licensing board or set aside, modify or amend, as may be necessary, any action or decision of a licensing agency, board or committee located within the Division of Consumer Affairs; provided, however, no such action shall be directed by the Attorney General in reviewing the action or decision of an agency, board or committee unless such action or decision is contrary to applicable law.

L.1978, c. 73, s. 4, eff. July 13, 1978.

45:1-18. Investigative powers of board, director, or attorney general.

Whenever it shall appear to any board, the director or the Attorney General that a person has engaged in, or is engaging in any act or practice declared unlawful by a statute or regulation administered by such board, or when the board, the director or the Attorney General shall deem it to be in the public interest to inquire whether any such violation may exist, the board or the director through the Attorney General, or the Attorney General acting independently, may exercise any of the following investigative powers:

a. Require any person to file on such form as may be prescribed, a statement or report in writing under oath, or otherwise, as to the facts and circumstances concerning the rendition of any service or conduct of any sale incidental to the discharge of any act or practice subject to an act or regulation administered by the board;

b. Examine under oath any person in connection with any act or practice subject to an act or regulation administered by the board;

c. Inspect any premises from which a practice or activity subject to an act or regulation administered by the board is conducted;

d. Examine any goods, ware or item used in the rendition of a practice or activity subject to an act or regulation administered by the board;

e. Examine any record, book, document, account or paper prepared or maintained by or for any professional or occupational licensee in the regular course of practicing such profession or engaging in such occupation or any individual engaging in practices subject to an act or regulation administered by the board. Nothing in this subsection shall require the notification or consent of the person to whom the record, book, account or paper pertains, unless otherwise required by law;

f. For the purpose of preserving evidence of an unlawful act or practice, pursuant to an order of the Superior Court, impound any record, book, document, account, paper, goods, ware, or item used, prepared or maintained by or for any board licensee in the regular course of practicing such profession or engaging in such occupation or any individual engaging in a practice or activity subject to an act or regulation administered by the board. In such cases as may be necessary, the Superior Court may, on application of the Attorney General, issue an order sealing items or material subject to this subsection;

g. Require any board licensee, permit holder or registered or certified person to submit to an assessment of skills to determine whether the board licensee, permit holder or registered or certified person can continue to practice with reasonable skill and safety; and

h. Whenever a board, the director through the Attorney General, or the Attorney General investigates a consumer complaint, the board, director or the Attorney General, as applicable, shall render a final disposition of the inquiry 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: to obtain information, records or evidence sought pursuant to this section that is necessary for the investigation or disposition of the consumer complaint; for the board, director or the Attorney General, as the case may be, to consider additional information furnished more than 30 days after the filing of the complaint; to conduct an administrative hearing in a contested case; for expert consultation related to the subject matter under investigation; because a complaint is, or becomes, the subject of a criminal investigation or prosecution; or for other good cause shown due to extraordinary or unforeseen circumstances. The number of consumer complaints for which tolling of the 120-day period is approved shall be reported to the Attorney General on a monthly basis, and this information shall be provided to the Legislature on a semi-annual basis. Nothing in this subsection shall be construed as affecting the jurisdiction of a board, the director through the Attorney General or the Attorney General.

In order to accomplish the objectives of this act or any act or regulation administered by a board, the Attorney General may hold such investigative hearings as may be necessary and the board, director or Attorney General may issue subpoenas to compel the attendance of any person or the production of books, records or papers at any such hearing or inquiry.

L.1978, c.73, s.5; amended 2001, c.307, s.1; 2010, c.17, s.1.

45:1-18.1. Findings, declarations relative to unauthorized practice of certain occupations, professions.

The Legislature finds and declares that:

a. The regulation of certain professions or occupations through the Director of the Division of Consumer Affairs or the boards or committees within the Division of Consumer Affairs in the Department of Law and Public Safety is necessary to protect the health, safety and welfare of the residents of this State;

b. The unauthorized practice of a regulated profession or occupation inures to the detriment of the public;

c. The professional and occupational licensing boards and committees within the Division of Consumer Affairs in the Department of Law and Public Safety are unable to consistently and effectively prevent and sanction the unauthorized practice of regulated professions and occupations due, in part, to limitations in the investigative and enforcement powers currently afforded to the boards and commissions, and to the applicable procedures available to address these issues; and

d. It is therefore necessary and appropriate to protect the health, safety and welfare of the residents of this State to provide the Director of the Division of Consumer Affairs and the boards and committees within the Division of Consumer Affairs with additional investigative and enforcement powers and enhanced procedures to more effectively deter individuals from engaging in the unauthorized practice of a regulated profession or occupation.

L.2009, c.267, s.1.

45:1-18.2. Exercise of investigative power.

a. The Director of the Division of Consumer Affairs or any board or committee within the division may exercise its investigative power pursuant to section 5 of P.L.1978, c.73 (C.45:1-18) whenever there is reason to believe that there has been a violation of any applicable law or regulation by a person who:

(1) is not licensed, certified, or otherwise permitted by law or regulation to practice a profession or occupation and who represents to the public by any means, that he is able to practice a profession or occupation regulated under Title 45 of the Revised Statutes; or

(2) has engaged or is engaging in the unauthorized practice of a profession or occupation regulated under Title 45 of the Revised Statutes in violation of any law or regulation administered by the director or a board or committee within the Division of Consumer Affairs.

b. Any person who, following notice and a hearing, has been found to have engaged in the conduct specified in paragraph (1) or (2) of subsection a. of this section shall:

(1) immediately cease and desist from practicing that profession or occupation, as ordered by the director or a board or committee; and

(2) be liable to a penalty of not more than $10,000 for the first offense, and not more than $20,000 for each subsequent offense, to be recovered by the director or the board or committee within the Division of Consumer Affairs.

c. Any proceeding instituted pursuant to this section shall be in addition to any other proceeding authorized by section 10 of P.L.1978, c.73 (C.45:1-23), or by any other law.

L.2009, c.267, s.2.

45:1-18.3. Regulations.

The Director of the Division of Consumer Affairs in the Department of Law and Public Safety may promulgate regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the provisions of this act.

L.2009, c.267, s.3.

45:1-19. Failure or refusal to file statement or report, refuse access to premises or failure to obey subpena; penalty

If any person shall fail or refuse to file any statement or report or refuse access to premises from which a licensed profession or occupation is conducted in any lawfully conducted investigative matter or fail to obey a subpena issued pursuant to this act, the Attorney General may apply to the Superior Court and obtain an order:

a. Adjudging such person in contempt of court; or

b. Granting such other relief as may be required; or

c. Suspending the license of any such person unless and until compliance with the subpena or investigative demand is effected.

L.1978, c. 73, s. 6, eff. July 13, 1978.

45:1-20. Compelling testimony or production of book, paper or document; immunity from prosecution

If any person shall refuse to testify or produce any book, paper, or other document in any proceeding under this act for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him, convict him of a crime, or subject him to a penalty or forfeiture, and shall, notwithstanding, be directed to testify or to produce such book, paper, or document by the Attorney General, he shall comply with such direction.

A person who is entitled by law to, and does assert such privilege, and who complies with such direction of the Attorney General shall not thereafter be prosecuted or subjected to any penalty or forfeiture in any criminal proceeding which arises out of and relates to the subject matter of the proceeding. No person so testifying shall be exempt from prosecution or punishment for perjury or false swearing committed by him in giving such testimony or from any civil or administrative action arising from such testimony.

L.1978, c. 73, s. 7, eff. July 13, 1978.

45:1-21. Refusal to license or renew, grounds.

A board may refuse to admit a person to an examination or may refuse to issue or may suspend or revoke any certificate, registration or license issued by the board upon proof that the applicant or holder of such certificate, registration or license:

a. Has obtained a certificate, registration, license or authorization to sit for an examination, as the case may be, through fraud, deception, or misrepresentation;

b. Has engaged in the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense;

c. Has engaged in gross negligence, gross malpractice or gross incompetence which damaged or endangered the life, health, welfare, safety or property of any person;

d. Has engaged in repeated acts of negligence, malpractice or incompetence;

e. Has engaged in professional or occupational misconduct as may be determined by the board;

f. Has been convicted of, or engaged in acts constituting, any crime or offense involving moral turpitude or relating adversely to the activity regulated by the board. For the purpose of this subsection a judgment of conviction or a plea of guilty, non vult, nolo contendere or any other such disposition of alleged criminal activity shall be deemed a conviction;

g. Has had his authority to engage in the activity regulated by the board revoked or suspended by any other state, agency or authority for reasons consistent with this section;

h. Has violated or failed to comply with the provisions of any act or regulation administered by the board;

i. Is incapable, for medical or any other good cause, of discharging the functions of a licensee in a manner consistent with the public's health, safety and welfare;

j. Has repeatedly failed to submit completed applications, or parts of, or documentation submitted in conjunction with, such applications, required to be filed with the Department of Environmental Protection;

k. Has violated any provision of P.L.1983, c.320 (C.17:33A-1 et seq.) or any insurance fraud prevention law or act of another jurisdiction or has been adjudicated, in civil or administrative proceedings, of a violation of P.L.1983, c.320 (C.17:33A-1 et seq.) or has been subject to a final order, entered in civil or administrative proceedings, that imposed civil penalties under that act against the applicant or holder;

l. Is presently engaged in drug or alcohol use that is likely to impair the ability to practice the profession or occupation with reasonable skill and safety. For purposes of this subsection, the term "presently" means at this time or any time within the previous 365 days;

m. Has prescribed or dispensed controlled dangerous substances indiscriminately or without good cause, or where the applicant or holder knew or should have known that the substances were to be used for unauthorized consumption or distribution;

n. Has permitted an unlicensed person or entity to perform an act for which a license or certificate of registration or certification is required by the board, or aided and abetted an unlicensed person or entity in performing such an act;

o. Advertised fraudulently in any manner.

The division is authorized, for purposes of facilitating determinations concerning licensure eligibility, to require the fingerprinting of each applicant in accordance with applicable State and federal laws, rules and regulations. Each applicant shall submit the applicant's name, address, and written consent to the director for a criminal history record background check to be performed. The division is authorized to receive criminal history record information from the State Bureau of Identification in the Division of State

Police and the Federal Bureau of Investigation. Upon receipt of such notification, the division shall forward the information to the appropriate board which shall make a determination regarding the issuance of licensure. The applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check, unless otherwise provided for by an individual enabling act. The Division of State Police shall promptly notify the division in the event an applicant or licensee, who was the subject of a criminal history record background check pursuant to this section, is convicted of a crime or offense in this State after the date the background check was performed.

For purposes of this act:

"Completed application" means the submission of all of the information designated on the checklist, adopted pursuant to section 1 of P.L.1991, c.421 (C.13:1D-101), for the class or category of permit for which application is made.

"Permit" has the same meaning as defined in section 1 of P.L.1991, c.421 (C.13:1D-101).

L.1978,c.73,s.8; amended 1991, c.420, s.1; 1997, c.151, s.10; 1999, c.403, s.2; 2003, c.199, s.31.

45:1-21.1. Information on DEP application compliance, seminar attendance

a. A board obtaining information from the Department of Environmental Protection pursuant to section 1 of P.L.1991, c.418 (C.13:1D-110) on the compliance of a member of a regulated profession with the requirements for completed applications of the department, shall annually develop a detailed written summary of the information gathered by the department pursuant to P.L.1991, c.418 (C.13:1D-110) regarding compliance with the department's requirements for completed applications and attendance records for continuing education seminars required to be filed with the department pursuant to section 2 of P.L.1991, c.419 (C.13:1D-117).

b. Any reasonable costs incurred in preparation of the report required pursuant to this section may be included in the charges authorized pursuant to P.L.1974, c.46 (C.45:1-3.2).

c. Information required to be compiled by a board pursuant to this section, shall be deemed to be public records subject to the requirements of P.L.1963, c.73 (C.47:1A-1 et seq.).

L.1991,c.420,s.2.

45:1-21.3. Violation of the responsibility to make 911 call, forfeiture of license, authorization to practice.

A health care professional licensed or otherwise authorized to practice as a health care professional pursuant to Title 45 of the Revised Statutes who violates the provisions of section 3 of P.L.2003, c.191 (C.30:6D-5.3) shall, in addition to being liable to a civil penalty pursuant to section 4 of P.L.2003, c.191 (C.30:6D-5.4), be subject to revocation of that individual's professional license or other authorization to practice as a health care professional by the appropriate licensing board in the Division of Consumer Affairs in the Department of Law and Public Safety, after appropriate notice and opportunity for a hearing.

L.2003,c.191,s.6.

45:1-21.4. Certain information relative to address of certain applicants, licensees; nondisclosure.

Notwithstanding any other law, rule or regulation to the contrary, the director or a board shall not disclose to the public information indicating the place of residence of any applicant for or holder of a license, registration or certification without the consent of the applicant or holder, except for such disclosure to a federal or State regulatory authority or a law enforcement or judicial authority.

L.2007, c.307, s.1.

45:1-22. Additional, alternative penalties.

In addition or as an alternative, as the case may be, to revoking, suspending or refusing to renew any license, registration or certificate issued by it, a board may, after affording an opportunity to be heard:

a. Issue a letter of warning, reprimand, or censure with regard to any act, conduct or practice which in the judgment of the board upon consideration of all relevant facts and circumstances does not warrant the initiation of formal action;

b. Assess civil penalties in accordance with this act;

c. Order that any person violating any provision of an act or regulation administered by such board to cease and desist from future violations thereof or to take such affirmative corrective action as may be necessary with regard to any act or practice found unlawful by the board;

d. Order any person found to have violated any provision of an act or regulation administered by such board to restore to any person aggrieved by an unlawful act or practice, any moneys or property, real or personal, acquired by means of such act or practice; provided, however, no board shall order restoration in a dollar amount greater than those moneys received by a licensee or his agent or any other person violating the act or regulation administered by the board;

e. Order any person, as a condition for continued, reinstated or renewed licensure, to secure medical or such other professional treatment as may be necessary to properly discharge licensee functions;

f. Order any person, as a condition for continued, reinstated or renewed licensure, to submit to any medical or diagnostic testing and monitoring or psychological evaluation which may be required to evaluate whether continued practice may jeopardize the safety and welfare of the public;

g. Order any person, as a condition for continued, reinstated or renewed licensure, to submit to an assessment of skills to determine whether the licensee can continue to practice with reasonable skill and safety, and to take and successfully complete educational training determined by the board to be necessary;

h. Order any person, as a condition for continued, reinstated or renewed licensure, to submit to an assessment of skills to determine whether the licensee can continue to practice with reasonable skill and safety, and to submit to any supervision, monitoring or limitation on practice determined by the board to be necessary.

A board may, upon a duly verified application of the Attorney General that either provides proof of a conviction of a court of competent jurisdiction for a crime or offense involving moral turpitude or relating adversely to the regulated profession or occupation, or alleges an act or practice violating any provision of an act or regulation administered by such board, enter a temporary order suspending or limiting any

license issued by the board pending plenary hearing on an administrative complaint; provided, however, no such temporary order shall be entered unless the application made to the board palpably demonstrates a clear and imminent danger to the public health, safety and welfare and notice of such application is given to the licensee affected by such order. If, upon review of the Attorney General's application, the board determines that, although no palpable demonstration of a clear and imminent danger has been made, the licensee's continued unrestricted practice pending plenary hearing may pose a risk to the public health, safety and welfare, the board may order the licensee to submit to medical or diagnostic testing and monitoring, or psychological evaluation, or an assessment of skills to determine whether the licensee can continue to practice with reasonable skill and safety.

In any administrative proceeding commenced on a complaint alleging a violation of an act or regulation administered by a board, such board may issue subpoenas to compel the attendance of witnesses or the production of books, records, or documents at the hearing on the complaint.

L.1978,c.73,s.9; amended 1999, c.403, s.3; 2001, c.307, s.2.

45:1-23. Summary proceeding in Superior Court; injunction; orders necessary to prevent unlawful practice or remedy past unlawful activity

Whenever it shall appear to a board, the director or the Attorney General that a violation of any act, including the unlicensed practice of the regulated profession or occupation, or regulation administered by such board has occurred, is occurring, or will occur, the Attorney General, in addition to any other proceeding authorized by law, may seek and obtain in a summary proceeding in the Superior Court an injunction prohibiting such act or practice. In any such proceeding the court may assess a civil penalty in accordance with the provisions of this act, order restoration to any person in interest of any moneys or property, real or personal, acquired by means of an unlawful act or practice and may enter such orders as may be necessary to prevent the performance of an unlawful practice in the future and to fully remedy any past unlawful activity. In any action brought pursuant to this section, the court shall not suspend or revoke any license issued by a board.

L.1978, c. 73, s. 10, eff. July 13, 1978.

45:1-24. Failure to pay penalties; enforcement

Upon the failure of any person to comply within 10 days after service of any order of a board directing payment of penalties or restoration of moneys or property, the Attorney General or the secretary of such board may issue a certificate to the Clerk of the Superior Court that such person is indebted to the State for the payment of such penalty and the moneys or property ordered restored. A copy of such certificate shall be served upon the person against whom the order was entered. Thereupon the clerk shall immediately enter upon his record of docketed judgments the name of the person so indebted and of the State, a designation of the statute under which the penalty is imposed, the amount of the penalty imposed, and amount of moneys ordered restored, a listing of property ordered restored, and the date of the certification. Such entry shall have the same force and effect as the entry of a docketed judgment in the Superior Court, and the Attorney General shall have all rights and remedies of a judgment creditor in addition to exercising any other available remedies. Such entry, however, shall be without prejudice to the right of appeal to the Appellate Division of the Superior Court from the board's order.

An action to enforce the provisions of any order entered by a board or to collect any penalty levied thereby may be brought in any municipal court or the Superior Court in summary manner pursuant to

"the penalty enforcement law" (N.J.S.2A:58-1 et seq.) and the rules of court governing the collection of civil penalties. Process in such action shall be by summons or warrant, and in the event that the defendant fails to answer such action, the court shall issue a warrant for the defendant's arrest for the purpose of bringing such person before the court to satisfy any order entered.

L.1978,c.73,s.11; amended 1991,c.91,s.448.

45:1-25. Violations, penalties.

a. Any person who engages in any conduct in violation of any provision of an act or regulation administered by a board shall, in addition to any other sanctions provided herein, be liable to a civil penalty of not more than $10,000 for the first violation and not more than $20,000 for the second and each subsequent violation. For the purpose of construing this section, each act in violation of any provision of an act or regulation administered by a board shall constitute a separate violation and shall be deemed a second or subsequent violation under the following circumstances:

(1) an administrative or court order has been entered in a prior, separate and independent proceeding;

(2) the person is found within a single proceeding to have committed more than one violation of any provision of an act or regulation administered by a board; or

(3) the person is found within a single proceeding to have committed separate violations of any provision of more than one act or regulation administered by a board.

b. In lieu of an administrative proceeding or an action in the Superior Court, the Attorney General may bring an action in the name of any board for the collection or enforcement of civil penalties for the violation of any provision of an act or regulation administered by such board. Such action may be brought in summary manner pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.) and the rules of court governing actions for the collection of civil penalties in the municipal court where the offense occurred. Process in such action may be by summons or warrant and in the event that the defendant in such action fails to answer such action, the court shall, upon finding an unlawful act or practice to have been committed by the defendant, issue a warrant for the defendant's arrest in order to bring such person before the court to satisfy the civil penalties imposed. In any action commenced pursuant to this section, the court may order restored to any person in interest any moneys or property acquired by means of an unlawful act or practice.

c. Any action alleging the unlicensed practice of a profession or occupation shall be brought pursuant to this section or, where injunctive relief is sought, by an action commenced in the Superior Court.

d. In any action brought pursuant to this act, a board or the court may order the payment of costs for the use of the State, including, but not limited to, costs of investigation, expert witness fees and costs, attorney fees and costs, and transcript costs.

L.1978,c.73,s.12; amended 1991, c.91, s.449; 1999, c.403, s.9; 2001, c.307, s.3.

45:1-26. Repeal of inconsistent acts and parts of acts

All acts and parts of acts inconsistent with this act are hereby superseded and repealed.

L.1978, c. 73, s. 13, eff. July 13, 1978.

45:1-27. Severability

If any provision of this law or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the law which can be given effect without the invalid provision or application, and to this end the provisions of this law are severable.

L.1978, c. 73, s. 14, eff. July 13, 1978.

45:1-28. Definitions relative to criminal history background checks for health care professionals.

As used in this act:

"Applicant" means an applicant for the licensure or other authorization to engage in a health care profession.

"Board" means a professional and occupational licensing board within the Division of Consumer Affairs in the Department of Law and Public Safety.

"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.

"Health care professional" means a health care professional who is licensed or otherwise authorized, pursuant to Title 45 or Title 52 of the Revised Statutes, to practice a health care profession that is regulated by one of the following boards or by the Director of the Division of Consumer Affairs: the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Dentistry, the New Jersey State Board of Optometrists, the New Jersey State Board of Pharmacy, the State Board of Chiropractic Examiners, the Acupuncture Examining Board, the State Board of Physical Therapy, the State Board of Respiratory Care, the Orthotics and Prosthetics Board of Examiners, the State Board of Psychological Examiners, the State Board of Social Work Examiners, the State Board of Veterinary Medical Examiners, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Audiology and Speech-Language Pathology Advisory Committee, the State Board of Marriage and Family Therapy Examiners, the Occupational Therapy Advisory Council, the Certified Psychoanalysts Advisory Committee or the State Board of Polysomnography.

Health care professional shall not include a nurse aide or personal care assistant who is required to undergo a criminal history record background check pursuant to section 2 of P.L.1997, c.100 (C.26:2H-83) or a homemaker-home health aide who is required to undergo a criminal history record background check pursuant to section 7 of P.L.1997, c.100 (C.45:11-24.3).

"Licensee" means an individual who has been issued a license or other authorization to practice a health care profession.

L.2002,c.104,s.1; amended 2005, c.83, s.4; 2005,c.244,s.17.

45:1-29. Criminal history record background check required for licensure of health care professional.

a. A professional and occupational licensing board within the Division of Consumer Affairs in the Department of Law and Public Safety or the director who regulates the practice of a health care professional, as applicable, shall not issue an initial license or other authorization to practice a health care profession that is regulated by that board or the director to any applicant therefor unless the board or director, as applicable, first determines, consistent with section 8 of P.L.1978, c.73 (C.45:1-21), that no criminal history record information exists on file in the Federal Bureau of Investigation, Identification Division, or in the State Bureau of Identification in the Division of State Police, which may disqualify the applicant from being licensed or otherwise authorized to practice as a health care professional.

b. A board or the director, as applicable, shall not renew or, if renewed, shall revoke a license or other authorization to practice a health care profession that is regulated by that board or the director of any applicant therefor unless the board or director determines, consistent with section 8 of P.L.1978, c.73 (C.45:1-21), that no criminal history record information exists on file in the Federal Bureau of Investigation, Identification Division, or in the State Bureau of Identification in the Division of State Police, which may provide grounds for the refusal to renew the license or other authorization to practice as a health care professional.

The director shall establish, by regulation, a schedule of dates by which the requirements of this subsection shall be implemented, so that all licensees will have been required to submit to a criminal history record background check beginning no later than four years after the effective date of P.L.2005, c.83 (C.45:1-33 et al.).

The director may, in an emergent circumstance, temporarily waive the requirement to undergo a criminal history record background check as a condition of renewal of a license or other authorization to practice a health care profession.

L.2002,c.104,s.2; amended 2005, c.83, s.5.

45:1-30. Submission of information by applicant or licensee.

a. An applicant or licensee who is required to undergo a criminal history record background check pursuant to section 2 of P.L.2002, c.104 (C.45:1-29) shall submit to the director that individual's name, address and fingerprints taken on standard fingerprint cards, or through any equivalent means, by a State or municipal law enforcement agency or by a private entity under contract with the State. The director is authorized to exchange fingerprint data with and receive criminal history record information from the Federal Bureau of Investigation and the Division of State Police for use in making the determinations required pursuant to this act.

b. Upon receipt of the criminal history record information for an applicant or licensee from the Federal Bureau of Investigation or the Division of State Police, the director shall immediately notify the board, as applicable.

c. If an applicant refuses to consent to, or cooperate in, the securing of a criminal history record background check, the board or director, as applicable, shall not issue a license or other authorization to practice a health care profession to the applicant and shall notify the applicant of that denial.

d. If a licensee refuses to consent to, or cooperate in, the securing of a criminal history record background check as required during the licensure or other authorization renewal process, the board

or director, as applicable, shall refuse to renew the license or other authorization of the licensee, without a hearing, and shall notify the licensee of that denial.

e. A licensee who:

(1) has permitted a license or other authorization to lapse or whose license or other authorization has been suspended, revoked or otherwise has had licensure or other authorization privileges restricted, and

(2) has not already submitted to a criminal history record background check, shall be required to submit fingerprints as part of the licensure or other authorization reinstatement process. If a reinstatement applicant refuses to consent to, or cooperate in, the securing of a criminal history record background check as required during the reinstatement process, the board or director, as applicable, shall automatically deny reinstatement of the license or other authorization, without a hearing, and shall notify the licensee of that denial.

L.2002,c.104,s.3; amended 2005, c.83, s.6.

45:1-31. Applicant or licensee to assume cost.

An applicant or licensee shall be required to assume the cost of the criminal history record background check conducted pursuant to sections 1 through 3 of P.L.2002, c.104 (C.45:1-28 through 45:1-30) and section 14 of P.L.1997, c.100 (C.53:1-20.9a), in accordance with procedures determined by regulation of the director.

L.2002,c.104,s.4; amended 2005, c.83, s.7.

45:1-32. Rules, regulations

The Director of the Division of Consumer Affairs in the Department of Law and Public Safety, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate the purposes of this act.

L.2002,c.104,s.6.

45:1-33. Short title.

This act shall be known and may be cited as the "Health Care Professional Responsibility and Reporting Enhancement Act."

L.2005,c.83,s.1.

45:1-34. Definitions relative to healthcare professionals.

As used in sections 9 through 14 and 16 and 17 of P.L.2005, c.83 (C.45:1-34 through C.45:1-39 and C.26:2H-12.2d and C.45:1-40):

"Board" means a professional and occupational licensing board within the Division of Consumer Affairs in the Department of Law and Public Safety which licenses or otherwise authorizes a health care professional to practice a health care profession.

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

"Health care entity" means a health care facility licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), a health maintenance organization authorized to operate pursuant to P.L.1973, c.337 (C.26:2J-1 et seq.), a carrier which offers a managed care plan regulated pursuant to P.L.1997, c.192 (C.26:2S-1 et seq.), a State or county psychiatric hospital, a State developmental center, a staffing registry, and a home care services agency as defined in section 1 of P.L.1947, c.262 (C.45:11-23).

"Health care professional" means a person licensed or otherwise authorized pursuant to Title 45 or Title 52 of the Revised Statutes to practice a health care profession that is regulated by the Director of the Division of Consumer Affairs or by one of the following boards: the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Dentistry, the New Jersey State Board of Optometrists, the New Jersey State Board of Pharmacy, the State Board of Chiropractic Examiners, the Acupuncture Examining Board, the State Board of Physical Therapy, the State Board of Respiratory Care, the Orthotics and Prosthetics Board of Examiners, the State Board of Psychological Examiners, the State Board of Social Work Examiners, the State Board of Veterinary Medical Examiners, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Audiology and Speech-Language Pathology Advisory Committee, the State Board of Marriage and Family Therapy Examiners, the Occupational Therapy Advisory Council and the Certified Psychoanalysts Advisory Committee.

"Licensee" means an individual who has been issued a license or other authorization to practice a health care profession.

"Review panel" means the Medical Practitioner Review Panel established pursuant to section 8 of P.L.1989, c.300 (C.45:9-19.8).

L.2005,c.83,s.9.

45:1-35. Immunity from civil liability.

A health care entity, health care professional or any other person who provides to the division, a board or the review panel, in good faith and without malice, any information concerning an act by a health care professional which the person has reasonable cause to believe involves misconduct that may be subject to disciplinary action by the division, board or review panel, as applicable, or any information relating to such conduct requested by the division, board or review panel in the exercise of its statutory responsibilities or which may be required by statute, shall not be liable for civil damages in any cause of action arising out of the provision of such information or services.

L.2005,c.83,s.10.

45:1-36. Confidentiality of information.

Any information provided to the division or a board concerning the conduct of a health care professional, pursuant to section 2 of P.L.2005, c.83 (C.26:2H-12.2b), section 5 of P.L.1978, c.73 (C.45:1-18) or any other provision of law, shall be treated as confidential pending final disposition of the inquiry

or investigation, except for that information required to be shared with the Attorney General, Department of Health and Senior Services or any other government agency.

If the result of the inquiry or investigation is a finding of no basis for disciplinary action, the information shall remain confidential, except that the board or division, as applicable, may release the information to a government agency to facilitate the discharge of its public responsibilities.

The provisions of this section shall not apply to information that the division, or its designated agent, is required to include in a physician's profile pursuant to P.L.2003, c.96 (C.45:9-22.21 et seq.).

L.2005,c.83,s.11.

45:1-37. Notification to division of impairment of health care professional.

a. A health care professional shall promptly notify the division if that health care professional is in possession of information which reasonably indicates that another health care professional has demonstrated an impairment, gross incompetence or unprofessional conduct which would present an imminent danger to an individual patient or to the public health, safety or welfare. A health care professional who fails to so notify the division is subject to disciplinary action and civil penalties pursuant to sections 8, 9 and 12 of P.L.1978, c.73 (C.45:1-21, 45:1-22 and 45:1-25).

b. A health care professional shall be deemed to have satisfied the reporting requirement concerning another health care professional's impairment by promptly providing notice to the division, the board or a professional assistance or intervention program approved or designated by the division or a board to provide confidential oversight of the licensee.

c. (1)There shall be no private right of action against a health care professional for failure to comply with the notification requirements of this section.

(2) There shall be no private right of action against a health care entity if a health care professional who is employed by, under contract to render professional services to, or has privileges granted by, that health care entity, or who provides such services pursuant to an agreement with a health care services firm or staffing registry, fails to comply with the notification requirements of this section.

d. A health care professional who provides notification to the division, board or review panel, in good faith and without malice, about a health care professional who is impaired or grossly incompetent or who has demonstrated unprofessional conduct, pursuant to this section, is not liable for civil damages to any person in any cause of action arising out of the notification.

e. Notwithstanding the provisions of this section to the contrary, a health care professional is not required to provide notification pursuant to this section about an impaired or incompetent health care professional if the health care professional's knowledge of the other health care professional's impairment or incompetence was obtained as a result of rendering treatment to that health care professional.

L.2005,c.83,s.12.

45:1-38. Notification to board relative to impairment, misconduct of health care professional.

a. Upon receipt of notice from a health care entity, or any employee thereof, pursuant to section 2 of P.L.2005,c.83 (C.26:2H-12.2b), notice from a health care professional pursuant to section 12 of P.L.2005, c.83 (C.45:1-37) or information concerning the conduct of a health care professional pursuant to section 10 of P.L.2005, c.83 (C.45:1-35), the division shall promptly notify the board that issued the license or other authorization to practice to the person to whom the notice relates.

The division or board, as applicable, shall initiate an investigation concerning the information received and obtain any additional information that may be necessary in order to determine if disciplinary charges should be pursued or if an application to temporarily suspend or otherwise limit the health care professional's license or other authorization to practice should be initiated.

b. The division or the board may seek the assistance of a consultant or other knowledgeable person in evaluating the information and may request the board or the Attorney General to exercise investigative powers pursuant to section 5 of P.L.1978, c.73 (C.45:1-18) in the conduct of its investigation.

c. If the Attorney General files charges based on information derived from the notice from a health care entity or if the board revokes or permanently or temporarily suspends or otherwise limits the license or other authorization to practice of a health care professional, the board shall notify each health care entity with which the health care professional is affiliated.

L.2005,c.83,s.13.

45:1-39. Fraud, misrepresentation, deception; disciplinary proceedings.

Any health care professional seeking to become employed by, enter into a contract to render professional services to, or obtain privileges at, a health care entity, or provide professional services pursuant to an agreement with a health care services firm or staffing registry, who engages in fraud, misrepresentation or deception in the application or credentialing process shall be subject to disciplinary proceedings, pursuant to section 8 of P.L.1978, c.73 (C.45:1-21).

L.2005,c.83,s.14.

45:1-40. Health Care Professional Information Clearinghouse Coordinator.

a. The Division of Consumer Affairs in the Department of Law and Public Safety shall employ a full-time Health Care Professional Information Clearinghouse Coordinator to assist the Director of the Division of Consumer Affairs in compiling and disseminating to the appropriate licensing board or other applicable entity the information reported to the division by health care entities and professionals pursuant to this act and such other information as specified by the director.

b. The director shall provide that the professional and occupational licensing boards which license or otherwise authorize a health care professional to practice a health care profession with professional and administrative staff as may be needed to carry out the purposes of this act.

L.2005,c.83,s.17.

45:1-41. Rules, regulations.

a. The Director of the Division of Consumer Affairs in the Department of Law and Public Safety shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to carry out the purposes of this act.

b. The Commissioner of Health and Senior Services shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to carry out the purposes of this act.

L.2005,c.83,s.19.

45:1-42. Definitions relative to establishment of alternate testing dates for certain license applicants.

As used in this act:

"Applicant" means an individual to whom a licensing examination is administered.

"Affected applicant" means an applicant for whom a day of religious observance falls on the day or portion thereof that a licensing examination is administered.

"Day of religious observance" means any day or portion thereof on which a religious observance imposes a substantial burden on any applicant's ability to participate in a licensing examination, or any particular day or days or any portion thereof which any individual observes as a Sabbath or other holy day or days in accordance with the requirements of his religion.

"Licensing examination" means any test or examination that is given and used to determine whether an applicant is qualified for licensure, registration or certification by a professional or occupational board or the director, pursuant to Title 45 of the Revised Statutes.

L.2007,c.215,s.1.

45:1-43. Offering of alternate testing dates for examination.

When any licensing examination is administered on a day of religious observance, a special administration of that licensing examination or an equivalent examination shall be offered to any affected applicant as soon after or before as is possible, at a comparable time, place and cost, provided that in no circumstances shall the special administration be more than 30 days before or after the regular test administration.

L.2007,c.215,s.2.

45:1-43.1. Report of passage and failure rates of examinations for licensure.

Any professional or occupational board, agency, or committee located in the Division of Consumer Affairs in the Department of Law and Public Safety or in the Department of Environmental Protection that administers examinations that determine, or that are otherwise related to, licensure in that profession or occupation shall report annually to the Legislature the passage and failure rates, as well as any additional information relevant to interpreting examination results, for each examination the board, agency, or committee administers.

L.2017, c.348, s.1.

45:1-44. Definitions.

Definitions. As used in sections 25 through 30 of P.L.2007, c.244 (C.45:1-45 through C.45:1-50):

"CDS registration" means registration with the Division of Consumer Affairs to manufacture, distribute, dispense, or conduct research with controlled dangerous substances issued pursuant to section 11 of P.L.1970, c.226 (C.24:21-11).

"Certified medical assistant" means a person who is a graduate of a post-secondary medical assisting educational program accredited by the American Medical Association's Committee on Allied Health Education and Accreditation (CAHEA), or its successor, the Accrediting Bureau of Health Education Schools (ABHES), or its successor, or any accrediting agency recognized by the U.S. Department of Education, which educational program includes, at a minimum, 600 clock hours of instruction, and encompasses training in the administration of intramuscular and subcutaneous injections, as well as instruction and demonstration in: pertinent anatomy and physiology appropriate to injection procedures; choice of equipment; proper technique, including sterile technique; hazards and complications; and emergency procedures; and who maintains current certification or registration, as appropriate, from the Certifying Board of the American Association of Medical Assistants (AAMA), the National Center for Competency Testing (NCCT), the American Medical Technologists (AMT), or any other recognized certifying body approved by the Board of Medical Examiners.

"Controlled dangerous substance" means any substance that is listed in Schedules II, III, and IV of the schedules provided under the "New Jersey Controlled Dangerous Substances Act," P.L.1970, c.226 (C.24:21-1 et seq.). Controlled dangerous substance also means any substance that is listed in Schedule V under the "New Jersey Controlled Dangerous Substances Act" when the director has determined that reporting Schedule V substances is required by federal law, regulation, or funding eligibility.

"Dental resident" means a person who practices dentistry as a resident pursuant to R.S.45:6-20 and, pursuant to N.J.A.C.13:30-1.3, is a graduate of a dental school approved by the Commission on Dental Accreditation and has passed Part I and Part II of the National Board Dental examination and obtained a resident permit from the New Jersey Board of Dentistry.

"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.

"Licensed health care professional" means a registered nurse, licensed practical nurse, advanced practice nurse, physician assistant, or dental hygienist licensed pursuant to Title 45 of the Revised Statutes.

"Licensed pharmacist" means a pharmacist licensed pursuant to P.L.2003, c.280 (C.45:14-40 et seq.).

"Medical resident" means a graduate physician who is authorized to practice medicine and surgery by means of a valid permit issued by the State Board of Medical Examiners to a person authorized to engage in the practice of medicine and surgery while in the second year or beyond of a graduate medical education program pursuant to N.J.A.C.13:35-1.5.

"Mental health practitioner" means a clinical social worker, marriage and family therapist, alcohol and drug counselor, professional counselor, psychologist, or psychoanalyst licensed or otherwise authorized to practice pursuant to Title 45 of the Revised Statutes.

"Pharmacy permit holder" means an individual or business entity that holds a permit to operate a pharmacy practice site pursuant to P.L.2003, c.280 (C.45:14-40 et seq.).

"Practitioner" means an individual currently licensed, registered, or otherwise authorized by this State or another state to prescribe drugs in the course of professional practice.

"Registered dental assistant" is a person who has fulfilled the requirements for registration established by "The Dental Auxiliaries Act," P.L.1979, c.46 (C.45:6-48 et al.) and works under the direct supervision of a licensed dentist.

"Ultimate user" means a person who has obtained from a dispenser and possesses for the person's own use, or for the use of a member of the person's household or an animal owned by the person or by a member of the person's household, a controlled dangerous substance.

L.2007, c.244, s.24; amended 2015, c.74, s.2.

45:1-45. Prescription Monitoring Program; requirements.

Prescription Monitoring Program; requirements.

a. There is established the Prescription Monitoring Program in the Division of Consumer Affairs in the Department of Law and Public Safety. The program shall consist of an electronic system for monitoring controlled dangerous substances that are dispensed in or into the State by a pharmacist in an outpatient setting.

b. Each pharmacy permit holder shall submit, or cause to be submitted, to the division, by electronic means in a format and at such intervals as are specified by the director, information about each prescription for a controlled dangerous substance dispensed by the pharmacy that includes:

(1) The surname, first name, and date of birth of the patient for whom the medication is intended;

(2) The street address and telephone number of the patient;

(3) The date that the medication is dispensed;

(4) The number or designation identifying the prescription and the National Drug Code of the drug dispensed;

(5) The pharmacy permit number of the dispensing pharmacy;

(6) The prescribing practitioner's name and Drug Enforcement Administration registration number;

(7) The name, strength, and quantity of the drug dispensed, the number of refills ordered, and whether the drug was dispensed as a refill or a new prescription;

(8) The date that the prescription was issued by the practitioner;

(9) The source of payment for the drug dispensed;

(10) Identifying information for any individual, other than the patient for whom the prescription was written, who picks up a prescription, if the pharmacist has a reasonable belief that the person picking up the prescription may be seeking a controlled dangerous substance, in whole or in part, for any reason other than delivering the substance to the patient for the treatment of an existing medical condition; and

(11) Such other information, not inconsistent with federal law, regulation, or funding eligibility requirements, as the director determines necessary.

The pharmacy permit holder shall submit the information to the division with respect to the prescriptions dispensed during the reporting period not less frequently than every seven days.

c. The division may grant a waiver of electronic submission to any pharmacy permit holder for good cause, including financial hardship, as determined by the director. The waiver shall state the format in which the pharmacy permit holder shall submit the required information.

d. The requirements of this act shall not apply to: the direct administration of a controlled dangerous substance to the body of an ultimate user; or the administration or dispensing of a controlled dangerous substance that is otherwise exempted as determined by the Secretary of Health and Human Services pursuant to the "National All Schedules Prescription Electronic Reporting Act of 2005," Pub.L.109-60.

e. The provisions of paragraph (10) of subsection b. of this section shall not take effect until the director determines that the Prescription Monitoring Program has the technical capacity to accept the information required by that paragraph.

L.2007, c.244, s.25; amended 2015, c.74, s.3.

45:1-45.1. Information required for monitoring; rules, regulations.

a. A physician who provides a certification or written instruction for the medical use of marijuana to a qualifying patient pursuant to P.L.2009, c.307 (C.24:6I-1 et al.) and any alternative treatment center shall furnish to the Director of the Division of Consumer Affairs in the Department of Law and Public Safety such information, in such a format and at such intervals, as the director shall prescribe by regulation, for inclusion in a system established to monitor the dispensation of marijuana in this State for medical use as authorized by the provisions of P.L.2009, c.307 (C.24:6I-1 et al.), which system shall serve the same purpose as, and be cross-referenced with, the electronic system for monitoring controlled dangerous substances established pursuant to section 25 of P.L.2007, c.244 (C.45:1-45).

b. The Director of the Division of Consumer Affairs, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), and in consultation with the Commissioner of Health and Senior Services, shall adopt rules and regulations to effectuate the purposes of subsection a. of this section.

c. Notwithstanding any provision of P.L.1968, c.410 to the contrary, the Director of the Division of Consumer Affairs shall adopt, immediately upon filing with the Office of Administrative Law and no later than the 90th day after the effective date of P.L.2009, c.307 (C.24:6I-1 et al.), such regulations as the director deems necessary to implement the provisions of subsection a. of this section. Regulations adopted pursuant to this subsection shall be effective until the adoption of rules and

regulations pursuant to subsection b. of this section and may be amended, adopted, or readopted by the director in accordance with the requirements of P.L.1968, c.410.

L.2009, c.307, s.11.

45:1-46. Access to prescription information.

Access to prescription information.

a. The division shall maintain procedures to ensure privacy and confidentiality of patients and that patient information collected, recorded, transmitted, and maintained is not disclosed, except as permitted in this section, including, but not limited to, the use of a password-protected system for maintaining this information and permitting access thereto as authorized under sections 25 through 30 of P.L.2007, c.244 (C.45:1-45 through C.45:1-50), and a requirement that a person as listed in subsection h. or i. of this section provide affirmation of the person's intent to comply with the provisions of sections 25 through 30 of P.L.2007, c.244 (C.45:1-45 through C.45:1-50) as a condition of accessing the information.

b. The prescription monitoring information submitted to the division shall be confidential and not be subject to public disclosure under P.L.1963, c.73 (C.47:1A-1 et seq.), or P.L.2001, c.404 (C.47:1A-5 et al.).

c. The division shall review the prescription monitoring information provided by a pharmacy permit holder pursuant to sections 25 through 30 of P.L.2007, c.244 (C.45:1-45 through C.45:1-50). The review shall include, but not be limited to:

(1) a review to identify whether any person is obtaining a prescription in a manner that may be indicative of misuse, abuse, or diversion of a controlled dangerous substance. The director shall establish guidelines regarding the terms "misuse," "abuse," and "diversion" for the purposes of this review. When an evaluation of the information indicates that a person may be obtaining a prescription for the same or a similar controlled dangerous substance from multiple practitioners or pharmacists during the same time period, the division may provide prescription monitoring information about the person to practitioners and pharmacists; and

(2) a review to identify whether a violation of law or regulation or a breach of the applicable standards of practice by any person may have occurred, including, but not limited to, diversion of a controlled dangerous substance. If the division determines that such a violation or breach may have occurred, the division shall notify the appropriate law enforcement agency or professional licensing board, and provide the prescription monitoring information required for an investigation.

d. (Deleted by amendment, P.L.2015, c.74)

e. (Deleted by amendment, P.L.2015, c.74)

f. (Deleted by amendment, P.L.2015, c.74)

g. (Deleted by amendment, P.L.2015, c.74)

h. (1) The division shall register a practitioner to access prescription monitoring information upon issuance or renewal of the practitioner's CDS registration.

(2) The division shall provide to a pharmacist who is employed by a current pharmacy permit holder online access to prescription monitoring information for the purpose of providing health care to a current patient or verifying information with respect to a patient or a prescriber.

(3) The division shall provide to a practitioner who has a current CDS registration online access to prescription monitoring information for the purpose of providing health care to a current patient or verifying information with respect to a patient or a prescriber. The division shall also grant online access to prescription monitoring information to as many licensed health care professionals as are authorized by a practitioner to access that information and for whom the practitioner is responsible for the use or misuse of that information, subject to a limit on the number of such health care professionals as deemed appropriate by the division for that particular type and size of professional practice, in order to minimize the burden to practitioners to the extent practicable while protecting the confidentiality of the prescription monitoring information obtained. The director shall establish, by regulation, the terms and conditions under which a practitioner may delegate that authorization, including procedures for authorization and termination of authorization, provisions for maintaining confidentiality, and such other matters as the division may deem appropriate.

(4) The division shall provide online access to prescription monitoring information to as many medical or dental residents as are authorized by a faculty member of a medical or dental teaching facility to access that information and for whom the practitioner is responsible for the use or misuse of that information. The director shall establish, by regulation, the terms and conditions under which a faculty member of a medical or dental teaching facility may delegate that authorization, including procedures for authorization and termination of authorization, provisions for maintaining confidentiality, provisions regarding the duration of a medical or dental resident's authorization to access prescription monitoring information, and such other matters as the division may deem appropriate.

(5) The division shall provide online access to prescription monitoring information to as many certified medical assistants as are authorized by a practitioner to access that information and for whom the practitioner is responsible for the use or misuse of that information. The director shall establish, by regulation, the terms and conditions under which a practitioner may delegate that authorization, including procedures for authorization and termination of authorization, provisions for maintaining confidentiality, provisions regarding the duration of a certified medical assistant's authorization to access prescription monitoring information, and such other matters as the division may deem appropriate.

(6) The division shall provide online access to prescription monitoring information to as many registered dental assistants as are authorized by a licensed dentist to access that information and for whom the licensed dentist is responsible for the use or misuse of that information. The director shall establish, by regulation, the terms and conditions under which a licensed dentist may delegate that authorization, including procedures for authorization and termination of authorization, provisions for maintaining confidentiality, provisions regarding the duration of a registered dental assistant's authorization to access prescription monitoring information, and such other matters as the division may deem appropriate.

(7) A person listed in this subsection, as a condition of accessing prescription monitoring information pursuant thereto, shall certify that the request is for the purpose of providing health care to a current patient or verifying information with respect to a patient or practitioner. Such certification shall be furnished through means of an online statement or alternate means

authorized by the director, in a form and manner prescribed by rule or regulation adopted by the director.

i. The division may provide online access to prescription monitoring information, or may provide access to prescription monitoring information through any other means deemed appropriate by the director, to the following persons:

(1) authorized personnel of the division or a vendor or contractor responsible for maintaining the Prescription Monitoring Program;

(2) authorized personnel of the division responsible for administration of the provisions of P.L.1970, c.226 (C.24:21-1 et seq.);

(3) the State Medical Examiner, a county medical examiner, a deputy or assistant county medical examiner, or a qualified designated assistant thereof, who certifies that the request is for the purpose of investigating a death pursuant to P.L.1967, c.234 (C.52:17B-78 et seq.);

(4) a controlled dangerous substance monitoring program in another state with which the division has established an interoperability agreement, or which participates with the division in a system that facilitates the secure sharing of information between states;

(5) a designated representative of the State Board of Medical Examiners, New Jersey State Board of Dentistry, State Board of Nursing, New Jersey State Board of Optometrists, State Board of Pharmacy, State Board of Veterinary Medical Examiners, or any other board in this State or another state that regulates the practice of persons who are authorized to prescribe or dispense controlled dangerous substances, as applicable, who certifies that the representative is engaged in a bona fide specific investigation of a designated practitioner or pharmacist whose professional practice was or is regulated by that board;

(6) a State, federal, or municipal law enforcement officer who is acting pursuant to a court order and certifies that the officer is engaged in a bona fide specific investigation of a designated practitioner, pharmacist, or patient. A law enforcement agency that obtains prescription monitoring information shall comply with security protocols established by the director by regulation;

(7) a designated representative of a state Medicaid or other program who certifies that the representative is engaged in a bona fide investigation of a designated practitioner, pharmacist, or patient;

(8) a properly convened grand jury pursuant to a subpoena properly issued for the records; and

(9) a licensed mental health practitioner providing treatment for substance abuse to patients at a residential or outpatient substance abuse treatment center licensed by the Division of Mental Health and Addiction Services in the Department of Human Services, who certifies that the request is for the purpose of providing health care to a current patient or verifying information with respect to a patient or practitioner, and who furnishes the division with the written consent of the patient for the mental health practitioner to obtain prescription monitoring information about the patient. The director shall establish, by regulation, the terms and conditions under which a mental health practitioner may request and receive prescription monitoring information. Nothing in sections 25 through 30 of P.L.2007, c.244 (C.45:1-45 through C.45:1-50) shall be construed to require or obligate a mental health practitioner to access or check the prescription

monitoring information in the course of treatment beyond that which may be required as part of the mental health practitioner's professional practice.

j. A person listed in subsection i. of this section, as a condition of obtaining prescription monitoring information pursuant thereto, shall certify the reasons for seeking to obtain that information. Such certification shall be furnished through means of an online statement or alternate means authorized by the director, in a form and manner prescribed by rule or regulation adopted by the director.

k. The division shall offer an online tutorial for those persons listed in subsections h. and i. of this section, which shall, at a minimum, include: how to access prescription monitoring information; the rights of persons who are the subject of this information; the responsibilities of persons who access this information; a summary of the other provisions of sections 25 through 30 of P.L.2007, c.244 (C.45:1-45 through C.45:1-50) and the regulations adopted pursuant thereto, regarding the permitted uses of that information and penalties for violations thereof; and a summary of the requirements of the federal health privacy rule set forth at 45 CFR Parts 160 and 164 and a hypertext link to the federal Department of Health and Human Services website for further information about the specific provisions of the privacy rule.

l. The division may request and receive prescription monitoring information from prescription monitoring programs in other states and may use that information for the purposes of sections 25 through 30 of P.L.2007, c.244 (C.45:1-45 through C.45:1-50). When sharing data with programs in another state, the division shall not be required to obtain a memorandum of understanding unless required by the other state.

m. The director may provide nonidentifying prescription drug monitoring information to public or private entities for statistical, research, or educational purposes, in accordance with the provisions of sections 25 through 30 of P.L.2007, c.244 (C.45:1-45 through C.45:1-50).

n. Nothing shall be construed to prohibit the division from obtaining unsolicited automated reports from the program or disseminating such reports to pharmacists, practitioners, mental health care practitioners, and other licensed health care professionals.

o. (1) A current patient of a practitioner may request from that practitioner that patient's own prescription monitoring information that has been submitted to the division pursuant to sections 25 through 30 of P.L.2007, c.244 (C.45:1-45 through C.45:1-50). A parent or legal guardian of a child who is a current patient of a practitioner may request from that practitioner the child's prescription monitoring information that has been submitted to the division pursuant to sections 25 through 30 of P.L.2007, c.244 (C.45:1-45 through C.45:1-50).

(2) Upon receipt of a request pursuant to paragraph (1) of this subsection, a practitioner or health care professional authorized by that practitioner may provide the current patient or parent or legal guardian, as the case may be, with access to or a copy of the prescription monitoring information pertaining to that patient or child.

(3) The division shall establish a process by which a patient, or the parent or legal guardian of a child who is a patient, may request a pharmacy permit holder that submitted prescription monitoring information concerning a prescription for controlled dangerous substances for that patient or child to the division pursuant to sections 25 through 30 of P.L.2007, c.244 (C.45:1-45 through C.45:1-50) to correct information that the person believes to have been inaccurately entered into that patient's or child's prescription profile. Upon confirmation of the inaccuracy of any such entry into a patient's or child's prescription profile, the pharmacy permit holder shall be

authorized to correct any such inaccuracies by submitting corrected information to the division pursuant to sections 25 through 30 of P.L.2007, c.244 (C.45:1-45 through C.45:1-50). The process shall provide for review by the Board of Pharmacy of any disputed request for correction, which determination shall be appealable to the director.

p. The division shall take steps to ensure that appropriate channels of communication exist to enable any licensed health care professional, licensed pharmacist, mental health practitioner, pharmacy permit holder, or other practitioner who has online access to the Prescription Monitoring Program pursuant to this section to seek or provide information to the division related to the provisions of this section.

L.2007, c.244, s.26; amended 2015, c.74, s.4.

45:1-46.1. Proper time to access prescription monitoring information; restrictions in dispensing Schedule II controlled dangerous substance; exceptions.

a. (1) Except as provided in subsection b. of this section, a practitioner or other person who is authorized by a practitioner to access prescription monitoring information pursuant to subsection h. of section 26 of P.L.2007, c.244 (C.45:1-46) shall access prescription monitoring information the first time the practitioner or other person prescribes a Schedule II controlled dangerous substance to a new patient for acute or chronic pain. In addition, for any prescription of a Schedule II controlled dangerous substance for a new or current patient for acute or chronic pain which is written on or after the effective date of P.L.2015, c.74 (C.45:1-46.1 et al.) a practitioner or other authorized person shall access prescription monitoring information on a quarterly basis during the period of time the patient continues to receive such prescriptions.

(2) (a) A pharmacist shall not dispense a Schedule II controlled dangerous substance to any person without first accessing the prescription monitoring information, as authorized pursuant to subsection h. of section 26 of P.L.2007, c.244 (C.45:1-46), to determine if the person has received other prescriptions that indicate misuse, abuse, or diversion, if the pharmacist has a reasonable belief that the person may be seeking a controlled dangerous substance, in whole or in part, for any purpose other than the treatment of an existing medical condition, such as for purposes of misuse, abuse, or diversion.

(b) A pharmacist shall not dispense a prescription to a person other than the patient for whom the prescription is intended, unless the person picking up the prescription provides personal identification to the pharmacist, and the pharmacist, as required by subsection b. of section 25 of P.L.2007, c.244 (C.45:1-45), inputs that identifying information into the Prescription Monitoring Program if the pharmacist has a reasonable belief that the person may be seeking a controlled dangerous substance, in whole or in part, for any reason other than delivering the substance to the patient for the treatment of an existing medical condition. The provisions of this subparagraph shall not take effect until the director determines that the Prescription Monitoring Program has the technical capacity to accept such information.

b. The provisions of subsection a. of this section shall not apply to:

(1) a veterinarian;

(2) a practitioner or the practitioner's agent administering methadone, or another controlled dangerous substance designated by the director as appropriate for treatment of a patient with a

substance abuse disorder, as interim treatment for a patient on a waiting list for admission to an authorized substance abuse treatment program;

(3) a practitioner administering a controlled dangerous substance directly to a patient;

(4) a practitioner prescribing a controlled dangerous substance to be dispensed by an institutional pharmacy, as defined in N.J.A.C.13:39-9.2;

(5) a practitioner prescribing a controlled dangerous substance in the emergency department of a general hospital, provided that the quantity prescribed does not exceed a five-day supply of the substance;

(6) a practitioner prescribing a controlled dangerous substance to a patient under the care of a hospice;

(7) a situation in which it is not reasonably possible for the practitioner or pharmacist to access the Prescription Monitoring Program in a timely manner, no other individual authorized to access the Prescription Monitoring Program is reasonably available, and the quantity of controlled dangerous substance prescribed or dispensed does not exceed a five-day supply of the substance;

(8) a practitioner or pharmacist acting in compliance with regulations promulgated by the director as to circumstances under which consultation of the Prescription Monitoring Program would result in a patient's inability to obtain a prescription in a timely manner, thereby adversely impacting the medical condition of the patient;

(9) a situation in which the Prescription Monitoring Program is not operational as determined by the division or where it cannot be accessed by the practitioner due to a temporary technological or electrical failure, as set forth in regulation;

(10) a practitioner or pharmacist who has been granted a waiver due to technological limitations that are not reasonably within the control of the practitioner or pharmacist, or other exceptional circumstances demonstrated by the practitioner or pharmacist, pursuant to a process established in regulation, and in the discretion of the director; or

(11) a practitioner who is prescribing a controlled dangerous substance to a patient immediately after the patient has undergone an operation, procedure, or treatment for acute trauma, when less than a 30-day supply is prescribed.

L.2015, c.74, s.8.

45:1-47. Prescription monitoring program; provisions for expansion.

Prescription Monitoring Program; provisions for expansion.

a. Notwithstanding the provisions of section 25 of P.L.2007, c.244 (C.45:1-45) to the contrary, the director may adopt a regulation to expand the program to include information about each prescription dispensed for a prescription drug that is not a controlled dangerous substance. In determining whether a prescription drug other than a controlled dangerous substance should be monitored, the director shall consider: the actual or relative potential for abuse; scientific evidence of its pharmacological effect, if known; the state of current scientific knowledge regarding the drug; its history and current pattern of abuse; the scope, duration and significance of abuse; what, if any, risk to the public health; and its psychic or physiological dependence liability. The regulation shall

provide that the prescription drug shall be monitored for a period of time. At the conclusion of the monitoring period, the director shall publish and make public the decision of whether inclusion of the prescription drug in the program shall be permanent.

b. At the time the notice to expand the program pursuant to subsection a. is published in the New Jersey Register, the director shall provide a copy of the notice of proposed rule-making to the chairpersons of the standing legislative reference committees on health of the Senate and General Assembly.

L.2007, c.244, s.27.

45:1-48. Immunity from liability.

a. The division shall be immune from civil liability arising from inaccuracy of any of the information submitted to it pursuant to sections 25 through 30 of P.L.2007, c.244 (C.45:1-45 through C.45:1-50).

b. A pharmacy permit holder, pharmacist, mental health practitioner, licensed health care professional, or practitioner shall be immune from civil liability arising from compliance with sections 25 through 30 of P.L.2007, c.244 (C.45:1-45 through C.45:1-50).

L.2007, c.244, s.28; amended 2015, c.74, s.5.

45:1-49. Penalties.

a. A pharmacy permit holder, or a person designated by a pharmacy permit holder to be responsible for submitting data required by section 25 of P.L.2007, c.244 (C.45:1-45), who knowingly fails to submit data as required, shall be subject to disciplinary action pursuant to section 8 of P.L.1978, c.73 (C.45:1-21) and may be subject to a civil penalty in an amount not to exceed $1,000 for failure to comply with sections 25 through 30 of P.L.2007, c.244 (C.45:1-45 through C.45:1-50).

b. (1) A pharmacy permit holder, pharmacist, mental health practitioner, licensed health care professional, or practitioner, or any other person or entity who knowingly obtains or attempts to obtain prescription monitoring information in violation of the provisions of sections 25 through 30 of P.L.2007, c.244 (C.45:1-45 through C.45:1-50) shall be subject to a civil penalty in an amount not to exceed $10,000.

(2) A pharmacy permit holder, pharmacist, mental health practitioner, licensed health care professional, or practitioner who knowingly discloses or uses prescription monitoring information in violation of the provisions of sections 25 through 30 of P.L.2007, c.244 (C.45:1-45 through C.45:1-50), shall also be subject to disciplinary action pursuant to section 8 of P.L.1978, c.73 (C.45:1-21).

c. In addition to any other penalty provided by law, a person who is authorized to obtain prescription monitoring information from the Prescription Monitoring Program who knowingly discloses such information in violation of the provisions of sections 25 through 30 of P.L.2007, c.244 (C.45:1-45 through C.45:1-50) shall be guilty of a crime of the fourth degree and shall be subject to a civil penalty in an amount not to exceed $10,000.

d. In addition to any other penalty provided by law, a person who is authorized to obtain prescription monitoring information from the Prescription Monitoring Program who uses this information in the

course of committing, attempting to commit, or conspiring to commit any criminal offense shall be guilty of a crime of the third degree. Notwithstanding the provisions of N.J.S.2C:1-8 or any other provision of law, a conviction under this subsection shall not merge with a conviction of any other offense, nor shall any other conviction merge with a conviction under this subsection. The court shall impose separate sentences upon a conviction under this subsection and any other criminal offense.

e. In addition to any other penalty provided by law, a person who is not authorized to obtain prescription monitoring information from the Prescription Monitoring Program who knowingly obtains or attempts to obtain such information in violation of the provisions of sections 25 through 30 of P.L.2007, c.244 (C.45:1-45 through C.45:1-50), shall be guilty of a crime of the fourth degree.

f. A civil penalty imposed under this section shall be collected by the director pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

L.2007, c.244, s.29; amended 2015, c.74, s.6.

45:1-50. Authority to contract.

The division may contract with one or more vendors to establish and maintain the Prescription Monitoring Program pursuant to guidelines established by the director.

L.2007, c.244, s.30.

45:1-50.1. Annual report.

The division shall annually submit a report to the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), which provides information on the nature and extent of registration with, and utilization of, the Prescription Monitoring Program, as well as recommendations for program improvement.

L.2015, c.74, s.9.

45:1-50.2. Completion of assessment.

The division shall complete an assessment regarding the design, implementation requirements, and costs associated with a real time prescription monitoring system, and shall report its assessment and any recommendations to the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), within 18 months after the enactment of P.L.2015, c.74 (C.45:1-46.1 et al.).

L.2015, c.74, s.10.

45:1-51. Rules, regulations.

Pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the Director of the Division of Consumer Affairs shall adopt rules and regulations necessary to effectuate the purposes of sections 24 through 30 of P.L.2007, c.244 (C.45:1-44 through C.45:1-50).

L.2007, c.244, s.31.

45:1-52. Continuation of regulations.

Orders, rules and regulations concerning implementation of P.L.1970, c.226 (C.24:21-1 et seq.), as amended and supplemented, issued or promulgated by the Department of Health and Senior Services prior to the effective date of P.L.2007, c.244 (C.24:21-54 et al.), shall continue with full force and effect until amended or repealed by the Division of Consumer Affairs pursuant to law.

L.2007, c.244, s.32.

45:1-53. Submission of bill to Medicare beneficiary by health care professional; reporting of nonpayment.

a. A health care professional licensed pursuant to Title 45 of the Revised Statutes, who provides a health care service to a Medicare beneficiary, shall bill the beneficiary, within 90 days from the date the payment from Medicare or other third party payer is finalized for any amounts due and owing for the service that are not reimbursed by the Medicare program or other third party payer.

b. In the event the health care professional does not submit a bill to the beneficiary within 90 days from the date the payment from Medicare or other third party payer is finalized, the health care professional shall not be permitted to report any nonpayment of the bill by the beneficiary to a consumer reporting agency.

c. A health care professional who violates the provisions of this section shall be subject to such penalties as the Director of Consumer Affairs in the Department of Law and Public Safety may determine pursuant to sections 9 and 12 of P.L.1978, c.73 (C.45:1-22 and 45:1-25).

d. As used in this section:

"Consumer reporting agency" means any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages, in whole or in part, in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility for the purpose of preparing or furnishing consumer reports.

L.2010, c.95, s.2.

45:1-54. Findings, declarations relative to sexual orientation change efforts.

The Legislature finds and declares that:

a. Being lesbian, gay, or bisexual is not a disease, disorder, illness, deficiency, or shortcoming. The major professional associations of mental health practitioners and researchers in the United States have recognized this fact for nearly 40 years;

b. The American Psychological Association convened a Task Force on Appropriate Therapeutic Responses to Sexual Orientation. The task force conducted a systematic review of peer-reviewed journal literature on sexual orientation change efforts, and issued a report in 2009. The task force concluded that sexual orientation change efforts can pose critical health risks to lesbian, gay, and bisexual people, including confusion, depression, guilt, helplessness, hopelessness, shame, social withdrawal, suicidality, substance abuse, stress, disappointment, self-blame, decreased self-esteem and authenticity to others, increased self-hatred, hostility and blame toward parents, feelings of anger

and betrayal, loss of friends and potential romantic partners, problems in sexual and emotional intimacy, sexual dysfunction, high-risk sexual behaviors, a feeling of being dehumanized and untrue to self, a loss of faith, and a sense of having wasted time and resources;

c. The American Psychological Association issued a resolution on Appropriate Affirmative Responses to Sexual Orientation Distress and Change Efforts in 2009, which states: "[T]he [American Psychological Association] advises parents, guardians, young people, and their families to avoid sexual orientation change efforts that portray homosexuality as a mental illness or developmental disorder and to seek psychotherapy, social support, and educational services that provide accurate information on sexual orientation and sexuality, increase family and school support, and reduce rejection of sexual minority youth";

d. (1) The American Psychiatric Association published a position statement in March of 2000 in which it stated: "Psychotherapeutic modalities to convert or 'repair' homosexuality are based on developmental theories whose scientific validity is questionable. Furthermore, anecdotal reports of 'cures' are counterbalanced by anecdotal claims of psychological harm. In the last four decades, 'reparative' therapists have not produced any rigorous scientific research to substantiate their claims of cure. Until there is such research available, [the American Psychiatric Association] recommends that ethical practitioners refrain from attempts to change individuals' sexual orientation, keeping in mind the medical dictum to first, do no harm;

(2) The potential risks of reparative therapy are great, including depression, anxiety and self-destructive behavior, since therapist alignment with societal prejudices against homosexuality may reinforce self-hatred already experienced by the patient. Many patients who have undergone reparative therapy relate that they were inaccurately told that homosexuals are lonely, unhappy individuals who never achieve acceptance or satisfaction. The possibility that the person might achieve happiness and satisfying interpersonal relationships as a gay man or lesbian is not presented, nor are alternative approaches to dealing with the effects of societal stigmatization discussed; and

(3) Therefore, the American Psychiatric Association opposes any psychiatric treatment such as reparative or conversion therapy which is based upon the assumption that homosexuality per se is a mental disorder or based upon the a priori assumption that a patient should change his or her sexual homosexual orientation";

e. The American School Counselor Association's position statement on professional school counselors and lesbian, gay, bisexual, transgender, and questioning (LGBTQ) youth states: "It is not the role of the professional school counselor to attempt to change a student's sexual orientation/gender identity but instead to provide support to LGBTQ students to promote student achievement and personal well-being. Recognizing that sexual orientation is not an illness and does not require treatment, professional school counselors may provide individual student planning or responsive services to LGBTQ students to promote self-acceptance, deal with social acceptance, understand issues related to coming out, including issues that families may face when a student goes through this process and identify appropriate community resources";

f. The American Academy of Pediatrics in 1993 published an article in its journal, Pediatrics, stating: "Therapy directed at specifically changing sexual orientation is contraindicated, since it can provoke guilt and anxiety while having little or no potential for achieving changes in orientation";

g. The American Medical Association Council on Scientific Affairs prepared a report in 1994 in which it stated: "Aversion therapy (a behavioral or medical intervention which pairs unwanted behavior, in

this case, homosexual behavior, with unpleasant sensations or aversive consequences) is no longer recommended for gay men and lesbians. Through psychotherapy, gay men and lesbians can become comfortable with their sexual orientation and understand the societal response to it";

h. The National Association of Social Workers prepared a 1997 policy statement in which it stated: "Social stigmatization of lesbian, gay, and bisexual people is widespread and is a primary motivating factor in leading some people to seek sexual orientation changes. Sexual orientation conversion therapies assume that homosexual orientation is both pathological and freely chosen. No data demonstrates that reparative or conversion therapies are effective, and, in fact, they may be harmful";

i. The American Counseling Association Governing Council issued a position statement in April of 1999, and in it the council states: "We oppose 'the promotion of "reparative therapy" as a "cure" for individuals who are homosexual'";

j. (1) The American Psychoanalytic Association issued a position statement in June 2012 on attempts to change sexual orientation, gender, identity, or gender expression, and in it the association states: "As with any societal prejudice, bias against individuals based on actual or perceived sexual orientation, gender identity or gender expression negatively affects mental health, contributing to an enduring sense of stigma and pervasive self-criticism through the internalization of such prejudice; and

(2) Psychoanalytic technique does not encompass purposeful attempts to 'convert,' 'repair,' change or shift an individual's sexual orientation, gender identity or gender expression. Such directed efforts are against fundamental principles of psychoanalytic treatment and often result in substantial psychological pain by reinforcing damaging internalized attitudes";

k. The American Academy of Child and Adolescent Psychiatry in 2012 published an article in its journal, Journal of the American Academy of Child and Adolescent Psychiatry, stating: "Clinicians should be aware that there is no evidence that sexual orientation can be altered through therapy, and that attempts to do so may be harmful. There is no empirical evidence adult homosexuality can be prevented if gender nonconforming children are influenced to be more gender conforming. Indeed, there is no medically valid basis for attempting to prevent homosexuality, which is not an illness. On the contrary, such efforts may encourage family rejection and undermine self-esteem, connectedness and caring, important protective factors against suicidal ideation and attempts. Given that there is no evidence that efforts to alter sexual orientation are effective, beneficial or necessary, and the possibility that they carry the risk of significant harm, such interventions are contraindicated";

l. The Pan American Health Organization, a regional office of the World Health Organization, issued a statement in May of 2012 and in it the organization states: "These supposed conversion therapies constitute a violation of the ethical principles of health care and violate human rights that are protected by international and regional agreements." The organization also noted that reparative therapies "lack medical justification and represent a serious threat to the health and well-being of affected people";

m. Minors who experience family rejection based on their sexual orientation face especially serious health risks. In one study, lesbian, gay, and bisexual young adults who reported higher levels of family rejection during adolescence were 8.4 times more likely to report having attempted suicide, 5.9 times more likely to report high levels of depression, 3.4 times more likely to use illegal drugs, and 3.4 times more likely to report having engaged in unprotected sexual intercourse compared with peers from families that reported no or low levels of family rejection. This is documented by Caitlin Ryan et al. in

their article entitled Family Rejection as a Predictor of Negative Health Outcomes in White and Latino Lesbian, Gay, and Bisexual Young Adults (2009) 123 Pediatrics 346; and

n. New Jersey has a compelling interest in protecting the physical and psychological well-being of minors, including lesbian, gay, bisexual, and transgender youth, and in protecting its minors against exposure to serious harms caused by sexual orientation change efforts.

L.2013, c.150, s.1.

45:1-55. Sexual orientation change efforts prohibited for persons under 18 years old.

a. A person who is licensed to provide professional counseling under Title 45 of the Revised Statutes, including, but not limited to, a psychiatrist, licensed practicing psychologist, certified social worker, licensed clinical social worker, licensed social worker, licensed marriage and family therapist, certified psychoanalyst, or a person who performs counseling as part of the person's professional training for any of these professions, shall not engage in sexual orientation change efforts with a person under 18 years of age.

b. As used in this section, "sexual orientation change efforts" means the practice of seeking to change a person's sexual orientation, including, but not limited to, efforts to change behaviors, gender identity, or gender expressions, or to reduce or eliminate sexual or romantic attractions or feelings toward a person of the same gender; except that sexual orientation change efforts shall not include counseling for a person seeking to transition from one gender to another, or counseling that:

(1) provides acceptance, support, and understanding of a person or facilitates a person's coping, social support, and identity exploration and development, including sexual orientation-neutral interventions to prevent or address unlawful conduct or unsafe sexual practices; and

(2) does not seek to change sexual orientation.

L.2013, c.150, s.2.

45:1-56. Short title.

This act shall be known and may be cited as the "Hazardous Drug Safe Handling Act."

L.2017, c.69, s.1.

45:1-57. Findings, declarations relative to safe handling of hazardous drugs.

a. The Legislature finds and declares that:

(1) Health care personnel who work with or near hazardous drugs in health care settings may be exposed to these agents in the air and through contact with work surfaces, clothing, medical equipment, and patients;

(2) According to the National Institute for Occupational Safety and Health (NIOSH), which is part of the federal Centers for Disease Control and Prevention, early concerns about occupational exposure to anticancer drugs first appeared in the 1970s;

(3) Antineoplastic and other hazardous drugs have been identified with a number of acute, short-term, and chronic effects, including skin rashes, infertility, miscarriage, birth defects, liver and kidney damage, damage to the bone marrow, damage to the heart and lungs, and various cancers; and

(4) In 2004, NIOSH published an alert on preventing occupational exposures to antineoplastic drugs in health care settings. NIOSH urges that all hazardous drugs be universally handled according to standard precautions as outlined in the alert, which includes recommended procedures for assessing workplace hazards, handling hazardous drugs, and using and maintaining equipment, as well as a list of "drugs considered hazardous," which was updated in 2010, 2012, and 2014.

b. The Legislature therefore determines that it is the public policy of the State to provide for the appropriate regulation of the handling of hazardous drugs consistent with the NIOSH alert, regardless of the setting in which health care is provided, in order to protect health care personnel from potentially harmful exposure to antineoplasic and other hazardous drugs.

L.2017, c.69, s.2.

45:1-58. Definitions relative to safe handling of hazardous drugs.

As used in this act:

"Animal or veterinary facility" means an animal or veterinary facility as defined in section 1 of P.L.1983, c.98 (C.45:16-1.1).

"Antineoplastic" means inhibiting or preventing the growth and spread of tumors or malignant cells.

"Hazardous drugs" means drugs that exhibit one or more of the following characteristics in humans or animals: carcinogenicity; teratogenicity or other developmental toxicity; reproductive toxicity; organ toxicity at low doses; genotoxicity; or structure and toxicity profiles that mimic existing hazardous drugs. This term includes, but is not limited to, antineoplastic drugs.

"Health care facility" means a general acute care hospital, satellite emergency department, hospital-based off-site ambulatory care facility in which ambulatory surgical procedures are performed, or ambulatory surgical facility licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.).

"Health care professional" means a physician, physician assistant, advanced practice nurse, registered nurse, licensed practical nurse, pharmacist, or veterinarian licensed or certified pursuant to Title 45 of the Revised Statutes. "Health care professional" shall not include a licensed dentist or dental hygienist.

"Pharmacy practice site" means a pharmacy practice site licensed pursuant to P.L.2003, c.280 (C.45:14-40 et seq.).

"Stakeholder group" means a group of stakeholders in the areas of health care and workplace safety, which shall consist of: a representative of the Rutgers Cancer Institute of New Jersey; a representative of the New Jersey Hospital Association; a representative of the New Jersey Veterinary Medical Association; a representative of the Medical Society of New Jersey; a representative of the New Jersey State Society of Physician Assistants; practicing physicians from impacted specialties including, but not limited to, oncology; pharmacists; practicing advanced practice nurses, registered nurses, and licensed practical

nurses, including at least one representative from the New Jersey Chapters of the Oncology Nursing Society; three representatives from organized labor unions representing health care personnel employed by health care professionals or employed in health care facilities, pharmacy practice sites, or animal or veterinary facilities, two of whom shall serve at the recommendation of the New Jersey State AFL-CIO; and other interested stakeholders.

L.2017, c.69, s.3.

45:1-59. Adoption of standards, regulations.

a. No later than 12 months after the effective date of this act, the Commissioner of Health and the Director of the Division of Consumer Affairs in the Department of Law and Public Safety, in consultation with a stakeholder group as defined in section 3 of P.L.2017, c.69 (C.45:1-58), shall adopt standards and regulations in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) concerning the handling of hazardous drugs by health care personnel employed by a health care professional or employed in a health care facility, pharmacy practice site, or animal or veterinary facility.

b. The standards and regulations to be adopted pursuant to subsection a. of this section shall describe the hazardous drugs for which handling is to be regulated, the methods and procedures for handling such drugs, an implementation plan, and such other requirements as may be necessary to protect the health and safety of health care personnel employed by a health care professional or employed in a health care facility, pharmacy practice site, or animal or veterinary facility, including, but not limited to:

(1) written, site-specific hazardous drug control programs to avoid occupational exposure to hazardous drugs through transporting, compounding, administering, disposing, or other handling of the drugs;

(2) hazard assessments to determine precautions necessary to protect health care personnel from exposure to hazardous drugs;

(3) engineering controls to eliminate or minimize exposure to hazardous drugs;

(4) personal protective equipment and the circumstances under which personal protective equipment shall be used by health care personnel;

(5) safe handling practices related to hazardous drugs, including handling, receiving, storage, preparing, administering, waste handling, cleaning, housekeeping, labeling and signage, and maintenance practices;

(6) spill control and response procedures;

(7) training standards and training programs;

(8) requirements for recordkeeping, including records related to training sessions, qualifications, incident reports, and other pertinent information; and

(9) appropriate medical surveillance for health care personnel who directly handle hazardous drugs.

c. The standards and regulations adopted pursuant to subsection a. of this section shall include requirements for inspections by the appropriate licensing or inspection authority and a schedule of penalties for violations of the provisions of this act or the rules and regulations adopted pursuant to subsection a. of this section.

d. The standards and regulations adopted pursuant to subsection a. of this section shall be based on the most recent recommendations set forth by the National Institute for Occupational Safety and Health in the federal Centers for Disease Control and Prevention.

L.2017, c.69, s.4.

45:1-60. Hazardous drugs training.

Employers of health care personnel shall provide hazardous drugs training to all employees who have or are likely to have occupational exposure to hazardous drugs. This training shall take place at the time of the employee's initial job assignment and on an annual basis thereafter. Such training shall be consistent with the standards and regulations adopted pursuant to subsection a. of section 4 of P.L.2017, c.69 (C.45:1-59).

L.2017, c.69, s.5.

45:1-61. Definitions relative to telemedicine and telehealth.

As used in P.L.2017, c.117 (C.45:1-61 et al.):

"Asynchronous store-and-forward" means the acquisition and transmission of images, diagnostics, data, and medical information either to, or from, an originating site or to, or from, the health care provider at a distant site, which allows for the patient to be evaluated without being physically present.

"Cross-coverage service provider" means a health care provider, acting within the scope of a valid license or certification issued pursuant to Title 45 of the Revised Statutes, who engages in a remote medical evaluation of a patient, without in-person contact, at the request of another health care provider who has established a proper provider-patient relationship with the patient.

"Distant site" means a site at which a health care provider, acting within the scope of a valid license or certification issued pursuant to Title 45 of the Revised Statutes, is located while providing health care services by means of telemedicine or telehealth.

"Health care provider" means an individual who provides a health care service to a patient, and includes, but is not limited to, a licensed physician, nurse, nurse practitioner, psychologist, psychiatrist, psychoanalyst, clinical social worker, physician assistant, professional counselor, respiratory therapist, speech pathologist, audiologist, optometrist, or any other health care professional acting within the scope of a valid license or certification issued pursuant to Title 45 of the Revised Statutes.

"On-call provider" means a licensed or certified health care provider who is available, where necessary, to physically attend to the urgent and follow-up needs of a patient for whom the provider has temporarily assumed responsibility, as designated by the patient's primary care provider or other health care provider of record.

"Originating site" means a site at which a patient is located at the time that health care services are provided to the patient by means of telemedicine or telehealth.

"Telehealth" means the use of information and communications technologies, including telephones, remote patient monitoring devices, or other electronic means, to support clinical health care, provider consultation, patient and professional health-related education, public health, health administration, and other services in accordance with the provisions of P.L.2017, c.117 (C.45:1-61 et al.).

"Telemedicine" means the delivery of a health care service using electronic communications, information technology, or other electronic or technological means to bridge the gap between a health care provider who is located at a distant site and a patient who is located at an originating site, either with or without the assistance of an intervening health care provider, and in accordance with the provisions of P.L.2017, c.117 (C.45:1-61 et al.). "Telemedicine" does not include the use, in isolation, of audio-only telephone conversation, electronic mail, instant messaging, phone text, or facsimile transmission.

"Telemedicine or telehealth organization" means a corporation, sole proprietorship, partnership, or limited liability company that is organized for the primary purpose of administering services in the furtherance of telemedicine or telehealth.

L.2017, c.117, s.1.

45:1-62. Provision of health care through use of telemedicine, telehealth; requirements for provider.

a. Unless specifically prohibited or limited by federal or State law, a health care provider who establishes a proper provider-patient relationship with a patient may remotely provide health care services to a patient through the use of telemedicine. A health care provider may also engage in telehealth as may be necessary to support and facilitate the provision of health care services to patients.

b. Any health care provider who uses telemedicine or engages in telehealth while providing health care services to a patient, shall: (1) be validly licensed, certified, or registered, pursuant to Title 45 of the Revised Statutes, to provide such services in the State of New Jersey; (2) remain subject to regulation by the appropriate New Jersey State licensing board or other New Jersey State professional regulatory entity; (3) act in compliance with existing requirements regarding the maintenance of liability insurance; and (4) remain subject to New Jersey jurisdiction if either the patient or the provider is located in New Jersey at the time services are provided.

c. (1) Telemedicine services shall be provided using interactive, real-time, two-way communication technologies.

(2) A health care provider engaging in telemedicine or telehealth may use asynchronous store-and-forward technology to allow for the electronic transmission of images, diagnostics, data, and medical information; except that the health care provider may use interactive, real-time, two-way audio in combination with asynchronous store-and-forward technology, without video capabilities, if, after accessing and reviewing the patient's medical records, the provider determines that the provider is able to meet the same standard of care as if the health care services were being provided in person.

(3) The identity, professional credentials, and contact information of a health care provider providing telemedicine or telehealth services shall be made available to the patient during and after the provision of services. The contact information shall enable the patient to contact the health care provider, or a substitute health care provider authorized to act on behalf of the provider who provided services, for at least 72 hours following the provision of services.

(4) A health care provider engaging in telemedicine or telehealth shall review the medical history and any medical records provided by the patient. For an initial encounter with the patient, the provider shall review the patient's medical history and medical records prior to initiating contact with the patient, as required pursuant to paragraph (3) of subsection a. of section 3 of P.L.2017, c.117 (C.45:1-63). In the case of a subsequent telemedicine or telehealth encounter conducted pursuant to an ongoing provider-patient relationship, the provider may review the information prior to initiating contact with the patient or contemporaneously with the telemedicine or telehealth encounter.

(5) Following the provision of services using telemedicine or telehealth, the patient's medical information shall be made available to the patient upon the patient's request, and, with the patient's affirmative consent, forwarded directly to the patient's primary care provider or health care provider of record, or, upon request by the patient, to other health care providers. For patients without a primary care provider or other health care provider of record, the health care provider engaging in telemedicine or telehealth may advise the patient to contact a primary care provider, and, upon request by the patient, assist the patient with locating a primary care provider or other in-person medical assistance that, to the extent possible, is located within reasonable proximity to the patient. The health care provider engaging in telemedicine or telehealth shall also refer the patient to appropriate follow up care where necessary, including making appropriate referrals for emergency or complimentary care, if needed. Consent may be oral, written, or digital in nature, provided that the chosen method of consent is deemed appropriate under the standard of care.

d. (1) Any health care provider providing health care services using telemedicine or telehealth shall be subject to the same standard of care or practice standards as are applicable to in-person settings. If telemedicine or telehealth services would not be consistent with this standard of care, the health care provider shall direct the patient to seek in-person care.

(2) Diagnosis, treatment, and consultation recommendations, including discussions regarding the risk and benefits of the patient's treatment options, which are made through the use of telemedicine or telehealth, including the issuance of a prescription based on a telemedicine or telehealth encounter, shall be held to the same standard of care or practice standards as are applicable to in-person settings. Unless the provider has established a proper provider-patient relationship with the patient, a provider shall not issue a prescription to a patient based solely on the responses provided in an online questionnaire.

e. The prescription of Schedule II controlled dangerous substances through the use of telemedicine or telehealth shall be authorized only after an initial in-person examination of the patient, as provided by regulation, and a subsequent in-person visit with the patient shall be required every three months for the duration of time that the patient is being prescribed the Schedule II controlled dangerous substance. However, the provisions of this subsection shall not apply, and the in-person examination or review of a patient shall not be required, when a health care provider is prescribing a stimulant which is a Schedule II controlled dangerous substance for use by a minor patient under the age of 18, provided that the health care provider is using interactive, real-time, two-way audio and video technologies when treating the patient and the health care provider has first obtained written consent for the waiver of these in-person examination requirements from the minor patient's parent or guardian.

f. A mental health screener, screening service, or screening psychiatrist subject to the provisions of P.L.1987, c.116 (C.30:4-27.1 et seq.):

(1) shall not be required to obtain a separate authorization in order to engage in telemedicine or telehealth for mental health screening purposes; and

(2) shall not be required to request and obtain a waiver from existing regulations, prior to engaging in telemedicine or telehealth.

g. A health care provider who engages in telemedicine or telehealth, as authorized by P.L.2017, c.117 (C.45:1-61 et al.), shall maintain a complete record of the patient's care, and shall comply with all applicable State and federal statutes and regulations for recordkeeping, confidentiality, and disclosure of the patient's medical record.

h. A health care provider shall not be subject to any professional disciplinary action under Title 45 of the Revised Statutes solely on the basis that the provider engaged in telemedicine or telehealth pursuant to P.L.2017, c.117 (C.45:1-61 et al.).

i. (1) In accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the State boards or other entities that, pursuant to Title 45 of the Revised Statutes, are responsible for the licensure, certification, or registration of health care providers in the State, shall each adopt rules and regulations that are applicable to the health care providers under their respective jurisdictions, as may be necessary to implement the provisions of this section and facilitate the provision of telemedicine and telehealth services. Such rules and regulations shall, at a minimum:

(a) include best practices for the professional engagement in telemedicine and telehealth;

(b) ensure that the services patients receive using telemedicine or telehealth are appropriate, medically necessary, and meet current quality of care standards;

(c) include measures to prevent fraud and abuse in connection with the use of telemedicine and telehealth, including requirements concerning the filing of claims and maintaining appropriate records of services provided; and

(d) provide substantially similar metrics for evaluating quality of care and patient outcomes in connection with services provided using telemedicine and telehealth as currently apply to services provided in person.

(2) In no case shall the rules and regulations adopted pursuant to paragraph (1) of this subsection require a provider to conduct an initial in-person visit with the patient as a condition of providing services using telemedicine or telehealth.

(3) The failure of any licensing board to adopt rules and regulations pursuant to this subsection shall not have the effect of delaying the implementation of this act, and shall not prevent health care providers from engaging in telemedicine or telehealth in accordance with the provisions of this act and the practice act applicable to the provider's professional licensure, certification, or registration.

L.2017, c.117, s.2.

45:1-63. Establishment of proper provider-patient relationship; exceptions.

a. Any health care provider who engages in telemedicine or telehealth shall ensure that a proper provider-patient relationship is established. The establishment of a proper provider-patient relationship shall include, but shall not be limited to:

(1) properly identifying the patient using, at a minimum, the patient's name, date of birth, phone number, and address. When properly identifying the patient, the provider may additionally use the patient's assigned identification number, social security number, photo, health insurance policy number, or other appropriate patient identifier associated directly with the patient;

(2) disclosing and validating the provider's identity and credentials, such as the provider's license, title, and, if applicable, specialty and board certifications;

(3) prior to initiating contact with a patient in an initial encounter for the purpose of providing services to the patient using telemedicine or telehealth, reviewing the patient's medical history and any available medical records; and

(4) prior to initiating contact with a patient for the purpose of providing services to the patient using telemedicine or telehealth, determining whether the provider will be able to provide the same standard of care using telemedicine or telehealth as would be provided if the services were provided in person. The provider shall make this determination prior to each unique patient encounter.

b. Telemedicine or telehealth may be practiced without a proper provider-patient relationship, as defined in subsection a. of this section, in the following circumstances:

(1) during informal consultations performed by a health care provider outside the context of a contractual relationship, or on an irregular or infrequent basis, without the expectation or exchange of direct or indirect compensation;

(2) during episodic consultations by a medical specialist located in another jurisdiction who provides consultation services, upon request, to a properly licensed or certified health care provider in this State;

(3) when a health care provider furnishes medical assistance in response to an emergency or disaster, provided that there is no charge for the medical assistance; or

(4) when a substitute health care provider, who is acting on behalf of an absent health care provider in the same specialty, provides health care services on an on-call or cross-coverage basis, provided that the absent health care provider has designated the substitute provider as an on-call provider or cross-coverage service provider.

L.2017, c.117, s.3.

45:1-64. Annual registration, report.

a. Each telemedicine or telehealth organization operating in the State shall annually register with the Department of Health.

b. Each telemedicine or telehealth organization operating in the State shall submit an annual report to the Department of Health in a manner as determined by the commissioner. The annual report shall include de-identified encounter data including, but not limited to: the total number of telemedicine and telehealth encounters conducted; the type of technology utilized to provide services using telemedicine or telehealth; the category of medical condition for which services were sought; the geographic region of the patient and the provider; the patient's age and sex; and any prescriptions issued. The commissioner may require the reporting of any additional information as the

commissioner deems necessary and appropriate, subject to all applicable State and federal laws, rules, and regulations for recordkeeping and privacy. Commencing six months after the effective date of P.L.2017, c.117 (C.45:1-61 et al.), telemedicine and telehealth organizations shall include in the annual report, for each telemedicine or telehealth encounter: the patient's race and ethnicity; the diagnostic codes; the evaluation management codes; and the source of payment for the encounter.

c. The Department of Health shall compile the information provided in the reports submitted by telemedicine and telehealth organizations pursuant to subsection b. of this section to generate Statewide data concerning telemedicine and telehealth services provided in the State. The department shall annually share the Statewide data with the Department of Human Services, the Department of Banking and Insurance, the Telemedicine and Telehealth Review Commission established pursuant to section 5 of P.L.2017, c.117 (C.45:1-65), State boards and other entities that, under Title 45 of the Revised Statutes, are responsible for the professional licensure, certification, or registration of health care providers in the State who provide health care services using telemedicine or telehealth pursuant to P.L.2017, c.117 (C.45:1-61 et al.), and the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1). The department shall also transmit a report to the Legislature and the Telemedicine and Telehealth Review Commission that includes: an analysis of each rule and regulation adopted pursuant to subsection i. of section 2 of P.L.2017, c.117 (C.45:1-62) by a State board or other entity responsible for the professional licensure, certification, or registration of health care providers in the State who provide health care services using telemedicine or telehealth; and an assessment of the effect that telemedicine and telehealth is having on health care delivery, health care outcomes, population health, and in-person health care services provided in facility-based and office-based settings.

d. A telemedicine or telehealth organization that fails to register with the Department of Health pursuant to subsection a. of this section or that fails to submit the annual report required pursuant to subsection b. of this section shall be liable to such disciplinary actions as the Commissioner of Health may prescribe by regulation.

L.2017, c.117, s.4.

45:1-65. Telemedicine and Telehealth Review Commission.

a. Six months after the effective date of P.L.2017, c.117 (C.45:1-61 et al.), there shall be established in the Department of Health the Telemedicine and Telehealth Review Commission, which shall review the information reported by telemedicine and telehealth organizations pursuant to subsection b. of section 4 of P.L.2017, c.117 (C.45:1-64) and make recommendations for such executive, legislative, regulatory, administrative, and other actions as may be necessary and appropriate to promote and improve the quality, efficiency, and effectiveness of telemedicine and telehealth services provided in this State.

b. The commission shall consist of seven members, as follows: the Commissioner of Health, or a designee, who shall serve ex officio, and six public members, with two members each to be appointed by the Governor, the Senate President, and the Speaker of the General Assembly. The public members shall be health care professionals with a background in the provision of health care services using telemedicine and telehealth. The public members shall serve at the pleasure of the appointing authority, and vacancies in the membership shall be filled in the same manner as the original appointments.

c. Members of the commission shall serve without compensation but may be reimbursed for necessary travel expenses incurred in the performance of their duties within the limits of funds made available for that purpose.

d. The members shall select a chairperson and a vice chairperson from among the members. The chairperson may appoint a secretary, who need not be a member of the commission. The Department of Health shall provide staff and administrative support to the commission.

e. The commission shall meet at least twice a year and at such other times as the chairperson may require. The commission shall be entitled to call to its assistance and avail itself of the services of the employees of any State, county, or municipal department, board, bureau, commission, or agency as it may require and as may be available for its purposes.

f. The commission shall report its findings and recommendations to the Governor, the Commissioner of Health, the State boards or other entities that, pursuant to Title 45 of the Revised Statutes, are responsible for the licensure, certification, or registration of health care providers in the State who provide health care services using telemedicine or telehealth pursuant to P.L.2017, c.117 (C.45:1-61 et al.), and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), the Legislature no later than two years after the date the commission first meets. The commission shall expire upon submission of its report.

L.2017, c.117, s.5.

45:1-66. Severability.

If any provision of P.L.2017, c.117 (C.45:1-61 et al.) or its application to any person or circumstance is held to be invalid, the invalidity shall not affect any other provision or application of P.L.2017, c.117 (C.45:1-61 et al.) which can be given effect without the invalid provision or application, and, to this end, the provisions of P.L.2017, c.117 (C.45:1-61 et al.) are severable.

L.2017, c.117, s.6.