

## CHAPTER 17

**AN ACT** concerning consumer complaints of certain licensed professionals and amending P.L.1978, c.73.

**BE IT ENACTED** *by the Senate and General Assembly of the State of New Jersey:*

1. Section 5 of P.L.1978, c.73 (C.45:1-18) is amended to read as follows:

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

5. 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.

2. 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.

3. This act shall take effect on the 180th day after enactment, but the Director of the Division of Consumer Affairs in the Department of Law and Public Safety may take such anticipatory administrative action in advance as shall be necessary for the implementation of the act.

Approved May 6, 2010.