

## CHAPTER 71

**AN ACT** concerning the licensing of persons responsible for the installation, repair, or maintenance of elevators, escalators, and moving walkways, supplementing chapter 14 of Title 45 of the Revised Statutes and amending various parts of the statutory law.

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

C.45:14H-1 Findings, declarations relative to standards for persons installing, repairing, maintaining elevators, escalators, and moving walkways.

1. The Legislature finds and declares that the citizens and residents of the State of New Jersey are entitled to the maximum protection practicable when using elevator, escalator, and moving walkway devices, and that the protection can be increased by requiring appropriate training and experience for persons installing, repairing, and maintaining those devices. It is therefore necessary for the public good to establish standards of education, training, and experience for these installers and mechanics and to provide for their appropriate examination and certification.

C.45:14H-2 Elevator, Escalator, and Moving Walkway Mechanics Licensing Board.

2. There is created within the Division of Consumer Affairs in the Department of Law and Public Safety the Elevator, Escalator, and Moving Walkway Mechanics Licensing Board. Members of the board shall be appointed by the Governor. The board shall consist of seven members who are residents of the State of New Jersey. In addition to the two public members appointed to represent the interests of the public pursuant to the provisions of subsection b. of section 2 of P.L.1971, c.60 (C.45:1-2.2) and who shall be representatives of municipal government, one member shall be from a department in the Executive Branch of State Government, who shall serve without compensation at the pleasure of the Governor, and the remaining four members shall consist of the following:

One individual who represents the interests of a major elevator, escalator, or moving walkway manufacturing company;

One individual who is primarily engaged in the business of elevator, escalator, or moving walkway installation, alteration, repair, or maintenance of those devices;

One individual who represents the interests of the elevator architectural design community; and

One representative from a major labor organization that represents elevator service mechanics.

The Governor shall appoint each member, other than the State executive department member, for a term of four years, except that of the members first appointed, other than the State executive department member, three shall serve for a term of four years, two shall serve for a term of three years, and one shall serve for a term of two years, as determined by the Governor. Any vacancy in the membership shall be filled for the unexpired term in the manner provided for the original appointment. No member of the board may serve more than two successive terms in addition to any unexpired term to which he has been appointed. The Governor may remove any member of the board, other than the State executive department member, for cause.

The board shall meet at such times as the board deems necessary, and may form such committees as is deemed necessary for the purpose of conducting disciplinary proceedings, or otherwise.

C.45:14H-3 Additional powers of board.

3. The Elevator, Escalator, and Moving Walkway Mechanics Licensing Board shall, in addition to other powers and duties that it may possess by law:

- a. Examine and pass on the qualifications of all applicants for license subject to its jurisdiction, and issue a license to each qualified successful applicant;
- b. Examine, evaluate and supervise all examinations and procedures;
- c. Adopt a seal which shall be affixed to all licenses issued by it;
- d. Adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) as it may deem necessary to enable it to perform its duties under, and to enforce, the provisions of this act;
- e. Annually publish a list of the names and addresses of all persons who are licensed under this act;
- f. Establish standards for continuing education, which at a minimum shall include eight hours of instruction to be completed within one year immediately preceding any license renewal; and
- g. Prescribe or change the charges for examinations, licensures, renewals, and other services performed pursuant to P.L.1974, c.46 (C.45:1-3.1 et seq.).

C.45:14H-4 Application for licensure.

4. Any person desiring to obtain an elevator, escalator, and moving walkway mechanic's license, which shall authorize such licensee to install, construct, alter, maintain, service, repair, or test elevators, escalators, and moving walkways, shall make application for licensure to the Elevator, Escalator, and Moving Walkway Mechanics Licensing Board, pay all the fees required in connection with the application, and be examined as required by section 6 of this act.

No such license shall be required for any person who installs, constructs, alters, services, repairs, tests, or maintains a chair lift device or stair lift device in a dwelling unit.

C.45:14H-5 Prohibited actions without license; application, requirements, fee.

5. a. On or after the date sections 5, 10, and 12 of this act become operative, a person shall not:

- (1) install;
- (2) construct;
- (3) alter;
- (4) service;
- (5) repair;
- (6) test; or
- (7) maintain

elevator, escalator, or moving walkway devices, or use the title or designation of "licensed" in any manner concerning these activities, unless licensed as an elevator, escalator, and moving walkway mechanic pursuant to the provisions of this act, or working under the supervision of a person so licensed, such as an apprentice. No such license shall be required for any person who installs, constructs, alters, services, repairs, tests, or maintains a chair lift device or stair lift device in a dwelling unit.

b. No person shall engage in the business of contracting or advertise in any manner as an elevator, escalator, and moving walkway mechanic or use the title or designation of "licensed elevator mechanic," "licensed escalator mechanic," or "licensed moving walkway mechanic," unless duly licensed to act as such. The provisions of this subsection shall not apply to any

person who installs, constructs, alters, services, repairs, tests, or maintains a chair lift device or stair lift device in a dwelling unit.

c. A license issued pursuant to this act shall not be transferable.

d. Not less than 30 days and not more than 60 days prior to the date set for the examination for a license as an elevator, escalator, and moving walkway mechanic, every person desiring to apply for a license, who meets the qualifications as set forth in this act, shall deliver to the board, personally or by certified mail, return receipt requested, postage prepaid, a certified check or money order payable to the Treasurer of the State of New Jersey in the required amount, together with a written application required by the board, completed as described in the application, and together with proof that the applicant qualifies in accordance with this act.

The qualifications for a mechanic's license under this act shall be as follows: The person shall be 21 or more years of age and shall have been employed within the State in the capacity of at least one of the elevator, escalator, and moving walkway trade businesses set forth in subsection a. of this section for a period of three years next preceding the application date for the license.

The applicant, if registered as a builder with the Department of Community Affairs, shall not be in any negative standing on the registration list. An applicant shall be afforded an opportunity to correct a negative standing, either by remedial action or by reporting any inaccuracies for correction.

Proof of compliance with the qualifications, or those in lieu thereof, shall be submitted to the board in writing, sworn to by the applicant, and accompanied by two recent passport size color photographs of the applicant.

#### C.45:14H-6 Licensing examination.

6. a. Every elevator, escalator, and moving walkway mechanic's license examination shall be substantially uniform and shall be designed so as to establish the competence and qualifications of the applicant to perform the type of work for which licensure is sought. The examination may be theoretical or practical in nature, or both, and may be based on an examination promulgated by a professional organization. Proof of passage of the National Elevator Industry Educational Program (NEIEP), or its successor organization's, examination shall be sufficient to satisfy the examination requirement of this section. The examination may be waived if the applicant provides adequate proof to the board of employment as an elevator, escalator, and moving walkway mechanic within the State for at least three years immediately prior to the date of application without the direct and immediate supervision of an elevator, escalator, and moving walkway mechanic licensed to do business within the State.

b. The examination shall be held at least four times a year, at Trenton or other place the board deems necessary. Public notice of the time and place of the examination shall be given by the board in accordance with the "Senator Byron M. Baer Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.).

c. No person who has failed the examination shall be eligible to be reexamined for a period of six months from the date of the examination failed by that person.

d. All applicants for elevator, escalator, and moving walkway mechanic's licenses, renewals or reexaminations shall pay a fee, established pursuant to regulation, for each license issuance or renewal, or reexamination as determined by the board.

#### C.45:14H-7 Biennial renewal.

7. Elevator mechanics' licenses shall be renewed biennially by the board upon written application of the holder and payment of the prescribed fee and renewal of the bond required by section 12 of this act. A license may be renewed without reexamination, if the application for renewal is made within 30 days next preceding or following the scheduled expiration date. Any applicant for renewal making application at any time subsequent to the 30th day next following the scheduled expiration date may be required by the board to be re-examined, and that person shall not continue to act as a licensed mechanic in the elevator trade, as described in this act, and no firm, corporation or other legal entity for which the person is the bona fide representative shall operate under a license in the elevator trade, as described in this act, until a valid license has been secured or is held by a bona fide representative.

Any license expiring while the holder is outside the continental limits of the United States in connection with any project undertaken by the government of the United States, or while in the services of the Armed Forces of the United States, shall be renewed without the holder being required to be reexamined, upon payment of the prescribed fee at any time within four months after the person's return to the United States or discharge from the armed forces, whichever is later.

C.45:14H-8 Granting of license without examination under certain circumstances.

8. The board may in its discretion grant licenses without examination to applicants so licensed by other states; provided that equal reciprocity is provided for New Jersey licensed mechanics by the law of the applicant's domiciliary state and provided further that the domiciliary state's standards are equal to or comparable to those of this State.

C.45:14H-9 Issuance of license; requirements.

9. Notwithstanding any other provision of this act to the contrary, the board shall, upon application to it and submission of satisfactory proof and the payment of the prescribed fee within 12 months following the date sections 5, 10, and 12 of this act become operative, issue an elevator, escalator, and moving walkway mechanic license without examination to any person, provided proof of one of the following subsections is provided:

a. Proof of acceptable work experience in the elevator, escalator, and moving walkway industry in the installation, construction, alteration, repair, maintenance, service, or testing, or any combination thereof, as verified through previous and current employers and copies of filed income tax returns or W-2 or 1099 forms, and proof of successful passage of an examination for elevator mechanics offered by a nationally recognized training program for the elevator, escalator, and moving walkway industry, such as the National Elevator Industry Educational Program or an equivalent program; or

b. Proof of acceptable work experience by the applicant in the elevator, escalator, and moving walkway industry in the installation, construction, alteration, repair, maintenance, service, or testing, or any combination thereof, without direct and immediate supervision, within the State for at least three years, as verified by previous and current employers or through building permits reflecting the applicant's name, or a company for which the applicant was an agent, or through proof of insurance or bonds issued covering the applicant, or letters of reference from construction code officials who have examined the applicant's work.

C.45:14H-10 Subcontractors, license required.

10. A contractor shall subcontract all elevator, escalator, and moving walkway installation work, unless the contractor holds an elevator, escalator, and moving walkway mechanic's license to install those devices.

C.45:14H-11 Grounds for suspension, revocation of license.

11. a. The license of an elevator mechanic may be suspended for a fixed period, or may be revoked, or the licensee may be censured, reprimanded or otherwise disciplined, in accordance with the provisions and procedures defined in this act, if after due hearing it is determined that the licensee:

(1) Is guilty of any fraud or deceit in the licensee's activities as an elevator mechanic, including making false statements as to a material matter in the application for the license, or has been guilty of any fraud, deceit, or bribery in procuring his license;

(2) Has failed to notify the board or the owner or lessee of an elevator of a condition not in compliance with the elevator subcode of the State Uniform Construction Code;

(3) Has aided and abetted a person who is not a licensed elevator mechanic to engage in the activities of a licensed elevator mechanic, other than an approved apprenticeship program;

(4) Has been guilty of unethical conduct as defined by rules promulgated by the board; or

(5) Has continued to practice without obtaining a license renewal as required by this act.

b. (1) The charges may be referred by any person, corporation, association or public officer, or by the board in the first instance. A copy thereof, together with a report of the investigation, shall be referred to the board for a recommendation. The board shall review the information, and determine whether action may be necessary. If action may be considered against a licensee, the board shall provide a hearing, and provide written notice thereof, either by registered mail or personal service, at least 10 days prior to the date set for such hearing, to the address of record of the licensee. The notice shall set forth the time, date and location of the hearing, and shall set forth a statement of the allegations constituting the grounds for the charges against the licensee. The board shall make a determination within 48 hours of the hearing whether the licensee will be sanctioned.

(2) Any person whose license is revoked, suspended, or subject to a civil penalty, may appeal the matter to the Office of Administrative Law for a hearing before an administrative law judge, pursuant to the "Administrative Procedure Act," P.L.1968, c. 410 (C.52:14B-1 et seq.). For the purpose of this section, the administrative law judge shall have power to issue subpoenas for the appearance of witnesses, and to take testimony under oath. Upon review of the record of the hearing, the reviewing entity may affirm, modify or reject the written report and recommendation of the board.

c. When the license of any person has been revoked or annulled, as herein provided, the board may, after the expiration of three years, accept an application for restoration of the license.

C.45:14H-12 Bond requirements.

12. In addition to any other bonds that may be required pursuant to contract, no elevator mechanic licensed under this act shall undertake to do any construction work in the State unless and until the mechanic shall have first entered into a bond in favor of the State of New Jersey in a sum established by the board executed by a surety company authorized to transact business in this State and approved by the Department of Banking and Insurance, and to be conditioned on the faithful performance of the provisions of this act. No municipality shall require any similar bond from any elevator mechanic licensed under this act. The board shall

by rule and regulation provide who shall be eligible to receive the financial protection afforded by the bond required to be filed by this section. The bond shall be for the term of 12 months and shall be renewed at each expiration for a similar period.

13. Section 1 of P.L.1971, c.60 (C.45:1-2.1) is amended to read as follows:

C.45:1-2.1 Applicability of act.

1. 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, Ventilation, 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.

14. Section 2 of P.L.1971, c.60 (C.45:1-2.2) is amended to read as follows:

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

2. 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.

15. Section 1 of P.L.1974, c.46 (C.45:1-3.1) is amended to read as follows:

C.45:1-3.1 Applicability of act.

1. 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.

16. Section 2 of P.L.1973, c.254 (C.45:1-9) is amended to read as follows:

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

2. 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.

17. Section 2 of P.L.1978, c.73 (C.45:1-15) is amended to read as follows:

C.45:1-15 Application of act.

2. 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 Landscape Architect Examination and Evaluation 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.

18. This act shall take effect immediately; provided however, that sections 5, 10, and 12 shall remain inoperative until the first day of the seventh month next following the date of enactment.

Approved December 3, 2012.