

(CORRECTED COPY)
CHAPTER 22

AN ACT concerning pool and spa service contractors, and pool and spa builders and installers, and supplementing P.L.1962, c.162 (C.45:5A-1 et seq.).

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

C.45:5A-39 Definitions relative to pool and spa service contractors, builders, and installers.

1. As used in this act:

“Committee” means the Pool and Spa Service Contractors and Pool and Spa Builders and Installers Advisory Committee established pursuant to section 2 of this act.

“Licensed pool and spa builder and installer” means a person who is licensed pursuant to the provisions of section 6 of this act.

“Licensed pool and spa service contractor” means a person who is licensed pursuant to the provisions of section 6 of this act.

“Licensee” means a person licensed to engage in pool and spa service contracting, or pool and spa building and installation, as the case may be, pursuant to the provisions of section 6 of this act.

“Pool” means a permanent spa or any in-ground or on-ground structure intended for swimming that is greater than twenty-four inches in depth.

“Pool and spa building and installation” means the excavation and grading, construction and installation of pools, tiling and coping, and installation of all circulation equipment including pumps, filters, heaters, sanitizers and chemical feeders. It does not include direct connections to a sanitary sewer system or potable water lines, nor the grounding and bonding of any metal surfaces or the making of any electrical connections, or the direct connection to any natural gas or propane gas source. It also does not include the startup or commissioning of oil, gas, propane or heat pump pool heaters located outside or inside of a structure.

“Pool and spa service contracting” means the performance of all plumbing, heating, and electrical work necessary to service, modify, repair, replace, alter or maintain any pool, including above-ground pool, hot tub, spa or similar recreational or therapeutic equipment, where that work commences at an outlet, receptacle, connection, back-flow preventor or fuel supply pipe previously installed by a person holding the proper license. It shall also mean the service, repair or maintenance of the heating components of spa heaters contained inside of a self-contained spa, electric immersion heaters, and solar pool heaters. Swimming pool service and repair work includes: (1) the renovation or repair of non-potable water components of a pool, above-ground pool, hot tub or spa, including, but not limited to, the shell, concrete finish or vinyl liner of that pool, hot tub or spa; and (2) the draining, acid washing or backwash filtration of a pool or above-ground pool. Swimming pool service and repair work does not include:

(1) the renovation or repair of non-potable water components of a pool, hot tub or spa required to be installed, renovated or repaired, or the sale, installation, service or maintenance of a heater for a pool, hot tub, or spa, by a licensed electrician, plumber, or HVACR contractor;

(2) the service, repair, and maintenance of any oil, natural or manufactured gas burning heater’s combustion components, heater controls, or combustion safety components; and

(3) the service and repair of free standing heat pump pool heaters, including the refrigerant circuit, heat pump control circuit and devices, or any safety controls.

C.45:5A-40 “Pool and Spa Service Contractors and Pool and Spa Builders and Installers Advisory Committee.”

2. a. There is established within the Division of Consumer Affairs in the Department of Law and Public Safety, under the Board of Examiners of Electrical Contractors, a “Pool and Spa Service Contractors and Pool and Spa Builders and Installers Advisory Committee.” The committee shall consist of seven members who are residents of this State as follows:

(1) Two members shall have been pool and spa service contractors for at least five consecutive years immediately preceding their appointments, shall hold a Certified Service Professional credential as issued by the Association of Pool and Spa Professionals or equivalent certification and, except for the members first appointed, shall be licensed under the provisions of this act;

(2) Two members shall have been pool and spa builders and installers for at least five consecutive years immediately preceding their appointments, shall hold a Certified Builder Professional credential as issued by the Association of Pool and Spa Professionals or equivalent certification and, except for the members first appointed, shall be licensed under the provisions of this act;

(3) One member shall be a licensed plumbing inspector employed by a municipality;

(4) One member shall be a member of the International Brotherhood of Electrical Workers, AFL-CIO; and

(5) One member shall be a public member who meets the requirements pertaining to public members set forth in subsection b. of section 2 of P.L.1971, c.60 (C.45:1-2.2).

b. The Governor shall appoint each member for a term of three years, except that of the members first appointed, three shall serve for terms of three years, three shall serve for terms of two years, and one shall serve for a term of one year.

c. Any vacancy in the membership of the committee shall be filled for the unexpired term in the manner provided for the original appointment. No member may serve more than two successive terms in addition to any unexpired term to which he has been appointed.

d. The committee shall annually elect from among its members a chair and vice-chair. The committee shall meet at least twice a year and may hold additional meetings as necessary to discharge its duties.

C.45:5A-41 Powers of board or committee.

3. The board, or the committee by the board's delegation, shall have the power to:

a. set standards and approve licenses for applicants for a pool and spa service contractor or pool and spa builder and installer license and issue a license to each qualified applicant;

b. determine the form and contents of applications for licensure, licenses and identification cards;

c. adopt a code of ethics for licensees;

d. issue and renew licenses and identification cards;

e. set the amount of fees for pool and spa service contractors and pool and spa builders and installers licenses, license renewals, applications, examinations, and other services provided by the board and the committee within the limits provided in subsection b. of section 8 of this act;

f. refuse to issue or suspend, revoke, or fail to renew the license of a licensee pursuant to the provisions of P.L.1978, c.73 (C.45:1-14 et seq.);

g. maintain a record of all applicants for a license;

h. maintain and annually publish a record of every licensee, his place of business, place of residence and the date and number of his license;

- i. take disciplinary action in accordance with P.L.1978, c.73 (C.45:1-14 et seq.) against a licensee or employee who violates any provision of this act or any rule or regulation promulgated pursuant to this act;
- j. adopt standards and requirements for and approve continuing education programs and courses of study for licensees and their employees;
- k. review advertising by licensees; and
- l. perform other duties as may be necessary to effectuate the purposes of this act.

C.45:5A-42 Restricted from advertisement unless requirements are satisfied.

4. No person shall advertise that he is authorized to engage in, or engage in pool and spa service contracting or pool and spa building and installation unless he satisfies the requirements of this act.

C.45:5A-43 Application for license.

5. a. Application for a license to engage in the pool and spa service contracting business or in the pool and spa building and installation business, as the case may be, shall be made to the board in the manner and on the forms as the board, in consultation with the committee, may prescribe.

b. An application to engage in the pool and spa service contracting business or the pool and spa building and installation business shall include the name, residence and principal business address of the applicant, or in the case of an employee, the principal business address of his employer.

c. The board may require other information of the applicant and, if the applicant is proposing to qualify a business firm, the business firm shall be responsible to determine the professional competence and integrity of the concerned parties.

C.45:5A-44 Pool and spa service contracting licensure applicant qualifications.

6. a. An applicant seeking licensure to engage in pool and spa service contracting shall:

- (1) Be at least 18 years of age;
- (2) Be of good moral character;
- (3) Meet qualifications established by the board, in consultation with the committee, regarding experience, continuing education, financial responsibility and integrity; and
- (4) Establish the applicant's qualifications to perform and supervise various phases of pool and spa service contracting as evidenced by successful completion of, and having earned, one of the following: an Association of Pool and Spa Professionals (APSP) certification as a Certified Service Professional (CSP), an APSP certification as a Certified Service Technician (CST), or an APSP, Certified Building Professional (CBP), or for those persons who only service and maintain portable spas, an APSP certification as a Certified Hot Tub Technician (CHTT), or any other certification acceptable to the board in consultation with the committee.

b. An applicant seeking licensure in the pool and spa building and installation business shall:

- (1) Be at least 18 years of age;
- (2) Be of good moral character;
- (3) Meet qualifications established by the board, in consultation with the committee regarding experience, continuing education, financial responsibility and integrity; and
- (4) Establish his qualifications to perform and supervise various phases of pool and spa building and installation as evidenced by successful completion of, and having earned,

certification as a Certified Builder Professional (CBP) from the Association of Pool and Spa Professionals (APSP) or any other certification acceptable to the board in consultation with the committee.

c. For a period of 24 months following the effective date of this act, any person engaged in business as a pool and spa service contractor shall not be required to submit evidence of the successful completion of the APSP certification as a CSP, CST, CHTT, or CBP, or other recognized certification by the board if that person shows proof of:

(1) references from at least one trade-related business and at least one financial institution sufficient to verify the existence of an established business;

(2) a certificate of good standing less than 30 days old from the Secretary of State, if the applicant is a corporation, limited liability company or limited liability partnership;

(3) a certificate of good standing from the state in which it is incorporated or organized, as well as a certificate of good standing less than 30 days old from the Secretary of State, if the applicant is a foreign corporation, limited liability company, or limited liability partnership applicant; and

(4) three current references from members in good standing of the APSP attesting to the applicant's familiarity with the knowledge, skills, and abilities relating to the performance of a pool and spa service contractor.

d. For a period of 24 months following the effective date of this act, any person engaged in the pool and spa building and installation business shall not be required to submit evidence of the successful completion of the APSP certification as a CBP, or other recognized certification by the board if that person shows proof of:

(1) references from at least one trade-related business and at least one financial institution sufficient to verify the existence of an established business;

(2) a certificate of good standing less than 30 days old from the Secretary of State, if the applicant is a corporation, limited liability company or limited liability partnership;

(3) a certificate of good standing from the state in which it is incorporated or organized, as well as a certificate of good standing less than 30 days old from the Secretary of State, if the applicant is a foreign corporation, limited liability company or limited liability partnership applicant; and

(4) three current references from members in good standing of the APSP attesting to the applicant's familiarity with the knowledge, skills and abilities relating to the performance of a pool and spa builder and installer.

C.45:5A-45 Inapplicability of act.

7. The provisions of this act shall not apply to:

a. Electrical contractors regulated by the Board of Examiners of Electrical Contractors pursuant to P.L.1962, c.162 (C.45:5A-1 et seq.) and persons in their employ while working on the electrical components of a swimming pool;

b. Plumbing contractors regulated by the State Board of Examiners of Master Plumbers pursuant to P.L.1968, c.362 (C.45:14C-1 et seq.) and persons in their employ while working on the plumbing components of a swimming pool, including the installation of heating circuits connected to building space heating boilers or geothermal heat pumps;

c. HVACR contractors regulated by 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.) and persons in their employ while working on the heating components of a swimming pool, including the startup and commissioning of oil, gas, or propane-fired

pool heaters, and heat pump pool heaters, and the installation of heating circuits connected to building space heating boilers or geothermal heat pumps; and

d. A property owner who performs pool and spa building and installation or pool service and repair work on his own pool or spa which is situated on property which holds a residence for himself or for a member or members of his immediate family.

C.45:5A-46 License issuance, renewals, fees.

8. a. Licenses shall be issued to qualified applicants seeking licensure to engage in pool and spa service contracting or pool and spa building and installation for a three-year period, upon payment of a licensing fee. License renewals shall be issued for a three-year period upon the payment of a renewal fee. A renewal application shall be filed with the board at least 45 days prior to expiration of a license. A license issued pursuant to this act shall not be transferable.

b. Fees shall be established, prescribed or changed by the board, in consultation with the committee, to the extent necessary to defray all proper expenses incurred by the committee, the board, and any staff employed to administer the provisions of this act, except that fees shall not be fixed at a level that will raise amounts in excess of the amount estimated to be so required. All fees and any fines imposed under this act shall be paid to the board and shall be forwarded to the State Treasurer and become part of the General Fund.

C.45:5A-47 Licensee requirements.

9. No licensee qualified under the provisions of this act shall engage in pool and spa service contracting or pool and spa building and installation, unless the licensee:

a. Maintains at least one business office within the State or files with the board a statement, duly executed and sworn to before a person authorized by the laws of this State to administer oaths, containing a power of attorney constituting the board the true and lawful attorney of the licensee upon whom all original process in an action or legal proceeding against the licensee may be served and in which the licensee agrees that the original process that may be served upon the board shall be of the same force and validity as if served upon the licensee and that the authority thereof shall continue in force so long as the licensee engages in the business of pool and spa service contracting or pool and spa building and installation, as the case may be; and

b. Clearly marks the outside of each installation and service vehicle to be used in conjunction with the pool and spa service contracting business with the name of the business or the outside of each installation and service vehicle to be used in conjunction with the pool and spa building installation business with the name of the business.

C.45:5A-48 Licensee and employee identification cards.

10. a. Every licensee and every employee or other person engaged in the unsupervised building, servicing, or maintenance of a pool shall, at all times during working hours, display an identification card issued by the board. The identification card shall contain the following information:

- (1) the name, photograph and signature of the person to whom the card has been issued;
- (2) the business name and address and license number of the licensee;
- (3) the expiration date of the card; and
- (4) any other information the board deems appropriate for identification purposes.

b. Identification cards shall be issued for a three-year period which, in the case of a licensee, shall correspond to the term of the license period of the licensee. Application for

renewal of an identification card for other than a licensee shall be made by the person named on the card at least 45 days prior to the expiration date of the card. The information provided on the identification card shall at all times be current, and the named holder of the card shall advise the board of any changes and file for issuance of an updated card within five days following occurrence of a change, which card shall be issued for the unexpired term of the original card.

- c. Identification cards shall not be transferable in the event of a change in employment.

C.45:5A-49 Employee requirements.

11. No person shall be employed by a licensee to build, install, or service a pool or, except in the case of a licensee, shall otherwise engage in the building, installation, or service thereof:

- a. Unless the person is of good moral character;
- b. Where the work is to be performed other than under the field supervision of a licensee, the person shall have at least three years of practical experience and shown proof of successful completion of and having received the APSP Certified Maintenance Specialist (CMS) certification, or higher, or equivalent certification as prescribed by the board, in consultation with the committee; and
- c. Where the work to be performed is limited to cleaning of pool equipment and components, pool vacuuming, sanitation of water, and backwash filtration, the licensee shall be responsible for training that person in basic pool safety and maintenance as prescribed by the board, in consultation with the committee.

C.45:5A-50 Licensee's responsibility for employee.

12. a. A licensee shall be responsible for any unlawful or unprofessional conduct by an employee, except that the conduct shall not be a cause for suspension or revocation of a license, unless the board determines that the licensee had knowledge thereof, or there is shown to have existed a pattern of unlawful or unprofessional conduct.

b. Within 30 days of employing a person in connection with pool and spa servicing or pool and spa building and installation, a licensee shall notify the board and shall provide the board with the employee's name, address and phone number.

c. If a licensee knowingly falsifies any information required by the board, the licensee shall be guilty of a crime of the fourth degree and shall have his license revoked.

C.45:5A-51 Municipal and county ordinances, resolutions, rules, regulations disallowed.

13. No municipality or county shall enact an ordinance or resolution or promulgate any rules or regulations relating to the licensing or registration of pool and spa service contractors or pool and spa building and installation businesses.

C.45:5A-52 Experience and knowledge requirements from another jurisdiction.

14. If the board, after consultation with the committee, determines that an applicant holds a valid license from another jurisdiction which requires equal or greater experience and knowledge requirements, the board may accept evidence of that license as meeting the experience and knowledge requirements of this act for a person engaged in pool and spa servicing contracting or pool and spa building and installation.

C.45:5A-53 Rules, regulations.

15. The board, after consultation with the committee, shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) necessary to effectuate the purposes of this act.

16. This act shall take effect on the 180th day following enactment, except that section 4 shall take effect 360 days following the appointment and qualification of the committee members.

Approved January 31, 2019.