



1 of 1 DOCUMENT

NEW JERSEY REGISTER
Copyright © 2009 by the New Jersey Office of Administrative Law

VOLUME 41, ISSUE 4

ISSUE DATE: FEBRUARY 17, 2009

RULE PROPOSALS

**LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF COURT REPORTING**

41 N.J.R. 851(a)

Proposed Readoption with Amendments: *N.J.A.C. 13:43*

Proposed Recodification: *N.J.A.C. 13:43-5.1A* as *13:43-1A*

Reproposed New Rules: *N.J.A.C. 13:43-2.3, 3A.4 and 3A.5* and *13:43 Appendices A and B*

Reproposed Amendments: *N.J.A.C. 13:43-1A, 5.3 through 5.6, 5.8, 5.9 and 6.1*

Reproposed Repeal and New Rule: *N.J.A.C. 13:43-2.2*

[Click here to view Interested Persons Statement](#)

State Board of Court Reporting Rules; Eligibility for Registration as a Temporary Registered Reporter; Disclosure Forms; Penalties

Authorized By: State Board of Court Reporting, Dianne Tamaroglio, Executive Director.

[page=852] Authority: *N.J.S.A. 45:1-3.2, 45:1-7.1 to 7.2, 45:1-15 to 15.1 and 45:15B-1 et seq.*

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2009-58.

Submit written comments by April 18, 2009 to:

Dianne Tamaroglio, Executive Director
State Board of Court Reporters
124 Halsey Street
P.O. Box 45019
Newark, NJ 07101

The agency proposal follows:

Summary

The State Board of Court Reporting (the Board) is proposing to readopt *N.J.A.C. 13:43* with amendments. Pursuant to Executive Order No. 66 (1978) and N.J.S.A. 52:14B-5.1c, these rules are scheduled to expire on July 22, 2009. In compliance with the Executive Order, the Board undertook a thorough review of the existing provisions of *N.J.A.C. 13:43* in order to delete unnecessary rules and clarify existing provisions. The Board believes that the rules proposed for readoption, as amended, are necessary, reasonable, understandable and responsive to the purpose for which they were promulgated.

In this notice of proposal, the Board also is reproposing rules related to temporary registered reporters. The reproposed rules include the proposed repeal and new rule found at *N.J.A.C. 13:43-2.2*, the new rules at *N.J.A.C. 13:43-2.3*, 3A.4 and 3A.5 and rule amendments at *N.J.A.C. 13:43-5.3* through 5.6, 5.8, 5.9 and 6.1. The original proposal of these rules was based on amendments to P.L. 1940, c. 175, *N.J.S.A. 45:15B-1* et seq., effective January 11, 2007. Those amendments gave the Board statutory authority to register temporary reporters and, by rule, set criteria by which the Board can determine the competency of applicants to practice as temporary registered reporters. Prior to passage of that legislation, the Board had no direct authority to monitor the competency of, or fine and discipline, the approximately 200 non-certified court reporters who practice in this State. Rather, the Board relied on the non-certified court reporter to abide by rules promulgated by the Board or it relied on agencies that hired both certified and non-certified court reporters to oversee the work of the non-certified court reporter. The history of the proposal/reproposal follows.

On August 20, 2007 at *39 N.J.R. 3469(a)* the Board proposed new rules, amendments and repeals, including rules related to the registration of temporary reporters. During the comment period, the propriety of unlimited annual registration renewal for temporary reporters was questioned. By allowing automatic annual renewal, the Board believed that it would maintain some control over the regulation of non-certified, temporary registrants over which the Board currently has no control. See further discussion of the comment at *40 N.J.R. 1894(b)*, 1895. However, upon review of the comment, the Board determined that a change to the rule text was necessary. That change is found at *N.J.A.C. 13:43-3A.4(a)* and is more fully discussed below. In addition, the Board received a comment stating that the use of "T.R.R." as an acronym for temporary registered reporter is misleading because it creates the impression that "T.R.R." signifies an official or permanent status. The Board agreed with the commenter and, therefore, all references to the acronym have been removed from the reproposed new rules and rule amendments. That commenter was concerned particularly with the proposed use of "T.R.R." in *N.J.A.C. 13:43-5.5*; so, in addition, the Board has proposed new subsections at *N.J.A.C. 13:43-5.4(b)* and *5.5(b)*. Those sections are more fully discussed below. Thus, the Board is reproposing the rules applicable to temporary registered reporters, as originally proposed at *39 N.J.R. 3469(a)*, with the exception of the changes described above.

The following is a summary of the rules that the Board proposes to readopt with amendments, as well as a summary of reproposed new rules, rule amendments and repeals.

Subchapter 1 sets forth the statutory structure of the Board and the duties with which it is charged. *N.J.A.C. 13:43-1.2* sets forth the manner in which the Board operates.

Proposed new Subchapter 1A is a recodification of *N.J.A.C. 13:43-5.1A*, Definitions. The rule has been amended to include a definition for "temporary registered reporter." The amendment was made as part of a reproposal of the rules related to temporary registered reporters discussed above. The acronym "T.R.R." found in the original notice of proposal has been removed on reproposal in response to the comment discussed above. This change should alleviate any concern that use of "T.R.R." suggests an official or permanent status.

Subchapter 2, at *N.J.A.C. 13:43-2.1*, sets forth the requirements for certification as a court reporter. The remainder of the summary discussion of Subchapter 2 addresses the reproposal of the rules related to temporary registered reporters. The Board has undertaken the regulation of temporary reporters beginning with a repeal and new rule at *N.J.A.C. 13:43-2.2*. The proposed new rule addresses the eligibility requirements for temporary registered reporters. In addition to the general requirements, an applicant must show evidence of one of the requirements set forth in proposed new subsection (b) of the proposed rule. Those requirements include a certificate of completion from a reporting school, proof that an applicant has practiced court reporting in three out of the last five years, proof of an active certificate or license from another state or a certificate issued by the National Court Reporters Association under certain titles. Proposed new subsection (c) requires an applicant for registration to undergo a criminal history record check. Proposed new subsections (d) through (g) contain disclosure requirements by which temporary registered reporters must abide and the requirements for filing and maintaining the disclosure forms. The disclosures required by subsections (d) and (e) must be in the form prescribed by the Board as set forth in attached chapter Appendices A and B. Chapter Appendix A contains the disclosure and written notification requirements set forth in *N.J.S.A. 45:15B-9b(2)* and chapter Appendix B contains the waiver required by *New Jersey Court Rule R. 4:14-5*. Proposed new subsection (h) requires the temporary registered reporter to maintain a log of specified work items and proposed new subsection (i) allows the Board to audit records maintained by the temporary registered reporter. Proposed new subsection (j) states that a certified court reporter who has had his or her certification suspended and/or revoked is not eligible for temporary registered reporter status. Proposed new subsection (k) defines the penalties for failure to abide by the provisions of proposed *N.J.A.C. 13:43-2.2*. Further implementing the amendments to *N.J.S.A. 45:15B-1* et seq., the Board proposes to repeal the requirements for the employment of temporary registered reporters at *N.J.A.C. 13:43-2.2(a)* and (c) through (f). Subsection (b) of repealed *N.J.A.C. 13:43-2.2* has been proposed as new *N.J.A.C. 13:43-2.3*, which provides the circumstances under which a court reporting agency may use non-certified court reporters.

Subchapter 3 sets forth eligibility requirements, those that apply to certification of court reporters in realtime reporting.

Subchapter 3A, at *N.J.A.C. 13:43-3A.1*, sets forth the requirements for certificate and registration renewal. *N.J.A.C. 13:43-3A.2* explains the steps necessary for a certificate holder to return to active status from inactive status. The Board proposes to amend subsection (b) to delete the reference to "two to five years" and make clear that there is a two-year window within which the certificate holder must complete 15 credits of continuing education to return to active status. The change to subsection (b) that creates the two-year window is consistent with the authority granted to the Board under *N.J.S.A. 45:1-7.3*. The Board proposes a second change to subsection (b) indicating that the 15 continuing education credits earned must be consistent with the requirements of and subject to all provisions of Subchapter 7. The current language of subsection (c) has been deleted because the Board believes that requiring any certificate holder who has chosen inactive status to complete 15 credits of continuing education adequately protects the consumer. The Board proposes new subsection (c) to establish that the certificate holder must complete 15 credits of continuing education during the biennial renewal period immediately following reinstatement in the manner set forth in the Subchapter 7 in addition to those required for reinstatement from inactive status. *N.J.A.C. 13:43-3A.3* sets forth the requirements for reinstatement of a suspended certificate. The proposed amendment to subsection (a), which replaces the cross-reference to "3.1" with "3.2" has been proposed to correct an error in the citation. New *N.J.A.C. 13:43-3A.4* prescribes the registration renewal requirements for temporary registered reporters. Proposed new subsection (b) has been added on [page=853] reproposal to address a commenter's concern set forth above about the automatic, unlimited renewal allowed in the original notice of proposal. The new subsection allows for two consecutive yearly renewal periods, after the initial registration period, during which a registrant must attempt to successfully complete the examination for certification. If the registrant fails to pass during this time period, then he or she can neither register nor practice as a court reporter until he or she has passed the certification examination. The Board proposes this change based on its determination that some limitation on the temporary registrant's ability to renew is appropriate. Temporary reporters who will register primarily are those who have attempted to pass the certification examination and have not been successful. The Board believes that those registrants will continue to pursue certification. Therefore, the Board decided that those registrants should be allowed to re-test within limits. This approach will afford registrants who are working

diligently to become certified the opportunity to work during the process while, on the other hand, the three-year cut-off period will be an incentive to take the examination and complete the certification process. The subsequent subsections have been recodified from the original notice of proposal. The remaining requirements of N.J.A.C. 13:43-3A.4 parallel those for certificate renewal; however, unlike the certificate holder, the registrant cannot elect inactive status. Proposed new N.J.A.C. 13:43-3A.5 sets forth the requirements for reinstatement of a suspended temporary reporter registration.

Subchapter 4, at *N.J.A.C. 13:43-4.1*, sets forth the examination requirements for certification as a court reporter. *N.J.A.C. 13:43-4.2* and *4.3* are reserved. The examination requirements for certified realtime court reporters and the manner in which the Board grades the realtime examination are set forth in *N.J.A.C. 13:43-4.4* and *4.5*, respectively. *N.J.A.C. 13:43-4.6* addresses the process by which examinations are reviewed and rescored and a candidate's right to appeal the test results. *N.J.A.C. 13:43-4.7* sets forth the circumstances under which an applicant for certification may become certified without examination.

Subchapter 5 contains General Provisions. *N.J.A.C. 13:43-5.1* to *5.2* are reserved and *N.J.A.C. 13:43-5.7* contains the severability clause. The repropoed new rules applicable to temporary registered reporters amend certain sections of Subchapter 5 by requiring temporary registered reporters to abide by the applicable general provisions of the subchapter. Thus, those sections now will be applicable to both certified and registered reporters. The amended provisions are: *N.J.A.C. 13:43-5.3*, Change of address and service of process; *N.J.A.C. 13:43-5.4*, Prohibited practices; *N.J.A.C. 13:43-5.5*, Disclosure of title and certification number, the use of misleading titles and abbreviations, *N.J.A.C. 13:43-5.6*; Note and transcript retention policy, *N.J.A.C. 13:43-5.8*, Standards of practice; and *N.J.A.C. 13:43-5.9*, Transcript format.

The acronym "T.R.R." has been removed from *N.J.A.C. 13:43-5.5(a)* and (b) in response to the comment received by the Board as set forth above. In addition, to address that same comment, the Board proposes new subsections *N.J.A.C. 13:43-5.4(b)* and *5.5(b)* to make clear that temporary registered reporters may not use any of the titles or abbreviations listed in *N.J.A.C. 13:43-5.4(b)* and must use the title "temporary registered reporter" on all documents listed in *N.J.A.C. 13:43-5.5(b)*. Recodified *N.J.A.C. 13:43-5.4(c)* is proposed for amendment to indicate that a violation of new subsection (b) shall constitute professional misconduct and will subject a temporary registered reporter to disciplinary action consistent with *N.J.S.A. 45:1-21* et seq. Proposed new *N.J.A.C. 13:43-5.6(c)* requires temporary registered reporters to retain all forms prepared under proposed *N.J.A.C. 13:43-2.2(d)*, (e) and (h) for no less than five years. In addition, the requirement found in new *N.J.A.C. 13:43-2.2(f)* has been placed in *N.J.A.C. 13:43-5.9* as proposed new subsection (b) to be certain that the temporary registered reporter maintains the requisite documentation with both the original and copied transcript.

The Board proposes to readopt with amendments the fee schedule found in Subchapter 6. The amendments include adding an application, initial registration, annual renewal, late registration and duplicate registration fees for temporary registered reporters.

Subchapter 7 contains the continuing education requirements for certified court reporter certificate renewal. *N.J.A.C. 13:43-7.1* sets forth the general requirement to complete continuing education in order to renew a certificate. *N.J.A.C. 13:43-7.2* states that 15 continuing education credits are needed for renewal and requires at least 10 credits in the core areas listed. In addition, that section allows the carry over of continuing education credits and addresses continuing education requirements when a certificate holder has been disciplined or suspended. *N.J.A.C. 13:43-7.3* establishes the sources from which a certificate holder may obtain continuing education credits. *N.J.A.C. 13:43-7.4* sets forth the manner in which credit hours for continuing education are calculated for each of the continuing education sources set forth in *N.J.A.C. 13:43-7.3*. *N.J.A.C. 13:43-7.5* requires a certificate holder to maintain documentation for continuing education completed for a period of five years. The section also notifies certificate holders that the Board may randomly audit to ensure compliance with its continuing education requirements. *N.J.A.C. 13:43-7.6* allows for waivers of continuing education under certain circumstances and establishes the manner in which a certificate holder may request a waiver. *N.J.A.C. 13:43-7.7* addresses the submission requirements for continuing education course providers to have a course, program or seminar approved by the Board. In addition, the section sets forth the

responsibilities of providers who have been approved by the Board.

The Board has determined that the comment period for this notice of proposal is 60 days; therefore, pursuant to *N.J.A.C. 1:30-3.3(a)5*, this notice is excepted from the rulemaking calendar requirement.

Social Impact

The Board believes that the readoption of the existing rules will continue to protect the general public by identifying those individuals who are qualified and legally authorized to engage in court reporting. The rules positively affect the regulated community by clarifying various aspects of the practice of court reporting for the benefit of all certificate holders and registrants and applicants for certification or registration. The readoption of *N.J.A.C. 13:43* is essential so that the Board may continue to regulate the practice of court reporting and to ensure that every certificate or registration holder is aware of the procedures for certification or registration. The readoption of *N.J.A.C. 13:43* continues the accepted standards of practice for court reporters established by the Board and, in so doing, provides certified and registered court reporters with a clear and comprehensive set of rules to guide them in their practice. Accordingly, the Board believes that the rules proposed for readoption with amendments, new rules and a repeal will have a positive impact upon those served by court reporters by continuing to ensure the maintenance of professional practice standards, which will allow certificate and registration holders to provide the highest quality of service.

The proposed new rules and proposed rule amendments relevant to the statutory change allowing the Board to promulgate rules related to the competency of the approximately 200 non-certified court reporters also will have a significant social impact on court reporting in the State. The proposed repeal and new rule at *N.J.A.C. 13:43-2.2*, in combination with amendments to *N.J.A.C. 13:43-5.4, 5.5, 5.6, 5.8 and 5.9* and new rules *N.J.A.C. 13:43-3A.4 and 3A.5*, enable the Board to monitor the practice of court reporters who are not certified, but who are engaging in court reporting in the State. For those who fail to register, *N.J.A.C. 13:43-2.2(k)* provides for penalties and discipline. These rules will enable the Board to protect the public's interest by ascertaining that a temporary reporter has the ability to produce an accurate record that can be relied upon by the parties who seek the reporter's services.

The proposed inclusion of a criminal history name search for qualification for registration will have a significant impact on those who use court reporting services, as well as other members of the public. Often, in the course of their employment, court reporters may have access to personal information, such as social security numbers, financial or medical information and proprietary information. Thus, determining whether an applicant has a criminal record can protect not only those who use the services of a court reporter, but also those who simply may be a witness in a proceeding.

Economic Impact

The Board anticipates that the proposed new rules and the proposed rule amendments related to temporary registered reporters may impose new or additional costs on consumers if the new costs to registered [page=854] reporters are passed on to the consumer. In addition, there will be new costs associated with registration as a temporary reporter. Temporary registered reporters now will be subject to payment of a one-time application fee and registration fee, an annual renewal fee for up to two years and any fee associated with a criminal record check under *N.J.A.C. 13:59-1*. If the renewal is filed late, the temporary registered reporter will be subject to a late registration fee and if the registration lapses for more than 30 days the registrant will be subject to a reinstatement fee. Finally, if a person fails to abide by the requirements of *N.J.A.C. 13:43-2.2*, he or she may be subject to the fines listed in subsection (k) of that section.

The rules proposed for readoption with amendments will not impose new or additional costs on certificate holders, but it will continue to impose costs on certificate holders in the form of fees as set forth in Subchapter 6 and the costs associated with continuing education programs.

Federal Standards Statement

A Federal standards analysis is not required because the rules proposed for readoption with amendments, new rules and a repeal are subject to State statutory requirements and are not subject to any Federal requirements.

Jobs Impact

The Board does not believe that there will be a gain or loss of jobs under the rules proposed for readoption with amendments, new rules or repeals. However, the possibility exists that some non-certified court reporters may not meet the requirements set forth in *N.J.A.C. 13:43-2.2* and/or 3A.4, and therefore, will be unable to work.

Agriculture Industry Impact

The rules proposed for readoption with amendments, new rules and a repeal will have no impact on the agriculture industry in the State.

Regulatory Flexibility Analysis

If, for purposes of the Regulatory Flexibility Act (the Act), *N.J.S.A. 52:14B-16* et seq., the approximately 1,100 certified court reporters and the approximately 200 non-certified court reporters are considered "small businesses," then the following analysis applies.

The rules proposed for readoption with amendments contain the same compliance, recordkeeping and reporting requirements previously imposed by the Board on its certificate holders while the proposed new rules and rule amendments will impose upon registration holders new compliance, recordkeeping and reporting requirements.

Subchapter 2 and 3 relate to eligibility requirements. *N.J.A.C. 13:43-2.1* sets forth the eligibility requirements that an applicant must comply with for certification as a court reporter. *N.J.A.C. 13:43-2.2(b)* requires an applicant for registration to supply proof of one of the listed items to qualify for registration as a temporary reporter. Proposed subsection (c) requires an applicant to fulfill the necessary steps for a criminal history name search. Subsection (d) requires the temporary registered reporter to disclose, before commencement of a proceeding, that he or she is not a certified court reporter. The temporary registered reporter is required to secure written acknowledgment from all participants in the proceeding. Subsection (e) requires the temporary registered reporter to abide by the requirements of *New Jersey Court Rule R. 4:14-5*. Subsections (f), (g) and (h) set forth recordkeeping requirements, including the filing and maintenance of disclosure forms. Subchapter 3 sets forth the eligibility requirements that an applicant must comply with in order to be considered for certification as a realtime court reporter.

Subchapter 3A at *N.J.A.C. 13:43-3A.1* sets forth the requirements that must be met for certificate renewal and the consequences of not renewing in a timely fashion. *N.J.A.C. 13:43-3A.2* sets forth the requirements for changing a certification from inactive to active. The proposed amendment to subsection (b) and the proposed deletion of the current language of subsection (c) require all certificate holders returning to active status, no matter how long they have been in inactive status, to complete 15 hours of continuing education consistent with the requirements of and subject to the provisions of Subchapter 7. The proposed new language of subsection (c) requires those returning from to active status to complete 15 credits of continuing education as set forth in Subchapter 7. *N.J.A.C. 13:43-3A.3* sets forth the requirements that must be met by a court reporter whose certificate has been automatically suspended. Proposed new rule *N.J.A.C. 13:43-3A.4* requires the registrant to submit a renewal application and fee in a timely manner during the two years they are allowed to re-register and proposed *N.J.A.C. 13:43-4A.5* sets forth the requirements for reinstatement where a registrant has failed to renew within 30 days.

Subchapter 4, at *N.J.A.C. 13:43-4.4*, sets forth the requirements the applicant must comply with to take the examination for certification as a certified realtime court reporter. *N.J.A.C. 13:43-4.6* sets forth the procedure a

candidate must follow to have his or her examination reviewed and/or rescored, and to appeal the Board's decision on the final examination score. *N.J.A.C. 13:43-4.7* sets forth the proof necessary for an applicant to become certified without examination.

Subchapter 5 contains requirements for both certificate holders and, with the rule amendments related to temporary registered reporters, registration holders. Thus, registration holders and certificate holders must notify the Board of any change of address, *N.J.A.C. 13:43-5.3*; may not engage in any of the listed prohibited practices, including use of certain titles *N.J.A.C. 13:43-5.4*; must disclose his or her title and registration number on all documents listed, *N.J.A.C. 13:43-5.5*; and must abide by the notes and transcript retention policies, standards of practice and transcript format *N.J.A.C. 13:43-5.6, 5.8 and 5.9*.

Subchapter 6 and the proposed rule amendments related to temporary registered reporters require certificate and registration holders to remit certain fees to the Board.

Subchapter 7 requires certificate holders to complete 15 continuing education credits per biennial renewal cycle. On the renewal application, the certificate holder must confirm that he or she has completed the required number of credits. Ten of the continuing education credits must be from the core areas listed in *N.J.A.C. 13:43-7.2*. *N.J.A.C. 13:43-7.5* requires certificate holders to maintain for a period of five years the appropriate documentation to show that the required continuing education has been completed. *N.J.A.C. 13:43-7.6* allows a certificate holder to receive a waiver of continuing education requirements, so long as the proper procedures have been followed. *N.J.A.C. 13:43-7.7* sets forth the requirements for a course provider to have a continuing education offering approved by the Board.

No professional services will be needed to comply with the rules proposed for readoption with amendments, proposed new rules and a repeal. Moreover, the Board anticipates that any costs of compliance will not be great and are discussed in the Economic Impact above. The Board believes that the rules proposed for readoption with amendments and proposed new rules should be uniformly applied to all certified and temporary registered reporters to protect the general public; and, therefore, no differing compliance requirements for any certificate holder or registrant are provided.

Smart Growth Impact

The Board does not anticipate that the rules proposed for readoption with amendments, new rules or a repeal will have any impact on the achievement of smart growth or on implementation of the State Development and Redevelopment Plan, otherwise known as the State Plan.

Housing Affordability Impact

The rules proposed for readoption with amendments, new rules and a repeal will have an insignificant impact on affordable housing in New Jersey and there is an extreme unlikelihood that the rules would evoke a change in the average costs associated with housing because the rules proposed for readoption with amendments, new rules and a repeal concern the practice of court reporting in the State of New Jersey.

Smart Growth Development Impact

The rules proposed for readoption with amendments, new rules and a repeal will have an insignificant impact on smart growth and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2 or within designated centers under the State Development and Redevelopment Plan in New Jersey because the rules proposed for readoption with amendments, new rules and a repeal concern the practice of court reporting in the State of New Jersey.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at *N.J.A.C. 13:43*.

[page=855] **Full text** of the rule proposed for repeal may be found in the New Jersey Administrative Code at *N.J.A.C. 13:43-2.2*.

Full text of the proposed new rules and amendments follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1A. DEFINITIONS

13:43-[5.1A]1A.1 Definitions

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

...

"Temporary registered reporter" means a non-certified court reporter who has registered with the Board pursuant to *N.J.A.C. 13:43-2.2*.

SUBCHAPTER 2. CERTIFICATION OF COURT REPORTERS; REGISTRATION OF TEMPORARY REGISTERED REPORTERS

13:43-2.2 Eligibility for registration as a temporary registered reporter; disclosure forms; penalties

(a) In order to qualify to register as a temporary registered reporter pursuant to *N.J.S.A. 45:15B-9*, an applicant shall:

- 1. Be at least 18 years of age;**
- 2. Be of good moral character, as established by references and a criminal history name search as set forth in (c) below, which shall be requested and performed in accordance with *N.J.A.C. 13:59-1*;**
- 3. Have obtained a high school diploma or its equivalent;**
- 4. Have submitted a completed application form to the Board; and**
- 5. Paid the application fee set forth in *N.J.A.C. 13:43-6.1*;**

(b) In addition to (a) above, the applicant must present proof of one of the following:

- 1. A certificate of completion from a reporting school program;**
- 2. Proof that the applicant has practiced court reporting in at least three out of the last five years preceding the date of application. Such proof shall consist of one of the following:**
 - i. Submission of an affidavit of employment listing each job held during the three-year period that includes the name, address and telephone number of each employer; or**
 - ii. Complete copies of all business records, such as, but not limited to, caption and appearance sheets and invoices, made for each court reporting assignment completed;**

3. Proof of an active certificate or license from another state; or

4. A certification issued by the National Court Reporters Association under any of the following titles:

i. Registered Merit Reporter;

ii. Certified Real Time Reporter;

iii. Certified Broadcast Captioner; or

iv. Certified Communications Access Realtime Translation Provider.

(c) An applicant for initial registration as a temporary registered reporter shall submit to the Board his or her name, address, date of birth and, in conformity with *N.J.A.C. 13:59-1.4*, Social Security number for the purpose of conducting a criminal history name search to determine whether any criminal history record information exists that the Board may consider in determining whether the applicant shall be registered in the State. The fee for a criminal history name search shall be paid by the applicant for registration as set forth in *N.J.A.C. 13:59-1.3*. In addition to its use in evaluating an application for initial registration, the Board may obtain criminal history record information from the Division of State Police for any other purpose authorized by statute or rule.

(d) A temporary registered reporter who is engaged in court reporting shall disclose to all participants of a proceeding and obtain from those participants, before commencement of the proceeding, a written acknowledgment that the temporary registered reporter is not certified by the Board but is registered with the Board to practice as a court reporter on a temporary basis. The written acknowledgement referred to above shall be in the form prescribed by the Board attached to these rules as chapter Appendix A and incorporated herein by reference.

(e) A temporary registered reporter who is engaged in court reporting shall abide by the requirements set forth in *New Jersey Court Rules, R. 4:14-5*. The waiver of the reading and signing of the deposition referred to in *R. 4:14-5*, shall be in the form prescribed by the Board, attached to these rules as chapter Appendix B and incorporated herein by reference.

(f) The original of the forms referred to in (d) and (e) above shall be placed with the original transcript. All copies of the transcript shall include a copy of the forms referred to in (d) and (e) above.

(g) The transcript shall not be considered complete if the registrant has not complied with the requirements of (f) above.

(h) The temporary registered reporter shall maintain a log of all proceedings, which shall include the date, time, place, caption and appearance sheet and all disclosure forms referred to in (d) above and those forms referred to in (e) above. The log shall be retained for a period of no less than five years.

(i) The Board may randomly audit records maintained by a temporary registered reporter under (h) above for any one-year period as determined by the Board.

(j) A certified court reporter who has had his or her certification suspended and/or revoked for any reason may not apply for temporary registered reporter status.

(k) A person who is in violation of this section shall be subject to a penalty of not more than \$ 500.00 for the first

violation, and not more than a \$ 1,000 for each violation thereafter, to be sued for by the Board in a summary proceeding and collected in court pursuant to *N.J.S.A. 2A:58-10* et seq. A person who fails to comply with the requirements of this section is subject to the suspension or revocation of that individual's certificate or temporary registration pursuant to *N.J.S.A. 45:1-21*.

13:43-2.3 Employment of temporary registered reporters

(a) An employer of a certified court reporter or owner of a shorthand and/or court reporting agency, or certified court reporter may utilize temporary registered reporters referred to in *N.J.A.C. 13:43-2.2* only in circumstances where a certified court reporter is unavailable. In such circumstances where a certified court reporter is unavailable, the employer, owner of a shorthand and/or court reporting agency or certified court reporter shall contact five shorthand and/or court reporting agencies to seek an available certified court reporter. The employer, owner of a shorthand or court reporting agency or certified court reporter shall record the five contacts in an affidavit that shall include the names of the agencies contacted, the dates and times of the contacts, and the specific job for which the certified court reporter is sought, including the date, time and location of the job, as well as the name(s) of the party (parties) soliciting the certified court reporter and the name of the case for which the certified court reporter is sought.

1. The employer, owner of a shorthand and/or court reporting agency or certified court reporter shall retain the affidavits referred to above for a period of three calendar years. The records shall be made available to the Board within two business days of the Board's written notice of request, and shall be subject to the Board's random audit. For purposes of this paragraph, a business day is defined as the hours between 9:00 A.M. and 5:00 P.M. Monday through Friday, excluding holidays.

SUBCHAPTER 3A. CERTIFICATE RENEWAL; REGISTRATION RENEWAL; INACTIVE STATUS; REINSTATEMENT

13:43-3A.2 Change of certification status: inactive to active

(a) (No change.)

(b) A certificate holder on inactive status [from two to five years] shall complete 15 credits of continuing education[.], which shall be completed by the applicant within one year prior to and one year after the date of application for return to active status. The 15 credits of continuing education earned by the certificate holder under this [page=856] subsection shall be consistent with the requirements and subject to all provisions of Subchapter 7.

[(c) A certificate holder who has been on inactive status for a period of five or more years shall take an examination that has been determined by the Board to test the applicant's ability to practice court reporting.]

(c) If the certificate holder completes any or all of the 15 credits of continuing education required by (b) above after reinstatement to active status, he or she is required to complete an additional 15 credits of continuing education for the biennial renewal period immediately following reinstatement in the manner set forth in Subchapter 7.

13:43-3A.3 Reinstatement of suspended certificate

(a) An individual whose certificate has been automatically suspended for failure to renew as provided by *N.J.A.C. 13:43-3A.1(d)* may be reinstated by the Board, provided the applicant otherwise qualifies for certification pursuant to *N.J.A.C. 13:43-2.1* and [3.1] 3.2, and submits a completed reinstatement application and one of the following to the Board:

1.-3. (No change.)

(b)-(e) (No change.)

13:43-3A.4 Registration renewal for temporary registered reporters

(a) All temporary reporter registrations issued by the Board shall be issued for a one-year period. A temporary reporter registration holder who seeks renewal of the registration shall submit a registration renewal application and the registration renewal fee set forth in *N.J.A.C. 13:43-6.1* prior to the expiration date of the registration.

(b) A temporary reporter registration may be renewed for two consecutive one-year periods following initial registration, during which time a registrant shall attempt to complete the certification examination. After the three-year period has expired, the registrant shall not be allowed to register as a temporary registered reporter and shall not practice court reporting in the State until he or she has passed the certification examination and has been certified by the Board.

(c) If the temporary reporter registration holder does not renew the registration prior to its expiration date, the temporary reporter registration holder may renew it within 30 days of its expiration by submitting a renewal application, a renewal fee and a late fee, as set forth in *N.J.A.C. 13:43-6.1*.

(d) A temporary reporter registration that is not renewed within 30 days of its expiration shall be automatically suspended. An individual who continues to practice with a suspended registration shall be deemed to be engaged in unregistered practice.

(e) The Board shall send a notice of renewal to each temporary reporter registration holder at least 60 days prior to the expiration of his or her registration. If the notice to renew is not sent 60 days prior to the expiration date, no monetary penalty or fines shall apply to the temporary reporter registration holder for any unregistered practice during the period following the registration expiration, not to exceed the number of days short of 60 before the notice of renewal was issued.

13:43-3A.5 Reinstatement of suspended registration

(a) An individual whose registration has been automatically suspended for failure to renew as provided by *N.J.A.C. 13:43-3A.4(c)* may be reinstated by the Board, provided the applicant:

1. Otherwise qualifies for registration pursuant to *N.J.A.C. 13:43-2.2*;
2. Demonstrates competency satisfactory to the Board;
3. Submits a completed reinstatement application; and
4. Pays the reinstatement fee pursuant to *N.J.A.C. 13:45-6.1*.

(b) An individual with a suspended registration shall submit to the Board:

1. A certification stating that the applicant has not practiced court reporting, in this jurisdiction during the period the registration was suspended in this State; or
2. A written verification from all of the applicant's employers. The verification shall document dates of

employment from the date the New Jersey registration was suspended to the date of application for reinstatement, and the name, address and telephone number of each employer.

SUBCHAPTER 5. GENERAL PROVISIONS

(Agency Note: *N.J.A.C. 13:43-5.1A* is proposed for recodification with amendments as *N.J.A.C. 13:43-1A*.)

13:43-5.3 Change of address; service of process

(a) A certification **or registration** holder of the Board of Court Reporting shall notify the Board in writing of any change of name or address from that currently registered with the Board and shown on the most recently issued certification **or registration**. Notice shall be given not more than 30 days following such change.

(b) Service of an administrative complaint or other process initiated by the Board, the Attorney General or the Division of Consumer Affairs at the certified **or registered** practitioner's address on file with the Board shall be deemed adequate notice for the commencement of any inquiry or disciplinary proceeding against the certified **or registered** practitioner.

13:43-5.4 Prohibited practices

(a) Certified court reporters **and temporary registered reporters** shall not:

1. Provide incentives or rewards to attorneys, clients or their representatives or agents to use the services of a certified court reporter **or a temporary registered reporter**. Certified court reporters **and temporary registered reporters** may distribute promotional items of nominal value, which advertise their business;

2. (No change.)

3. Enter into or arrange any contract or financial relationship that compromises the impartiality of the certified court reporter **or temporary registered reporter** or that may result in the appearance that the impartiality of the certified court reporter **or temporary registered reporter** has been compromised.

(b) Temporary registered reporters are prohibited from using the following titles or abbreviations: C.C.R.; C.R.C.R.; Court Reporter of the State of New Jersey; Realtime Reporter of the State of New Jersey; Court Reporter or C.R.

[(b)] (c) A violation of any provisions in (a) **or (b)** above shall constitute professional misconduct and shall be grounds for disciplinary action, including suspension or revocation of certification as a certified court reporter in the State of New Jersey **or of a registration as a temporary registered reporter**, by the Board pursuant to *N.J.S.A. 45:1-21* et seq.

13:43-5.5 Disclosure of title and certification **or registration** number; the use of misleading titles and abbreviations

(a) (No change.)

(b) A temporary registered reporter shall be identified as such on all business cards, letterhead advertising, and all other work-related documents.

[(b)] (c) (No change in text.)

13:43-5.6 Note and transcript retention policy

(a) All certified court reporters **and all temporary registered reporters** shall retain all notes in civil matters for no less than five years unless a full transcript has been prepared of the matter, in which case the electronic notes and the transcript shall be retained for at least five years, but the paper notes may be discarded after two years.

(b) In all criminal matters and any other matter heard in the Superior Court of New Jersey, in a Federal District Court, or any other court of competent jurisdiction, a certified court reporter **or a temporary registered reporter** shall retain all notes in accordance with the procedures established by such court.

(c) All temporary registered reporters shall retain all forms prepared pursuant to N.J.A.C. 13:43-2.2(d), (e) and (h) for no less than five years.

13:43-5.8 Standards of practice

(a) Certified court reporters **and temporary registered reporters** shall:

[page=857] 1.-2. (No change.)

3. Attach a certification page to all transcripts attesting that the certified court reporter **or temporary registered reporter** is unrelated to the parties involved in the action; has no financial interest and is not related to an agent of or employed by anyone with a financial interest in the outcome of the action; is a certified court reporter **or temporary registered reporter**; the transcript is a verbatim record of the testimony provided under oath before any court, referee, board, commission or other body created by statute of the State of New Jersey; and includes the notary number, expiration date and certified court reporter certificate number **or temporary registration number**;

4.-5. (No change.)

13:43-5.9 Transcript format

(a) A certified court reporter **or temporary registered reporter** shall follow the following transcript format:

1.-8. (No change.)

(b) A temporary registered reporter shall fulfill the requirements of N.J.A.C. 13:43-2.2(f) for original and copied transcripts.

SUBCHAPTER 6. FEES

13:43-6.1 Fee schedule

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

1. Application fee:

i.-ii.(No change.)

iii. Temporary registered reporter 150.00

2.-4. (No change.)

5. Initial registration fee (temporary registered reporter only) 125.00

[5.] **6.** (No change in text.)

7. Annual renewal fee temporary registered reporter 125.00

[6.] **8.** (No change in text.)

9. Late registration renewal fee 100.00

Recodify existing 7. and 8. as **10. and 11.** (No change in text.)

12. Duplicate registration fee 20.00

[9.] **13.** Replacement wall certificate **or registration . . 40.00**

Recodifying existing 10. and 11. as **14. and 15.** (No change in text.)

(**Agency Note:** The text of proposed new *N.J.A.C. 13:43* Appendices A and B follows without boldface symbolizing proposed new text; those portions of the appendices appearing in boldface are proposed to be so permanently.)

[page=858] **APPENDIX A**

WRITTEN NOTIFICATION AND DISCLOSURE FORM

Plaintiff,

v.

Defendant.

(Name of Temporary Registered Reporter)

(Temporary Registered Reporter Number)

(Name and Telephone Number of Agency, if applicable)

Date of Deposition or Proceeding

Pursuant to the mandates of *N.J.S.A. 45:15B-9 b(2)* and *N.J.A.C. 13:43-2.2(d)*, please be advised that I am a Temporary Registered Reporter in the State of New Jersey. A Temporary Registered Reporter is not certified by the State Board of Court Reporting ("Board") but is registered with the Board to practice as a court reporter on a temporary basis.

[page=859] A Temporary Registered Reporter is required to disclose to all parties at a proceeding that he/she is not a certified court reporter in this State and is further required to obtain a written acknowledgment that this information has been disclosed to the parties. Therefore, please sign and date this form below in order to acknowledge and attest to the fact that this proceeding is being recorded by a Temporary Registered Reporter rather than a Board certified court reporter.

Plaintiff/Petitioner/Attorney

Defendant/Respondent/Attorney

_____ Print Name

_____ Print Name

_____ Signature

_____ Signature

Plaintiff/Petitioner/Attorney

Defendant/Respondent/Attorney

_____ Print Name

_____ Print Name

_____ Signature

_____ Signature

Plaintiff/Petitioner/Attorney

Defendant/Respondent/Attorney

_____ Print Name

_____ Print Name

_____ Signature

_____ Signature

Plaintiff/Petitioner/Attorney

Defendant/Respondent/Attorney

_____ Print Name

_____ Print Name

_____Signature

_____Signature

[page=860] **REFUSAL TO CONSENT**

I, _____, a Temporary Registered Reporter, Registration Number _____, hereby certify that, as required by *N.J.S.A. 45:15B-9 b(2)* and *N.J.A.C. 13:43-2.2(d)*, I disclosed to the participants of the proceeding identified above that I am not certified by the State Board of Court Reporting but that I am registered with the Board to practice as a court reporter on a temporary basis. The parties thereafter chose to postpone the proceeding until a certified court reporter is available. The foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Name and Registration Number of Temporary Registered Reporter

[page=861] **APPENDIX B**

WAIVER FORM

Plaintiff,

v.

Defendant.

(Name of Temporary Registered Reporter)

(Temporary Registered Reporter Number)

(Name and Telephone Number of Agency, if applicable)

Date of Deposition

Under *New Jersey Court Rule R. 4:14-5*, if the officer recording a deposition is not a certified court reporter, then the witness must sign the deposition, unless the reading and signing of the deposition has been waived by stipulation of the parties. If the reading and signing requirement has not been waived, then the recording officer must request that the deponent appear at a stated time for the purpose of reading and signing the deposition transcript.

[page=862] I hereby waive the reading and signing of the deposition transcript in the above-captioned matter, which was recorded by a non-certified court reporter (or temporary registered reporter), of the State of New Jersey.

Plaintiff/Petitioner/Attorney

Defendant/Respondent/Attorney

_____ Print Name

_____ Print Name

_____ Signature

_____ Signature

_____ Print Name

_____ Print Name

_____ Signature

_____ Signature

_____ Print Name

_____ Print Name

_____ Signature

_____ Signature