

## SUBCHAPTER 4. CONFIDENTIAL INFORMATION

### 19:40A-4.1 Definitions

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

"Authorized personnel" means any member or employee of the Commission.

"Confidential information" means any information or data, furnished to, or obtained by, the Commission from any source, which is considered confidential pursuant to the provisions of N.J.S.A. 5:12-74.1, or which is otherwise confidential pursuant to applicable statutory provision, judicial decision, or rule of court.

### 19:40A-4.2 Determination of confidential status

(a) Except as provided by N.J.S.A. 5:12-74.1.d, all information and data furnished to or obtained by the Commission that relates to the internal controls specified in N.J.S.A. 5:12-99.a, or to the earnings or revenue of any applicant, registrant, or licensee, or which pertains to an applicant's criminal record, family, or background, shall be presumed to be confidential and shall not be released or disclosed to any person except in accordance with the provisions of this subchapter.

(b) Any question concerning whether or not a specific item of information or data within the possession of the Commission is deemed to be confidential

information under N.J.S.A. 5:12-74.1, or any other applicable statutory provision, judicial decision, or rule of court, shall be submitted to the Commission or its designee for determination or referral to appropriate authorities.

#### 19:40A-4.3 Access

Except as otherwise provided in N.J.A.C. 19:40A-4.4 and 4.8, access to confidential information within the possession of the Commission shall be restricted to authorized personnel who require such information in the performance of their official duties.

#### 19:40A-4.4 State Records Storage Center: retention schedule; storage; destruction

(a) With the approval of the State Records Committee, the Commission shall establish and maintain a records retention schedule for all confidential information within its possession.

(b) Confidential information considered to be inactive by the Commission but required to be retained pursuant to the provisions of (a) above, may be transferred to the possession of the State Records Storage Center in accordance with N.J.S.A. 47:12.7, as implemented by N.J.A.C. 15:3, provided that:

1. Access to any confidential information stored with the State Records Storage Center shall be limited to employees of the Center and authorized

personnel of the Commission;

2. A log is maintained of all authorized personnel who are granted access to or who remove confidential information stored with the State Records Storage Center, which log shall include the information required by N.J.A.C. 19:40A-4.6(b);

3. Any confidential information transferred to the State Records Storage Center is contained in transfer cartons, sealed and marked in such a manner, so as to preclude the undetected examination of the confidential information contained therein by any person other than authorized personnel; and

4. The Commission periodically inspects and reviews any such stored confidential information to assure that it has not been disclosed or removed in violation of N.J.S.A. 52:13D-25 or 47:3-29 and the provisions of this subchapter.

(c) Any confidential information in the possession of the Commission or State Records Storage Center shall be promptly destroyed in accordance with the provisions of the applicable records retention schedule required by (a) above.

19:40A-4.5 Retention in Commission offices; access

(a) All Commission offices in which confidential information is located shall be protected from unauthorized intrusion at all times. Proper security precautions during business hours shall include a requirement that all visitors to such offices be required to identify themselves and wear a visitor pass in a conspicuous location. Proper security precautions during non-business hours

shall include the use of alarm or security guard systems.

(b) Confidential information may be stored in Commission offices on micrographics, hard copy (paper), magnetic media, or any other suitable medium, provided adequate security measures are maintained to prevent unauthorized access to or use of such information.

1.A coded filing system shall be utilized whenever practicable to prevent unauthorized access to stored confidential information.

2.Access to confidential information stored on computer or magnetic media shall be restricted to authorized personnel who have obtained the required operating key, code manual, or access code from the appropriate section or unit supervisor. Operating keys, code manuals, and access codes shall be limited in number and shall be controlled by the appropriate section or unit supervisor.

#### 19:40A-4.6 Temporary custody by authorized personnel

(a) Authorized personnel shall not remove confidential information from Commission offices unless such removal is necessary to the fulfillment of their official Commission duties. Confidential information that is not presently being utilized by authorized personnel shall be promptly returned to Commission offices.

(b) Confidential information shall not be removed from the offices of the Commission without the prior approval of an appropriate section or unit supervisor. Such approval shall only be granted where removal of the

confidential information is necessary to the performance of the official duties of authorized personnel.

(c) The integrity of confidential information in the possession of authorized personnel shall be preserved at all times. It shall be the personal responsibility of any individual granted temporary custody of confidential information to insure that the information is not shown, released, or disclosed to any unauthorized person or to any otherwise authorized person who does not require such information in the performance of their official duties. Confidential information temporarily stored outside Commission offices shall be protected by appropriate security precautions.

#### 19:40A-4.7 Copies

A hard copy of confidential information stored on computer or magnetic media, or any other copy of confidential information within the possession of the Commission, shall only be made where absolutely necessary to the administration of the Act, or where an authorized release of the confidential information is made pursuant to the provisions of N.J.A.C. 19:40A-4.8.

#### 19:40A-4.8 Release; notice

(a) Confidential information within the possession of the Commission shall not be released or disclosed in whole or in part to any person, except:

1. In the course of the necessary administration of the Act;
2. Upon lawful order of a court of competent jurisdiction;

3. With the approval of the Attorney General, to a duly authorized law enforcement agency;

4. Upon presentation of proper identification, to the applicant, registrant, or licensee who furnished the confidential information to the Commission; or

5. Upon presentation of a duly executed and notarized release authorization by the applicant, registrant, or licensee who furnished the confidential information, to any person making a written request for specifically identified confidential information.

(b) If confidential information is released or otherwise disclosed to any person, notice of such release or disclosure shall be given to any applicant, registrant, or licensee affected in accordance with the information set forth by the Division at N.J.A.C. 13:69-4.8(b).

#### 19:40A-4.9 Penalties

(a) Any direct or indirect willful disclosure of confidential information by authorized personnel of the Commission under circumstances other than those identified in N.J.A.C. 19:40A-4.8 shall be a violation of the Commission's Code of Ethics and shall subject such person to the penalties provided by N.J.S.A. 52:13D-23(d). Such violations shall be heard by the State Ethics Commission in accordance with N.J.S.A. 52:13D-21(h).

(b) The unauthorized release or disclosure of confidential information may also be a violation of N.J.S.A. 52:13D-25 or 47:3-29.

(c) Any violation of the provisions of this subchapter by authorized personnel

may result in appropriate disciplinary action by the Commission.