

ASSEMBLY, No. 562

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:
Assemblyman ROBERT AUTH
District 39 (Bergen and Passaic)

SYNOPSIS

“Pharmaceutical Representative Licensing Act.”

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning the licensure of pharmaceutical representatives
2 and supplementing chapter 9 of Title 45 of the Revised Statutes.

3

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

6

7 1. This act shall be known and may be cited as the
8 “Pharmaceutical Representative Licensing Act.”

9

10 2. As used in this act:

11 “Board” means the State Board of Medical Examiners
12 established pursuant to R.S.45:9-1.

13 “Director” means the Director of Consumer Affairs in the
14 Department of Law and Public Safety.

15 “Pharmaceutical” means a drug, biological, or device that may
16 legally be dispensed only with a valid prescription from a
17 practitioner.

18 “Pharmaceutical representative” means an individual currently
19 licensed by this State pursuant to this act to engage in the marketing
20 or promoting of pharmaceuticals to practitioners.

21

22 3. The board, in consultation with the director, shall have the
23 following powers and duties with respect to the licensure of
24 pharmaceutical representatives under this act:

25 a. establish criteria and standards for education and experience
26 required for licensure;

27 b. review the qualifications of applicants for licensure;

28 c. ensure proper conduct and professional standards of
29 practice;

30 d. issue and renew licenses;

31 e. establish standards for continuing education;

32 f. maintain a record of every pharmaceutical representative
33 licensed in this State;

34 g. establish fees for licenses, including applications for
35 licensure, renewals, and duplications of lost licenses, and other
36 services performed by the board;

37 h. suspend, revoke, or decline to renew the license of a
38 pharmaceutical representative pursuant to the provisions of this act
39 and P.L.1978, c.73 (C.45:1-14 et seq.); and

40 i. promulgate rules and regulations to carry out matters
41 concerning any provision of this act, in conformance with the
42 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
43 seq.).

44

45 4. It shall be unlawful for any individual to engage in the
46 practice of a pharmaceutical representative unless currently licensed
47 under the provisions of this act.

- 1 5. To obtain a license to engage in the practice of a
2 pharmaceutical representative, an applicant shall:
- 3 a. submit an application in the form prescribed by the board;
4 b. have attained the age of 18 years;
5 c. be of good moral character;
6 d. complete a professional education course as determined by
7 the board and provide sufficient evidence that the course was
8 completed;
9 e. provide any other information that the board may deem
10 necessary; and
11 f. pay the fees prescribed by the board.
12
- 13 6. a. The board shall require each pharmaceutical
14 representative, as a condition for biennial license renewal, to
15 complete continuing education during each biennial period
16 immediately preceding the date of renewal and submit proof thereof
17 to the board.
- 18 b. The board shall require each pharmaceutical representative
19 to complete a minimum of six hours of continuing education. The
20 continuing education shall include training in the areas of ethics,
21 pharmacology, laws and regulations applicable to pharmaceutical
22 marketing, prescription opioid drugs and alternatives to opioids for
23 managing and treating pain, and any other areas the board may
24 determine.
- 25 c. The board shall approve continuing education courses, as
26 well as providers and programs offering credit towards
27 pharmaceutical representative continuing education requirements,
28 and establish procedures for the issuance of credit upon satisfactory
29 proof of the completion of continuing education requirements. In
30 the case of continuing education courses and programs, each hour
31 of instruction shall be equivalent to one credit.
- 32 d. The board shall only approve programs that are provided on
33 a nondiscriminatory basis. The board shall prohibit employers of
34 pharmaceutical representatives from providing continuing education
35 courses and programs. In no event shall the board grant continuing
36 education credits for, or approve as, a component of a continuing
37 education course or program:
- 38 (1) participation in a routine business portion of a meeting of a
39 pharmaceutical representative association or organization; or
40 (2) any presentation that is offered to sell a product or promote a
41 business enterprise.
42
- 43 7. a. Upon request, or at intervals of time determined by the
44 board, but in no case less than once every two years, each
45 pharmaceutical representative shall provide the following
46 information to the board:
- 47 (1) a list of practitioners within the State contacted by the
48 pharmaceutical representative;

- 1 (2) the number of times each practitioner was contacted;
- 2 (3) the location and duration of each contact;
- 3 (4) the pharmaceuticals promoted during each contact;
- 4 (5) whether product samples, materials, or gifts of any value
- 5 were provided to a practitioner, and the value of the product
- 6 samples, materials, or gifts provided to the practitioner; and
- 7 (6) whether the practitioner was compensated by the
- 8 pharmaceutical representative for the contact and the amount of
- 9 compensation provided to the practitioner.
- 10 b. The board shall prescribe a form upon which pharmaceutical
- 11 representatives provide the information required pursuant to
- 12 subsection a. of this section.
- 13
- 14 8. The board shall establish proper conduct and professional
- 15 standards of practice for pharmaceutical representatives, including,
- 16 but not limited to, providing that no pharmaceutical representative
- 17 shall:
- 18 a. engage in any deceptive or misleading marketing of a
- 19 pharmaceutical, including the knowing concealment, suppression,
- 20 omission, misleading representation, or misstatement of any
- 21 material fact;
- 22 b. use a title or designation that could reasonably lead a
- 23 practitioner, or any employee or representative of a practitioner, to
- 24 believe that the pharmaceutical representative is licensed to practice
- 25 medicine and surgery, nursing, dentistry, optometry, pharmacy, or
- 26 other similar health occupation in this State, unless the
- 27 pharmaceutical representative currently holds such license; or
- 28 c. attend patient examinations without the consent of the
- 29 patient.
- 30
- 31 9. In addition to the provisions of section 8 of P.L.1978, c.73
- 32 (C.45:1-21), the board may suspend or revoke the license of a
- 33 pharmaceutical representative upon proof satisfactory to the board
- 34 that the pharmaceutical representative is guilty of grossly
- 35 unprofessional conduct, including a violation of any of the ethical
- 36 and professional standards established pursuant to section 8 of this
- 37 act, or any other violation of this act. No individual whose license
- 38 is revoked for any cause shall be granted a license under this act for
- 39 a period of two years from the date of revocation.
- 40
- 41 10. This act shall take effect on the 90th day next following
- 42 enactment, except that the New Jersey State Board of Medical
- 43 Examiners may take any anticipatory administrative action in
- 44 advance as shall be necessary for the implementation of this act.

STATEMENT

This bill requires the licensure of pharmaceutical representatives. Under the bill, licensing of pharmaceutical representatives will be conducted by the State Board of Medical Examiners, which will also have several powers and duties concerning the regulation of pharmaceutical representatives licensed under the bill.

“Pharmaceutical representative” is defined in the bill as an individual licensed by this State to engage in the marketing or promoting of pharmaceuticals to practitioners. To be eligible for licensure, an applicant must be at least 18 years of age, be of good moral character, complete a professional education course and provide sufficient evidence that the course was completed, provide any other information that the board may deem necessary, and pay any fees prescribed by the board.

The bill requires each pharmaceutical representative, as a condition of biennial license renewal, to complete a minimum of six hours of continuing education. The continuing education must include training in the areas of ethics, pharmacology, laws and regulations applicable to pharmaceutical marketing, prescription opioid drugs and alternatives to opioids for managing and treating pain, and any other areas the board may determine.

The bill provides that upon request, or at intervals of time determined by the board, but in no case less than once every two years, each pharmaceutical representative will provide the following information to the board:

(1) a list of practitioners within the State contacted by the pharmaceutical representative;

(2) the number of times each practitioner was contacted;

(3) the location and duration of each contact;

(4) the pharmaceuticals promoted during each contact;

(5) whether product samples, materials, or gifts of any value were provided to a practitioner, and the value of the product samples, materials, or gifts provided to the practitioner; and

(6) whether the practitioner was compensated by the pharmaceutical representative for the contact and the amount of compensation provided to the practitioner.

Under the bill, the board is required to establish proper conduct and professional standards of practice for pharmaceutical representatives. Among those standards adopted by the board, the bill requires that the standards ensure that no pharmaceutical representative will:

(1) engage in any deceptive or misleading marketing of a pharmaceutical, including the knowing concealment, suppression, omission, misleading representation, or misstatement of any material fact;

(2) use a title or designation that could reasonably lead a practitioner, or any employee or representative of a practitioner, to

1 believe that the pharmaceutical representative is licensed to practice
2 medicine and surgery, nursing, dentistry, optometry, pharmacy, or
3 other similar health occupation in this State, unless the
4 pharmaceutical representative currently holds such license; or
5 (3) attend patient examinations without the consent of the
6 patient.
7 Finally, the bill provides that the board may suspend or revoke
8 the license of a pharmaceutical representative upon proof
9 satisfactory to the board that the pharmaceutical representative is
10 guilty of grossly unprofessional conduct, including a violation of
11 any of the proper conduct and professional standards established by
12 the board, or any other violation of the provisions of the bill.