

[First Reprint]

ASSEMBLY, No. 4143

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED MAY 11, 2020

Sponsored by:

Assemblyman HERB CONAWAY, JR.

District 7 (Burlington)

Assemblyman THOMAS P. GIBLIN

District 34 (Essex and Passaic)

Assemblywoman ANGELICA M. JIMENEZ

District 32 (Bergen and Hudson)

Co-Sponsored by:

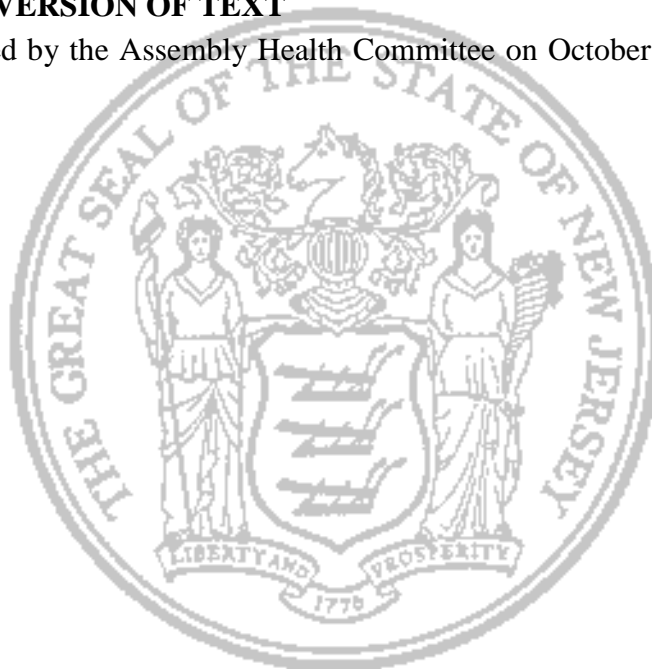
Assemblywomen Downey, Pinkin and McKnight

SYNOPSIS

“New Jersey Health Care Transparency Act.”

CURRENT VERSION OF TEXT

As reported by the Assembly Health Committee on October 22, 2020, with amendments.



(Sponsorship Updated As Of: 10/29/2020)

1 AN ACT concerning health care professionals and supplementing
2 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 “New Jersey
8 Health Care Transparency Act.”

9

10 2. The Legislature finds and declares that:

11 a. There are a multitude of professional degrees using the term
12 “doctor,” including “medical doctor” (M.D.); “doctor of osteopathy”
13 (D.O.); “doctor of dental surgery” (D.D.S.); ¹“doctor of medicine in
14 dentistry” (D.M.D.);¹ “doctor of podiatric medicine” (D.P.M.); “doctor
15 of optometry” (O.D.); “doctor of chiropractic” (D.C.); “doctor of
16 nursing” (D.N.); ¹“doctor of psychology” (PhD);”¹ and other
17 designations which may be used by health care professionals.

18 b. A July 2018 study by the American Medical Association found
19 that 27 percent of patients erroneously believe that a chiropractor is a
20 medical doctor; 39 percent of patients erroneously believe that a doctor
21 of nursing practice is a medical doctor; 43 percent of patients
22 erroneously believe that a psychologist is a medical doctor; 47 percent
23 of patients erroneously believe that an optometrist is a medical doctor;
24 and 67 percent of patients erroneously believe a podiatrist is a medical
25 doctor.

26 c. There are widespread differences regarding the training and
27 qualifications required to earn the degrees of the health care
28 professionals subject to P.L. , c. (C.) (pending before the
29 Legislature as this bill). These differences often concern the training
30 and skills necessary to correctly detect, diagnose, prevent ^{1,1} and treat
31 serious health care conditions.

32 d. There is a compelling ¹**[state]** State¹ interest in patients being
33 promptly and clearly informed of the training and qualifications of the
34 health care professionals who provide health care services.

35 e. There is a compelling ¹**[state]** State¹ interest in the public
36 being protected from potentially misleading and deceptive health care
37 advertising that might cause patients to have undue expectations
38 regarding their treatment and outcome.

39

40 3. As used in this act:

41 “Advertisement” means any communication or statement ¹that is
42 directly controlled or administered by a health care professional or a
43 health care professional’s office personnel¹, whether printed,
44 electronic or oral, that names the health care professional in relation to

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AHE committee amendments adopted October 22, 2020.

1 his or her practice, profession, or institution in which the individual is
2 employed, volunteers or otherwise provides health care services. This
3 includes business cards, letterhead, patient brochures, e-mail, Internet,
4 audio and video, and any other communication or statement used in
5 the course of business ¹or where the health care professional is
6 utilizing a professional degree or license to influence opinion or infer
7 expertise in a health care topic¹. “Advertisement” does not include
8 office building placards or exterior building signage.

9 “Health care professional” means a person licensed, certified,
10 registered or otherwise authorized ¹[by any entity designated in
11 section 2 of P.L.1978, c.73 (C.45:1-15)] pursuant to Title 45 or Title
12 52 of the Revised Statutes¹, or by any principal department of the
13 Executive Branch of State government or any entity within any
14 department or any other entity hereafter created to license or otherwise
15 regulate a health care profession. ¹“Health care professional” shall
16 include, but shall not be limited to, health care professionals regulated
17 by the following entities: the State Board of Medical Examiners, the
18 New Jersey Board of Nursing, the New Jersey State Board of
19 Dentistry, the New Jersey State Board of Optometrists, the Board of
20 Pharmacy, the State Board of Chiropractic Examiners, the
21 Acupuncture Examining Board, the State Board of Physical Therapy
22 Examiners, the Orthotics and Prosthetics Board of Examiners, the
23 State Board of Psychological Examiners, the State Board of Examiners
24 of Ophthalmic Dispensers and Ophthalmic Technicians, the Audiology
25 and Speech-Language Pathology Advisory Committee, the
26 Occupational Therapy Advisory Council and the Certified
27 Psychoanalysts Advisory Committee.¹ “Health care professional” ¹for
28 purposes of this act¹ does not include individuals licensed in
29 ¹[electrology; genetic counseling; massage and bodywork therapy;
30 mortuary science; or]¹ veterinarian medicine ¹or health care
31 professionals working in non-patient care settings, and who do not
32 have any direct patient care interactions¹.

33 ¹“Hospital” means an acute care general hospital licensed pursuant
34 to P.L.1971, c.136 (C.26:2H-1 et seq.).¹

35 “Licensee” means a health care professional with an active New
36 Jersey license, certification, registration, or other valid authorization.

37 ¹“Long-term care facility” means a nursing home, assisted living
38 residence, comprehensive personal care home, residential health care
39 facility, or dementia care home licensed pursuant to P.L.1971, c.136
40 (C.26:2H-1 et seq.).¹

41 ¹“Professional degree” means the academic degree conferred to a
42 health care professional, including, but not limited to, “medical
43 doctor” (M.D.); “doctor of osteopathy” (D.O.); “doctor of dental
44 surgery” (D.D.S.); “doctor of medicine in dentistry” (D.M.D.); “doctor
45 of podiatric medicine” (D.P.M.); “doctor of optometry” (O.D.);
46 “doctor of chiropractic” (D.C.); and “doctor of nursing” (D.N.).

1 “Professional license” means the credential issued by the State to
2 identify the profession practiced by a health care professional,
3 including, but not limited to, “physician,” “chiropractor,” “advanced
4 practice nurse,” “dentist,” “optometrist,” “psychologist,” “physician
5 assistant,” “acupuncturist,” and “podiatrist.”¹

6
7 4. a. An advertisement for health care services that includes the
8 name of a health care professional shall identify the type of
9 **1[licensure] professional license and professional degree**¹ issued to
10 the health care professional and shall not contain deceptive or
11 misleading information, including, but not limited to, any affirmative
12 communication or representation that misstates, falsely describes,
13 holds out, or falsely details the health care professional’s skills,
14 training, expertise, education, public or private board certification, or
15 licensure.

16 b. **1[A]** When providing in-person care, a¹ health care
17 professional shall communicate the **1[specific licensure] professional**
18 **licensure and professional degree**¹ held by the professional in the
19 following formats:

20 (1) a name tag **1or embroidered identification**¹ to be worn during
21 all patient encounters that is to include **1at a minimum**¹:

22 (a) **1[a recent photograph of the health care professional]** the full
23 name of the health care professional; however, in a hospital, licensed
24 ambulatory care facility or behavioral health care facility, or long-
25 term care facility and at the discretion of facility administrators, either
26 the health care professional’s full first name and last name or the full
27 first name and first letter of the last name¹;

28 (b) **1[the full name of the health care professional]** the professional
29 license and professional degree issued to the health care professional¹;
30 **1and**¹

31 (c) **1[the profession in which the health care professional is**
32 licensed ;and

33 (d) the expiration date of the health care professional’s active
34 license **1a recent photograph of the health care professional if**
35 **providing direct patient care at a hospital, unless otherwise directed by**
36 **hospital administrators**¹; and

37 (2) a poster or other **1[writing] signage**¹, in font of a sufficient
38 size, placed in a clear and conspicuous manner **1[in] at**¹ the office or
39 offices where the health care professional provides health care services
40 **1to scheduled patients in an ambulatory setting,**¹ that states the type of
41 **1[licensure] professional license and professional degree**¹ held by the
42 health care professional. **1For purposes of this subsection, “office”**
43 **does not include in-patient hospital or emergency department patient**
44 **care.**

45 This subsection shall not apply to telehealth or telemedicine
46 services authorized under P.L.2017, c.117 (C.45:1-61 et al.).¹

1 c. A medical doctor or doctor of osteopathic medicine who
2 supervises or participates in collaborative practice agreements with
3 ¹~~non-medical doctor or non-osteopathic doctor~~ non-physician¹
4 health care professionals ¹, including, but not limited to, physician
5 assistants and advance practice nurses, who provide in-person patient
6 care at the same practice location¹ shall be required to clearly and
7 conspicuously post in each office ¹~~where the medical doctor or doctor~~
8 ~~of osteopathic medicine provides services the schedule of regular~~
9 ~~hours the~~ when a¹ medical doctor or doctor of osteopathic medicine
10 ¹~~are~~ is¹ present ¹~~in each office~~. For purposes of this subsection,
11 “office” does not include in-patient hospital or emergency department
12 patient care¹.

13 ¹d. A medical doctor or doctor of osteopathic medicine shall not
14 advertise or hold oneself out to the public in any manner as being
15 certified by a public or private board, including, but not limited to, a
16 multidisciplinary board, or as “board certified” unless the board either:

17 (1) is a member of the American Board of Medical Specialties
18 (ABMS) or the American Osteopathic Association (AOA); or

19 (2) is a non-ABMS or non-AOA board that requires as
20 prerequisites for issuing certification:

21 (a) successful completion of a post-graduate training program
22 approved by the Accreditation Council for Graduate Medical
23 Education (ACGME) or the AOA that provides complete training in
24 the specialty or subspecialty certified by the non-ABMS or non-AOA
25 board;

26 (b) certification by an ABMS or AOA board covering that training
27 field that provides complete ACGME- or AOA-accredited training in
28 the specialty or subspecialty certified by the non-ABMS or non-AOA
29 board; and

30 (c) successful passage of examination in the specialty or
31 subspecialty certified by the non-ABMS or non-AOA board.

32 Any advertisement for a medical doctor or doctor of osteopathic
33 medicine shall state the full name of the certification board.

34 e. The Division of Consumer Affairs in the Department of Law and
35 Public Safety shall adopt rules and regulations, in accordance with the
36 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.),
37 as are necessary to effectuate the provisions of subsections a. and b. of
38 this section.¹

39
40 5. a. In addition to any practice declared unlawful pursuant to
41 P.L.1978, c.73 (C.45:1-14 et seq.), it shall be unlawful for a health
42 care professional to ¹~~engage in the following:~~

43 1) Knowingly aiding, abetting, permitting, advising, or procuring
44 an unlicensed person or entity to practice or engage in acts contrary to
45 the profession practiced by the health care professional;

46 (2) Delegating or contracting for the performance of health care
47 services by a health care professional when the individual delegating

1 or contracting for performance knows, or has reason to know, that the
2 individual does not have the required authority under a professional
3 license to delegate or contract for performance; or

4 (3) Any other failure to comply with any provision of section 4 of
5 P.L. , c. (C.) (pending before the Legislature as this bill).

6 b. Each day of a failure to comply with any provision of section 4
7 of P.L. , c. (C.) (pending before the Legislature as this bill)
8 shall constitute a separate and punishable offense.

9 c. Any fees or other amounts billed to a patient by a health care
10 professional found in violation of section 4 of P.L. , c. (C.)
11 (pending before the Legislature as this bill) shall be effectively
12 rescinded, or refunded. This includes third parties contracted to collect
13 fees on behalf of a health care professional, the health care
14 professional's employer, or other entities contracting with the health
15 care professional.

16 d. Any imposition of professional sanctions, administrative fees,
17 or other disciplinary action taken by the appropriate State entity shall
18 be publicly reported in means determined by that State entity **fail to**
19 comply with any provision of section 4 of P.L. , c. (C.)(pending
20 before the Legislature as this bill)¹.

21 ¹b. Nothing in P.L. , c. (C.) (pending before the Legislature
22 as this bill) shall be construed to impose liability on news media that
23 accept or publish advertising that may fall within the scope of P.L. ,
24 c. (C.) (pending before the Legislature as this bill).¹

25

26 6. If any of ¹the¹ provisions of P.L. , c. (C.) (pending
27 before the Legislature as this bill) or its application to any person or
28 circumstance is held to be invalid, the invalidity shall not affect any
29 other provision or application of P.L. , c. (C.) (pending
30 before the Legislature as this bill) ¹**[.]**¹ which can be given effect
31 without the invalid provision or application and, to this end, the
32 provisions of P.L. , c. (C.) (pending before the Legislature
33 as this bill) are severable.

34

35 ¹7. Nothing in this act shall be construed to limit a licensing
36 board authorized under Title 45 or Title 52 of the Revised Statutes,
37 or limit any principal department of the Executive Branch of State
38 government or any entity within any department or any other entity
39 hereafter created to license or otherwise regulate a health care
40 profession to adopt more stringent standards for its licensees.¹

41

42 ¹**[7.]** 8.¹ This act shall take effect on the first day of the
43 seventh month next following enactment.