

SENATE SUBSTITUTE FOR
SENATE, No. 846

STATE OF NEW JERSEY
219th LEGISLATURE

ADOPTED NOVEMBER 16, 2020

Sponsored by:

Senator NELLIE POU

District 35 (Bergen and Passaic)

Senator GERALD CARDINALE

District 39 (Bergen and Passaic)

SYNOPSIS

Expands number of health care professions profiled under “New Jersey Health Care Consumer Information Act.”

CURRENT VERSION OF TEXT

Substitute as adopted by the Senate.



1 **AN ACT** concerning health care professionals, and amending
2 P.L.2003, c.96 (C.45:9-22.21 et seq.).

3

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

6

7 1. Section 2 of P.L.2003, c.96 (C.45:9-22.22) is amended to
8 read:

9 2. a. The Division of Consumer Affairs in the Department of
10 Law and Public Safety, in consultation with the **State Board of**
11 **Medical Examiners and the New Jersey State Board of**
12 **Optometrists** State boards that regulate health care professions,
13 shall collect and maintain information concerning all **physicians,**
14 **podiatrists and optometrists, respectively** health care
15 professionals, as defined pursuant to P.L.2002, c.104 (C.45:1-28),
16 licensed in the State for the purpose of creating a profile of each
17 **physician, podiatrist and optometrist** health care professional
18 pursuant to this act. The profiles shall be made available to the
19 public through electronic and other appropriate means, at no charge
20 to the public. The division shall establish a toll-free telephone
21 number for members of the public to contact the division to obtain a
22 paper copy of a **physician, podiatrist or optometrist** health care
23 professional's profile and to make other inquiries about the profiles.

24 b. A **physician, podiatrist or optometrist** health care
25 professional shall be required to provide the appropriate board or
26 division or its designated agent with any information necessary to
27 complete the profile as provided in section 3 of this act.

28 c. **Either** A board may request any additional information it
29 deems necessary to complete the profiles on the **biennial** license
30 renewal form submitted by **physicians, podiatrists and**
31 **optometrists** health care professionals, as applicable.

32 d. The appropriate board shall provide to the division or its
33 designated agent any information required pursuant to this act that
34 is available to the board concerning a **physician, podiatrist or**
35 **optometrist** health care professional, for the purpose of creating
36 the **physician, podiatrist and optometrist** health care
37 professional's **profiles** profile.

38 e. The Division of Consumer Affairs shall provide on the web-
39 based License Verification System maintained by the division a
40 disclaimer that the License Verification System only contains
41 information on the license status of a health care professional and
42 extensive background information on New Jersey-licensed health care
43 professionals is available on the public website maintained by the
44 division under the requirements of the "New Jersey Health Care
45 Consumer Information Act," P.L.2003, c.96 (C.45:9-22.21 et seq.).

46 (c.f. P.L.2004, c.115, s.5)

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.

1 2. Section 3 of P.L.2003, c.96 (C.45:9-22.23) is amended to
2 read:

3 3. a. The following information shall be included for each
4 profile of a **【physician, podiatrist or optometrist】** health care
5 professional, as applicable:

6 (1) Name of all **【medical or optometry】** schools, programs, or
7 any other course of study attended for the purpose of obtaining the
8 education required by the board regulating the health care
9 profession in which the health care professional is licensed and
10 dates of graduation;

11 (2) Graduate **【medical or optometry】** education, if applicable,
12 including all internships, residencies and fellowships;

13 (3) Year first licensed;

14 (4) Year first licensed in New Jersey;

15 (5) Location of the **【physician's, podiatrist's or optometrist's**
16 **office practice】** site or sites, as applicable, where the health care
17 professional performs the services the individual is licensed to
18 perform;

19 (6) A description of any criminal convictions for crimes of the
20 first, second, third or fourth degree within the most recent 10 years.
21 For the purposes of this paragraph, a person shall be deemed to be
22 convicted of a crime if the individual pleaded guilty or was found or
23 adjudged guilty by a court of competent jurisdiction. The
24 description of criminal convictions shall not include any
25 convictions that have been expunged. The following statement shall
26 be included **【with the information】** in the segment of the profiles of
27 physicians, optometrists, or midwives about criminal convictions:
28 "Information provided in this section may not be comprehensive.
29 Courts in New Jersey are required by law to provide information
30 about criminal convictions to the State Board of Medical Examiners
31 **【(or, the New Jersey State Board of Optometrists, or the**
32 **Midwifery Committee of the State Board of Medical**
33 **Examiners【】】**.";

34 (7) A description of any final board disciplinary actions within
35 the most recent 10 years, except that any such disciplinary action
36 that is being appealed shall be identified;

37 (8) A description of any final disciplinary actions by appropriate
38 licensing boards in other states within the most recent 10 years,
39 except that any such disciplinary action that is being appealed shall
40 be identified. **【The】** For a New Jersey-licensed physician, the
41 following statement shall be included with the information about
42 disciplinary actions in other states: "Information provided in this
43 section may not be comprehensive. The State Board of Medical
44 Examiners (or the New Jersey State Board of Optometrists) receives
45 information about disciplinary actions in other states from

1 physicians (or optometrists) themselves and outside sources.";

2 (9) **【In the case of physicians and podiatrists, a】** A description
3 of: the revocation or involuntary restriction of privileges at a New
4 Jersey-based or out-of-State health care facility for reasons related
5 to the practitioner's competence or misconduct or impairment taken
6 by a health care facility's governing body or any other official of the
7 health care facility after procedural due process has been afforded;
8 the resignation from or nonrenewal of **【medical】** staff membership
9 at the health care facility for reasons related to the practitioner's
10 competence or misconduct or impairment; or the restriction of
11 privileges at a health care facility taken in lieu of or in settlement of
12 a pending disciplinary case related to the practitioner's competence
13 or misconduct or impairment. Only those cases that have occurred
14 within the most recent 10 years **【and that were reported by the**
15 **health care facility pursuant to section 2 of P.L.2005, c.83**
16 **(C.26:2H-12.2b)】** shall be included in the profile; and

17 (10) All **【medical】** malpractice court judgments and all
18 **【medical】** malpractice arbitration awards reported to the applicable
19 board, in which a payment has been awarded to the complaining
20 party during the most recent five years, and all settlements of
21 **【medical】** malpractice claims reported to the board, in which a
22 payment is made to the complaining party within the most recent
23 five years, as follows:

24 (a) Pending **【medical】** malpractice claims shall not be included
25 in the profile and information on pending **【medical】** malpractice
26 claims shall not be disclosed to the public;

27 (b) A **【medical】** malpractice judgment that is being appealed
28 shall be so identified;

29 (c) The context in which the payment of a **【medical】**
30 malpractice claim occurs shall be identified by categorizing the
31 number of judgments, arbitration awards and settlements against the
32 **【physician, podiatrist or optometrist】** health care professional into
33 three graduated categories: average, above average and below
34 average number of judgments, arbitration awards and settlements.
35 These groupings shall be arrived at by comparing the number of an
36 individual **【physician's, podiatrist's or optometrist's medical】** health
37 care professional's malpractice judgments, arbitration awards and
38 settlements to the experience of other **【physicians, podiatrists or**
39 **optometrists】** health care professionals within the same **【speciality】**
40 specialty. In addition to any information provided by a **【physician,**
41 **podiatrist or optometrist】** health care professional, an insurer or
42 insurance association authorized to issue **【medical】** malpractice
43 liability insurance in the State shall, at the request of the division,
44 provide data and information necessary to effectuate this
45 subparagraph; and

1 (d) The following statement shall be included with the
2 information concerning **【medical】** malpractice judgments,
3 arbitration awards and settlements: "Settlement of a claim and, in
4 particular, the dollar amount of the settlement may occur for a
5 variety of reasons, which do not necessarily reflect negatively on
6 the professional competence or conduct of **【the physician (or**
7 **podiatrist or optometrist)】** this health care professional. A payment
8 in settlement of a **【medical】** malpractice action or claim should not
9 be construed as creating a presumption that **【medical】** malpractice
10 has occurred.";

11 (11) A description of violations of the "New Jersey Insurance
12 Fraud Prevention Act," P.L.1983, c.320 (C.17:33A-1 et seq.) within
13 the most recent five years;

14 (12) A description of Medicaid and Medicare exclusions
15 pursuant to section 1320a-7 of the federal "Social Security Act;"

16 (13) Any actions taken by federal regulators, including the
17 United States Food and Drug Administration and the Drug
18 Enforcement Agency; and

19 (14) Any other information as determined by the director
20 pursuant to regulation.

21 b. If requested by a **【physician, podiatrist or optometrist】**
22 health care professional, the following information shall be
23 included in **【a physician's, podiatrist's or optometrist's】** that health
24 care professional's profile:

25 (1) Names of the **【hospitals】** health care facilities where the
26 **【physician, podiatrist or optometrist】** health care professional has
27 privileges;

28 (2) Appointments of the **【physician or podiatrist】** health care
29 professional to **【medical school faculties, or the optometrist to**
30 **optometry school】** faculties of schools, programs, or any other
31 course of study providing the required education for the health care
32 profession in which the health care professional is licensed, within
33 the most recent 10 years;

34 (3) Information regarding any board certification granted by a
35 specialty board or other certifying entity recognized by **【the**
36 **American Board of Medical Specialties, the American Osteopathic**
37 **Association or the American Board of Podiatric Medicine or by any**
38 **other】** national professional **【organization】** organizations that **【has**
39 **have been demonstrated to have comparable standards】** represent
40 the health care professions licensed by the Division of Consumer
41 Affairs;

42 (4) Information regarding any translating services that may be
43 available at the **【physician's, podiatrist's or optometrist's office**
44 **practice】** site or sites where the health care professional performs
45 the services for which the individual is licensed to perform, as

1 applicable, or languages other than English that are spoken by the
2 **【physician, podiatrist or optometrist】** health care professional;

3 (5) Information regarding whether the **【physician, podiatrist or**
4 **optometrist】** health care professional participates in the Medicaid
5 program or accepts assignment under the Medicare program;

6 (6) Information regarding the **【medical】** health insurance plans
7 in which the **【physician, podiatrist or optometrist】** health care
8 professional is a participating provider;

9 (7) Information concerning the hours during which the
10 **【physician, podiatrist or optometrist conducts his practice】** health
11 care professional performs the services for which the individual is
12 licensed to perform; and

13 (8) Information concerning accessibility of the practice site or
14 sites, as applicable, to persons with disabilities.

15 The following disclaimer shall be included with the information
16 supplied by the **【physician, podiatrist or optometrist】** health care
17 professional pursuant to this subsection: "This information has
18 been provided by the **【physician (or podiatrist or optometrist)】**
19 health care professional but has not been independently verified by
20 the **【State Board of Medical Examiners (or the New Jersey State**
21 **Board of Optometrists)】** board under which this individual is
22 licensed or the Division of Consumer Affairs."

23 If the **【physician, podiatrist or optometrist】** health care
24 professional includes information regarding **【medical】** insurance
25 plans in which the practitioner is a participating provider, the
26 following disclaimer shall be included with that information: "This
27 information may be subject to change. Contact your health benefits
28 plan to verify if **【the physician (or podiatrist or optometrist)】** this
29 health care professional currently participates in the plan."

30 c. Before a profile is made available to the public, each
31 **【physician, podiatrist or optometrist】** health care professional shall
32 be provided with a copy of his profile. The **【physician, podiatrist or**
33 **optometrist】** health care professional shall be given 30 calendar
34 days to correct a factual inaccuracy that may appear in the profile
35 and so advise the Division of Consumer Affairs or its designated
36 agent; however, upon receipt of a written request that the division
37 or its designated agent deems reasonable, the **【physician, podiatrist**
38 **or optometrist】** health care professional may be granted an
39 extension of up to 15 calendar days to correct a factual inaccuracy
40 and so advise the division or its designated agent.

41 d. If new information or a change in existing information is
42 received by the division concerning a **【physician, podiatrist or**
43 **optometrist】** health care professional, **【the physician, podiatrist or**
44 **optometrist】** that professional shall be provided with a copy of the
45 proposed revision and shall be given 30 calendar days to correct a

1 factual inaccuracy and to return the corrected information to the
2 division or its designated agent.

3 e. The profile and any revisions thereto shall not be made
4 available to the public until after the review period provided for in
5 this section has lapsed.
6 (c.f. P.L.2005, c.83, s.18)

7
8 3. Section 4 of P.L.2003, c.96 (C.45:9-22.24) is amended to
9 read:

10 4. The Division of Consumer Affairs may contract with a
11 public or private entity for the purpose of developing, administering
12 and maintaining the **【physician, podiatrist and optometrist】** profiles
13 of health care professionals required pursuant to this act.

14 a. The contract shall specify the duties and responsibilities of
15 the entity with respect to the development, administration and
16 maintenance of the profile. The contract shall specify the duties
17 and responsibilities of the division with respect to providing the
18 information required pursuant to section 3 of this act to the entity
19 on a regular and timely basis.

20 b. The contract shall specify that any identifying information
21 concerning a **【physician, podiatrist or optometrist】** health care
22 professional provided to the entity by the division, **【the State Board**
23 **of Medical Examiners, or the New Jersey State Board of**
24 **Optometrists or the optometrist or】** relevant licensing board,
25 **【respectively,】** or the **【physician or podiatrist】** health care
26 professional shall be used only for the purpose of the profile.

27 c. The division shall monitor the work of the entity to ensure
28 that **【physician, podiatrist and optometrist】** profiles on health care
29 professionals are properly developed and maintained pursuant to the
30 requirements of this act.

31 (c.f. P.L.2004, c.115, s.7)

32
33 4. Section 8 of P.L.2003, c.96 (C.45:9-22.25) is amended to
34 read:

35 8. Within 180 days of the effective date of this act, the Director
36 of the Division of Consumer Affairs in the Department of Law and
37 Public Safety, in consultation with the **【State Board of Medical**
38 **Examiners and the New Jersey State Board of Optometrists】**
39 relevant licensing boards, shall adopt regulations pursuant to the
40 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
41 seq.) necessary to effectuate the purposes of this act.

42 (c.f. P.L.2004, c.115, s.9)

43
44 5. This act shall take effect on the first day of the thirteenth month
45 next following enactment.

STATEMENT

This bill, a floor substitute for Senate Bill no. S846, would amend the “New Jersey Health Care Consumer Information Act,” P.L.2003, c.96 (C.45:9-22.21 et seq.) by requiring the Division of Consumer Affairs to develop and maintain publicly-accessible profiles of all health care professionals licensed by the division. Currently, only physicians, podiatrists, and optometrists have such profiles. The bill would incorporate, as applicable, these health care professions into the current statute.

The bill would also expand the information collected for a profile on a health care professional to include: 1) restrictions placed on health care professionals in New Jersey-based or out-of-State facilities; 2) any Medicare or Medicaid exclusions; 3) any actions taken by federal regulators such as the U.S. Food and Drug Administration or Drug Enforcement Agency; and 4) any other information required pursuant to regulation from the Division of Consumer Affairs.

The bill would also require the division to post on the website it maintains for the License Verification System a disclaimer that the verification system only contains information on the license status of health care professionals and that extensive background information on New Jersey-licensed health care professionals is available at the website maintained by the division under the requirements of the “New Jersey Health Care Consumer Information Act,” P.L.2003, c.96 (C.45:9-22.21 et seq.).

Lastly, the bill would establish an effective date of the first day of the tenth month next following enactment.