

[Second Reprint]

SENATE, No. 2465

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED MAY 11, 2020

Sponsored by:

Senator STEPHEN M. SWEENEY

District 3 (Cumberland, Gloucester and Salem)

SYNOPSIS

“New Jersey Health Care Transparency Act.”

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on August 25, 2020, with amendments.



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.); ²“doctor of medicine in
14 dentistry” (D.M.D.);² “doctor of podiatric medicine” (D.P.M.); “doctor
15 of optometry” (O.D.); “doctor of chiropractic” (D.C.); “doctor of
16 nursing” (D.N.); ²“doctor of psychology” (PhD);”² 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 ²that is
42 directly controlled or administered by a health care professional or a
43 health care professional’s office personnel², whether printed,
44 electronic or oral, that names the health care professional in relation

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:

¹Senate SHH committee amendments adopted June 11, 2020.

²Senate SBA committee amendments adopted August 25, 2020.

1 to his or her practice, profession, or institution in which the
2 individual is employed, volunteers or otherwise provides health care
3 services. This includes business cards, letterhead, patient brochures,
4 e-mail, Internet, audio and video, and any other communication or
5 statement used in the course of business ²or where the health care
6 professional is utilizing a professional degree or license to influence
7 opinion or infer expertise in a health care topic². “Advertisement”
8 does not include office building placards or exterior building
9 signage.

10 “Health care professional” means a person licensed, certified,
11 registered or otherwise authorized ²[by any entity designated in
12 section 2 of P.L.1978, c.73 (C.45:1-15)] pursuant to Title 45 or Title
13 52 of the Revised Statutes², or by any principal department of the
14 Executive Branch of State government or any entity within any
15 department or any other entity hereafter created to license or
16 otherwise regulate a health care profession. ²“Health care
17 professional” shall include, but shall not be limited to, health care
18 professionals regulated by the following entities: the State Board of
19 Medical Examiners, the New Jersey Board of Nursing, the New Jersey
20 State Board of Dentistry, the New Jersey State Board of Optometrists,
21 the Board of Pharmacy, the State Board of Chiropractic Examiners, the
22 Acupuncture Examining Board, the State Board of Physical Therapy
23 Examiners, the Orthotics and Prosthetics Board of Examiners, the
24 State Board of Psychological Examiners, the State Board of Examiners
25 of Ophthalmic Dispensers and Ophthalmic Technicians, the Audiology
26 and Speech-Language Pathology Advisory Committee, the
27 Occupational Therapy Advisory Council and the Certified
28 Psychoanalysts Advisory Committee.² “Health care professional”
29 ²for purposes of this act² does not include individuals licensed in
30 ²[electrology; genetic counseling; massage and bodywork therapy;
31 mortuary science; or]² veterinarian medicine ²or health care
32 professionals working in non-patient care settings, and who do not
33 have any direct patient care interactions².

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

37 ²“Professional degree” means the academic degree conferred to a
38 health care professional, including, but not limited to, “medical
39 doctor” (M.D.); “doctor of osteopathy” (D.O.); “doctor of dental
40 surgery” (D.D.S.); “doctor of medicine in dentistry” (D.M.D.);
41 “doctor of podiatric medicine” (D.P.M.); “doctor of optometry”
42 (O.D.); “doctor of chiropractic” (D.C.); and “doctor of nursing”
43 (D.N.).

44 “Professional license” means the credential issued by the State to
45 identify the profession practiced by a health care professional,
46 including, but not limited to, “physician,” “chiropractor,”
47 “advanced practice nurse,” “dentist,” “optometrist,”

1 “psychologist,” “physician assistant,” “acupuncturist,” and
2 “podiatrist.”²

3
4 4. a. An advertisement for health care services that includes the
5 name of a health care professional shall identify the type of
6 ²“licensure” professional license and professional degree² issued to
7 the health care professional and shall not contain deceptive or
8 misleading information, including, but not limited to, any affirmative
9 communication or representation that misstates, falsely describes,
10 holds out, or falsely details the health care professional’s skills,
11 training, expertise, education, public or private board certification, or
12 licensure.

13 b. ²“A” When providing in-person care, a² health care
14 professional shall communicate the ²“specific licensure” professional
15 licensure and professional degree² held by the professional in the
16 following formats:

17 (1) a name tag ²“or embroidered identification”² to be worn during
18 all patient encounters that is to include ²“at a minimum”²:

19 (a) ²“a recent photograph of the health care professional” the full
20 name of the health care professional; however, in a hospital setting and
21 at the discretion of hospital administrators, either the health care
22 professional’s full first name and last name or the full first name and
23 first letter of the last name²;

24 (b) ²“the full name of the health care professional” the
25 professional license and professional degree issued to the health care
26 professional²; ²“and”²

27 (c) ²“the profession in which the health care professional is
28 licensed”;and

29 (d) the expiration date of the health care professional’s active
30 license” a recent photograph of the health care professional if
31 providing direct patient care at a hospital, unless otherwise directed by
32 hospital administrators²; and

33 (2) a poster or other ²“writing” signage², in font of a sufficient
34 size, placed in a clear and conspicuous manner ²“in” at² the office or
35 offices where the health care professional provides health care services
36 ²“to scheduled patients in an ambulatory setting”^{21, 1} that states the type
37 of ²“licensure” professional license and professional degree²held by
38 the health care professional. ²“For purposes of this subsection, “office”
39 does not include in-patient hospital or emergency department patient
40 care.

41 This subsection shall not apply to telehealth or telemedicine
42 services authorized under P.L.2017, c.117 (C.45:1-61 et al.).²

43 c. A medical doctor or doctor of osteopathic medicine who
44 supervises or participates in collaborative practice agreements with
45 ²“non-medical doctor or non-osteopathic doctor” non-physician²
46 health care professionals², including, but not limited to, physician

1 assistants and advance practice nurses, who provide in-person patient
 2 care at the same practice location² shall be required to clearly and
 3 conspicuously post in each office ²【where the medical doctor or
 4 doctor of osteopathic medicine provides services the schedule of
 5 regular hours the】 when a² medical doctor or doctor of osteopathic
 6 medicine ¹【are】 is¹ present ²【in each office】. For purposes of this
 7 subsection, “office” does not include in-patient hospital or emergency
 8 department patient care².

9 ²d. A medical doctor or doctor of osteopathic medicine shall not
 10 advertise or hold oneself out to the public in any manner as being
 11 certified by a public or private board, including, but not limited to, a
 12 multidisciplinary board, or as “board certified” unless the board either:

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

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

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

22 (b) certification by an ABMS or AOA board covering that training
 23 field that provides complete ACGME- or AOA-accredited training in
 24 the specialty or subspecialty certified by the non-ABMS or non-AOA
 25 board; and

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

28 Any advertisement for a medical doctor or doctor of osteopathic
 29 medicine shall state the full name of the certification board.²

30
 31 5. a. In addition to any practice declared unlawful pursuant to
 32 P.L.1978, c.73 (C.45:1-14 et seq.), it shall be unlawful for a health
 33 care professional to ²【engage in the following:

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

37 (2) Delegating or contracting for the performance of health care
 38 services by a health care professional when the individual delegating
 39 or contracting for performance knows, or has reason to know, that the
 40 individual does not have the required authority under a professional
 41 license to delegate or contract for performance; or

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

44 b. Each day ¹【of a failure】 during which a health care professional
 45 fails¹ to comply with any provision of section 4 of P.L. , c.
 46 (C.) (pending before the Legislature as this bill) shall constitute a
 47 separate and punishable offense.

c. Any fees or other amounts billed to a patient by a health care professional found in violation of section 4 of P.L. , c. (C.) (pending before the Legislature as this bill) shall be effectively rescinded ¹['.']¹ or refunded ¹['. This includes'] , including any fees or amounts collected by¹ third parties ¹['contracted to collect fees']¹ on behalf of a health care professional, the health care professional's employer, or other entities contracting with the health care professional.

d. Any imposition of professional sanctions, administrative fees, or other disciplinary action taken by the appropriate State entity shall be publicly reported in ¹['means determined'] the form and manner prescribed¹ by that State entity ¹['fail to comply with any provision of section 4 of P.L. , c. (C.)](pending before the Legislature as this bill)².

²['e'] b². Nothing in P.L. , c. (C.) (pending before the Legislature as this bill) shall be construed to impose liability on news media that accept or publish advertising that may fall within the scope of P.L. , c. (C.) (pending before the Legislature as this bill).¹

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

²7. Nothing in this act shall be construed to limit a licensing board authorized under Title 45 or Title 52 of the Revised Statutes, or limit any principal department of the Executive Branch of State government or any entity within any department or any other entity hereafter created to license or otherwise regulate a health care profession to adopt more stringent standards for its licensees.²

²['7.'] 8.² This act shall take effect on the first day of the seventh month next following enactment.