

[Third 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)**

**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:**

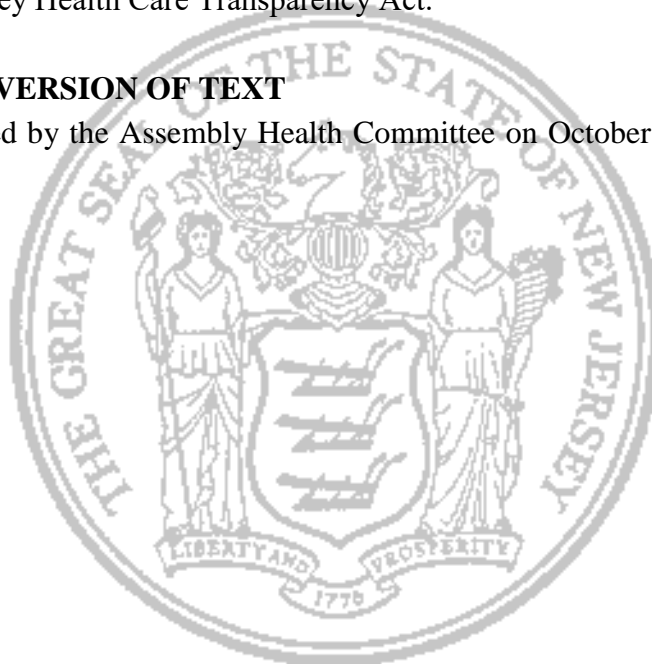
**Assemblywomen Downey, Pinkin and McKnight**

**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.); <sup>2</sup>“doctor of medicine in  
14 dentistry” (D.M.D.);<sup>2</sup> “doctor of podiatric medicine” (D.P.M.); “doctor  
15 of optometry” (O.D.); “doctor of chiropractic” (D.C.); “doctor of  
16 nursing” (D.N.); <sup>2</sup>“doctor of psychology” (PhD);”<sup>2</sup> 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 <sup>1,1</sup> and treat  
31 serious health care conditions.

32 d. There is a compelling <sup>1</sup>**[state]** State<sup>1</sup> 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 <sup>1</sup>**[state]** State<sup>1</sup> 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 <sup>2</sup>that is  
42 directly controlled or administered by a health care professional or a  
43 health care professional’s office personnel<sup>2</sup>, whether printed,  
44 electronic or oral, that names the health care professional in relation to  
45 his or her practice, profession, or institution in which the individual is

**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:

<sup>1</sup>Senate SHH committee amendments adopted June 11, 2020.

<sup>2</sup>Senate SBA committee amendments adopted August 25, 2020.

<sup>3</sup>Assembly AHE committee amendments adopted October 22, 2020.

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

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

32 <sup>3</sup>“Hospital” means an acute care general hospital licensed pursuant  
33 to P.L.1971, c.136 (C.26:2H-1 et seq.).<sup>3</sup>

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

36 <sup>3</sup>“Long-term care facility” means a nursing home, assisted living  
37 residence, comprehensive personal care home, residential health care  
38 facility, or dementia care home licensed pursuant to P.L.1971, c.136  
39 (C.26:2H-1 et seq.).<sup>3</sup>

40 <sup>2</sup>“Professional degree” means the academic degree conferred to a  
41 health care professional, including, but not limited to, “medical  
42 doctor” (M.D.); “doctor of osteopathy” (D.O.); “doctor of dental  
43 surgery” (D.D.S.); “doctor of medicine in dentistry” (D.M.D.); “doctor  
44 of podiatric medicine” (D.P.M.); “doctor of optometry” (O.D.);  
45 “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.”<sup>2</sup>  
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 <sup>2</sup>**[licensure]** professional license and professional degree<sup>2</sup> 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. <sup>2</sup>**[A]** When providing in-person care, a<sup>2</sup> health care  
17 professional shall communicate the <sup>2</sup>**[specific licensure]** professional  
18 licensure and professional degree<sup>2</sup> held by the professional in the  
19 following formats:

20 (1) a name tag <sup>2</sup>or embroidered identification<sup>2</sup> to be worn during  
21 all patient encounters that is to include <sup>2</sup>at a minimum<sup>2</sup>:

22 (a) <sup>2</sup>**[a recent photograph of the health care professional]** the full  
23 name of the health care professional; however, in a hospital <sup>3</sup>**[setting]**  
24 , licensed ambulatory care facility or behavioral health care facility,  
25 or long-term care facility<sup>3</sup> and at the discretion of <sup>3</sup>**[hospital]** facility<sup>3</sup>  
26 administrators, either the health care professional’s full first name and  
27 last name or the full first name and first letter of the last name<sup>2</sup>;

28 (b) <sup>2</sup>**[the full name of the health care professional]** the professional  
29 license and professional degree issued to the health care professional<sup>2</sup>,  
30 <sup>2</sup>and<sup>2</sup>

31 (c) <sup>2</sup>**[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] a recent photograph of the health care professional if  
35 providing direct patient care at a hospital, unless otherwise directed by  
36 hospital administrators<sup>2</sup>; and

37 (2) a poster or other <sup>2</sup>**[writing]** signage<sup>2</sup>, in font of a sufficient  
38 size, placed in a clear and conspicuous manner <sup>2</sup>**[in]** at<sup>2</sup> the office or  
39 offices where the health care professional provides health care services  
40 <sup>2</sup>to scheduled patients in an ambulatory setting<sup>21, 1</sup>, that states the type  
41 of <sup>2</sup>**[licensure]** professional license and professional degree<sup>2</sup> held by  
42 the health care professional. <sup>2</sup>For 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.).<sup>2</sup>

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

13 <sup>2</sup>d. 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.<sup>2</sup>

34 <sup>3</sup>e. The Division of Consumer Affairs in the Department of Law  
35 and Public Safety shall adopt rules and regulations, in accordance with  
36 the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et  
37 seq.), as are necessary to effectuate the provisions of subsections a.  
38 and b. of this section.<sup>3</sup>

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 <sup>2</sup>~~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 <sup>1</sup>of a failure during which a health care professional  
 7 fails<sup>1</sup> to comply with any provision of section 4 of P.L. , c.  
 8 (C. ) (pending before the Legislature as this bill) shall constitute a  
 9 separate and punishable offense.

10 c. Any fees or other amounts billed to a patient by a health care  
 11 professional found in violation of section 4 of P.L. , c. (C. )  
 12 (pending before the Legislature as this bill) shall be effectively  
 13 rescinded <sup>1</sup>or refunded <sup>1</sup>. This includes , including any fees or  
 14 amounts collected by<sup>1</sup> third parties <sup>1</sup>contracted to collect fees<sup>1</sup> on  
 15 behalf of a health care professional, the health care professional's  
 16 employer, or other entities contracting with the health care  
 17 professional.

18 d. Any imposition of professional sanctions, administrative fees,  
 19 or other disciplinary action taken by the appropriate State entity shall  
 20 be publicly reported in <sup>1</sup>means determined the form and manner  
 21 prescribed<sup>1</sup> by that State entity fail to comply with any provision of  
 22 section 4 of P.L. , c. (C. )(pending before the Legislature as this  
 23 bill)<sup>2</sup>.

24 <sup>2</sup>[e] b<sup>2</sup>. Nothing in P.L. , c. (C. ) (pending before the  
 25 Legislature as this bill) shall be construed to impose liability on news  
 26 media that accept or publish advertising that may fall within the scope  
 27 of P.L. , c. (C. ) (pending before the Legislature as this bill).<sup>1</sup>

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

37  
 38 <sup>2</sup>7. Nothing in this act shall be construed to limit a licensing  
 39 board authorized under Title 45 or Title 52 of the Revised Statutes,  
 40 or limit any principal department of the Executive Branch of State  
 41 government or any entity within any department or any other entity  
 42 hereafter created to license or otherwise regulate a health care  
 43 profession to adopt more stringent standards for its licensees.<sup>2</sup>

44  
 45 <sup>2</sup>[7.] 8.<sup>2</sup> This act shall take effect on the first day of the  
 46 seventh month next following enactment.