SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 2465

with committee amendments

STATE OF NEW JERSEY

DATED: AUGUST 24, 2020

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Senate Bill No. 2465 (1R).

As amended, this bill, which is designated as the "New Jersey Health Care Transparency Act," requires any advertisement for a health care professional licensed or certified to practice under State law to include the type of licensure the professional was issued. As amended, the term "advertisement" includes any communication or statement directly controlled by or administered by a health care professional or a health care professional's office personnel. The bill, includes "advertisement" to mean any situation where a health care professional is utilizing a professional degree or license to influence opinion or infer expertise in a health care topic. The definition of "health care professional" includes specific boards which regulate health care professions and modifies the definition of "health care professional" to exclude health care professionals in a non-patient care setting nor health care professionals who do not have any direct patient care interaction. Additionally, the bill includes definitions for "professional degree" and "professional license."

The bill requires advertisements to exclude deceptive or misleading information relating to the health care professional, including, but not limited to, any affirmative communication or representation that misstates, falsely describes, holds out, or falsely details the professional's skills, training, expertise, education, public or private board certification, or licensure.

The bill requires a health care professional to communicate, when providing in-person care, the specific professional license and professional degree the professional holds. Additionally, the bill permits a health care professional to communicate the information through a name tag or embroidered identification. The name tag or embroidery is to include, at a minimum, the full name of the health care professional. In a hospital setting and at the discretion of hospital administrators, the professional's name can be listed as the full first name and last name or the full first name and first initial of the last name. The bill requires the name tag or embroidery to also include the

professional degree and professional license of the health care professional. If a health care professional is providing direct patient care at a hospital, the professional is to wear a recent photograph, unless otherwise directed by hospital administrators.

Under the bill, a poster or other signage, in sufficiently-sized font, is to be placed at the office or offices where the health care professional provides health care services to scheduled patients in an ambulatory setting, and convey the professional license and professional degree held by the professional. The bill provides that "office" does include in-patient hospital or emergency department patient care. Additionally, the bill excludes telehealth and telemedicine services from the requirements regarding name tags and embroidery as well as posters and other signage.

Under the bill, a medical doctor or doctor of osteopathic medicine who supervises or participates in collaborative practice agreements with non-physician health care professionals who provide in-person patient care at the same practice location as the medical doctor or doctor of osteopathic medicine is required to post clearly and conspicuously in each office when the medical doctor or doctor of osteopathic medicine is present. As used in the bill, "office" does not include in-patient hospital or emergency department patient care.

The bill prohibits a medical doctor or doctor of osteopathic medicine from advertising or holding themselves out to the public as being certified by a public or private board unless the board is a member of the American Board of Medical Specialties (ABMS) or American Osteopathic Association (AOA) or is a non-ABMS or non-AOA board that requires following certain prerequisites for issuing certification.

The bill states that it shall be unlawful for a health care professional to fail to comply with certain provisions of the bill. The bill clarifies that nothing in its provisions is to be construed so as to impose liability on news media that accept or publish advertising that may fall within the scope of the bill. The bill also provides that nothing in the bill is to limit a licensing board, principal department of the Executive Branch of State government, or any entity within any department or any other entity created to regulate a health care profession to adopt more stringent standards for its licensees.

COMMITTEE AMENDMENTS:

The committee amendments:

1) clarify the specific boards and health care professions to which the bill's definitions apply;

2) stipulate which advertisements fall under the jurisdiction of the bill. The amendments also add definitions of "professional degree" and "professional license;"

3) clarify the types of identification a health care professional is to wear, the setting in which the identification is to be worn, and the information to be included in the identification;

4) stipulate the types of offices in which posters or signage are to be placed and the type of information to include on the poster or signage.

5) provide the requirements that, if met, allow a medical doctor or doctor of osteopathic medicine to publicly hold themselves out as "certified" or "board certified;"

6) clarify that it shall be unlawful for health care professionals to not comply with the provisions of the bill regarding name tags or embroidered identification as well as posters or signage; and

7) add language stating that a licensing board or any State entity created to license a health care profession can adopt more stringent standards for licensees.

FISCAL IMPACT:

The Office of Legislative Services (OLS) finds that the bill may cause indeterminate increases in annual State revenues and expenditures. The OLS, however, cannot assess the direction of the net effect of the two increases given the absence of information on the future cost of regulating licensed or certified health care professionals and potential penalty collections.

The OLS anticipates that the State may annually collect indeterminate fine and penalty payments from violators of statutory and regulatory requirements applicable to the bill's provisions. Pursuant to current State law, a violator may receive a civil penalty of $10,000 for
an initial violation and $20,000 for any subsequent violations.