

45:1-18

LEGISLATIVE HISTORY CHECKLIST

Compiled by the NJ State Law Library

LAWS OF: 2001 **CHAPTER:** 307
NJSA: 45:1-18 (Professional licensing boards—protecting public)
BILL NO: S1408 (Substituted forA2567)

SPONSOR(S): Martin

DATE INTRODUCED: June 15, 2000

COMMITTEE: **ASSEMBLY:** Consumer Affairs

SENATE: Commerce

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** November 29, 2001

SENATE: June 21, 2001

DATE OF APPROVAL: January 3, 2002

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (1st reprint enacted)

(Amendments during passage denoted by superscript numbers)

S1408

SPONSORS STATEMENT: (Begins on page 13 of original bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes

SENATE: Yes

FLOOR AMENDMENT STATEMENTS: No

LEGISLATIVE FISCAL NOTE: Yes

A2567

SPONSORS STATEMENT: (Begins on page 13 of original bill) Yes

Bill and Sponsors Statement identical to S1408

COMMITTEE STATEMENT:

ASSEMBLY: Yes

Identical to Assembly Statement to S1408

SENATE: No

FLOOR AMENDMENT STATEMENTS:

No

LEGISLATIVE FISCAL NOTE:

Yes

Identical to Fiscal Note to S1408

VETO MESSAGE:

No

GOVERNOR'S PRESS RELEASE ON SIGNING:

No

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government

Publications at the State Library (609) 278-2640 ext.103 or <mailto:refdesk@njstatelib.org>

REPORTS:

No

HEARINGS:

No

NEWSPAPER ARTICLES:

No

SENATE, No. 1408

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED JUNE 15, 2000

Sponsored by:

Senator ROBERT J. MARTIN

District 26 (Essex, Morris and Passaic)

SYNOPSIS

Concerns the ability of professional licensing boards to protect the public.

CURRENT VERSION OF TEXT

As introduced.



S1408 MARTIN

2

1 AN ACT concerning professional licensing boards and revising various
2 parts of the statutory law.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 5 of P.L.1978, c.73 (C.45:1-18) is amended to read as
8 follows:

9 5. Whenever it shall appear to any board, the director or the
10 Attorney General that a person has engaged in, or is engaging in any
11 act or practice declared unlawful by a statute or regulation
12 administered by such board, or when the board, the director or the
13 Attorney General shall deem it to be in the public interest to inquire
14 whether any such violation may exist, the board or the director
15 through the Attorney General, or the Attorney General acting
16 independently, may exercise any of the following investigative powers:

17 a. Require any person to file on such form as may be prescribed, a
18 statement or report in writing under oath, or otherwise, as to the facts
19 and circumstances concerning the rendition of any service or conduct
20 of any sale incidental to the discharge of any act or practice subject to
21 an act or regulation administered by the board;

22 b. Examine under oath any person in connection with any act or
23 practice subject to an act or regulation administered by the board;

24 c. Inspect any premises from which a **[licensed profession or**
25 **occupation] practice or activity subject to an act or regulation**
26 **administered by the board** is conducted;

27 d. Examine any goods, ware or item used in the rendition of **[any**
28 **professional or occupational service] a practice or activity subject to**
29 **an act or regulation administered by the board**;

30 e. Examine any record, book, document, account or paper
31 **prepared or** maintained by or for any professional or occupational
32 licensee in the regular course of practicing such profession or engaging
33 in such occupation **or any individual engaging in practices subject to**
34 **an act or regulation administered by the board.** **Nothing in this**
35 **subsection shall require the notification or consent of the person to**
36 **whom the record, book, account or paper pertains, unless otherwise**
37 **required by law**;

38 f. For the purpose of preserving evidence of an unlawful act or
39 practice, pursuant to an order of the Superior Court, impound any
40 record, book, document, account, paper, goods, ware, or item used,
41 **prepared** or maintained by or for any board licensee in the regular
42 course of practicing such profession or engaging in such occupation
43 **or any individual engaging in a practice or activity subject to an act or**

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 regulation administered by the board. In such cases as may be
2 necessary, the Superior Court may, on application of the Attorney
3 General, issue an order sealing items or material subject to this
4 subsection.

5 g. Require any board licensee, permit holder or registered or
6 certified person to submit to an assessment of skills to determine
7 whether the board licensee, permit holder or registered or certified
8 person can continue to practice with reasonable skill and safety; and

9 In order to accomplish the objectives of this act or any act or
10 regulation administered by a board, the Attorney General may hold
11 such investigative hearings as may be necessary and the board, director
12 or Attorney General may issue subpoenas to compel the attendance of
13 any person or the production of books, records or papers at any such
14 hearing or inquiry.

15 (cf: P.L.1978, c.73, s.5)

16

17 2. Section 9 of P.L.1978, c.73 (C.45:1-22) is amended to read as
18 follows:

19 9. In addition or as an alternative, as the case may be, to revoking,
20 suspending or refusing to renew any license, registration or certificate
21 issued by it, a board may, after affording an opportunity to be heard:

22 a. Issue a letter of warning, reprimand, or censure with regard to
23 any act, conduct or practice which in the judgment of the board upon
24 consideration of all relevant facts and circumstances does not warrant
25 the initiation of formal action;

26 b. Assess civil penalties in accordance with this act;

27 c. Order that any person violating any provision of an act or
28 regulation administered by such board to cease and desist from future
29 violations thereof or to take such affirmative corrective action as may
30 be necessary with regard to any act or practice found unlawful by the
31 board;

32 d. Order any person found to have violated any provision of an act
33 or regulation administered by such board to restore to any person
34 aggrieved by an unlawful act or practice, any moneys or property, real
35 or personal, acquired by means of such act or practice; provided,
36 however, no board shall order restoration in a dollar amount greater
37 than those moneys received by a licensee or his agent or any other
38 person violating the act or regulation administered by the board;

39 e. Order any person, as a condition for continued, reinstated or
40 renewed licensure, to secure medical or such other professional
41 treatment as may be necessary to properly discharge licensee
42 functions;

43 f. Order any person, as a condition for continued, reinstated or
44 renewed licensure, to submit to any medical or diagnostic testing and
45 monitoring or psychological evaluation which may be required to
46 evaluate whether continued practice may jeopardize the safety and

1 welfare of the public;

2 g. Order any person, as a condition for continued, reinstated or
3 renewed licensure, to submit to an assessment of skills to determine
4 whether the licensee can continue to practice with reasonable skill and
5 safety, and to take and successfully complete educational training
6 determined by the board to be necessary;

7 h. Order any person, as a condition for continued, reinstated or
8 renewed licensure, to submit to an assessment of skills to determine
9 whether the licensee can continue to practice with reasonable skill and
10 safety, and to submit to any supervision, monitoring or limitation on
11 practice determined by the board to be necessary.

12 A board may, upon a duly verified application of the Attorney
13 General that either provides proof of a conviction of a court of
14 competent jurisdiction for a crime or offense involving moral turpitude
15 or relating adversely to the regulated profession or occupation, or
16 alleges an act or practice violating any provision of an act or
17 regulation administered by such board, enter a temporary order
18 suspending or limiting any license issued by the board pending plenary
19 hearing on an administrative complaint; provided, however, no such
20 temporary order shall be entered unless the application made to the
21 board palpably demonstrates a clear and imminent danger to the public
22 health, safety and welfare and notice of such application is given to the
23 licensee affected by such order. If, upon review of the Attorney
24 General's application, the board determines that, although no palpable
25 demonstration of a clear and imminent danger has been made, the
26 licensee's continued unrestricted practice pending plenary hearing may
27 pose a risk to the public health, safety and welfare, the board may
28 order the licensee to submit to medical or diagnostic testing and
29 monitoring, or psychological evaluation, or an assessment of skills to
30 determine whether the licensee can continue to practice with
31 reasonable skill and safety.

32 In any administrative proceeding commenced on a complaint
33 alleging a violation of an act or regulation administered by a board,
34 such board may issue subpoenas to compel the attendance of witnesses
35 or the production of books, records, or documents at the hearing on
36 the complaint.

37 (cf: P.L.1999, c.403, s.3)

38

39 3. R.S.45:5-9 is amended to read as follows:

40 45:5-9. Every licensed podiatrist shall procure **[each year]** every
41 two years from the secretary of the board, on or before November 1,
42 **[an annual]** a biennial certificate of registration, which shall be issued
43 by said secretary upon payment of a fee **[of \$15.00]** to be determined
44 by the board. The secretary shall mail to each licensed podiatrist on or
45 before October 1 **[each year]** every two years a printed blank form to
46 be properly filled in and returned to said secretary by such licensed

1 person on or before the succeeding November 1, together with such
2 fee. Upon the receipt of said form properly filled in, and such fee, the
3 [annual] biennial certificate of registration shall be issued and
4 transmitted. Said secretary shall [annually] biennially, on or before
5 January 1, mail to each licensed podiatrist who has registered for the
6 preceding year a list containing the names and post-office addresses of
7 all licensed podiatrists who have registered under this section for
8 [said] that two year period. Every licensed podiatrist who continues
9 the practice of podiatry after having failed to secure [an annual] a
10 biennial certificate of registration at the time and in the manner
11 required by this section shall be subject to a penalty of \$25.00 for each
12 failure. Immediately after November 1, the secretary shall send by
13 registered mail to every podiatrist who has failed to obtain [an annual]
14 a biennial registration certificate for the ensuing two year period a
15 notice that their license will be automatically suspended within 30 days
16 unless the penalty and [annual] registration fee is paid immediately.
17 Upon failure to register after such notice, the license of such person
18 shall be automatically suspended and shall not be reinstated except
19 upon full payment of penalty and [annual] registration fee. However,
20 such suspension shall not apply to anyone who has ceased to practice
21 in this State. Any person whose license shall have been automatically
22 suspended under this section shall during such period of suspension be
23 regarded as an unlicensed person, and if he continue to engage in the
24 practice of podiatry during such period, he shall be liable to the
25 penalties prescribed by [sections] R.S.45:5-11 [and 45:5-12 of this
26 chapter].

27 (cf: P.L.1971, c.236, s.2)

28

29 4. Section 1 of P.L.1971, c.236 (C.45:9-6.1) is amended to read as
30 follows:

31 1. All persons who are licensed to practice medicine and surgery
32 shall be required [on or before September 1, 1971, and] on or before
33 July 1 [annually thereafter,] biennially to register on the form
34 prescribed by the board and furnished by the [secretary] executive
35 director of [said] the board, and to pay [an annual] a biennial
36 registration fee [of \$15.00] to be determined by the board.

37 The license of any licensee who fails to procure any [annual]
38 biennial certificate of registration, shall be automatically suspended on
39 [September 1 of the year 1971 and] July 1 [of each year thereafter].
40 It shall be the duty of the [secretary] executive director of the board
41 on [or before August 1 of the year 1971 and on] June 1 of each year
42 [thereafter] to send a written notice to each [of such licensees]
43 licensee whose license is expiring that year, whether a resident or not,
44 at his last address on file with the board, that his [annual] biennial
45 registration fee is due on or before July 1 and that his license to

1 practice in this State will be suspended if he does not procure said
2 certificate by July 1 of the [said] that year.

3 Any [such] licensee whose license has been suspended under this
4 section may be reinstated by the payment of all past due annual
5 registration fees and in addition thereto [\$25.00] a fee to be
6 determined by the board to cover cost of reinstatement.

7 Any person who desires to retire from the practice of medicine and
8 surgery, and during retirement to refrain from practicing under the
9 terms of his license, upon application to the secretary of the board,
10 may be registered [annually] biennially, without the payment of any
11 registration fee, as a retired physician. The certificate of registration
12 which shall be issued to a retired physician shall state, among other
13 things, that the holder has been licensed to practice in New Jersey, but
14 that during his retirement he shall not so practice. The holder of a
15 certificate of registration as a retired licensee shall be entitled to
16 resume practice at any time; provided, he first shall have obtained from
17 the [secretary an annual] executive director a biennial certificate of
18 registration as hereinbefore provided.

19 If an applicant for reinstatement of licensure has not engaged in
20 practice in any jurisdiction for a period of more than five years, or the
21 board's review of the reinstatement application establishes a basis for
22 concluding that there may be clinical deficiencies in need of
23 remediation, before reinstatement the board may require the applicant
24 to submit to, and successfully pass, an examination or an assessment
25 of skills. If that examination or assessment identifies clinical
26 deficiencies or educational needs, the board may require the licensee,
27 as a condition of reinstatement of licensure, to take and successfully
28 complete any educational training, or to submit to any supervision,
29 monitoring or limitations, as the board determines are necessary to
30 assure that the licensee practices with reasonable skill and safety.

31 The license to practice medicine and surgery of any person who
32 fails to procure any [annual] biennial certificate of registration, or in
33 lieu thereof [an annual] a biennial certificate of registration as a
34 retired licensee, at the time and in the manner required by this act shall
35 be automatically suspended. Any person whose license shall have been
36 automatically suspended shall, during the period of such suspension,
37 be regarded as an unlicensed person and, in case he shall continue or
38 engage in practice under the terms of his license during such period,
39 shall be liable to the penalties prescribed by R.S.45:9-22. Any person
40 to whom a certificate of registration as a retired licensee shall have
41 been issued who shall continue or engage in practice under the terms
42 of his license without first having obtained a certificate of registration
43 authorizing him to resume such practice, shall be liable to the penalties
44 prescribed by R.S.45:9-22 for practicing without a license.

45 It shall be the duty of each such licensee holding a certificate to
46 practice medicine and surgery in this State, whether a resident or not,

1 to notify the [secretary] executive director of the board in writing of
2 any change in his office address or his employment within 10 days
3 after such change shall have taken place.

4 This section shall not be construed so as to render inoperative the
5 provisions of R.S.45:9-17.

6 (cf: P.L.1971, c.236, s.1)

7

8 5. R.S.45:9-8 is amended to read as follows:

9 45:9-8. Except as otherwise provided in [this chapter (45:9-1 et
10 seq.)] R.S.45:9-1 et seq., every applicant for admission to licensure by
11 examination to practice medicine and surgery shall, in addition to the
12 requirements set forth in [sections 45:9-6 and 45:9-7 of this Title]
13 R.S.45:9-1 et seq.:

14 (1) Prove to the board that he has received (a) a diploma from
15 some legally incorporated professional school or college of the United
16 States, Canada or other foreign country, which school or college, in
17 the opinion of the board, was in good standing at the time of the
18 issuance of the diploma, or (b) a license conferring the full right to
19 practice all of the branches of medicine and surgery in some foreign
20 country; and

21 (2) Shall further prove that, prior to the receipt of such diploma or
22 license, as aforesaid, he had studied not less than 4 full school years,
23 including four satisfactory courses of lectures of at least 8 months
24 each, consecutively or in 4 different calendar years, in some legally
25 incorporated and registered American or foreign professional school
26 or schools, college or colleges in good standing in the opinion of the
27 board, which courses shall have included a thorough and satisfactory
28 course of instruction in medicine and surgery; and

29 (3) [Such] The applicant, if he has graduated from a professional
30 school or college after July 1, 1916 and before July 1, 2003, shall
31 further prove to the board that, after receiving such diploma or license,
32 he has completed an internship acceptable to the board for at least
33 1 year in a hospital approved by the board, or in lieu thereof he has
34 completed 1 year of post-graduate work acceptable to the board in a
35 school or hospital approved by the board, unless required by
36 regulation to complete additional post-graduate work; or

37 (4) The applicant, if he has graduated from a medical school after
38 July 1, 2003, shall further prove to the board that, after receiving his
39 diploma, he has completed and received academic credit for at least
40 two years of post-graduate training in an accredited program and has
41 signed a contract for a third year of post-graduate training in an
42 accredited program, and that at least two years of that training are in
43 the same field or would, when considered together, be credited toward
44 the criteria for certification by a single specialty board recognized by
45 the American Board of Medical Specialties or the American
46 Osteopathic Association or another certification entity with

1 comparable standards that is acceptable to the board; or

2 (5) [If] The applicant, if prior to receiving [such] his diploma[,]
3 has been awarded a certificate or the degree of Bachelor of Medicine
4 upon completion of a course of study acceptable to the board and of
5 not less than 30 months duration in not less than 3 different calendar
6 years in a medical college approved by the board, and in addition
7 thereto, prior to receiving the degree of Doctor of Medicine, shall
8 have completed a full year of intern training in a medical college
9 hospital or a hospital affiliated or associated with such medical
10 college.

11 If an applicant for licensure has not engaged in practice for a period
12 of more than five years, or the board's review of the application
13 establishes a basis for concluding that there may be clinical deficiencies
14 in need of remediation, the board may require the applicant to submit
15 to, and successfully pass, an examination or an assessment of skills.
16 If that examination or assessment identifies clinical deficiencies or
17 educational needs, the board may require a licensee, as a condition of
18 licensure, to take and successfully complete any educational training,
19 or to submit to any supervision, monitoring or limitations, as the board
20 determines are necessary to assure that the licensee practices with
21 reasonable skill and safety.

22 (cf: P.L.1971, c.111, s.1)

23

24 6. Section 6 of P.L.1989, c.300 (C.45:9-19.6) is amended to read
25 as follows:

26 6. The State Board of Medical Examiners shall employ a full-time
27 medical director and a full-time educational director to assist the board
28 in carrying out its duties pursuant to Title 45 of the Revised Statutes.

29 a. The medical director shall be a physician who is licensed to
30 practice medicine and surgery in the State and who is knowledgeable
31 about, or has clinical experience in, the field of chemical dependency
32 or addiction-oriented psychiatry. The medical director shall receive
33 such compensation as the board shall determine and shall serve at the
34 pleasure of the board.

35 The duties of the medical director shall include, but are not limited
36 to: reviewing complaints and reports of medical malpractice,
37 impairment, incompetence or unprofessional conduct that are made to
38 the board or the Medical Practitioner Review Panel established
39 pursuant to section 8 of P.L.1989, c.300 (C.45:9-19.8), by other
40 health care providers and by the public; coordinating and assisting in
41 the investigation of these complaints and reports; and assisting the
42 panel in making its recommendations and the board in making
43 disciplinary determinations regarding a licensee. The medical director
44 shall perform such other duties as the board may require in carrying
45 out its responsibilities under Title 45 of the Revised Statutes.

46 The medical director also shall serve as the board's liaison to any

1 licensed health care practitioner treatment program recognized by the
2 board. The board, in conjunction with the medical director, shall
3 establish standards for treatment and procedures for monitoring the
4 progress of a participating practitioner's treatment and for notifying
5 the board when a practitioner fails to comply with the requirements of
6 the treatment program or when a practitioner's impairment may
7 jeopardize or improperly risk the health, safety or life of a patient.

8 b. The educational director shall be an educator, experienced in the
9 field of medical education. The educational director shall receive
10 compensation as determined by the board and shall serve at the
11 pleasure of the board.

12 The duties of the educational director shall include, but are not
13 limited to, facilitating the educational directives, goals and programs
14 of the board. The educational director shall perform other duties as
15 required by the board to carry out its responsibilities under chapter 9
16 of Title 45 of the Revised Statutes.

17 The educational director shall serve as the board's liaison to any
18 focused education program recognized by the board. The board, in
19 conjunction with the educational director, shall establish standards for
20 continuing medical education programs and focused education
21 programs as defined in subsection i. of section 9 of P.L.1989, c.300
22 (C.45:9-19.9), and procedures for notification of the board when a
23 practitioner fails to comply with a monitoring program devised by a
24 focused education program.

25 The board and the Division of Consumer Affairs in the Department
26 of Law and Public Safety shall provide such investigative, medical
27 consulting, administrative and clerical support as is necessary to assist
28 the medical director and educational director in carrying out [his]
29 their duties.

30 (cf: P.L.1989, c.300, s.6)

31
32 7. Section 9 of P.L.1989, c.300 (C.45:9-19.9) is amended to read
33 as follows:

34 9. a. The review panel shall receive:

35 (1) Notice from a health care facility or health maintenance
36 organization, pursuant to section 1 of P.L.1983, c.247
37 (C.26:2H-12.2);

38 (2) Notice from an insurer or insurance association or a
39 practitioner, pursuant to section 2 of P.L.1983, c.247 (C.17:30D-17),
40 regarding a medical malpractice claim settlement, judgment or
41 arbitration award or a termination or denial of, or surcharge on, the
42 medical malpractice liability insurance coverage of a practitioner; and

43 b. The review panel may receive referrals from the board which
44 may include complaints alleging professional misconduct,
45 incompetence, negligence or impairment of a practitioner from other
46 health care providers and consumers of health care.

1 c. Upon receipt of a notice or complaint pursuant to this section,
2 the review panel shall promptly investigate the information received
3 and obtain any additional information that may be necessary in order
4 to make a recommendation to the board. The review panel may seek
5 the assistance of a consultant or other knowledgeable person, as
6 necessary, in making its recommendation. The review panel may
7 request the board or the Attorney General to exercise investigative
8 powers pursuant to section 5 of P.L.1978, c.73 (C.45:1-18) in the
9 conduct of its investigation.

10 (1) If the review panel has reasonable cause to believe that a
11 practitioner represents an imminent danger to his patients, the review
12 panel shall immediately notify the State Board of Medical Examiners
13 and the Attorney General and recommend the initiation of an
14 application before the board to temporarily suspend or otherwise limit
15 the practitioner's license pending further proceedings by the review
16 panel or the board.

17 If the board temporarily suspends or otherwise limits the license,
18 the board shall notify each licensed health care facility and health
19 maintenance organization with which the practitioner is affiliated and
20 every practitioner in the State with which the practitioner is directly
21 associated in his private practice.

22 (2) A practitioner who is the subject of an investigation shall be
23 promptly notified of the investigation, pursuant to procedures adopted
24 by regulation of the board that give consideration to the health, safety
25 and welfare of the practitioner's patients and to the necessity for a
26 confidential or covert investigation by the review panel. At the panel's
27 request or upon a good cause showing by the practitioner an informal
28 hearing shall be scheduled before the review panel or a subcommittee
29 of at least three review panel members, in accordance with regulations
30 adopted by the board. The hearing shall be transcribed and the
31 practitioner shall be entitled to a copy of the transcript, at his own
32 expense. A practitioner who presents information to the review panel
33 is entitled to be represented by counsel.

34 (3) Notwithstanding any provision of this section to the contrary,
35 in any case in which the board determines to conduct an investigation
36 of a practitioner who it has reasonable cause to believe represents an
37 imminent danger to his patients, the board may direct the review panel
38 to provide the board with its files pertaining to that practitioner and
39 may direct the review panel to promptly terminate its investigation of
40 that practitioner without making a recommendation pursuant to
41 subsection d. of this section.

42 Upon request of the review panel, the State Board of Medical
43 Examiners shall provide the review panel with any information
44 contained in the board's files concerning a practitioner.

45 d. Upon completion of its review, the review panel shall prepare a
46 report recommending one of the following dispositions:

1 (1) Recommend to the State Board of Medical Examiners that the
2 matter be referred to the Attorney General for the initiation of
3 disciplinary action against the practitioner who is the subject of the
4 notice or complaint, pursuant to [R.S.45:9-16 or] section 8 or 9 of
5 P.L.1978, c.73 (C.45:1-21 and 45:1-22);

6 (2) Defer making a recommendation to the board pending the
7 outcome of litigation or a health care facility or health maintenance
8 organization disciplinary proceeding, if there is no evidence that the
9 practitioner's professional conduct may jeopardize or improperly risk
10 the health, safety or life of a patient;

11 (3) Refer the practitioner to the appropriate licensed health care
12 practitioner treatment program recognized by the State Board of
13 Medical Examiners and promptly notify the medical director of the
14 board of the referral; [or]

15 (4) Refer the practitioner to the appropriate focused education
16 program recognized by the State Board of Medical Examiners and
17 promptly notify the educational director of the board of the referral;
18 or

19 (5) Find that no further action is warranted at this time.

20 e. A member of the State Board of Medical Examiners shall not
21 participate by voting or any other action in any matter before the
22 board on which the board member has participated previously as a
23 review panel member.

24 f. The State Board of Medical Examiners may affirm, reject or
25 modify any disposition of the review panel. After its consideration of
26 the panel recommendation the board shall notify the practitioner who
27 has been the subject of a notice or complaint of the review panel's
28 recommendation and the board's determination.

29 g. Nothing in this section shall be construed to prevent or limit the
30 State Board of Medical Examiners, the Director of the Division of
31 Consumer Affairs in the Department of Law and Public Safety or the
32 Attorney General from taking any other action permitted by law
33 against a practitioner who is the subject of an investigation by the
34 review panel.

35 h. For the purposes of this section, "practitioner" means a person
36 licensed to practice: medicine and surgery under chapter 9 of Title 45
37 of the Revised Statutes or a medical resident or intern; or podiatry
38 under chapter 5 of Title 45 of the Revised Statutes.

39 i. As used in this section, "focused education program" means an
40 individualized and systematic process to assess the educational needs
41 of a licensee based on scientific analysis, technical skill and
42 interpersonal assessment as they relate to the licensee's professional
43 practice.

44 (cf: P.L.1989, c.300, s.9)

45

46 8. Section 12 of P.L.1989, c.300 (C.45:9-19.12) is amended to
47 read as follows:

1 12. The State Board of Medical Examiners shall, by regulation,
2 provide for the issuance of permits to, or registration of, persons
3 engaging in the practice of medicine or surgery or podiatry while in
4 training, and establish the scope of permissible practice by these
5 persons within the context of an accredited graduate medical education
6 program conducted at a hospital licensed by the Department of Health
7 and Senior Services. A permit holder shall be permitted to engage in
8 practice outside the context of a graduate medical education program
9 for additional remuneration only if that practice is:

10 a. Approved by the director of the graduate medical education
11 program in which the permit holder is participating; and

12 b. With respect to any practice at or through a health care facility
13 licensed by the Department of Health and Senior Services, supervised
14 by a plenary licensee who shall either remain on the premises of the
15 health care facility or be available through electronic communications;
16 or

17 c. With respect to any practice outside of a health care facility
18 licensed by the Department of Health and Senior Services, supervised
19 by a plenary licensee who shall remain on the premises.

20 (cf: P.L.1989, c.300, s.12)

21
22 9. (New section) a. The State Board of Medical Examiners shall
23 require each person licensed as a physician, as a condition for biennial
24 registration pursuant to section 1 of P.L.1971, c.236 (C.45:9-6.1), or
25 as a podiatrist, as a condition for biennial registration pursuant to
26 R.S.45:5-9, to complete 100 credits of continuing medical education,
27 all of which shall be in Category I or Category II as defined in
28 subsection i. of this section.

29 b. The board shall:

30 (1) Establish standards for continuing medical education, including
31 the subject matter and content of courses of study;

32 (2) Accredite education programs offering credit toward continuing
33 medical education requirements or recognize national or State
34 organizations that may accredit education programs;

35 (3) Allow satisfaction of continuing medical education
36 requirements through equivalent educational programs, such as
37 participation in accredited graduate medical education programs,
38 examinations, papers, publications, scientific presentations, teaching
39 and research appointments and scientific exhibits, and establish
40 procedures for the issuance of credit upon satisfactory proof of
41 attainment of these equivalent educational programs; and

42 (4) Delineate, through the promulgation of regulations, any specific
43 courses or topics which, in the discretion of the board, are to be
44 required.

45 c. Each hour of an educational course or program shall be
46 equivalent to one credit of continuing medical education.

1 d. The board may, in its discretion, waive requirements for
2 continuing medical education on an individual basis for reasons of
3 hardship such as illness or disability, retirement of license, or other
4 good cause. A waiver shall apply only to the current biennial renewal
5 period at the time of board issuance.

6 e. The board shall not require completion of continuing medical
7 education credits for any registration period commencing within
8 12 months of the effective date of this section.

9 f. The board shall require completion of medical education credits
10 on a pro-rated basis for any registration period commencing more than
11 12 months but less than 24 months from the effective date of this
12 section.

13 g. The board shall require new licensees to successfully complete,
14 within 24 months of becoming licensed, an orientation course, in those
15 topics identified by the board through regulation, conducted by an
16 organization recognized by the board.

17 h. The board shall not require a new licensee to complete required
18 continuing medical education credits, other than the orientation course
19 described in subsection g. of this section, for any registration period
20 commencing within 12 months of the licensee's participation in and
21 completion of an accredited graduate medical education program.

22 i. As used in this section, "Category I and Category II" means
23 those categories of medical education courses recognized by the
24 Alliance for Continuing Medical Education, the American Osteopathic
25 Association, the American Podiatric Medical Association or other
26 comparable organizations recognized by the board.

27
28 10. Sections 1 through 8 of this act shall take effect immediately
29 and section 9 shall take effect on the 180th day after the date of
30 enactment.

31

32

33

STATEMENT

34

35 This bill provides broader investigative and enforcement authority
36 to the Attorney General and professional licensing boards for matters
37 concerning licensees of the boards. The bill also provides specific
38 authorization for the boards to assess possible impairments and
39 deficiencies in applicants' and licensees' skill and knowledge, and to
40 direct that remediation and monitoring specific to the applicant or
41 licensee at issue take place to address these impairments or
42 deficiencies.

43 In addition, the bill institutes continuing medical education
44 requirements for licensees of the Board of Medical Examiners as a
45 condition of licensure and renewal, and additional post graduate
46 medical education requirements for licensure. Finally, the bill creates

- 1 the position of educational director within the Board of Medical
- 2 Examiners, who will oversee compliance with educational
- 3 requirements, remediation and monitoring.

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 1408

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 11, 2001

The Senate Commerce Committee reports favorably and with committee amendments Senate Bill No. 1408.

This bill, as amended by the committee, provides broader investigative and enforcement authority to the Attorney General and occupational and professional licensing boards for matters concerning licensees of the boards, including the inspection of premises and the examination of goods or records in regard to the unauthorized practice of a licensed occupation or profession; and allowing the Attorney General and the boards to order licensees, as a condition for continued, reinstated or renewal licensure, to submit to a medical or diagnostic testing and monitoring or psychological evaluation to evaluate whether continued practice may jeopardize the safety and welfare of the public; or to submit to an assessment of skills to determine whether the licensee can continue to practice with reasonable skill and safety and to take and successfully complete educational training determined by the board to be necessary or to submit to supervision, monitoring or limitation on practice determined by the board to be necessary.

The bill also makes various additions to the regulation and licensure of physicians in this State by the State Board of Medical Examiners. It provides that if a physician who applies for licensure or who applies for reinstatement of licensure has not practiced for more than five years or the board believes there is a basis for concluding that there may be clinical deficiencies in need of remediation, the board may require the physician to successfully pass an examination or an assessment of skills. If the examination or assessment identifies clinical deficiencies or educational needs, the board may require the physician to take educational training or submit to supervision, monitoring or limitations as a condition for or reinstatement of licensure.

In addition, the bill institutes continuing medical education requirements (100 credits biennially) for physicians as a condition of licensure and renewal, and additional post graduate medical education requirements for licensure of applicants graduating after July 1, 2003.

The board is to appoint a full-time educational director to oversee the continuing medical education program and the monitoring and remediation program for physicians with deficient skills.

[First Reprint]

SENATE, No. 1408

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED JUNE 15, 2000

Sponsored by:

Senator ROBERT J. MARTIN

District 26 (Essex, Morris and Passaic)

Co-Sponsored by:

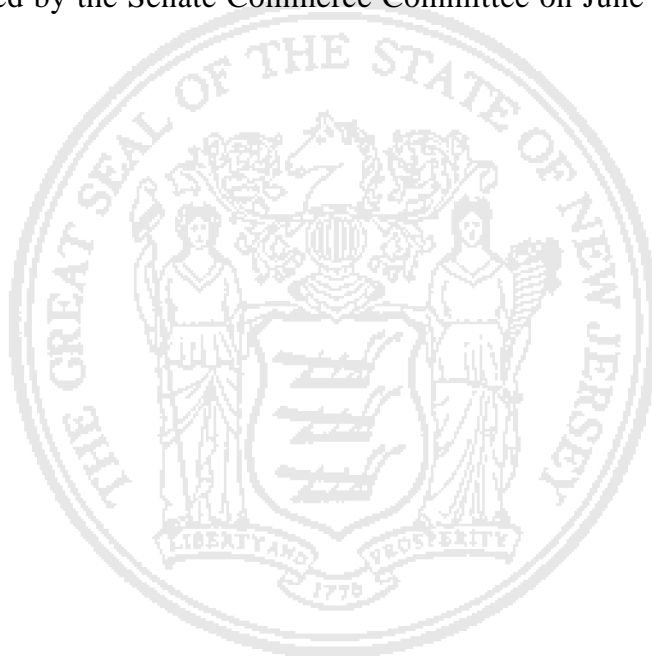
Assemblywoman Vandervalk and Assemblyman Bagger

SYNOPSIS

Concerns the ability of professional licensing boards to protect the public.

CURRENT VERSION OF TEXT

As reported by the Senate Commerce Committee on June 11, 2001, with amendments.



(Sponsorship Updated As Of: 11/30/2001)

1 AN ACT concerning professional licensing boards and revising various
2 parts of the statutory law.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 5 of P.L.1978, c.73 (C.45:1-18) is amended to read as
8 follows:

9 5. Whenever it shall appear to any board, the director or the
10 Attorney General that a person has engaged in, or is engaging in any
11 act or practice declared unlawful by a statute or regulation
12 administered by such board, or when the board, the director or the
13 Attorney General shall deem it to be in the public interest to inquire
14 whether any such violation may exist, the board or the director
15 through the Attorney General, or the Attorney General acting
16 independently, may exercise any of the following investigative powers:

17 a. Require any person to file on such form as may be prescribed, a
18 statement or report in writing under oath, or otherwise, as to the facts
19 and circumstances concerning the rendition of any service or conduct
20 of any sale incidental to the discharge of any act or practice subject to
21 an act or regulation administered by the board;

22 b. Examine under oath any person in connection with any act or
23 practice subject to an act or regulation administered by the board;

24 c. Inspect any premises from which a **[licensed profession or**
25 **occupation] practice or activity subject to an act or regulation**
26 **administered by the board** is conducted;

27 d. Examine any goods, ware or item used in the rendition of **[any**
28 **professional or occupational service] a practice or activity subject to**
29 **an act or regulation administered by the board**;

30 e. Examine any record, book, document, account or paper
31 **prepared or** maintained by or for any professional or occupational
32 licensee in the regular course of practicing such profession or engaging
33 in such occupation **or any individual engaging in practices subject to**
34 **an act or regulation administered by the board.** **Nothing in this**
35 **subsection shall require the notification or consent of the person to**
36 **whom the record, book, account or paper pertains, unless otherwise**
37 **required by law**;

38 f. For the purpose of preserving evidence of an unlawful act or
39 practice, pursuant to an order of the Superior Court, impound any
40 record, book, document, account, paper, goods, ware, or item used,
41 **prepared** or maintained by or for any board licensee in the regular

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:

¹ Senate SCM committee amendments adopted June 11, 2001.

1 course of practicing such profession or engaging in such occupation
2 or any individual engaging in a practice or activity subject to an act or
3 regulation administered by the board. In such cases as may be
4 necessary, the Superior Court may, on application of the Attorney
5 General, issue an order sealing items or material subject to this
6 subsection¹; and¹

7 g. Require any board licensee, permit holder or registered or
8 certified person to submit to an assessment of skills to determine
9 whether the board licensee, permit holder or registered or certified
10 person can continue to practice with reasonable skill and safety¹ [
11 and]¹.

12 In order to accomplish the objectives of this act or any act or
13 regulation administered by a board, the Attorney General may hold
14 such investigative hearings as may be necessary and the board, director
15 or Attorney General may issue subpoenas to compel the attendance of
16 any person or the production of books, records or papers at any such
17 hearing or inquiry.

18 (cf: P.L.1978, c.73, s.5)

19

20 2. Section 9 of P.L.1978, c.73 (C.45:1-22) is amended to read as
21 follows:

22 9. In addition or as an alternative, as the case may be, to revoking,
23 suspending or refusing to renew any license, registration or certificate
24 issued by it, a board may, after affording an opportunity to be heard:

25 a. Issue a letter of warning, reprimand, or censure with regard to
26 any act, conduct or practice which in the judgment of the board upon
27 consideration of all relevant facts and circumstances does not warrant
28 the initiation of formal action;

29 b. Assess civil penalties in accordance with this act;

30 c. Order that any person violating any provision of an act or
31 regulation administered by such board to cease and desist from future
32 violations thereof or to take such affirmative corrective action as may
33 be necessary with regard to any act or practice found unlawful by the
34 board;

35 d. Order any person found to have violated any provision of an act
36 or regulation administered by such board to restore to any person
37 aggrieved by an unlawful act or practice, any moneys or property, real
38 or personal, acquired by means of such act or practice; provided,
39 however, no board shall order restoration in a dollar amount greater
40 than those moneys received by a licensee or his agent or any other
41 person violating the act or regulation administered by the board;

42 e. Order any person, as a condition for continued, reinstated or
43 renewed licensure, to secure medical or such other professional
44 treatment as may be necessary to properly discharge licensee
45 functions;

46 f. Order any person, as a condition for continued, reinstated or

1 renewed licensure, to submit to any medical or diagnostic testing and
2 monitoring or psychological evaluation which may be required to
3 evaluate whether continued practice may jeopardize the safety and
4 welfare of the public;

5 g. Order any person, as a condition for continued, reinstated or
6 renewed licensure, to submit to an assessment of skills to determine
7 whether the licensee can continue to practice with reasonable skill and
8 safety, and to take and successfully complete educational training
9 determined by the board to be necessary;

10 h. Order any person, as a condition for continued, reinstated or
11 renewed licensure, to submit to an assessment of skills to determine
12 whether the licensee can continue to practice with reasonable skill and
13 safety, and to submit to any supervision, monitoring or limitation on
14 practice determined by the board to be necessary.

15 A board may, upon a duly verified application of the Attorney
16 General that either provides proof of a conviction of a court of
17 competent jurisdiction for a crime or offense involving moral turpitude
18 or relating adversely to the regulated profession or occupation, or
19 alleges an act or practice violating any provision of an act or
20 regulation administered by such board, enter a temporary order
21 suspending or limiting any license issued by the board pending plenary
22 hearing on an administrative complaint; provided, however, no such
23 temporary order shall be entered unless the application made to the
24 board palpably demonstrates a clear and imminent danger to the public
25 health, safety and welfare and notice of such application is given to the
26 licensee affected by such order. If, upon review of the Attorney
27 General's application, the board determines that, although no palpable
28 demonstration of a clear and imminent danger has been made, the
29 licensee's continued unrestricted practice pending plenary hearing may
30 pose a risk to the public health, safety and welfare, the board may
31 order the licensee to submit to medical or diagnostic testing and
32 monitoring, or psychological evaluation, or an assessment of skills to
33 determine whether the licensee can continue to practice with
34 reasonable skill and safety.

35 In any administrative proceeding commenced on a complaint
36 alleging a violation of an act or regulation administered by a board,
37 such board may issue subpoenas to compel the attendance of witnesses
38 or the production of books, records, or documents at the hearing on
39 the complaint.

40 (cf: P.L.1999, c.403, s.3)

41
42 ¹³. Section 12 of P.L.1978, c.73 (C.45:1-25) is amended to read
43 as follows:

44 12. a. Any person who engages in any conduct in violation of any
45 provision of an act or regulation administered by a board shall, in
46 addition to any other sanctions provided herein, be liable to a civil

1 penalty of not more than \$10,000 for the first violation and not more
2 than \$20,000 for the second and each subsequent violation. For the
3 purpose of construing this section, each act in violation of any
4 provision of an act or regulation administered by a board shall
5 constitute a separate violation and shall be deemed a second or
6 subsequent violation under the following circumstances:

7 (1) an administrative or court order has been entered in a prior,
8 separate and independent proceeding;

9 (2) the person is found within a single proceeding to have
10 committed more than one violation of any provision of an act or
11 regulation administered by a board; or

12 (3) the person is found within a single proceeding to have
13 committed separate violations of any provision of more than one act
14 or regulation administered by a board.

15 b. In lieu of an administrative proceeding or an action in the
16 Superior Court, the Attorney General may bring an action in the name
17 of any board for the collection or enforcement of civil penalties for the
18 violation of any provision of an act or regulation administered by such
19 board. Such action may be brought in summary manner pursuant to
20 ~~["The]~~ the "Penalty Enforcement Law of 1999," P.L.1999, c.274
21 (C.2A:58-10 et seq.) and the rules of court governing actions for the
22 collection of civil penalties in the municipal court where the offense
23 occurred. Process in such action may be by summons or warrant and
24 in the event that the defendant in such action fails to answer such
25 action, the court shall, upon finding an unlawful act or practice to have
26 been committed by the defendant, issue a warrant for the defendant's
27 arrest in order to bring such person before the court to satisfy the civil
28 penalties imposed. In any action commenced pursuant to this section,
29 the court may order restored to any person in interest any moneys or
30 property acquired by means of an unlawful act or practice.

31 c. Any action alleging the unlicensed practice of a profession or
32 occupation shall be brought pursuant to this section or, where
33 injunctive relief is sought, by an action commenced in the Superior
34 Court.

35 d. In any action brought pursuant to this act, a board or the court
36 may order the payment of costs for the use of the State, including, but
37 not limited to, costs of investigation, expert witness fees and costs,
38 attorney fees and costs, and transcript costs.¹

39 (cf: P.L.1999, c.403, s.9)

40
41 ¹~~[3.]~~ 4.¹ R.S.45:5-9 is amended to read as follows:

42 45:5-9. ¹a.¹ Every licensed podiatrist shall procure [each year]
43 every two years from the ¹~~[secretary]~~ executive director¹ of the
44 board, on or before November 1, ~~[an annual]~~ a biennial certificate of
45 registration, which shall be issued by ¹~~[said secretary]~~ the executive
46 director¹ upon payment of a fee ~~[of \$15.00]~~ to be determined by the

1 board. The ¹[secretary] executive director¹ shall mail to each licensed
2 podiatrist on or before October 1 [each year] every two years a
3 printed blank form to be properly filled in and returned to ¹[said
4 secretary] the executive director¹ by such licensed person on or before
5 the succeeding November 1, together with such fee. Upon the receipt
6 of said form properly filled in, and such fee, the [annual] biennial
7 certificate of registration shall be issued and transmitted. ¹[Said
8 secretary shall [annually] biennially, on or before January 1, mail to
9 each licensed podiatrist who has registered for the preceding year a list
10 containing the names and post-office addresses of all licensed
11 podiatrists who have registered under this section for [said] that two
12 year period.]¹ Every licensed podiatrist who continues the practice of
13 podiatry after having failed to secure [an annual] a biennial certificate
14 of registration at the time and in the manner required by this section
15 shall be subject to a penalty of \$25.00 for each failure. Immediately
16 after November 1, the ¹[secretary] executive director¹ shall send by
17 registered mail to every podiatrist who has failed to obtain [an annual]
18 a biennial registration certificate for the ensuing two year period a
19 notice that their license will be automatically suspended within 30 days
20 unless the penalty and [annual] registration fee is paid immediately.
21 Upon failure to register after such notice, the license of such person
22 shall be automatically suspended and shall not be reinstated except
23 upon full payment of penalty and [annual] registration fee. However,
24 such suspension shall not apply to anyone who has ceased to practice
25 in this State. Any person whose license shall have been automatically
26 suspended under this section shall during such period of suspension be
27 regarded as an unlicensed person, and if he continue to engage in the
28 practice of podiatry during such period, he shall be liable to the
29 penalties prescribed by [sections] R.S.45:5-11 [and 45:5-12 of this
30 chapter].

31 ¹b. If an applicant for reinstatement of licensure has not engaged
32 in practice in any jurisdiction for a period of more than five years, or
33 the board's review of the reinstatement application establishes a basis
34 for concluding that there may be clinical deficiencies in need of
35 remediation, before reinstatement the board may require the applicant
36 to submit to, and successfully pass, an examination or an assessment
37 of skills. If that examination or assessment identifies clinical
38 deficiencies or educational needs, the board may require the licensee,
39 as a condition of reinstatement of licensure, to take and successfully
40 complete any educational training, or to submit to any supervision,
41 monitoring or limitations, as the board determines are necessary to
42 assure that the licensee practices with reasonable skill and safety.¹
43 (cf: P.L.1971, c.236, s.2)

44

45 ¹[4.] 5.¹ Section 1 of P.L.1971, c.236 (C.45:9-6.1) is amended to

1 read as follows:

2 1. All persons who are licensed to practice medicine and surgery
3 shall be required [on or before September 1, 1971, and] on or before
4 July 1 [annually thereafter,] biennially to register on the form
5 prescribed by the board and furnished by the [secretary] executive
6 director of [said] the board, and to pay [an annual] a biennial
7 registration fee [of \$15.00] to be determined by the board.

8 The license of any licensee who fails to procure any [annual]
9 biennial certificate of registration, shall be automatically suspended on
10 [September 1 of the year 1971 and] July 1 [of each year thereafter].
11 It shall be the duty of the [secretary] executive director of the board
12 on [or before August 1 of the year 1971 and on] June 1 of each year
13 [thereafter] to send a written notice to each [of such licensees]
14 licensee whose license is expiring that year, whether a resident or not,
15 at his last address on file with the board, that his [annual] biennial
16 registration fee is due on or before July 1 and that his license to
17 practice in this State will be suspended if he does not procure said
18 certificate by July 1 of the [said] that year.

19 Any [such] licensee whose license has been suspended under this
20 section may be reinstated by the payment of all past due annual
21 registration fees and in addition thereto [\$25.00] a fee to be
22 determined by the board to cover cost of reinstatement.

23 Any person who desires to retire from the practice of medicine and
24 surgery, and during retirement to refrain from practicing under the
25 terms of his license, upon application to the ¹[secretary] executive
26 director¹ of the board, may be registered [annually] biennially,
27 without the payment of any registration fee, as a retired physician.
28 The certificate of registration which shall be issued to a retired
29 physician shall state, among other things, that the holder has been
30 licensed to practice in New Jersey, but that during his retirement he
31 shall not so practice. The holder of a certificate of registration as a
32 retired licensee shall be entitled to resume practice at any time;
33 provided, he first shall have obtained from the [secretary an annual]
34 executive director a biennial certificate of registration as hereinbefore
35 provided.

36 If an applicant for reinstatement of licensure has not engaged in
37 practice in any jurisdiction for a period of more than five years, or the
38 board's review of the reinstatement application establishes a basis for
39 concluding that there may be clinical deficiencies in need of
40 remediation, before reinstatement the board may require the applicant
41 to submit to, and successfully pass, an examination or an assessment
42 of skills. If that examination or assessment identifies clinical
43 deficiencies or educational needs, the board may require the licensee,
44 as a condition of reinstatement of licensure, to take and successfully
45 complete any educational training, or to submit to any supervision.

1 monitoring or limitations, as the board determines are necessary to
2 assure that the licensee practices with reasonable skill and safety.

3 The license to practice medicine and surgery of any person who
4 fails to procure any [annual] biennial certificate of registration, or in
5 lieu thereof [an annual] a biennial certificate of registration as a
6 retired licensee, at the time and in the manner required by this act shall
7 be automatically suspended. Any person whose license shall have
8 been automatically suspended shall, during the period of such
9 suspension, be regarded as an unlicensed person and, in case he shall
10 continue or engage in practice under the terms of his license during
11 such period, shall be liable to the penalties prescribed by R.S.45:9-22.
12 Any person to whom a certificate of registration as a retired licensee
13 shall have been issued who shall continue or engage in practice under
14 the terms of his license without first having obtained a certificate of
15 registration authorizing him to resume such practice, shall be liable to
16 the penalties prescribed by R.S.45:9-22 for practicing without a
17 license.

18 It shall be the duty of each such licensee holding a certificate to
19 practice medicine and surgery in this State, whether a resident or not,
20 to notify the [secretary] executive director of the board in writing of
21 any change in his office address or his employment within 10 days
22 after such change shall have taken place.

23 This section shall not be construed so as to render inoperative the
24 provisions of R.S.45:9-17.

25 (cf: P.L.1971, c.236, s.1)

26

27 ¹[5.] 6.¹ R.S.45:9-8 is amended to read as follows:

28 45:9-8. Except as otherwise provided in [this chapter (45:9-1 et
29 seq.)] R.S.45:9-1 et seq., every applicant for admission to licensure by
30 examination to practice medicine and surgery shall, in addition to the
31 requirements set forth in [sections 45:9-6 and 45:9-7 of this Title]
32 R.S.45:9-1 et seq.:

33 ¹a.¹ (1) Prove to the board that ¹[he] the applicant¹ has received
34 (a) a diploma from some legally incorporated professional school or
35 college of the United States, Canada or other foreign country, which
36 school or college, in the opinion of the board, was in good standing at
37 the time of the issuance of the diploma, or (b) a license conferring the
38 full right to practice all of the branches of medicine and surgery in
39 some foreign country; and

40 (2) Shall further prove that, prior to the receipt of such diploma or
41 license, as aforesaid, ¹[he] the applicant¹ had studied not less than 4
42 full school years, including four satisfactory courses of lectures of at
43 least 8 months each, consecutively or in 4 different calendar years, in
44 some legally incorporated and registered American or foreign
45 professional school or schools, college or colleges in good standing in

1 the opinion of the board, which courses shall have included a
 2 thorough and satisfactory course of instruction in medicine and
 3 surgery; and

4 ¹[(3)] b. (1)¹ [Such] The applicant, if he has graduated from a
 5 professional school or college after July 1, 1916 and before July 1,
 6 2003, shall further prove to the board that, after receiving such
 7 diploma or license, he has completed an internship acceptable to the
 8 board for at least 1 year in a hospital approved by the board, or in lieu
 9 thereof he has completed 1 year of post-graduate work acceptable to
 10 the board in a school or hospital approved by the board, unless
 11 required by regulation to complete additional post-graduate work; or

12 ¹[(4)] (2)¹ The applicant, if he has graduated from a medical
 13 school after July 1, 2003, shall further prove to the board that, after
 14 receiving his diploma, he has completed and received academic credit
 15 for at least two years of post-graduate training in an accredited
 16 program and has signed a contract for a third year of post-graduate
 17 training in an accredited program, and that at least two years of that
 18 training are in the same field or would, when considered together, be
 19 credited toward the criteria for certification by a single specialty board
 20 recognized by the American Board of Medical Specialties or the
 21 American Osteopathic Association or another certification entity with
 22 comparable standards that is acceptable to the board¹ [; or

23 (5) [If] The applicant, if prior to receiving [such] his diploma[,]
 24 has been awarded a certificate or the degree of Bachelor of Medicine
 25 upon completion of a course of study acceptable to the board and of
 26 not less than 30 months duration in not less than 3 different calendar
 27 years in a medical college approved by the board, and in addition
 28 thereto, prior to receiving the degree of Doctor of Medicine, shall
 29 have completed a full year of intern training in a medical college
 30 hospital or a hospital affiliated or associated with such medical
 31 college]¹.

32 ¹c.¹ If an applicant for licensure has not engaged in practice for a
 33 period of more than five years, or the board's review of the application
 34 establishes a basis for concluding that there may be clinical deficiencies
 35 in need of remediation, the board may require the applicant to submit
 36 to, and successfully pass, an examination or an assessment of skills.
 37 If that examination or assessment identifies clinical deficiencies or
 38 educational needs, the board may require¹ [a licensee] an applicant¹,
 39 as a condition of licensure, to take and successfully complete any
 40 educational training, or to submit to any supervision, monitoring or
 41 limitations, as the board determines are necessary to assure that the
 42 ¹ [licensee practices] applicant will practice¹ with reasonable skill and
 43 safety.

44 (cf: P.L.1971, c.111, s.1)

45

46 ¹[6.] 7.¹ Section 6 of P.L.1989, c.300 (C.45:9-19.6) is amended

1 to read as follows:

2 6. The State Board of Medical Examiners shall employ a full-time
3 medical director and a full-time educational director to assist the board
4 in carrying out its duties pursuant to Title 45 of the Revised Statutes.

5 a. The medical director shall be a physician who is licensed to
6 practice medicine and surgery in the State and who is knowledgeable
7 about, or has clinical experience in, the field of chemical dependency
8 or addiction-oriented psychiatry. The medical director shall receive
9 such compensation as the board shall determine and shall serve at the
10 pleasure of the board.

11 The duties of the medical director shall include, but are not limited
12 to: reviewing complaints and reports of medical malpractice,
13 impairment, incompetence or unprofessional conduct that are made to
14 the board or the Medical Practitioner Review Panel established
15 pursuant to section 8 of P.L.1989, c.300 (C.45:9-19.8), by other
16 health care providers and by the public; coordinating and assisting in
17 the investigation of these complaints and reports; and assisting the
18 panel in making its recommendations and the board in making
19 disciplinary determinations regarding a licensee. The medical director
20 shall perform such other duties as the board may require in carrying
21 out its responsibilities under Title 45 of the Revised Statutes.

22 The medical director also shall serve as the board's liaison to any
23 licensed health care practitioner treatment program recognized by the
24 board. The board, in conjunction with the medical director, shall
25 establish standards for treatment and procedures for monitoring the
26 progress of a participating practitioner's treatment and for notifying
27 the board when a practitioner fails to comply with the requirements of
28 the treatment program or when a practitioner's impairment may
29 jeopardize or improperly risk the health, safety or life of a patient.

30 b. The educational director shall be an educator, experienced in the
31 field of medical education. The educational director shall
32 receive ¹such¹ compensation as ¹[determined by]¹ the board ¹shall
33 determine¹ and shall serve at the pleasure of the board.

34 The duties of the educational director shall include, but are not
35 limited to, facilitating the educational directives, goals and programs
36 of the board. The educational director shall perform other duties as
37 required by the board to carry out its responsibilities under chapter 9
38 of Title 45 of the Revised Statutes.

39 The educational director shall serve as the board's liaison to any
40 focused education program recognized by the board. The board, in
41 conjunction with the educational director, shall establish standards for
42 continuing medical education programs and focused education
43 programs as defined in subsection i. of section 9 of P.L.1989, c.300
44 (C.45:9-19.9), and procedures for notification of the board when a
45 practitioner fails to comply with a monitoring program devised by a
46 focused education program.

1 The board and the Division of Consumer Affairs in the Department
2 of Law and Public Safety shall provide such investigative, medical
3 consulting, administrative and clerical support as is necessary to assist
4 the medical director and educational director in carrying out [his]
5 their duties.

6 (cf: P.L.1989, c.300, s.6)

7
8 ¹[7.] 8.¹ Section 9 of P.L.1989, c.300 (C.45:9-19.9) is amended
9 to read as follows:

10 9. a. The review panel shall receive:

11 (1) Notice from a health care facility or health maintenance
12 organization, pursuant to section 1 of P.L.1983, c.247
13 (C.26:2H-12.2);

14 (2) Notice from an insurer or insurance association or a
15 practitioner, pursuant to section 2 of P.L.1983, c.247 (C.17:30D-17),
16 regarding a medical malpractice claim settlement, judgment or
17 arbitration award or a termination or denial of, or surcharge on, the
18 medical malpractice liability insurance coverage of a practitioner; and

19 b. The review panel may receive referrals from the board which
20 may include complaints alleging professional misconduct,
21 incompetence, negligence or impairment of a practitioner from other
22 health care providers and consumers of health care.

23 c. Upon receipt of a notice or complaint pursuant to this section,
24 the review panel shall promptly investigate the information received
25 and obtain any additional information that may be necessary in order
26 to make a recommendation to the board. The review panel may seek
27 the assistance of a consultant or other knowledgeable person, as
28 necessary, in making its recommendation. The review panel may
29 request the board or the Attorney General to exercise investigative
30 powers pursuant to section 5 of P.L.1978, c.73 (C.45:1-18) in the
31 conduct of its investigation.

32 (1) If the review panel has reasonable cause to believe that a
33 practitioner represents an imminent danger to his patients, the review
34 panel shall immediately notify the State Board of Medical Examiners
35 and the Attorney General and recommend the initiation of an
36 application before the board to temporarily suspend or otherwise limit
37 the practitioner's license pending further proceedings by the review
38 panel or the board.

39 If the board temporarily suspends or otherwise limits the license,
40 the board shall notify each licensed health care facility and health
41 maintenance organization with which the practitioner is affiliated and
42 every practitioner in the State with which the practitioner is directly
43 associated in his private practice.

44 (2) A practitioner who is the subject of an investigation shall be
45 promptly notified of the investigation, pursuant to procedures adopted
46 by regulation of the board that give consideration to the health, safety
47 and welfare of the practitioner's patients and to the necessity for a

1 confidential or covert investigation by the review panel. At the panel's
2 request or upon a good cause showing by the practitioner an informal
3 hearing shall be scheduled before the review panel or a subcommittee
4 of at least three review panel members, in accordance with regulations
5 adopted by the board. The hearing shall be transcribed and the
6 practitioner shall be entitled to a copy of the transcript, at his own
7 expense. A practitioner who presents information to the review panel
8 is entitled to be represented by counsel.

9 (3) Notwithstanding any provision of this section to the contrary,
10 in any case in which the board determines to conduct an investigation
11 of a practitioner who it has reasonable cause to believe represents an
12 imminent danger to his patients, the board may direct the review panel
13 to provide the board with its files pertaining to that practitioner and
14 may direct the review panel to promptly terminate its investigation of
15 that practitioner without making a recommendation pursuant to
16 subsection d. of this section.

17 Upon request of the review panel, the State Board of Medical
18 Examiners shall provide the review panel with any information
19 contained in the board's files concerning a practitioner.

20 d. Upon completion of its review, the review panel shall prepare a
21 report recommending one of the following dispositions:

22 (1) Recommend to the State Board of Medical Examiners that the
23 matter be referred to the Attorney General for the initiation of
24 disciplinary action against the practitioner who is the subject of the
25 notice or complaint, pursuant to [R.S.45:9-16 or] section 8 or 9 of
26 P.L.1978, c.73 (C.45:1-21 and 45:1-22);

27 (2) Defer making a recommendation to the board pending the
28 outcome of litigation or a health care facility or health maintenance
29 organization disciplinary proceeding, if there is no evidence that the
30 practitioner's professional conduct may jeopardize or improperly risk
31 the health, safety or life of a patient;

32 (3) Refer the practitioner to the appropriate licensed health care
33 practitioner treatment program recognized by the State Board of
34 Medical Examiners and promptly notify the medical director of the
35 board of the referral; [or]

36 (4) Refer the practitioner to the appropriate focused education
37 program recognized by the State Board of Medical Examiners and
38 promptly notify the educational director of the board of the referral;
39 or

40 (5) Find that no further action is warranted at this time.

41 e. A member of the State Board of Medical Examiners shall not
42 participate by voting or any other action in any matter before the
43 board on which the board member has participated previously as a
44 review panel member.

45 f. The State Board of Medical Examiners may affirm, reject or
46 modify any disposition of the review panel. After its consideration of

1 the panel recommendation the board shall notify the practitioner who
 2 has been the subject of a notice or complaint of the review panel's
 3 recommendation and the board's determination.

4 g. Nothing in this section shall be construed to prevent or limit the
 5 State Board of Medical Examiners, the Director of the Division of
 6 Consumer Affairs in the Department of Law and Public Safety or the
 7 Attorney General from taking any other action permitted by law
 8 against a practitioner who is the subject of an investigation by the
 9 review panel.

10 h. For the purposes of this section, "practitioner" means a person
 11 licensed to practice: medicine and surgery under chapter 9 of Title 45
 12 of the Revised Statutes or a medical resident or intern; or podiatry
 13 under chapter 5 of Title 45 of the Revised Statutes.

14 i. As used in this section, "focused education program" means an
 15 individualized and systematic process to assess the educational needs
 16 of a licensee based on scientific analysis, technical skill and
 17 interpersonal ¹[assessment] evaluation¹ as they relate to the licensee's
 18 professional practice ¹, and the institution of remedial education and
 19 any supervision, monitoring or limitations of the licensee¹.

20 (cf: P.L.1989, c.300, s.9)

21
 22 ¹[8.] 9.¹ Section 12 of P.L.1989, c.300 (C.45:9-19.12) is amended
 23 to read as follows:

24 12. The State Board of Medical Examiners shall, by regulation,
 25 provide for the issuance of permits to, or registration of, persons
 26 engaging in the practice of medicine or surgery or podiatry while in
 27 training, and establish the scope of permissible practice by these
 28 persons within the context of an accredited graduate medical education
 29 program conducted at a hospital licensed by the Department of Health
 30 and Senior Services. A permit holder shall be permitted to engage in
 31 practice outside the context of a graduate medical education program
 32 for additional remuneration only if that practice is:

33 a. Approved by the director of the graduate medical education
 34 program in which the permit holder is participating; and

35 b. With respect to any practice at or through a health care facility
 36 licensed by the Department of Health and Senior Services, supervised
 37 by a plenary licensee who shall either remain on the premises of the
 38 health care facility or be available through electronic communications;
 39 or

40 c. With respect to any practice outside of a health care facility
 41 licensed by the Department of Health and Senior Services, supervised
 42 by a plenary licensee who shall remain on the premises.

43 (cf: P.L.1989, c.300, s.12)

44
 45 ¹[9.] 10.¹ (New section) a. The State Board of Medical
 46 Examiners shall require each person licensed as a physician, as a

1 condition for biennial registration pursuant to section 1 of P.L.1971,
2 c.236 (C.45:9-6.1), or as a podiatrist, as a condition for biennial
3 registration pursuant to R.S.45:5-9, to complete 100 credits of
4 continuing medical education, all of which shall be in Category I or
5 Category II as defined in subsection i. of this section.

6 b. The board shall:

7 (1) Establish standards for continuing medical education, including
8 the subject matter and content of courses of study;

9 (2) Accredite education programs offering credit toward continuing
10 medical education requirements or recognize national or State
11 organizations that may accredit education programs;

12 (3) Allow satisfaction of continuing medical education requirements
13 through equivalent educational programs, such as participation in
14 accredited graduate medical education programs, examinations,
15 papers, publications, scientific presentations, teaching and research
16 appointments and scientific exhibits, and establish procedures for the
17 issuance of credit upon satisfactory proof of attainment of these
18 equivalent educational programs; ¹[and]¹

19 (4) ¹Create an advisory committee to be comprised of at least five
20 members, including representatives of the Medical Society of New
21 Jersey, the Academy of Medicine of New Jersey, the New Jersey
22 Osteopathic Association, the New Jersey Podiatric Medical
23 Association and such other professional societies and associations as
24 the board may identify, to provide guidance to the board in discharging
25 its responsibilities pursuant to this section; and

26 (5)¹ Delineate, through the promulgation of regulations, any
27 specific courses or topics which, ¹on the recommendation of the
28 advisory committee created pursuant to paragraph (4) of this
29 subsection and¹ in the discretion of the board, are to be required.

30 c. Each hour of an educational course or program shall be
31 equivalent to one credit of continuing medical education.

32 d. The board may, in its discretion, waive requirements for
33 continuing medical education on an individual basis for reasons of
34 hardship such as illness or disability, retirement of license, or other
35 good cause. A waiver shall apply only to the current biennial renewal
36 period at the time of board issuance.

37 e. The board shall not require completion of continuing medical
38 education credits for any registration period commencing within 12
39 months of the effective date of this section.

40 f. The board shall require completion of medical education credits
41 on a pro-rated basis for any registration period commencing more than
42 12 months but less than 24 months from the effective date of this
43 section.

44 g. The board shall require new licensees to successfully complete,
45 within 24 months of becoming licensed, an orientation course, in those
46 topics identified by the board through regulation, conducted by an

1 organization recognized by the board.

2 h. The board shall not require a new licensee to complete required
3 continuing medical education credits, other than the orientation course
4 described in subsection g. of this section, for any registration period
5 commencing within 12 months of the licensee's participation in and
6 completion of an accredited graduate medical education program.

7 i. As used in this section, "Category I and Category II" means
8 those categories of medical education courses recognized by the
9 ¹[Alliance for Continuing Medical Education] American Medical
10 Association¹, the American Osteopathic Association, the American
11 Podiatric Medical Association ¹, the Accreditation Council for
12 Continuing Medical Education¹ or other comparable organizations
13 recognized by the board.

14

15 ¹[10.] 11.¹ Sections 1 through ¹[8] 9¹ of this act shall take effect
16 immediately and section ¹[9] 10¹ shall take effect on the 180th day
17 after the date of enactment.

ASSEMBLY CONSUMER AFFAIRS AND REGULATED
PROFESSIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 1408

STATE OF NEW JERSEY

DATED: AUGUST 23, 2001

The Assembly Consumer Affairs and Regulated Professions Committee reports favorably Senate Bill No. 1408 (1R).

This bill provides broader investigative and enforcement authority to the Attorney General and occupational and professional licensing boards for matters concerning licensees of the boards, including the inspection of premises and the examination of goods or records in regard to the unauthorized practice of a licensed occupation or profession. It allows the Attorney General and the boards to order licensees, as a condition for continued, reinstated or renewal licensure, to submit to medical or diagnostic testing and monitoring or psychological evaluation to evaluate whether continued practice may jeopardize the safety and welfare of the public; or to submit to an assessment of skills to determine whether the licensee can continue to practice with reasonable skill and safety and to take and successfully complete educational training determined by the board to be necessary or to submit to supervision, monitoring or limitation on practice determined by the board to be necessary.

The bill also makes various additions to the regulation and licensure of physicians by the State Board of Medical Examiners. It provides that if a physician who applies for licensure or who applies for reinstatement of licensure has not practiced for more than five years or the board believes there is a basis for concluding that there may be clinical deficiencies in need of remediation, the board may require the physician to successfully pass an examination or an assessment of skills. If the examination or assessment identifies clinical deficiencies or educational needs, the board may require the physician to take educational training or submit to supervision, monitoring or limitations as a condition for or reinstatement of licensure.

In addition, the bill institutes continuing medical education requirements (100 credits biennially) for physicians as a condition of licensure and renewal, and additional post graduate medical education

requirements for licensure of applicants graduating from medical school after July 1, 2003. The bill also creates an advisory committee consisting of members from various professional societies and associations to provide guidance to the State Board of Medical Examiners regarding continuing medical education matters.

Also, the board is to appoint a full-time educational director to oversee the continuing medical education program and the monitoring and remediation program for physicians with deficient skills.

FISCAL NOTE
[First Reprint]
SENATE, No. 1408
STATE OF NEW JERSEY
209th LEGISLATURE

DATED: OCTOBER 31, 2001

SUMMARY

Synopsis: Concerns the ability of professional licensing boards to protect the public.

Type of Impact: Expenditure increase; General Fund.

Agencies Affected: Department of Law and Public Safety, Division of Consumer Affairs.

Executive Estimate

Fiscal Impact	Year 1	Year 2	Year 3
State Cost	\$76,000	\$80,000	\$83,000

- ! The Office of Legislative Services (OLS) **concurs** with the Executive estimate, but notes that fees paid by licensees could defray additional administrative expenses.
- ! Allows professional licensing boards to require examinations and assessments of licensees.
- ! Requires the State Board of Medical Examiners to hire a full-time educational director.
- ! Fees paid by licensees could defray administrative expenses.

BILL DESCRIPTION

Senate Bill No. 1408 [1R] of 2000 provides broader investigative and enforcement authority to the Attorney General and occupational and professional licensing boards for matters concerning licensees of the boards. It allows the boards to require licensees to submit to medical or diagnostic testing and monitoring.

The bill also makes various additions to the regulation and licensure of physicians by the State Board of Medical Examiners. It allows the board to require a physician who applies for licensure to pass an examination or an assessment of skills. In addition, the bill institutes continuing medical education requirements (100 credits biennially) for physicians as a condition of licensure and renewal.

The bill also requires the State Board of Medical Examiners to appoint a full-time educational director to oversee the continuing medical education program and the monitoring and remediation program for physicians with deficient skills.

FISCAL ANALYSIS

EXECUTIVE BRANCH

The Division of Consumer Affairs estimates the cost of this bill at \$76,000 in the first year following enactment. This cost includes the salary and fringe benefits of a full-time educational director to the State Board of Medical Examiners. After adjusting for inflation, the division estimates the second and third year costs of the bill at \$80,000 and \$83,000, respectively.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services (OLS) concurs with the Executive estimate, but notes that fees paid by licensees could defray additional administrative expenses.

Section: *Law and Public Safety*

Analyst: *James F. Vari*
Associate Fiscal Analyst

Approved: *Alan R. Kooney*
Legislative Budget and Finance Officer

This fiscal note has been prepared pursuant to P.L.1980, c.67.

ASSEMBLY, No. 2567

STATE OF NEW JERSEY 209th LEGISLATURE

INTRODUCED JUNE 1, 2000

Sponsored by:

Assemblywoman CHARLOTTE VANDERVALK

District 39 (Bergen)

Assemblyman RICHARD H. BAGGER

District 22 (Middlesex, Morris, Somerset and Union)

SYNOPSIS

Concerns the ability of professional licensing boards to protect the public.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 9/22/2000)

1 AN ACT concerning professional licensing boards and revising various
2 parts of the statutory law.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 5 of P.L.1978, c.73 (C.45:1-18) is amended to read as
8 follows:

9 5. Whenever it shall appear to any board, the director or the
10 Attorney General that a person has engaged in, or is engaging in any
11 act or practice declared unlawful by a statute or regulation
12 administered by such board, or when the board, the director or the
13 Attorney General shall deem it to be in the public interest to inquire
14 whether any such violation may exist, the board or the director
15 through the Attorney General, or the Attorney General acting
16 independently, may exercise any of the following investigative powers:

17 a. Require any person to file on such form as may be prescribed, a
18 statement or report in writing under oath, or otherwise, as to the facts
19 and circumstances concerning the rendition of any service or conduct
20 of any sale incidental to the discharge of any act or practice subject to
21 an act or regulation administered by the board;

22 b. Examine under oath any person in connection with any act or
23 practice subject to an act or regulation administered by the board;

24 c. Inspect any premises from which a **[licensed profession or**
25 **occupation] practice or activity subject to an act or regulation**
26 **administered by the board** is conducted;

27 d. Examine any goods, ware or item used in the rendition of **[any**
28 **professional or occupational service] a practice or activity subject to**
29 **an act or regulation administered by the board;**

30 e. Examine any record, book, document, account or paper
31 **prepared or** maintained by or for any professional or occupational
32 licensee in the regular course of practicing such profession or engaging
33 in such occupation **or any individual engaging in practices subject to**
34 **an act or regulation administered by the board. Nothing in this**
35 **subsection shall require the notification or consent of the person to**
36 **whom the record, book, account or paper pertains, unless otherwise**
37 **required by law;**

38 f. For the purpose of preserving evidence of an unlawful act or
39 practice, pursuant to an order of the Superior Court, impound any
40 record, book, document, account, paper, goods, ware, or item used,
41 **prepared** or maintained by or for any board licensee in the regular
42 course of practicing such profession or engaging in such occupation
43 **or any individual engaging in a practice or activity subject to an act or**

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 regulation administered by the board. In such cases as may be
2 necessary, the Superior Court may, on application of the Attorney
3 General, issue an order sealing items or material subject to this
4 subsection.

5 g. Require any board licensee, permit holder or registered or
6 certified person to submit to an assessment of skills to determine
7 whether the board licensee, permit holder or registered or certified
8 person can continue to practice with reasonable skill and safety; and

9 In order to accomplish the objectives of this act or any act or
10 regulation administered by a board, the Attorney General may hold
11 such investigative hearings as may be necessary and the board, director
12 or Attorney General may issue subpoenas to compel the attendance of
13 any person or the production of books, records or papers at any such
14 hearing or inquiry.

15 (cf: P.L.1978, c.73, s.5)

16
17 2. Section 9 of P.L.1978, c.73 (C.45:1-22) is amended to read as
18 follows:

19 9. In addition or as an alternative, as the case may be, to revoking,
20 suspending or refusing to renew any license, registration or certificate
21 issued by it, a board may, after affording an opportunity to be heard:

22 a. Issue a letter of warning, reprimand, or censure with regard to
23 any act, conduct or practice which in the judgment of the board upon
24 consideration of all relevant facts and circumstances does not warrant
25 the initiation of formal action;

26 b. Assess civil penalties in accordance with this act;

27 c. Order that any person violating any provision of an act or
28 regulation administered by such board to cease and desist from future
29 violations thereof or to take such affirmative corrective action as may
30 be necessary with regard to any act or practice found unlawful by the
31 board;

32 d. Order any person found to have violated any provision of an act
33 or regulation administered by such board to restore to any person
34 aggrieved by an unlawful act or practice, any moneys or property, real
35 or personal, acquired by means of such act or practice; provided,
36 however, no board shall order restoration in a dollar amount greater
37 than those moneys received by a licensee or his agent or any other
38 person violating the act or regulation administered by the board;

39 e. Order any person, as a condition for continued, reinstated or
40 renewed licensure, to secure medical or such other professional
41 treatment as may be necessary to properly discharge licensee
42 functions;

43 f. Order any person, as a condition for continued, reinstated or
44 renewed licensure, to submit to any medical or diagnostic testing and
45 monitoring or psychological evaluation which may be required to
46 evaluate whether continued practice may jeopardize the safety and

1 welfare of the public;

2 g. Order any person, as a condition for continued, reinstated or
3 renewed licensure, to submit to an assessment of skills to determine
4 whether the licensee can continue to practice with reasonable skill and
5 safety, and to take and successfully complete educational training
6 determined by the board to be necessary;

7 h. Order any person, as a condition for continued, reinstated or
8 renewed licensure, to submit to an assessment of skills to determine
9 whether the licensee can continue to practice with reasonable skill and
10 safety, and to submit to any supervision, monitoring or limitation on
11 practice determined by the board to be necessary.

12 A board may, upon a duly verified application of the Attorney
13 General that either provides proof of a conviction of a court of
14 competent jurisdiction for a crime or offense involving moral turpitude
15 or relating adversely to the regulated profession or occupation, or
16 alleges an act or practice violating any provision of an act or
17 regulation administered by such board, enter a temporary order
18 suspending or limiting any license issued by the board pending plenary
19 hearing on an administrative complaint; provided, however, no such
20 temporary order shall be entered unless the application made to the
21 board palpably demonstrates a clear and imminent danger to the public
22 health, safety and welfare and notice of such application is given to the
23 licensee affected by such order. If, upon review of the Attorney
24 General's application, the board determines that, although no palpable
25 demonstration of a clear and imminent danger has been made, the
26 licensee's continued unrestricted practice pending plenary hearing may
27 pose a risk to the public health, safety and welfare, the board may
28 order the licensee to submit to medical or diagnostic testing and
29 monitoring, or psychological evaluation, or an assessment of skills to
30 determine whether the licensee can continue to practice with
31 reasonable skill and safety.

32 In any administrative proceeding commenced on a complaint
33 alleging a violation of an act or regulation administered by a board,
34 such board may issue subpoenas to compel the attendance of witnesses
35 or the production of books, records, or documents at the hearing on
36 the complaint.

37 (cf: P.L.1999, c.403, s.3)

38

39 3. R.S.45:5-9 is amended to read as follows:

40 45:5-9. Every licensed podiatrist shall procure **[each year]** every
41 two years from the secretary of the board, on or before November 1,
42 **[an annual]** a biennial certificate of registration, which shall be issued
43 by said secretary upon payment of a fee **[of \$15.00]** to be determined
44 by the board. The secretary shall mail to each licensed podiatrist on or
45 before October 1 **[each year]** every two years a printed blank form to
46 be properly filled in and returned to said secretary by such licensed

1 person on or before the succeeding November 1, together with such
2 fee. Upon the receipt of said form properly filled in, and such fee, the
3 [annual] biennial certificate of registration shall be issued and
4 transmitted. Said secretary shall [annually] biennially, on or before
5 January 1, mail to each licensed podiatrist who has registered for the
6 preceding year a list containing the names and post-office addresses of
7 all licensed podiatrists who have registered under this section for
8 [said] that two year period. Every licensed podiatrist who continues
9 the practice of podiatry after having failed to secure [an annual] a
10 biennial certificate of registration at the time and in the manner
11 required by this section shall be subject to a penalty of \$25.00 for each
12 failure. Immediately after November 1, the secretary shall send by
13 registered mail to every podiatrist who has failed to obtain [an annual]
14 a biennial registration certificate for the ensuing two year period a
15 notice that their license will be automatically suspended within 30 days
16 unless the penalty and [annual] registration fee is paid immediately.

17 Upon failure to register after such notice, the license of such person
18 shall be automatically suspended and shall not be reinstated except
19 upon full payment of penalty and [annual] registration fee. However,
20 such suspension shall not apply to anyone who has ceased to practice
21 in this State. Any person whose license shall have been automatically
22 suspended under this section shall during such period of suspension be
23 regarded as an unlicensed person, and if he continue to engage in the
24 practice of podiatry during such period, he shall be liable to the
25 penalties prescribed by [sections] R.S.45:5-11 [and 45:5-12 of this
26 chapter].

27 (cf: P.L.1971, c.236, s.2)

28

29 4. Section 1 of P.L.1971, c.236 (C.45:9-6.1) is amended to read as
30 follows:

31 1. All persons who are licensed to practice medicine and surgery
32 shall be required [on or before September 1, 1971, and] on or before
33 July 1 [annually thereafter,] biennially to register on the form
34 prescribed by the board and furnished by the [secretary] executive
35 director of [said] the board, and to pay [an annual] a biennial
36 registration fee [of \$15.00] to be determined by the board.

37 The license of any licensee who fails to procure any [annual]
38 biennial certificate of registration, shall be automatically suspended on
39 [September 1 of the year 1971 and] July 1 [of each year thereafter].
40 It shall be the duty of the [secretary] executive director of the board
41 on [or before August 1 of the year 1971 and on] June 1 of each year
42 [thereafter] to send a written notice to each [of such licensees]
43 licensee whose license is expiring that year, whether a resident or not,
44 at his last address on file with the board, that his [annual] biennial
45 registration fee is due on or before July 1 and that his license to

1 practice in this State will be suspended if he does not procure said
2 certificate by July 1 of the [said] that year.

3 Any [such] licensee whose license has been suspended under this
4 section may be reinstated by the payment of all past due annual
5 registration fees and in addition thereto [\$25.00] a fee to be
6 determined by the board to cover cost of reinstatement.

7 Any person who desires to retire from the practice of medicine and
8 surgery, and during retirement to refrain from practicing under the
9 terms of his license, upon application to the secretary of the board,
10 may be registered [annually] biennially, without the payment of any
11 registration fee, as a retired physician. The certificate of registration
12 which shall be issued to a retired physician shall state, among other
13 things, that the holder has been licensed to practice in New Jersey, but
14 that during his retirement he shall not so practice. The holder of a
15 certificate of registration as a retired licensee shall be entitled to
16 resume practice at any time; provided, he first shall have obtained from
17 the [secretary an annual] executive director a biennial certificate of
18 registration as hereinbefore provided.

19 If an applicant for reinstatement of licensure has not engaged in
20 practice in any jurisdiction for a period of more than five years, or the
21 board's review of the reinstatement application establishes a basis for
22 concluding that there may be clinical deficiencies in need of
23 remediation, before reinstatement the board may require the applicant
24 to submit to, and successfully pass, an examination or an assessment
25 of skills. If that examination or assessment identifies clinical
26 deficiencies or educational needs, the board may require the licensee,
27 as a condition of reinstatement of licensure, to take and successfully
28 complete any educational training, or to submit to any supervision,
29 monitoring or limitations, as the board determines are necessary to
30 assure that the licensee practices with reasonable skill and safety.

31 The license to practice medicine and surgery of any person who
32 fails to procure any [annual] biennial certificate of registration, or in
33 lieu thereof [an annual] a biennial certificate of registration as a
34 retired licensee, at the time and in the manner required by this act shall
35 be automatically suspended. Any person whose license shall have
36 been automatically suspended shall, during the period of such
37 suspension, be regarded as an unlicensed person and, in case he shall
38 continue or engage in practice under the terms of his license during
39 such period, shall be liable to the penalties prescribed by R.S.45:9-22.
40 Any person to whom a certificate of registration as a retired licensee
41 shall have been issued who shall continue or engage in practice under
42 the terms of his license without first having obtained a certificate of
43 registration authorizing him to resume such practice, shall be liable to
44 the penalties prescribed by R.S.45:9-22 for practicing without a
45 license.

46 It shall be the duty of each such licensee holding a certificate to

1 practice medicine and surgery in this State, whether a resident or not,
2 to notify the [secretary] executive director of the board in writing of
3 any change in his office address or his employment within 10 days
4 after such change shall have taken place.

5 This section shall not be construed so as to render inoperative the
6 provisions of R.S.45:9-17.

7 (cf: P.L.1971, c.236, s.1)

8

9 5. R.S.45:9-8 is amended to read as follows:

10 45:9-8. Except as otherwise provided in [this chapter (45:9-1 et
11 seq.)] R.S.45:9-1 et seq., every applicant for admission to licensure by
12 examination to practice medicine and surgery shall, in addition to the
13 requirements set forth in [sections 45:9-6 and 45:9-7 of this Title]
14 R.S.45:9-1 et seq.:

15 (1) Prove to the board that he has received (a) a diploma from
16 some legally incorporated professional school or college of the United
17 States, Canada or other foreign country, which school or college, in
18 the opinion of the board, was in good standing at the time of the
19 issuance of the diploma, or (b) a license conferring the full right to
20 practice all of the branches of medicine and surgery in some foreign
21 country; and

22 (2) Shall further prove that, prior to the receipt of such diploma or
23 license, as aforesaid, he had studied not less than 4 full school years,
24 including four satisfactory courses of lectures of at least 8 months
25 each, consecutively or in 4 different calendar years, in some legally
26 incorporated and registered American or foreign professional school
27 or schools, college or colleges in good standing in the opinion of the
28 board, which courses shall have included a thorough and satisfactory
29 course of instruction in medicine and surgery; and

30 (3) [Such] The applicant, if he has graduated from a professional
31 school or college after July 1, 1916 and before July 1, 2003, shall
32 further prove to the board that, after receiving such diploma or license,
33 he has completed an internship acceptable to the board for at least
34 1 year in a hospital approved by the board, or in lieu thereof he has
35 completed 1 year of post-graduate work acceptable to the board in a
36 school or hospital approved by the board, unless required by
37 regulation to complete additional post-graduate work; or

38 (4) The applicant, if he has graduated from a medical school after
39 July 1, 2003, shall further prove to the board that, after receiving his
40 diploma, he has completed and received academic credit for at least
41 two years of post-graduate training in an accredited program and has
42 signed a contract for a third year of post-graduate training in an
43 accredited program, and that at least two years of that training are in
44 the same field or would, when considered together, be credited toward
45 the criteria for certification by a single specialty board recognized by
46 the American Board of Medical Specialties or the American

1 Osteopathic Association or another certification entity with
2 comparable standards that is acceptable to the board; or

3 (5) [If] The applicant, if prior to receiving [such] his diploma[,]
4 has been awarded a certificate or the degree of Bachelor of Medicine
5 upon completion of a course of study acceptable to the board and of
6 not less than 30 months duration in not less than 3 different calendar
7 years in a medical college approved by the board, and in addition
8 thereto, prior to receiving the degree of Doctor of Medicine, shall
9 have completed a full year of intern training in a medical college
10 hospital or a hospital affiliated or associated with such medical
11 college.

12 If an applicant for licensure has not engaged in practice for a period
13 of more than five years, or the board's review of the application
14 establishes a basis for concluding that there may be clinical deficiencies
15 in need of remediation, the board may require the applicant to submit
16 to, and successfully pass, an examination or an assessment of skills.
17 If that examination or assessment identifies clinical deficiencies or
18 educational needs, the board may require a licensee, as a condition of
19 licensure, to take and successfully complete any educational training,
20 or to submit to any supervision, monitoring or limitations, as the board
21 determines are necessary to assure that the licensee practices with
22 reasonable skill and safety.

23 (cf: P.L.1971, c.111, s.1)

24

25 6. Section 6 of P.L.1989, c.300 (C.45:9-19.6) is amended to read
26 as follows:

27 6. The State Board of Medical Examiners shall employ a full-time
28 medical director and a full-time educational director to assist the board
29 in carrying out its duties pursuant to Title 45 of the Revised Statutes.

30 a. The medical director shall be a physician who is licensed to
31 practice medicine and surgery in the State and who is knowledgeable
32 about, or has clinical experience in, the field of chemical dependency
33 or addiction-oriented psychiatry. The medical director shall receive
34 such compensation as the board shall determine and shall serve at the
35 pleasure of the board.

36 The duties of the medical director shall include, but are not limited
37 to: reviewing complaints and reports of medical malpractice,
38 impairment, incompetence or unprofessional conduct that are made to
39 the board or the Medical Practitioner Review Panel established
40 pursuant to section 8 of P.L.1989, c.300 (C.45:9-19.8), by other
41 health care providers and by the public; coordinating and assisting in
42 the investigation of these complaints and reports; and assisting the
43 panel in making its recommendations and the board in making
44 disciplinary determinations regarding a licensee. The medical director
45 shall perform such other duties as the board may require in carrying
46 out its responsibilities under Title 45 of the Revised Statutes.

1 The medical director also shall serve as the board's liaison to any
2 licensed health care practitioner treatment program recognized by the
3 board. The board, in conjunction with the medical director, shall
4 establish standards for treatment and procedures for monitoring the
5 progress of a participating practitioner's treatment and for notifying
6 the board when a practitioner fails to comply with the requirements of
7 the treatment program or when a practitioner's impairment may
8 jeopardize or improperly risk the health, safety or life of a patient.

9 b. The educational director shall be an educator, experienced in the
10 field of medical education. The educational director shall receive
11 compensation as determined by the board and shall serve at the
12 pleasure of the board.

13 The duties of the educational director shall include, but are not
14 limited to, facilitating the educational directives, goals and programs
15 of the board. The educational director shall perform other duties as
16 required by the board to carry out its responsibilities under chapter 9
17 of Title 45 of the Revised Statutes.

18 The educational director shall serve as the board's liaison to any
19 focused education program recognized by the board. The board, in
20 conjunction with the educational director, shall establish standards for
21 continuing medical education programs and focused education
22 programs as defined in subsection i. of section 9 of P.L.1989, c.300
23 (C.45:9-19.9), and procedures for notification of the board when a
24 practitioner fails to comply with a monitoring program devised by a
25 focused education program.

26 The board and the Division of Consumer Affairs in the Department
27 of Law and Public Safety shall provide such investigative, medical
28 consulting, administrative and clerical support as is necessary to assist
29 the medical director and educational director in carrying out [his]
30 their duties.

31 (cf: P.L.1989, c.300, s.6)

32
33 7. Section 9 of P.L.1989, c.300 (C.45:9-19.9) is amended to read
34 as follows:

35 9. a. The review panel shall receive:

36 (1) Notice from a health care facility or health maintenance
37 organization, pursuant to section 1 of P.L.1983, c.247
38 (C.26:2H-12.2);

39 (2) Notice from an insurer or insurance association or a
40 practitioner, pursuant to section 2 of P.L.1983, c.247 (C.17:30D-17),
41 regarding a medical malpractice claim settlement, judgment or
42 arbitration award or a termination or denial of, or surcharge on, the
43 medical malpractice liability insurance coverage of a practitioner; and

44 b. The review panel may receive referrals from the board which
45 may include complaints alleging professional misconduct,
46 incompetence, negligence or impairment of a practitioner from other

1 health care providers and consumers of health care.

2 c. Upon receipt of a notice or complaint pursuant to this section,
3 the review panel shall promptly investigate the information received
4 and obtain any additional information that may be necessary in order
5 to make a recommendation to the board. The review panel may seek
6 the assistance of a consultant or other knowledgeable person, as
7 necessary, in making its recommendation. The review panel may
8 request the board or the Attorney General to exercise investigative
9 powers pursuant to section 5 of P.L.1978, c.73 (C.45:1-18) in the
10 conduct of its investigation.

11 (1) If the review panel has reasonable cause to believe that a
12 practitioner represents an imminent danger to his patients, the review
13 panel shall immediately notify the State Board of Medical Examiners
14 and the Attorney General and recommend the initiation of an
15 application before the board to temporarily suspend or otherwise limit
16 the practitioner's license pending further proceedings by the review
17 panel or the board.

18 If the board temporarily suspends or otherwise limits the license,
19 the board shall notify each licensed health care facility and health
20 maintenance organization with which the practitioner is affiliated and
21 every practitioner in the State with which the practitioner is directly
22 associated in his private practice.

23 (2) A practitioner who is the subject of an investigation shall be
24 promptly notified of the investigation, pursuant to procedures adopted
25 by regulation of the board that give consideration to the health, safety
26 and welfare of the practitioner's patients and to the necessity for a
27 confidential or covert investigation by the review panel. At the panel's
28 request or upon a good cause showing by the practitioner an informal
29 hearing shall be scheduled before the review panel or a subcommittee
30 of at least three review panel members, in accordance with regulations
31 adopted by the board. The hearing shall be transcribed and the
32 practitioner shall be entitled to a copy of the transcript, at his own
33 expense. A practitioner who presents information to the review panel
34 is entitled to be represented by counsel.

35 (3) Notwithstanding any provision of this section to the contrary,
36 in any case in which the board determines to conduct an investigation
37 of a practitioner who it has reasonable cause to believe represents an
38 imminent danger to his patients, the board may direct the review panel
39 to provide the board with its files pertaining to that practitioner and
40 may direct the review panel to promptly terminate its investigation of
41 that practitioner without making a recommendation pursuant to
42 subsection d. of this section.

43 Upon request of the review panel, the State Board of Medical
44 Examiners shall provide the review panel with any information
45 contained in the board's files concerning a practitioner.

46 d. Upon completion of its review, the review panel shall prepare a

1 report recommending one of the following dispositions:

2 (1) Recommend to the State Board of Medical Examiners that the
3 matter be referred to the Attorney General for the initiation of
4 disciplinary action against the practitioner who is the subject of the
5 notice or complaint, pursuant to [R.S.45:9-16 or] section 8 or 9 of
6 P.L.1978, c.73 (C.45:1-21 and 45:1-22);

7 (2) Defer making a recommendation to the board pending the
8 outcome of litigation or a health care facility or health maintenance
9 organization disciplinary proceeding, if there is no evidence that the
10 practitioner's professional conduct may jeopardize or improperly risk
11 the health, safety or life of a patient;

12 (3) Refer the practitioner to the appropriate licensed health care
13 practitioner treatment program recognized by the State Board of
14 Medical Examiners and promptly notify the medical director of the
15 board of the referral; [or]

16 (4) Refer the practitioner to the appropriate focused education
17 program recognized by the State Board of Medical Examiners and
18 promptly notify the educational director of the board of the referral;
19 or

20 (5) Find that no further action is warranted at this time.

21 e. A member of the State Board of Medical Examiners shall not
22 participate by voting or any other action in any matter before the
23 board on which the board member has participated previously as a
24 review panel member.

25 f. The State Board of Medical Examiners may affirm, reject or
26 modify any disposition of the review panel. After its consideration of
27 the panel recommendation the board shall notify the practitioner who
28 has been the subject of a notice or complaint of the review panel's
29 recommendation and the board's determination.

30 g. Nothing in this section shall be construed to prevent or limit the
31 State Board of Medical Examiners, the Director of the Division of
32 Consumer Affairs in the Department of Law and Public Safety or the
33 Attorney General from taking any other action permitted by law
34 against a practitioner who is the subject of an investigation by the
35 review panel.

36 h. For the purposes of this section, "practitioner" means a person
37 licensed to practice: medicine and surgery under chapter 9 of Title 45
38 of the Revised Statutes or a medical resident or intern; or podiatry
39 under chapter 5 of Title 45 of the Revised Statutes.

40 i. As used in this section, "focused education program" means an
41 individualized and systematic process to assess the educational needs
42 of a licensee based on scientific analysis, technical skill and
43 interpersonal assessment as they relate to the licensee's professional
44 practice.

45 (cf: P.L.1989, c.300, s.9)

1 8. Section 12 of P.L.1989, c.300 (C.45:9-19.12) is amended to
2 read as follows:

3 12. The State Board of Medical Examiners shall, by regulation,
4 provide for the issuance of permits to, or registration of, persons
5 engaging in the practice of medicine or surgery or podiatry while in
6 training, and establish the scope of permissible practice by these
7 persons within the context of an accredited graduate medical education
8 program conducted at a hospital licensed by the Department of Health
9 and Senior Services. A permit holder shall be permitted to engage in
10 practice outside the context of a graduate medical education program
11 for additional remuneration only if that practice is:

12 a. Approved by the director of the graduate medical education
13 program in which the permit holder is participating; and

14 b. With respect to any practice at or through a health care facility
15 licensed by the Department of Health and Senior Services, supervised
16 by a plenary licensee who shall either remain on the premises of the
17 health care facility or be available through electronic communications;
18 or

19 c. With respect to any practice outside of a health care facility
20 licensed by the Department of Health and Senior Services, supervised
21 by a plenary licensee who shall remain on the premises.

22 (cf: P.L.1989, c.300, s.12)

23

24 9. (New section) a. The State Board of Medical Examiners shall
25 require each person licensed as a physician, as a condition for biennial
26 registration pursuant to section 1 of P.L.1971, c.236 (C.45:9-6.1), or
27 as a podiatrist, as a condition for biennial registration pursuant to
28 R.S.45:5-9, to complete 100 credits of continuing medical education,
29 all of which shall be in Category I or Category II as defined in
30 subsection i. of this section.

31 b. The board shall:

32 (1) Establish standards for continuing medical education, including
33 the subject matter and content of courses of study;

34 (2) Accredite education programs offering credit toward continuing
35 medical education requirements or recognize national or State
36 organizations that may accredit education programs;

37 (3) Allow satisfaction of continuing medical education requirements
38 through equivalent educational programs, such as participation in
39 accredited graduate medical education programs, examinations,
40 papers, publications, scientific presentations, teaching and research
41 appointments and scientific exhibits, and establish procedures for the
42 issuance of credit upon satisfactory proof of attainment of these
43 equivalent educational programs; and

44 (4) Delineate, through the promulgation of regulations, any specific
45 courses or topics which, in the discretion of the board, are to be
46 required.

1 c. Each hour of an educational course or program shall be
2 equivalent to one credit of continuing medical education.

3 d. The board may, in its discretion, waive requirements for
4 continuing medical education on an individual basis for reasons of
5 hardship such as illness or disability, retirement of license, or other
6 good cause. A waiver shall apply only to the current biennial renewal
7 period at the time of board issuance.

8 e. The board shall not require completion of continuing medical
9 education credits for any registration period commencing within 12
10 months of the effective date of this section.

11 f. The board shall require completion of medical education credits
12 on a pro-rated basis for any registration period commencing more than
13 12 months but less than 24 months from the effective date of this
14 section.

15 g. The board shall require new licensees to successfully complete,
16 within 24 months of becoming licensed, an orientation course, in those
17 topics identified by the board through regulation, conducted by an
18 organization recognized by the board.

19 h. The board shall not require a new licensee to complete required
20 continuing medical education credits, other than the orientation course
21 described in subsection g. of this section, for any registration period
22 commencing within 12 months of the licensee's participation in and
23 completion of an accredited graduate medical education program.

24 i. As used in this section, "Category I and Category II" means
25 those categories of medical education courses recognized by the
26 Alliance for Continuing Medical Education, the American Osteopathic
27 Association, the American Podiatric Medical Association or other
28 comparable organizations recognized by the board.

29
30 10. Sections 1 through 8 of this act shall take effect immediately
31 and section 9 shall take effect on the 180th day after the date of
32 enactment.

33

34

35

STATEMENT

36

37 This bill provides broader investigative and enforcement authority
38 to the Attorney General and professional licensing boards for matters
39 concerning licensees of the boards. The bill also provides specific
40 authorization for the boards to assess possible impairments and
41 deficiencies in applicants' and licensees' skill and knowledge, and to
42 direct that remediation and monitoring specific to the applicant or
43 licensee at issue take place to address these impairments or
44 deficiencies.

45 In addition, the bill institutes continuing medical education
46 requirements for licensees of the Board of Medical Examiners as a

A2567 VANDERVALK, BAGGER

14

1 condition of licensure and renewal, and additional post graduate
2 medical education requirements for licensure. Finally, the bill creates
3 the position of educational director within the Board of Medical
4 Examiners, who will oversee compliance with educational
5 requirements, remediation and monitoring.

ASSEMBLY CONSUMER AFFAIRS AND REGULATED
PROFESSIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2567

with committee amendments

STATE OF NEW JERSEY

DATED: AUGUST 23, 2001

The Assembly Consumer Affairs and Regulated Professions Committee reports favorably and with committee amendments Assembly Bill No. 2567.

As amended, this bill provides broader investigative and enforcement authority to the Attorney General and occupational and professional licensing boards for matters concerning licensees of the boards, including the inspection of premises and the examination of goods or records in regard to the unauthorized practice of a licensed occupation or profession. It allows the Attorney General and the boards to order licensees, as a condition for continued, reinstated or renewal licensure, to submit to medical or diagnostic testing and monitoring or psychological evaluation to evaluate whether continued practice may jeopardize the safety and welfare of the public; or to submit to an assessment of skills to determine whether the licensee can continue to practice with reasonable skill and safety and to take and successfully complete educational training determined by the board to be necessary or to submit to supervision, monitoring or limitation on practice determined by the board to be necessary.

The bill also makes various additions to the regulation and licensure of physicians by the State Board of Medical Examiners. It provides that if a physician who applies for licensure or who applies for reinstatement of licensure has not practiced for more than five years or the board believes there is a basis for concluding that there may be clinical deficiencies in need of remediation, the board may require the physician to successfully pass an examination or an assessment of skills. If the examination or assessment identifies clinical deficiencies or educational needs, the board may require the physician to take educational training or submit to supervision, monitoring or limitations as a condition for or reinstatement of licensure.

In addition, the bill institutes continuing medical education requirements (100 credits biennially) for physicians as a condition of

licensure and renewal, and additional post graduate medical education requirements for licensure of applicants graduating from medical school after July 1, 2003. The bill also creates an advisory committee consisting of members from various professional societies and associations to provide guidance to the State Board of Medical Examiners regarding continuing medical education matters.

Also, the board is to appoint a full-time educational director to oversee the continuing medical education program and the monitoring and remediation program for physicians with deficient skills.

The committee amendments include the creation of the advisory committee concerning continuing medical education and provisions of a technical and clarifying nature.

As reported, this amended bill is identical to Senate Bill No. 1408 (1R).

[First Reprint]

ASSEMBLY, No. 2567

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED JUNE 1, 2000

Sponsored by:

Assemblywoman CHARLOTTE VANDERVALK

District 39 (Bergen)

Assemblyman RICHARD H. BAGGER

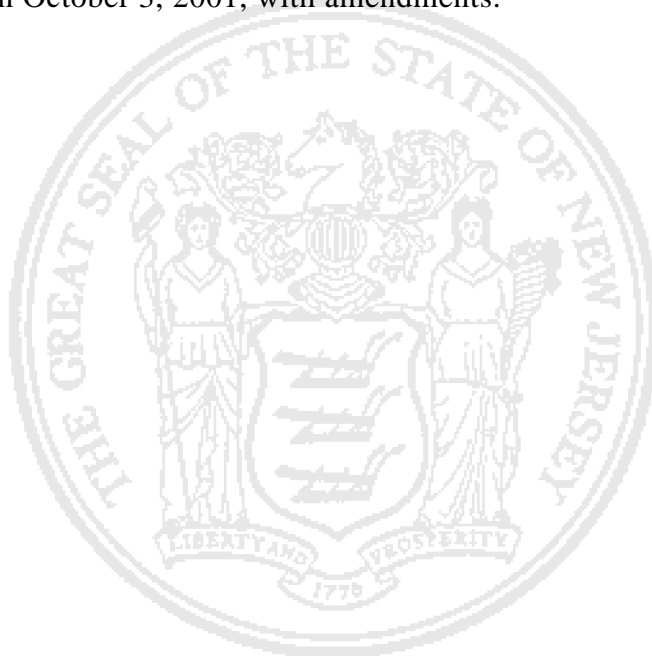
District 22 (Middlesex, Morris, Somerset and Union)

SYNOPSIS

Concerns the ability of professional licensing boards to protect the public.

CURRENT VERSION OF TEXT

As reported by the Assembly Consumer Affairs and Regulated Professions Committee on October 3, 2001, with amendments.



(Sponsorship Updated As Of: 9/22/2000)

1 AN ACT concerning professional licensing boards and revising various
2 parts of the statutory law.

3

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

6

7 1. Section 5 of P.L.1978, c.73 (C.45:1-18) is amended to read as
8 follows:

9 5. Whenever it shall appear to any board, the director or the
10 Attorney General that a person has engaged in, or is engaging in any
11 act or practice declared unlawful by a statute or regulation
12 administered by such board, or when the board, the director or the
13 Attorney General shall deem it to be in the public interest to inquire
14 whether any such violation may exist, the board or the director
15 through the Attorney General, or the Attorney General acting
16 independently, may exercise any of the following investigative powers:

17 a. Require any person to file on such form as may be prescribed, a
18 statement or report in writing under oath, or otherwise, as to the facts
19 and circumstances concerning the rendition of any service or conduct
20 of any sale incidental to the discharge of any act or practice subject to
21 an act or regulation administered by the board;

22 b. Examine under oath any person in connection with any act or
23 practice subject to an act or regulation administered by the board;

24 c. Inspect any premises from which a **[licensed profession or**
25 **occupation] practice or activity subject to an act or regulation**
26 **administered by the board** is conducted;

27 d. Examine any goods, ware or item used in the rendition of **[any**
28 **professional or occupational service] a practice or activity subject to**
29 **an act or regulation administered by the board**;

30 e. Examine any record, book, document, account or paper
31 **prepared or** maintained by or for any professional or occupational
32 licensee in the regular course of practicing such profession or engaging
33 in such occupation **or any individual engaging in practices subject to**
34 **an act or regulation administered by the board. Nothing in this**
35 **subsection shall require the notification or consent of the person to**
36 **whom the record, book, account or paper pertains, unless otherwise**
37 **required by law**;

38 f. For the purpose of preserving evidence of an unlawful act or
39 practice, pursuant to an order of the Superior Court, impound any
40 record, book, document, account, paper, goods, ware, or item used,
41 **prepared** or maintained by or for any board licensee in the regular

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:

¹ Assembly ACP committee amendments adopted October 3, 2001.

1 course of practicing such profession or engaging in such occupation
2 or any individual engaging in a practice or activity subject to an act or
3 regulation administered by the board. In such cases as may be
4 necessary, the Superior Court may, on application of the Attorney
5 General, issue an order sealing items or material subject to this
6 subsection¹; and¹

7 g. Require any board licensee, permit holder or registered or
8 certified person to submit to an assessment of skills to determine
9 whether the board licensee, permit holder or registered or certified
10 person can continue to practice with reasonable skill and safety¹ [
11 and]¹.

12 In order to accomplish the objectives of this act or any act or
13 regulation administered by a board, the Attorney General may hold
14 such investigative hearings as may be necessary and the board, director
15 or Attorney General may issue subpoenas to compel the attendance of
16 any person or the production of books, records or papers at any such
17 hearing or inquiry.

18 (cf: P.L.1978, c.73, s.5)

19

20 2. Section 9 of P.L.1978, c.73 (C.45:1-22) is amended to read as
21 follows:

22 9. In addition or as an alternative, as the case may be, to revoking,
23 suspending or refusing to renew any license, registration or certificate
24 issued by it, a board may, after affording an opportunity to be heard:

25 a. Issue a letter of warning, reprimand, or censure with regard to
26 any act, conduct or practice which in the judgment of the board upon
27 consideration of all relevant facts and circumstances does not warrant
28 the initiation of formal action;

29 b. Assess civil penalties in accordance with this act;

30 c. Order that any person violating any provision of an act or
31 regulation administered by such board to cease and desist from future
32 violations thereof or to take such affirmative corrective action as may
33 be necessary with regard to any act or practice found unlawful by the
34 board;

35 d. Order any person found to have violated any provision of an act
36 or regulation administered by such board to restore to any person
37 aggrieved by an unlawful act or practice, any moneys or property, real
38 or personal, acquired by means of such act or practice; provided,
39 however, no board shall order restoration in a dollar amount greater
40 than those moneys received by a licensee or his agent or any other
41 person violating the act or regulation administered by the board;

42 e. Order any person, as a condition for continued, reinstated or
43 renewed licensure, to secure medical or such other professional
44 treatment as may be necessary to properly discharge licensee
45 functions;

46 f. Order any person, as a condition for continued, reinstated or

1 renewed licensure, to submit to any medical or diagnostic testing and
2 monitoring or psychological evaluation which may be required to
3 evaluate whether continued practice may jeopardize the safety and
4 welfare of the public;

5 g. Order any person, as a condition for continued, reinstated or
6 renewed licensure, to submit to an assessment of skills to determine
7 whether the licensee can continue to practice with reasonable skill and
8 safety, and to take and successfully complete educational training
9 determined by the board to be necessary;

10 h. Order any person, as a condition for continued, reinstated or
11 renewed licensure, to submit to an assessment of skills to determine
12 whether the licensee can continue to practice with reasonable skill and
13 safety, and to submit to any supervision, monitoring or limitation on
14 practice determined by the board to be necessary.

15 A board may, upon a duly verified application of the Attorney
16 General that either provides proof of a conviction of a court of
17 competent jurisdiction for a crime or offense involving moral turpitude
18 or relating adversely to the regulated profession or occupation, or
19 alleges an act or practice violating any provision of an act or
20 regulation administered by such board, enter a temporary order
21 suspending or limiting any license issued by the board pending plenary
22 hearing on an administrative complaint; provided, however, no such
23 temporary order shall be entered unless the application made to the
24 board palpably demonstrates a clear and imminent danger to the public
25 health, safety and welfare and notice of such application is given to the
26 licensee affected by such order. If, upon review of the Attorney
27 General's application, the board determines that, although no palpable
28 demonstration of a clear and imminent danger has been made, the
29 licensee's continued unrestricted practice pending plenary hearing may
30 pose a risk to the public health, safety and welfare, the board may
31 order the licensee to submit to medical or diagnostic testing and
32 monitoring, or psychological evaluation, or an assessment of skills to
33 determine whether the licensee can continue to practice with
34 reasonable skill and safety.

35 In any administrative proceeding commenced on a complaint
36 alleging a violation of an act or regulation administered by a board,
37 such board may issue subpoenas to compel the attendance of witnesses
38 or the production of books, records, or documents at the hearing on
39 the complaint.

40 (cf: P.L.1999, c.403, s.3)

41
42 ^{13.} Section 12 of P.L.1978, c.73 (C.45:1-25) is amended to read as
43 follows:

44 12. a. Any person who engages in any conduct in violation of any
45 provision of an act or regulation administered by a board shall, in
46 addition to any other sanctions provided herein, be liable to a civil

1 penalty of not more than \$10,000 for the first violation and not more
2 than \$20,000 for the second and each subsequent violation. For the
3 purpose of construing this section, each act in violation of any
4 provision of an act or regulation administered by a board shall
5 constitute a separate violation and shall be deemed a second or
6 subsequent violation under the following circumstances:

7 (1) an administrative or court order has been entered in a prior,
8 separate and independent proceeding;

9 (2) the person is found within a single proceeding to have
10 committed more than one violation of any provision of an act or
11 regulation administered by a board; or

12 (3) the person is found within a single proceeding to have
13 committed separate violations of any provision of more than one act
14 or regulation administered by a board.

15 b. In lieu of an administrative proceeding or an action in the
16 Superior Court, the Attorney General may bring an action in the name
17 of any board for the collection or enforcement of civil penalties for the
18 violation of any provision of an act or regulation administered by such
19 board. Such action may be brought in summary manner pursuant to
20 ["The] the "Penalty Enforcement Law of 1999," P.L.1999, c.274
21 (C.2A:58-10 et seq.) and the rules of court governing actions for the
22 collection of civil penalties in the municipal court where the offense
23 occurred. Process in such action may be by summons or warrant and
24 in the event that the defendant in such action fails to answer such
25 action, the court shall, upon finding an unlawful act or practice to have
26 been committed by the defendant, issue a warrant for the defendant's
27 arrest in order to bring such person before the court to satisfy the civil
28 penalties imposed. In any action commenced pursuant to this section,
29 the court may order restored to any person in interest any moneys or
30 property acquired by means of an unlawful act or practice.

31 c. Any action alleging the unlicensed practice of a profession or
32 occupation shall be brought pursuant to this section or, where
33 injunctive relief is sought, by an action commenced in the Superior
34 Court.

35 d. In any action brought pursuant to this act, a board or the court
36 may order the payment of costs for the use of the State, including, but
37 not limited to, costs of investigation, expert witness fees and costs,
38 attorney fees and costs, and transcript costs.¹

39 (cf: P.L.1999, c.403, s.9)

40
41 ¹[3.] 4.¹ R.S.45:5-9 is amended to read as follows:

42 45:5-9. ¹a.¹ Every licensed podiatrist shall procure [each year]
43 every two years from the ¹[secretary] executive director¹ of the
44 board, on or before November 1, [an annual] a biennial certificate of
45 registration, which shall be issued by ¹[said secretary] the executive
46 director¹ upon payment of a fee [of \$15.00] to be determined by the

1 board. The ¹[secretary] executive director¹ shall mail to each licensed
2 podiatrist on or before October 1 [each year] every two years a
3 printed blank form to be properly filled in and returned to ¹[said
4 secretary] the executive director¹ by such licensed person on or before
5 the succeeding November 1, together with such fee. Upon the receipt
6 of said form properly filled in, and such fee, the [annual] biennial
7 certificate of registration shall be issued and transmitted. ¹[Said
8 secretary shall [annually] biennially, on or before January 1, mail to
9 each licensed podiatrist who has registered for the preceding year a list
10 containing the names and post-office addresses of all licensed
11 podiatrists who have registered under this section for [said] that two
12 year period.]¹ Every licensed podiatrist who continues the practice of
13 podiatry after having failed to secure [an annual] a biennial certificate
14 of registration at the time and in the manner required by this section
15 shall be subject to a penalty of \$25.00 for each failure. Immediately
16 after November 1, the ¹[secretary] executive director¹ shall send by
17 registered mail to every podiatrist who has failed to obtain [an annual]
18 a biennial registration certificate for the ensuing two year period a
19 notice that their license will be automatically suspended within 30 days
20 unless the penalty and [annual] registration fee is paid immediately.
21 Upon failure to register after such notice, the license of such person
22 shall be automatically suspended and shall not be reinstated except
23 upon full payment of penalty and [annual] registration fee. However,
24 such suspension shall not apply to anyone who has ceased to practice
25 in this State. Any person whose license shall have been automatically
26 suspended under this section shall during such period of suspension be
27 regarded as an unlicensed person, and if he continue to engage in the
28 practice of podiatry during such period, he shall be liable to the
29 penalties prescribed by [sections] R.S.45:5-11 [and 45:5-12 of this
30 chapter].

31 ¹b. If an applicant for reinstatement of licensure has not engaged
32 in practice in any jurisdiction for a period of more than five years, or
33 the board's review of the reinstatement application establishes a basis
34 for concluding that there may be clinical deficiencies in need of
35 remediation, before reinstatement the board may require the applicant
36 to submit to, and successfully pass, an examination or an assessment
37 of skills. If that examination or assessment identifies clinical
38 deficiencies or educational needs, the board may require the licensee,
39 as a condition of reinstatement of licensure, to take and successfully
40 complete any educational training, or to submit to any supervision,
41 monitoring or limitations, as the board determines are necessary to
42 assure that the licensee practices with reasonable skill and safety.¹
43 (cf: P.L.1971, c.236, s.2)

44

45 ¹[4.] 5.¹ Section 1 of P.L.1971, c.236 (C.45:9-6.1) is amended to

1 read as follows:

2 1. All persons who are licensed to practice medicine and surgery
3 shall be required [on or before September 1, 1971, and] on or before
4 July 1 [annually thereafter,] biennially to register on the form
5 prescribed by the board and furnished by the [secretary] executive
6 director of [said] the board, and to pay [an annual] a biennial
7 registration fee [of \$15.00] to be determined by the board.

8 The license of any licensee who fails to procure any [annual]
9 biennial certificate of registration, shall be automatically suspended on
10 [September 1 of the year 1971 and] July 1 [of each year thereafter].
11 It shall be the duty of the [secretary] executive director of the board
12 on [or before August 1 of the year 1971 and on] June 1 of each year
13 [thereafter] to send a written notice to each [of such licensees]
14 licensee whose license is expiring that year, whether a resident or not,
15 at his last address on file with the board, that his [annual] biennial
16 registration fee is due on or before July 1 and that his license to
17 practice in this State will be suspended if he does not procure said
18 certificate by July 1 of the [said] that year.

19 Any [such] licensee whose license has been suspended under this
20 section may be reinstated by the payment of all past due annual
21 registration fees and in addition thereto [\$25.00] a fee to be
22 determined by the board to cover cost of reinstatement.

23 Any person who desires to retire from the practice of medicine and
24 surgery, and during retirement to refrain from practicing under the
25 terms of his license, upon application to the ¹[secretary] executive
26 director¹ of the board, may be registered [annually] biennially,
27 without the payment of any registration fee, as a retired physician.
28 The certificate of registration which shall be issued to a retired
29 physician shall state, among other things, that the holder has been
30 licensed to practice in New Jersey, but that during his retirement he
31 shall not so practice. The holder of a certificate of registration as a
32 retired licensee shall be entitled to resume practice at any time;
33 provided, he first shall have obtained from the [secretary an annual]
34 executive director a biennial certificate of registration as hereinbefore
35 provided.

36 If an applicant for reinstatement of licensure has not engaged in
37 practice in any jurisdiction for a period of more than five years, or the
38 board's review of the reinstatement application establishes a basis for
39 concluding that there may be clinical deficiencies in need of
40 remediation, before reinstatement the board may require the applicant
41 to submit to, and successfully pass, an examination or an assessment
42 of skills. If that examination or assessment identifies clinical
43 deficiencies or educational needs, the board may require the licensee,
44 as a condition of reinstatement of licensure, to take and successfully
45 complete any educational training, or to submit to any supervision.

1 monitoring or limitations, as the board determines are necessary to
2 assure that the licensee practices with reasonable skill and safety.

3 The license to practice medicine and surgery of any person who
4 fails to procure any [annual] biennial certificate of registration, or in
5 lieu thereof [an annual] a biennial certificate of registration as a
6 retired licensee, at the time and in the manner required by this act shall
7 be automatically suspended. Any person whose license shall have
8 been automatically suspended shall, during the period of such
9 suspension, be regarded as an unlicensed person and, in case he shall
10 continue or engage in practice under the terms of his license during
11 such period, shall be liable to the penalties prescribed by R.S.45:9-22.
12 Any person to whom a certificate of registration as a retired licensee
13 shall have been issued who shall continue or engage in practice under
14 the terms of his license without first having obtained a certificate of
15 registration authorizing him to resume such practice, shall be liable to
16 the penalties prescribed by R.S.45:9-22 for practicing without a
17 license.

18 It shall be the duty of each such licensee holding a certificate to
19 practice medicine and surgery in this State, whether a resident or not,
20 to notify the [secretary] executive director of the board in writing of
21 any change in his office address or his employment within 10 days
22 after such change shall have taken place.

23 This section shall not be construed so as to render inoperative the
24 provisions of R.S.45:9-17.

25 (cf: P.L.1971, c.236, s.1)

26

27 ¹[5.] 6.¹ R.S.45:9-8 is amended to read as follows:

28 45:9-8. Except as otherwise provided in [this chapter (45:9-1 et
29 seq.)] R.S.45:9-1 et seq., every applicant for admission to licensure by
30 examination to practice medicine and surgery shall, in addition to the
31 requirements set forth in [sections 45:9-6 and 45:9-7 of this Title]
32 R.S.45:9-1 et seq.:

33 ¹a.¹ (1) Prove to the board that ¹[he] the applicant¹ has received
34 (a) a diploma from some legally incorporated professional school or
35 college of the United States, Canada or other foreign country, which
36 school or college, in the opinion of the board, was in good standing at
37 the time of the issuance of the diploma, or (b) a license conferring the
38 full right to practice all of the branches of medicine and surgery in
39 some foreign country; and

40 (2) Shall further prove that, prior to the receipt of such diploma or
41 license, as aforesaid, ¹[he] the applicant¹ had studied not less than 4
42 full school years, including four satisfactory courses of lectures of at
43 least 8 months each, consecutively or in 4 different calendar years, in
44 some legally incorporated and registered American or foreign
45 professional school or schools, college or colleges in good standing in

1 the opinion of the board, which courses shall have included a
2 thorough and satisfactory course of instruction in medicine and
3 surgery; and

4 ¹[(3)] b. (1)¹ [Such] The applicant, if he has graduated from a
5 professional school or college after July 1, 1916 and before July 1,
6 2003, shall further prove to the board that, after receiving such
7 diploma or license, he has completed an internship acceptable to the
8 board for at least 1 year in a hospital approved by the board, or in lieu
9 thereof he has completed 1 year of post-graduate work acceptable to
10 the board in a school or hospital approved by the board, unless
11 required by regulation to complete additional post-graduate work; or

12 ¹[(4)] (2)¹ The applicant, if he has graduated from a medical
13 school after July 1, 2003, shall further prove to the board that, after
14 receiving his diploma, he has completed and received academic credit
15 for at least two years of post-graduate training in an accredited
16 program and has signed a contract for a third year of post-graduate
17 training in an accredited program, and that at least two years of that
18 training are in the same field or would, when considered together, be
19 credited toward the criteria for certification by a single specialty board
20 recognized by the American Board of Medical Specialties or the
21 American Osteopathic Association or another certification entity with
22 comparable standards that is acceptable to the board¹ [; or

23 (5) [If] The applicant, if prior to receiving [such] his diploma[,]
24 has been awarded a certificate or the degree of Bachelor of Medicine
25 upon completion of a course of study acceptable to the board and of
26 not less than 30 months duration in not less than 3 different calendar
27 years in a medical college approved by the board, and in addition
28 thereto, prior to receiving the degree of Doctor of Medicine, shall
29 have completed a full year of intern training in a medical college
30 hospital or a hospital affiliated or associated with such medical
31 college]¹.

32 ¹c.¹ If an applicant for licensure has not engaged in practice for a
33 period of more than five years, or the board's review of the application
34 establishes a basis for concluding that there may be clinical deficiencies
35 in need of remediation, the board may require the applicant to submit
36 to, and successfully pass, an examination or an assessment of skills.
37 If that examination or assessment identifies clinical deficiencies or
38 educational needs, the board may require¹ [a licensee] an applicant¹,
39 as a condition of licensure, to take and successfully complete any
40 educational training, or to submit to any supervision, monitoring or
41 limitations, as the board determines are necessary to assure that the
42 ¹[licensee practices] applicant will practice¹ with reasonable skill and
43 safety.

44 (cf: P.L.1971, c.111, s.1)

45

46 ¹[6.] 7.¹ Section 6 of P.L.1989, c.300 (C.45:9-19.6) is amended

1 to read as follows:

2 6. The State Board of Medical Examiners shall employ a full-time
3 medical director and a full-time educational director to assist the board
4 in carrying out its duties pursuant to Title 45 of the Revised Statutes.

5 a. The medical director shall be a physician who is licensed to
6 practice medicine and surgery in the State and who is knowledgeable
7 about, or has clinical experience in, the field of chemical dependency
8 or addiction-oriented psychiatry. The medical director shall receive
9 such compensation as the board shall determine and shall serve at the
10 pleasure of the board.

11 The duties of the medical director shall include, but are not limited
12 to: reviewing complaints and reports of medical malpractice,
13 impairment, incompetence or unprofessional conduct that are made to
14 the board or the Medical Practitioner Review Panel established
15 pursuant to section 8 of P.L.1989, c.300 (C.45:9-19.8), by other
16 health care providers and by the public; coordinating and assisting in
17 the investigation of these complaints and reports; and assisting the
18 panel in making its recommendations and the board in making
19 disciplinary determinations regarding a licensee. The medical director
20 shall perform such other duties as the board may require in carrying
21 out its responsibilities under Title 45 of the Revised Statutes.

22 The medical director also shall serve as the board's liaison to any
23 licensed health care practitioner treatment program recognized by the
24 board. The board, in conjunction with the medical director, shall
25 establish standards for treatment and procedures for monitoring the
26 progress of a participating practitioner's treatment and for notifying
27 the board when a practitioner fails to comply with the requirements of
28 the treatment program or when a practitioner's impairment may
29 jeopardize or improperly risk the health, safety or life of a patient.

30 b. The educational director shall be an educator, experienced in the
31 field of medical education. The educational director shall
32 receive ¹such¹ compensation as ¹[determined by]¹ the board ¹shall
33 determine¹ and shall serve at the pleasure of the board.

34 The duties of the educational director shall include, but are not
35 limited to, facilitating the educational directives, goals and programs
36 of the board. The educational director shall perform other duties as
37 required by the board to carry out its responsibilities under chapter 9
38 of Title 45 of the Revised Statutes.

39 The educational director shall serve as the board's liaison to any
40 focused education program recognized by the board. The board, in
41 conjunction with the educational director, shall establish standards for
42 continuing medical education programs and focused education
43 programs as defined in subsection i. of section 9 of P.L.1989, c.300
44 (C.45:9-19.9), and procedures for notification of the board when a
45 practitioner fails to comply with a monitoring program devised by a
46 focused education program.

1 The board and the Division of Consumer Affairs in the Department
2 of Law and Public Safety shall provide such investigative, medical
3 consulting, administrative and clerical support as is necessary to assist
4 the medical director and educational director in carrying out [his]
5 their duties.

6 (cf: P.L.1989, c.300, s.6)

7

8 ¹[7.] §.¹ Section 9 of P.L.1989, c.300 (C.45:9-19.9) is amended
9 to read as follows:

10 9. a. The review panel shall receive:

11 (1) Notice from a health care facility or health maintenance
12 organization, pursuant to section 1 of P.L.1983, c.247
13 (C.26:2H-12.2);

14 (2) Notice from an insurer or insurance association or a
15 practitioner, pursuant to section 2 of P.L.1983, c.247 (C.17:30D-17),
16 regarding a medical malpractice claim settlement, judgment or
17 arbitration award or a termination or denial of, or surcharge on, the
18 medical malpractice liability insurance coverage of a practitioner; and

19 b. The review panel may receive referrals from the board which
20 may include complaints alleging professional misconduct,
21 incompetence, negligence or impairment of a practitioner from other
22 health care providers and consumers of health care.

23 c. Upon receipt of a notice or complaint pursuant to this section,
24 the review panel shall promptly investigate the information received
25 and obtain any additional information that may be necessary in order
26 to make a recommendation to the board. The review panel may seek
27 the assistance of a consultant or other knowledgeable person, as
28 necessary, in making its recommendation. The review panel may
29 request the board or the Attorney General to exercise investigative
30 powers pursuant to section 5 of P.L.1978, c.73 (C.45:1-18) in the
31 conduct of its investigation.

32 (1) If the review panel has reasonable cause to believe that a
33 practitioner represents an imminent danger to his patients, the review
34 panel shall immediately notify the State Board of Medical Examiners
35 and the Attorney General and recommend the initiation of an
36 application before the board to temporarily suspend or otherwise limit
37 the practitioner's license pending further proceedings by the review
38 panel or the board.

39 If the board temporarily suspends or otherwise limits the license,
40 the board shall notify each licensed health care facility and health
41 maintenance organization with which the practitioner is affiliated and
42 every practitioner in the State with which the practitioner is directly
43 associated in his private practice.

44 (2) A practitioner who is the subject of an investigation shall be
45 promptly notified of the investigation, pursuant to procedures adopted
46 by regulation of the board that give consideration to the health, safety

1 and welfare of the practitioner's patients and to the necessity for a
2 confidential or covert investigation by the review panel. At the panel's
3 request or upon a good cause showing by the practitioner an informal
4 hearing shall be scheduled before the review panel or a subcommittee
5 of at least three review panel members, in accordance with regulations
6 adopted by the board. The hearing shall be transcribed and the
7 practitioner shall be entitled to a copy of the transcript, at his own
8 expense. A practitioner who presents information to the review panel
9 is entitled to be represented by counsel.

10 (3) Notwithstanding any provision of this section to the contrary,
11 in any case in which the board determines to conduct an investigation
12 of a practitioner who it has reasonable cause to believe represents an
13 imminent danger to his patients, the board may direct the review panel
14 to provide the board with its files pertaining to that practitioner and
15 may direct the review panel to promptly terminate its investigation of
16 that practitioner without making a recommendation pursuant to
17 subsection d. of this section.

18 Upon request of the review panel, the State Board of Medical
19 Examiners shall provide the review panel with any information
20 contained in the board's files concerning a practitioner.

21 d. Upon completion of its review, the review panel shall prepare a
22 report recommending one of the following dispositions:

23 (1) Recommend to the State Board of Medical Examiners that the
24 matter be referred to the Attorney General for the initiation of
25 disciplinary action against the practitioner who is the subject of the
26 notice or complaint, pursuant to [R.S.45:9-16 or] section 8 or 9 of
27 P.L.1978, c.73 (C.45:1-21 and 45:1-22);

28 (2) Defer making a recommendation to the board pending the
29 outcome of litigation or a health care facility or health maintenance
30 organization disciplinary proceeding, if there is no evidence that the
31 practitioner's professional conduct may jeopardize or improperly risk
32 the health, safety or life of a patient;

33 (3) Refer the practitioner to the appropriate licensed health care
34 practitioner treatment program recognized by the State Board of
35 Medical Examiners and promptly notify the medical director of the
36 board of the referral; [or]

37 (4) Refer the practitioner to the appropriate focused education
38 program recognized by the State Board of Medical Examiners and
39 promptly notify the educational director of the board of the referral;
40 or

41 (5) Find that no further action is warranted at this time.

42 e. A member of the State Board of Medical Examiners shall not
43 participate by voting or any other action in any matter before the
44 board on which the board member has participated previously as a
45 review panel member.

46 f. The State Board of Medical Examiners may affirm, reject or

1 modify any disposition of the review panel. After its consideration of
2 the panel recommendation the board shall notify the practitioner who
3 has been the subject of a notice or complaint of the review panel's
4 recommendation and the board's determination.

5 g. Nothing in this section shall be construed to prevent or limit the
6 State Board of Medical Examiners, the Director of the Division of
7 Consumer Affairs in the Department of Law and Public Safety or the
8 Attorney General from taking any other action permitted by law
9 against a practitioner who is the subject of an investigation by the
10 review panel.

11 h. For the purposes of this section, "practitioner" means a person
12 licensed to practice: medicine and surgery under chapter 9 of Title 45
13 of the Revised Statutes or a medical resident or intern; or podiatry
14 under chapter 5 of Title 45 of the Revised Statutes.

15 i. As used in this section, "focused education program" means an
16 individualized and systematic process to assess the educational needs
17 of a licensee based on scientific analysis, technical skill and
18 interpersonal ¹[assessment] evaluation¹ as they relate to the licensee's
19 professional practice ¹, and the institution of remedial education and
20 any supervision, monitoring or limitations of the licensee¹.

21 (cf: P.L.1989, c.300, s.9)

22
23 ¹[8.] 9.¹ Section 12 of P.L.1989, c.300 (C.45:9-19.12) is amended
24 to read as follows:

25 12. The State Board of Medical Examiners shall, by regulation,
26 provide for the issuance of permits to, or registration of, persons
27 engaging in the practice of medicine or surgery or podiatry while in
28 training, and establish the scope of permissible practice by these
29 persons within the context of an accredited graduate medical education
30 program conducted at a hospital licensed by the Department of Health
31 and Senior Services. A permit holder shall be permitted to engage in
32 practice outside the context of a graduate medical education program
33 for additional remuneration only if that practice is:

34 a. Approved by the director of the graduate medical education
35 program in which the permit holder is participating; and

36 b. With respect to any practice at or through a health care facility
37 licensed by the Department of Health and Senior Services, supervised
38 by a plenary licensee who shall either remain on the premises of the
39 health care facility or be available through electronic communications;
40 or

41 c. With respect to any practice outside of a health care facility
42 licensed by the Department of Health and Senior Services, supervised
43 by a plenary licensee who shall remain on the premises.

44 (cf: P.L.1989, c.300, s.12)

45
46 ¹[9.] 10.¹ (New section) a. The State Board of Medical

1 Examiners shall require each person licensed as a physician, as a
2 condition for biennial registration pursuant to section 1 of P.L.1971,
3 c.236 (C.45:9-6.1), or as a podiatrist, as a condition for biennial
4 registration pursuant to R.S.45:5-9, to complete 100 credits of
5 continuing medical education, all of which shall be in Category I or
6 Category II as defined in subsection i. of this section.

7 b. The board shall:

8 (1) Establish standards for continuing medical education, including
9 the subject matter and content of courses of study;

10 (2) Accredite education programs offering credit toward continuing
11 medical education requirements or recognize national or State
12 organizations that may accredit education programs;

13 (3) Allow satisfaction of continuing medical education requirements
14 through equivalent educational programs, such as participation in
15 accredited graduate medical education programs, examinations,
16 papers, publications, scientific presentations, teaching and research
17 appointments and scientific exhibits, and establish procedures for the
18 issuance of credit upon satisfactory proof of attainment of these
19 equivalent educational programs; ¹[and]¹

20 (4) ¹Create an advisory committee to be comprised of at least five
21 members, including representatives of the Medical Society of New
22 Jersey, the Academy of Medicine of New Jersey, the New Jersey
23 Osteopathic Association, the New Jersey Podiatric Medical
24 Association and such other professional societies and associations as
25 the board may identify, to provide guidance to the board in discharging
26 its responsibilities pursuant to this section; and

27 (5)¹ Delineate, through the promulgation of regulations, any
28 specific courses or topics which, ¹on the recommendation of the
29 advisory committee created pursuant to paragraph (4) of this
30 subsection and¹ in the discretion of the board, are to be required.

31 c. Each hour of an educational course or program shall be
32 equivalent to one credit of continuing medical education.

33 d. The board may, in its discretion, waive requirements for
34 continuing medical education on an individual basis for reasons of
35 hardship such as illness or disability, retirement of license, or other
36 good cause. A waiver shall apply only to the current biennial renewal
37 period at the time of board issuance.

38 e. The board shall not require completion of continuing medical
39 education credits for any registration period commencing within 12
40 months of the effective date of this section.

41 f. The board shall require completion of medical education credits
42 on a pro-rated basis for any registration period commencing more than
43 12 months but less than 24 months from the effective date of this
44 section.

45 g. The board shall require new licensees to successfully complete,
46 within 24 months of becoming licensed, an orientation course, in those

1 topics identified by the board through regulation, conducted by an
2 organization recognized by the board.

3 h. The board shall not require a new licensee to complete required
4 continuing medical education credits, other than the orientation course
5 described in subsection g. of this section, for any registration period
6 commencing within 12 months of the licensee's participation in and
7 completion of an accredited graduate medical education program.

8 i. As used in this section, "Category I and Category II" means
9 those categories of medical education courses recognized by the
10 ¹[Alliance for Continuing Medical Education] American Medical
11 Association¹, the American Osteopathic Association, the American
12 Podiatric Medical Association ¹, the Accreditation Council for
13 Continuing Medical Education¹ or other comparable organizations
14 recognized by the board.

15

16 ¹[10.] 11.¹ Sections 1 through ¹[8] 9¹ of this act shall take effect
17 immediately and section ¹[9] 10¹ shall take effect on the 180th day
18 after the date of enactment.

FISCAL NOTE
[First Reprint]
ASSEMBLY, No. 2567
STATE OF NEW JERSEY
209th LEGISLATURE

DATED: OCTOBER 31, 2001

SUMMARY

Synopsis: Concerns the ability of professional licensing boards to protect the public.

Type of Impact: Expenditure increase; General Fund.

Agencies Affected: Department of Law and Public Safety, Division of Consumer Affairs.

Executive Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	\$76,000	\$80,000	\$83,000

- ! The Office of Legislative Services (OLS) **concurs** with the Executive estimate, but notes that fees paid by licensees could defray additional administrative expenses.
- ! Allows professional licensing boards to require examinations and assessments of licensees.
- ! Requires the State Board of Medical Examiners to hire a full-time educational director.
- ! Fees paid by licensees could defray administrative expenses.

BILL DESCRIPTION

Assembly Bill No. 2567 (1R) of 2000 provides broader investigative and enforcement authority to the Attorney General and occupational and professional licensing boards for matters concerning licensees of the boards. It allows the boards to require licensees to submit to medical or diagnostic testing and monitoring.

The bill also makes various additions to the regulation and licensure of physicians by the State Board of Medical Examiners. It allows the board to require a physician who applies for licensure to pass an examination or an assessment of skills. In addition, the bill institutes continuing medical education requirements (100 credits biennially) for physicians as a condition of licensure and renewal.

The bill also requires the State Board of Medical Examiners to appoint a full-time educational director to oversee the continuing medical education program and the monitoring and remediation program for physicians with deficient skills.

FISCAL ANALYSIS

EXECUTIVE BRANCH

The Division of Consumer Affairs estimates the cost of this bill at \$76,000 in the first year following enactment. This cost includes the salary and fringe benefits of a full time educational director to the State Board of Medical Examiners. After adjusting for inflation, the division estimates the second and third year costs of the bill at \$80,000 and \$83,000, respectively.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services (OLS) concurs with the Executive estimate, but notes that fees paid by licensees could defray additional administrative expenses.

Section: *Law and Public Safety*

Analyst: *James F. Vari*
Associate Fiscal Analyst

Approved: *Alan R. Kooney*
Legislative Budget and Finance Officer

This fiscal note has been prepared pursuant to P.L.1980, c.67.

P.L. 2001, CHAPTER 307, *approved January 3, 2002*
Senate, No. 1408 (*First Reprint*)

1 **AN ACT** concerning professional licensing boards and revising various
2 parts of the statutory law.

3

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

6

7 1. Section 5 of P.L.1978, c.73 (C.45:1-18) is amended to read as
8 follows:

9 5. Whenever it shall appear to any board, the director or the
10 Attorney General that a person has engaged in, or is engaging in any
11 act or practice declared unlawful by a statute or regulation
12 administered by such board, or when the board, the director or the
13 Attorney General shall deem it to be in the public interest to inquire
14 whether any such violation may exist, the board or the director
15 through the Attorney General, or the Attorney General acting
16 independently, may exercise any of the following investigative powers:

17 a. Require any person to file on such form as may be prescribed, a
18 statement or report in writing under oath, or otherwise, as to the facts
19 and circumstances concerning the rendition of any service or conduct
20 of any sale incidental to the discharge of any act or practice subject to
21 an act or regulation administered by the board;

22 b. Examine under oath any person in connection with any act or
23 practice subject to an act or regulation administered by the board;

24 c. Inspect any premises from which a **[licensed profession or**
25 **occupation] practice or activity subject to an act or regulation**
26 **administered by the board** is conducted;

27 d. Examine any goods, ware or item used in the rendition of **[any**
28 **professional or occupational service] a practice or activity subject to**
29 **an act or regulation administered by the board;**

30 e. Examine any record, book, document, account or paper
31 prepared or maintained by or for any professional or occupational
32 licensee in the regular course of practicing such profession or engaging
33 in such occupation or any individual engaging in practices subject to
34 an act or regulation administered by the board. Nothing in this
35 subsection shall require the notification or consent of the person to
36 whom the record, book, account or paper pertains, unless otherwise
37 required by law;

38 f. For the purpose of preserving evidence of an unlawful act or
39 practice, pursuant to an order of the Superior Court, impound any

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:

¹ Senate SCM committee amendments adopted June 11, 2001.

1 record, book, document, account, paper, goods, ware, or item used,
2 prepared or maintained by or for any board licensee in the regular
3 course of practicing such profession or engaging in such occupation
4 or any individual engaging in a practice or activity subject to an act or
5 regulation administered by the board. In such cases as may be
6 necessary, the Superior Court may, on application of the Attorney
7 General, issue an order sealing items or material subject to this
8 subsection¹; and¹

9 g. Require any board licensee, permit holder or registered or
10 certified person to submit to an assessment of skills to determine
11 whether the board licensee, permit holder or registered or certified
12 person can continue to practice with reasonable skill and safety¹ [;
13 and]¹.

14 In order to accomplish the objectives of this act or any act or
15 regulation administered by a board, the Attorney General may hold
16 such investigative hearings as may be necessary and the board, director
17 or Attorney General may issue subpoenas to compel the attendance of
18 any person or the production of books, records or papers at any such
19 hearing or inquiry.

20 (cf: P.L.1978, c.73, s.5)

21

22 2. Section 9 of P.L.1978, c.73 (C.45:1-22) is amended to read as
23 follows:

24 9. In addition or as an alternative, as the case may be, to revoking,
25 suspending or refusing to renew any license, registration or certificate
26 issued by it, a board may, after affording an opportunity to be heard:

27 a. Issue a letter of warning, reprimand, or censure with regard to
28 any act, conduct or practice which in the judgment of the board upon
29 consideration of all relevant facts and circumstances does not warrant
30 the initiation of formal action;

31 b. Assess civil penalties in accordance with this act;

32 c. Order that any person violating any provision of an act or
33 regulation administered by such board to cease and desist from future
34 violations thereof or to take such affirmative corrective action as may
35 be necessary with regard to any act or practice found unlawful by the
36 board;

37 d. Order any person found to have violated any provision of an act
38 or regulation administered by such board to restore to any person
39 aggrieved by an unlawful act or practice, any moneys or property, real
40 or personal, acquired by means of such act or practice; provided,
41 however, no board shall order restoration in a dollar amount greater
42 than those moneys received by a licensee or his agent or any other
43 person violating the act or regulation administered by the board;

44 e. Order any person, as a condition for continued, reinstated or
45 renewed licensure, to secure medical or such other professional
46 treatment as may be necessary to properly discharge licensee

1 functions;

2 f. Order any person, as a condition for continued, reinstated or
3 renewed licensure, to submit to any medical or diagnostic testing and
4 monitoring or psychological evaluation which may be required to
5 evaluate whether continued practice may jeopardize the safety and
6 welfare of the public;

7 g. Order any person, as a condition for continued, reinstated or
8 renewed licensure, to submit to an assessment of skills to determine
9 whether the licensee can continue to practice with reasonable skill and
10 safety, and to take and successfully complete educational training
11 determined by the board to be necessary;

12 h. Order any person, as a condition for continued, reinstated or
13 renewed licensure, to submit to an assessment of skills to determine
14 whether the licensee can continue to practice with reasonable skill and
15 safety, and to submit to any supervision, monitoring or limitation on
16 practice determined by the board to be necessary.

17 A board may, upon a duly verified application of the Attorney
18 General that either provides proof of a conviction of a court of
19 competent jurisdiction for a crime or offense involving moral turpitude
20 or relating adversely to the regulated profession or occupation, or
21 alleges an act or practice violating any provision of an act or
22 regulation administered by such board, enter a temporary order
23 suspending or limiting any license issued by the board pending plenary
24 hearing on an administrative complaint; provided, however, no such
25 temporary order shall be entered unless the application made to the
26 board palpably demonstrates a clear and imminent danger to the public
27 health, safety and welfare and notice of such application is given to the
28 licensee affected by such order. If, upon review of the Attorney
29 General's application, the board determines that, although no palpable
30 demonstration of a clear and imminent danger has been made, the
31 licensee's continued unrestricted practice pending plenary hearing may
32 pose a risk to the public health, safety and welfare, the board may
33 order the licensee to submit to medical or diagnostic testing and
34 monitoring, or psychological evaluation, or an assessment of skills to
35 determine whether the licensee can continue to practice with
36 reasonable skill and safety.

37 In any administrative proceeding commenced on a complaint
38 alleging a violation of an act or regulation administered by a board,
39 such board may issue subpoenas to compel the attendance of witnesses
40 or the production of books, records, or documents at the hearing on
41 the complaint.

42 (cf: P.L.1999, c.403, s.3)

43

44 ¹³. Section 12 of P.L.1978, c.73 (C.45:1-25) is amended to read
45 as follows:

46 12. a. Any person who engages in any conduct in violation of any

1 provision of an act or regulation administered by a board shall, in
2 addition to any other sanctions provided herein, be liable to a civil
3 penalty of not more than \$10,000 for the first violation and not more
4 than \$20,000 for the second and each subsequent violation. For the
5 purpose of construing this section, each act in violation of any
6 provision of an act or regulation administered by a board shall
7 constitute a separate violation and shall be deemed a second or
8 subsequent violation under the following circumstances:

9 (1) an administrative or court order has been entered in a prior,
10 separate and independent proceeding;

11 (2) the person is found within a single proceeding to have
12 committed more than one violation of any provision of an act or
13 regulation administered by a board; or

14 (3) the person is found within a single proceeding to have
15 committed separate violations of any provision of more than one act
16 or regulation administered by a board.

17 b. In lieu of an administrative proceeding or an action in the
18 Superior Court, the Attorney General may bring an action in the name
19 of any board for the collection or enforcement of civil penalties for the
20 violation of any provision of an act or regulation administered by such
21 board. Such action may be brought in summary manner pursuant to
22 ["The] the "Penalty Enforcement Law of 1999," P.L.1999, c.274
23 (C.2A:58-10 et seq.) and the rules of court governing actions for the
24 collection of civil penalties in the municipal court where the offense
25 occurred. Process in such action may be by summons or warrant and
26 in the event that the defendant in such action fails to answer such
27 action, the court shall, upon finding an unlawful act or practice to have
28 been committed by the defendant, issue a warrant for the defendant's
29 arrest in order to bring such person before the court to satisfy the civil
30 penalties imposed. In any action commenced pursuant to this section,
31 the court may order restored to any person in interest any moneys or
32 property acquired by means of an unlawful act or practice.

33 c. Any action alleging the unlicensed practice of a profession or
34 occupation shall be brought pursuant to this section or, where
35 injunctive relief is sought, by an action commenced in the Superior
36 Court.

37 d. In any action brought pursuant to this act, a board or the court
38 may order the payment of costs for the use of the State, including, but
39 not limited to, costs of investigation, expert witness fees and costs,
40 attorney fees and costs, and transcript costs.¹

41 (cf: P.L.1999, c.403, s.9)

42
43 ¹[3.] 4.¹ R.S.45:5-9 is amended to read as follows:

44 45:5-9. ¹a.¹ Every licensed podiatrist shall procure [each year]
45 every two years from the ¹[secretary] executive director¹ of the
46 board, on or before November 1, [an annual] a biennial certificate of

1 registration, which shall be issued by ¹[said secretary] the executive
2 director¹ upon payment of a fee [of \$15.00] to be determined by the
3 board. The ¹[secretary] executive director¹ shall mail to each licensed
4 podiatrist on or before October 1 [each year] every two years a
5 printed blank form to be properly filled in and returned to ¹[said
6 secretary] the executive director¹ by such licensed person on or before
7 the succeeding November 1, together with such fee. Upon the receipt
8 of said form properly filled in, and such fee, the [annual] biennial
9 certificate of registration shall be issued and transmitted. ¹[Said
10 secretary shall [annually] biennially, on or before January 1, mail to
11 each licensed podiatrist who has registered for the preceding year a list
12 containing the names and post-office addresses of all licensed
13 podiatrists who have registered under this section for [said] that two
14 year period.]¹ Every licensed podiatrist who continues the practice of
15 podiatry after having failed to secure [an annual] a biennial certificate
16 of registration at the time and in the manner required by this section
17 shall be subject to a penalty of \$25.00 for each failure. Immediately
18 after November 1, the ¹[secretary] executive director¹ shall send by
19 registered mail to every podiatrist who has failed to obtain [an annual]
20 a biennial registration certificate for the ensuing two year period a
21 notice that their license will be automatically suspended within 30 days
22 unless the penalty and [annual] registration fee is paid immediately.
23 Upon failure to register after such notice, the license of such person
24 shall be automatically suspended and shall not be reinstated except
25 upon full payment of penalty and [annual] registration fee. However,
26 such suspension shall not apply to anyone who has ceased to practice
27 in this State. Any person whose license shall have been automatically
28 suspended under this section shall during such period of suspension be
29 regarded as an unlicensed person, and if he continue to engage in the
30 practice of podiatry during such period, he shall be liable to the
31 penalties prescribed by [sections] R.S.45:5-11 [and 45:5-12 of this
32 chapter].

33 ¹b. If an applicant for reinstatement of licensure has not engaged
34 in practice in any jurisdiction for a period of more than five years, or
35 the board's review of the reinstatement application establishes a basis
36 for concluding that there may be clinical deficiencies in need of
37 remediation, before reinstatement the board may require the applicant
38 to submit to, and successfully pass, an examination or an assessment
39 of skills. If that examination or assessment identifies clinical
40 deficiencies or educational needs, the board may require the licensee,
41 as a condition of reinstatement of licensure, to take and successfully
42 complete any educational training, or to submit to any supervision,
43 monitoring or limitations, as the board determines are necessary to
44 assure that the licensee practices with reasonable skill and safety.¹

45 (cf: P.L.1971, c.236, s.2)

1 ¹[4.] 5.¹ Section 1 of P.L.1971, c.236 (C.45:9-6.1) is amended to
2 read as follows:

3 1. All persons who are licensed to practice medicine and surgery
4 shall be required [on or before September 1, 1971, and] on or before
5 July 1 [annually thereafter,] biennially to register on the form
6 prescribed by the board and furnished by the [secretary] executive
7 director of [said] the board, and to pay [an annual] a biennial
8 registration fee [of \$15.00] to be determined by the board.

9 The license of any licensee who fails to procure any [annual]
10 biennial certificate of registration, shall be automatically suspended on
11 [September 1 of the year 1971 and] July 1 [of each year thereafter].
12 It shall be the duty of the [secretary] executive director of the board
13 on [or before August 1 of the year 1971 and on] June 1 of each year
14 [thereafter] to send a written notice to each [of such licensees]
15 licensee whose license is expiring that year, whether a resident or not,
16 at his last address on file with the board, that his [annual] biennial
17 registration fee is due on or before July 1 and that his license to
18 practice in this State will be suspended if he does not procure said
19 certificate by July 1 of the [said] that year.

20 Any [such] licensee whose license has been suspended under this
21 section may be reinstated by the payment of all past due annual
22 registration fees and in addition thereto [\$25.00] a fee to be
23 determined by the board to cover cost of reinstatement.

24 Any person who desires to retire from the practice of medicine and
25 surgery, and during retirement to refrain from practicing under the
26 terms of his license, upon application to the ¹[secretary] executive
27 director¹ of the board, may be registered [annually] biennially,
28 without the payment of any registration fee, as a retired physician.
29 The certificate of registration which shall be issued to a retired
30 physician shall state, among other things, that the holder has been
31 licensed to practice in New Jersey, but that during his retirement he
32 shall not so practice. The holder of a certificate of registration as a
33 retired licensee shall be entitled to resume practice at any time;
34 provided, he first shall have obtained from the [secretary an annual]
35 executive director a biennial certificate of registration as hereinbefore
36 provided.

37 If an applicant for reinstatement of licensure has not engaged in
38 practice in any jurisdiction for a period of more than five years, or the
39 board's review of the reinstatement application establishes a basis for
40 concluding that there may be clinical deficiencies in need of
41 remediation, before reinstatement the board may require the applicant
42 to submit to, and successfully pass, an examination or an assessment
43 of skills. If that examination or assessment identifies clinical
44 deficiencies or educational needs, the board may require the licensee,
45 as a condition of reinstatement of licensure, to take and successfully

1 complete any educational training, or to submit to any supervision,
2 monitoring or limitations, as the board determines are necessary to
3 assure that the licensee practices with reasonable skill and safety.

4 The license to practice medicine and surgery of any person who
5 fails to procure any [annual] biennial certificate of registration, or in
6 lieu thereof [an annual] a biennial certificate of registration as a
7 retired licensee, at the time and in the manner required by this act shall
8 be automatically suspended. Any person whose license shall have
9 been automatically suspended shall, during the period of such
10 suspension, be regarded as an unlicensed person and, in case he shall
11 continue or engage in practice under the terms of his license during
12 such period, shall be liable to the penalties prescribed by R.S.45:9-22.
13 Any person to whom a certificate of registration as a retired licensee
14 shall have been issued who shall continue or engage in practice under
15 the terms of his license without first having obtained a certificate of
16 registration authorizing him to resume such practice, shall be liable to
17 the penalties prescribed by R.S.45:9-22 for practicing without a
18 license.

19 It shall be the duty of each such licensee holding a certificate to
20 practice medicine and surgery in this State, whether a resident or not,
21 to notify the [secretary] executive director of the board in writing of
22 any change in his office address or his employment within 10 days
23 after such change shall have taken place.

24 This section shall not be construed so as to render inoperative the
25 provisions of R.S.45:9-17.

26 (cf: P.L.1971, c.236, s.1)

27
28 ¹[5.] 6.¹ R.S.45:9-8 is amended to read as follows:

29 45:9-8. Except as otherwise provided in [this chapter (45:9-1 et
30 seq.)] R.S.45:9-1 et seq., every applicant for admission to licensure by
31 examination to practice medicine and surgery shall, in addition to the
32 requirements set forth in [sections 45:9-6 and 45:9-7 of this Title]
33 R.S.45:9-1 et seq.:

34 ¹a.¹ (1) Prove to the board that ¹[he] the applicant¹ has received
35 (a) a diploma from some legally incorporated professional school or
36 college of the United States, Canada or other foreign country, which
37 school or college, in the opinion of the board, was in good standing at
38 the time of the issuance of the diploma, or (b) a license conferring the
39 full right to practice all of the branches of medicine and surgery in
40 some foreign country; and

41 (2) Shall further prove that, prior to the receipt of such diploma or
42 license, as aforesaid, ¹[he] the applicant¹ had studied not less than 4
43 full school years, including four satisfactory courses of lectures of at
44 least 8 months each, consecutively or in 4 different calendar years, in
45 some legally incorporated and registered American or foreign

1 professional school or schools, college or colleges in good standing in
2 the opinion of the board, which courses shall have included a
3 thorough and satisfactory course of instruction in medicine and
4 surgery; and

5 ¹[(3)] b. (1)¹ [Such] The applicant, if he has graduated from a
6 professional school or college after July 1, 1916 and before July 1,
7 2003, shall further prove to the board that, after receiving such
8 diploma or license, he has completed an internship acceptable to the
9 board for at least 1 year in a hospital approved by the board, or in lieu
10 thereof he has completed 1 year of post-graduate work acceptable to
11 the board in a school or hospital approved by the board, unless
12 required by regulation to complete additional post-graduate work; or

13 ¹[(4)] (2)¹ The applicant, if he has graduated from a medical
14 school after July 1, 2003, shall further prove to the board that, after
15 receiving his diploma, he has completed and received academic credit
16 for at least two years of post-graduate training in an accredited
17 program and has signed a contract for a third year of post-graduate
18 training in an accredited program, and that at least two years of that
19 training are in the same field or would, when considered together, be
20 credited toward the criteria for certification by a single specialty board
21 recognized by the American Board of Medical Specialties or the
22 American Osteopathic Association or another certification entity with
23 comparable standards that is acceptable to the board ¹[; or

24 (5) [If] The applicant, if prior to receiving [such] his diploma[,]
25 has been awarded a certificate or the degree of Bachelor of Medicine
26 upon completion of a course of study acceptable to the board and of
27 not less than 30 months duration in not less than 3 different calendar
28 years in a medical college approved by the board, and in addition
29 thereto, prior to receiving the degree of Doctor of Medicine, shall
30 have completed a full year of intern training in a medical college
31 hospital or a hospital affiliated or associated with such medical
32 college]¹.

33 ¹c.¹ If an applicant for licensure has not engaged in practice for a
34 period of more than five years, or the board's review of the application
35 establishes a basis for concluding that there may be clinical deficiencies
36 in need of remediation, the board may require the applicant to submit
37 to, and successfully pass, an examination or an assessment of skills.
38 If that examination or assessment identifies clinical deficiencies or
39 educational needs, the board may require ¹[a licensee] an applicant¹,
40 as a condition of licensure, to take and successfully complete any
41 educational training, or to submit to any supervision, monitoring or
42 limitations, as the board determines are necessary to assure that the
43 ¹[licensee practices] applicant will practice¹ with reasonable skill and
44 safety.

45 (cf: P.L.1971, c.111, s.1)

1 ¹[6.] 7.¹ Section 6 of P.L.1989, c.300 (C.45:9-19.6) is amended
2 to read as follows:

3 6. The State Board of Medical Examiners shall employ a full-time
4 medical director and a full-time educational director to assist the board
5 in carrying out its duties pursuant to Title 45 of the Revised Statutes.

6 a. The medical director shall be a physician who is licensed to
7 practice medicine and surgery in the State and who is knowledgeable
8 about, or has clinical experience in, the field of chemical dependency
9 or addiction-oriented psychiatry. The medical director shall receive
10 such compensation as the board shall determine and shall serve at the
11 pleasure of the board.

12 The duties of the medical director shall include, but are not limited
13 to: reviewing complaints and reports of medical malpractice,
14 impairment, incompetence or unprofessional conduct that are made to
15 the board or the Medical Practitioner Review Panel established
16 pursuant to section 8 of P.L.1989, c.300 (C.45:9-19.8), by other
17 health care providers and by the public; coordinating and assisting in
18 the investigation of these complaints and reports; and assisting the
19 panel in making its recommendations and the board in making
20 disciplinary determinations regarding a licensee. The medical director
21 shall perform such other duties as the board may require in carrying
22 out its responsibilities under Title 45 of the Revised Statutes.

23 The medical director also shall serve as the board's liaison to any
24 licensed health care practitioner treatment program recognized by the
25 board. The board, in conjunction with the medical director, shall
26 establish standards for treatment and procedures for monitoring the
27 progress of a participating practitioner's treatment and for notifying
28 the board when a practitioner fails to comply with the requirements of
29 the treatment program or when a practitioner's impairment may
30 jeopardize or improperly risk the health, safety or life of a patient.

31 b. The educational director shall be an educator, experienced in the
32 field of medical education. The educational director shall
33 receive ¹such¹ compensation as ¹[determined by]¹ the board ¹shall
34 determine¹ and shall serve at the pleasure of the board.

35 The duties of the educational director shall include, but are not
36 limited to, facilitating the educational directives, goals and programs
37 of the board. The educational director shall perform other duties as
38 required by the board to carry out its responsibilities under chapter 9
39 of Title 45 of the Revised Statutes.

40 The educational director shall serve as the board's liaison to any
41 focused education program recognized by the board. The board, in
42 conjunction with the educational director, shall establish standards for
43 continuing medical education programs and focused education
44 programs as defined in subsection i. of section 9 of P.L.1989, c.300
45 (C.45:9-19.9), and procedures for notification of the board when a
46 practitioner fails to comply with a monitoring program devised by a

1 focused education program.

2 The board and the Division of Consumer Affairs in the Department
3 of Law and Public Safety shall provide such investigative, medical
4 consulting, administrative and clerical support as is necessary to assist
5 the medical director and educational director in carrying out [his]
6 their duties.

7 (cf: P.L.1989, c.300, s.6)

8

9 ¹[7.] §.¹ Section 9 of P.L.1989, c.300 (C.45:9-19.9) is amended
10 to read as follows:

11 9. a. The review panel shall receive:

12 (1) Notice from a health care facility or health maintenance
13 organization, pursuant to section 1 of P.L.1983, c.247
14 (C.26:2H-12.2);

15 (2) Notice from an insurer or insurance association or a
16 practitioner, pursuant to section 2 of P.L.1983, c.247 (C.17:30D-17),
17 regarding a medical malpractice claim settlement, judgment or
18 arbitration award or a termination or denial of, or surcharge on, the
19 medical malpractice liability insurance coverage of a practitioner; and

20 b. The review panel may receive referrals from the board which
21 may include complaints alleging professional misconduct,
22 incompetence, negligence or impairment of a practitioner from other
23 health care providers and consumers of health care.

24 c. Upon receipt of a notice or complaint pursuant to this section,
25 the review panel shall promptly investigate the information received
26 and obtain any additional information that may be necessary in order
27 to make a recommendation to the board. The review panel may seek
28 the assistance of a consultant or other knowledgeable person, as
29 necessary, in making its recommendation. The review panel may
30 request the board or the Attorney General to exercise investigative
31 powers pursuant to section 5 of P.L.1978, c.73 (C.45:1-18) in the
32 conduct of its investigation.

33 (1) If the review panel has reasonable cause to believe that a
34 practitioner represents an imminent danger to his patients, the review
35 panel shall immediately notify the State Board of Medical Examiners
36 and the Attorney General and recommend the initiation of an
37 application before the board to temporarily suspend or otherwise limit
38 the practitioner's license pending further proceedings by the review
39 panel or the board.

40 If the board temporarily suspends or otherwise limits the license,
41 the board shall notify each licensed health care facility and health
42 maintenance organization with which the practitioner is affiliated and
43 every practitioner in the State with which the practitioner is directly
44 associated in his private practice.

45 (2) A practitioner who is the subject of an investigation shall be
46 promptly notified of the investigation, pursuant to procedures adopted
47 by regulation of the board that give consideration to the health, safety

1 and welfare of the practitioner's patients and to the necessity for a
2 confidential or covert investigation by the review panel. At the panel's
3 request or upon a good cause showing by the practitioner an informal
4 hearing shall be scheduled before the review panel or a subcommittee
5 of at least three review panel members, in accordance with regulations
6 adopted by the board. The hearing shall be transcribed and the
7 practitioner shall be entitled to a copy of the transcript, at his own
8 expense. A practitioner who presents information to the review panel
9 is entitled to be represented by counsel.

10 (3) Notwithstanding any provision of this section to the contrary,
11 in any case in which the board determines to conduct an investigation
12 of a practitioner who it has reasonable cause to believe represents an
13 imminent danger to his patients, the board may direct the review panel
14 to provide the board with its files pertaining to that practitioner and
15 may direct the review panel to promptly terminate its investigation of
16 that practitioner without making a recommendation pursuant to
17 subsection d. of this section.

18 Upon request of the review panel, the State Board of Medical
19 Examiners shall provide the review panel with any information
20 contained in the board's files concerning a practitioner.

21 d. Upon completion of its review, the review panel shall prepare a
22 report recommending one of the following dispositions:

23 (1) Recommend to the State Board of Medical Examiners that the
24 matter be referred to the Attorney General for the initiation of
25 disciplinary action against the practitioner who is the subject of the
26 notice or complaint, pursuant to [R.S.45:9-16 or] section 8 or 9 of
27 P.L.1978, c.73 (C.45:1-21 and 45:1-22);

28 (2) Defer making a recommendation to the board pending the
29 outcome of litigation or a health care facility or health maintenance
30 organization disciplinary proceeding, if there is no evidence that the
31 practitioner's professional conduct may jeopardize or improperly risk
32 the health, safety or life of a patient;

33 (3) Refer the practitioner to the appropriate licensed health care
34 practitioner treatment program recognized by the State Board of
35 Medical Examiners and promptly notify the medical director of the
36 board of the referral; [or]

37 (4) Refer the practitioner to the appropriate focused education
38 program recognized by the State Board of Medical Examiners and
39 promptly notify the educational director of the board of the referral;
40 or

41 (5) Find that no further action is warranted at this time.

42 e. A member of the State Board of Medical Examiners shall not
43 participate by voting or any other action in any matter before the
44 board on which the board member has participated previously as a
45 review panel member.

46 f. The State Board of Medical Examiners may affirm, reject or

1 modify any disposition of the review panel. After its consideration of
2 the panel recommendation the board shall notify the practitioner who
3 has been the subject of a notice or complaint of the review panel's
4 recommendation and the board's determination.

5 g. Nothing in this section shall be construed to prevent or limit the
6 State Board of Medical Examiners, the Director of the Division of
7 Consumer Affairs in the Department of Law and Public Safety or the
8 Attorney General from taking any other action permitted by law
9 against a practitioner who is the subject of an investigation by the
10 review panel.

11 h. For the purposes of this section, "practitioner" means a person
12 licensed to practice: medicine and surgery under chapter 9 of Title 45
13 of the Revised Statutes or a medical resident or intern; or podiatry
14 under chapter 5 of Title 45 of the Revised Statutes.

15 i. As used in this section, "focused education program" means an
16 individualized and systematic process to assess the educational needs
17 of a licensee based on scientific analysis, technical skill and
18 interpersonal ¹[assessment] evaluation¹ as they relate to the licensee's
19 professional practice ¹, and the institution of remedial education and
20 any supervision, monitoring or limitations of the licensee¹.

21 (cf: P.L.1989, c.300, s.9)

22

23 ¹[8.] 9.¹ Section 12 of P.L.1989, c.300 (C.45:9-19.12) is amended
24 to read as follows:

25 12. The State Board of Medical Examiners shall, by regulation,
26 provide for the issuance of permits to, or registration of, persons
27 engaging in the practice of medicine or surgery or podiatry while in
28 training, and establish the scope of permissible practice by these
29 persons within the context of an accredited graduate medical education
30 program conducted at a hospital licensed by the Department of Health
31 and Senior Services. A permit holder shall be permitted to engage in
32 practice outside the context of a graduate medical education program
33 for additional remuneration only if that practice is:

34 a. Approved by the director of the graduate medical education
35 program in which the permit holder is participating; and

36 b. With respect to any practice at or through a health care facility
37 licensed by the Department of Health and Senior Services, supervised
38 by a plenary licensee who shall either remain on the premises of the
39 health care facility or be available through electronic communications;
40 or

41 c. With respect to any practice outside of a health care facility
42 licensed by the Department of Health and Senior Services, supervised
43 by a plenary licensee who shall remain on the premises.

44 (cf: P.L.1989, c.300, s.12)

1 ¹[9.] 10.¹ (New section) a. The State Board of Medical
2 Examiners shall require each person licensed as a physician, as a
3 condition for biennial registration pursuant to section 1 of P.L.1971,
4 c.236 (C.45:9-6.1), or as a podiatrist, as a condition for biennial
5 registration pursuant to R.S.45:5-9, to complete 100 credits of
6 continuing medical education, all of which shall be in Category I or
7 Category II as defined in subsection i. of this section.

8 b. The board shall:

9 (1) Establish standards for continuing medical education, including
10 the subject matter and content of courses of study;

11 (2) Accredite education programs offering credit toward continuing
12 medical education requirements or recognize national or State
13 organizations that may accredit education programs;

14 (3) Allow satisfaction of continuing medical education requirements
15 through equivalent educational programs, such as participation in
16 accredited graduate medical education programs, examinations,
17 papers, publications, scientific presentations, teaching and research
18 appointments and scientific exhibits, and establish procedures for the
19 issuance of credit upon satisfactory proof of attainment of these
20 equivalent educational programs; ¹[and]¹

21 (4) ¹Create an advisory committee to be comprised of at least five
22 members, including representatives of the Medical Society of New
23 Jersey, the Academy of Medicine of New Jersey, the New Jersey
24 Osteopathic Association, the New Jersey Podiatric Medical
25 Association and such other professional societies and associations as
26 the board may identify, to provide guidance to the board in discharging
27 its responsibilities pursuant to this section; and

28 (5)¹ Delineate, through the promulgation of regulations, any
29 specific courses or topics which, ¹on the recommendation of the
30 advisory committee created pursuant to paragraph (4) of this
31 subsection and¹ in the discretion of the board, are to be required.

32 c. Each hour of an educational course or program shall be
33 equivalent to one credit of continuing medical education.

34 d. The board may, in its discretion, waive requirements for
35 continuing medical education on an individual basis for reasons of
36 hardship such as illness or disability, retirement of license, or other
37 good cause. A waiver shall apply only to the current biennial renewal
38 period at the time of board issuance.

39 e. The board shall not require completion of continuing medical
40 education credits for any registration period commencing within 12
41 months of the effective date of this section.

42 f. The board shall require completion of medical education credits
43 on a pro-rated basis for any registration period commencing more than
44 12 months but less than 24 months from the effective date of this
45 section.

46 g. The board shall require new licensees to successfully complete,

1 within 24 months of becoming licensed, an orientation course, in those
2 topics identified by the board through regulation, conducted by an
3 organization recognized by the board.

4 h. The board shall not require a new licensee to complete required
5 continuing medical education credits, other than the orientation course
6 described in subsection g. of this section, for any registration period
7 commencing within 12 months of the licensee's participation in and
8 completion of an accredited graduate medical education program.

9 i. As used in this section, "Category I and Category II" means
10 those categories of medical education courses recognized by the
11 ¹[Alliance for Continuing Medical Education] American Medical
12 Association¹, the American Osteopathic Association, the American
13 Podiatric Medical Association ¹, the Accreditation Council for
14 Continuing Medical Education¹ or other comparable organizations
15 recognized by the board.

16

17 ¹[10.] 11.¹ Sections 1 through ¹[8] 9¹ of this act shall take effect
18 immediately and section ¹[9] 10¹ shall take effect on the 180th day
19 after the date of enactment.

20

21

22

23

24 Concerns the ability of professional licensing boards to protect the
25 public.

CHAPTER 307

AN ACT concerning professional licensing boards and revising various parts of the statutory law.

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

1. Section 5 of P.L.1978, c.73 (C.45:1-18) is amended to read as follows:

C.45:1-18 Investigative powers of boards, director or attorney general.

5. Whenever it shall appear to any board, the director or the Attorney General that a person has engaged in, or is engaging in any act or practice declared unlawful by a statute or regulation administered by such board, or when the board, the director or the Attorney General shall deem it to be in the public interest to inquire whether any such violation may exist, the board or the director through the Attorney General, or the Attorney General acting independently, may exercise any of the following investigative powers:

a. Require any person to file on such form as may be prescribed, a statement or report in writing under oath, or otherwise, as to the facts and circumstances concerning the rendition of any service or conduct of any sale incidental to the discharge of any act or practice subject to an act or regulation administered by the board;

b. Examine under oath any person in connection with any act or practice subject to an act or regulation administered by the board;

c. Inspect any premises from which a practice or activity subject to an act or regulation administered by the board is conducted;

d. Examine any goods, ware or item used in the rendition of a practice or activity subject to an act or regulation administered by the board;

e. Examine any record, book, document, account or paper prepared or maintained by or for any professional or occupational licensee in the regular course of practicing such profession or engaging in such occupation or any individual engaging in practices subject to an act or regulation administered by the board. Nothing in this subsection shall require the notification or consent of the person to whom the record, book, account or paper pertains, unless otherwise required by law;

f. For the purpose of preserving evidence of an unlawful act or practice, pursuant to an order of the Superior Court, impound any record, book, document, account, paper, goods, ware, or item used, prepared or maintained by or for any board licensee in the regular course of practicing such profession or engaging in such occupation or any individual engaging in a practice or activity subject to an act or regulation administered by the board. In such cases as may be necessary, the Superior Court may, on application of the Attorney General, issue an order sealing items or material subject to this subsection; and

g. Require any board licensee, permit holder or registered or certified person to submit to an assessment of skills to determine whether the board licensee, permit holder or registered or certified person can continue to practice with reasonable skill and safety.

In order to accomplish the objectives of this act or any act or regulation administered by a board, the Attorney General may hold such investigative hearings as may be necessary and the board, director or Attorney General may issue subpoenas to compel the attendance of any person or the production of books, records or papers at any such hearing or inquiry.

2. Section 9 of P.L.1978, c.73 (C.45:1-22) is amended to read as follows:

C.45:1-22 Additional, alternative penalties.

9. In addition or as an alternative, as the case may be, to revoking, suspending or refusing to renew any license, registration or certificate issued by it, a board may, after affording an opportunity to be heard:

a. Issue a letter of warning, reprimand, or censure with regard to any act, conduct or practice which in the judgment of the board upon consideration of all relevant facts and circumstances does not warrant the initiation of formal action;

b. Assess civil penalties in accordance with this act;

c. Order that any person violating any provision of an act or regulation administered by such board to cease and desist from future violations thereof or to take such affirmative corrective action as may be necessary with regard to any act or practice found unlawful by the board;

d. Order any person found to have violated any provision of an act or regulation administered by such board to restore to any person aggrieved by an unlawful act or practice, any moneys or property, real or personal, acquired by means of such act or practice; provided, however, no board shall order restoration in a dollar amount greater than those moneys received by a licensee or his agent or any other person violating the act or regulation administered by the board;

e. Order any person, as a condition for continued, reinstated or renewed licensure, to secure medical or such other professional treatment as may be necessary to properly discharge licensee functions;

f. Order any person, as a condition for continued, reinstated or renewed licensure, to submit to any medical or diagnostic testing and monitoring or psychological evaluation which may be required to evaluate whether continued practice may jeopardize the safety and welfare of the public;

g. Order any person, as a condition for continued, reinstated or renewed licensure, to submit to an assessment of skills to determine whether the licensee can continue to practice with reasonable skill and safety, and to take and successfully complete educational training determined by the board to be necessary;

h. Order any person, as a condition for continued, reinstated or renewed licensure, to submit to an assessment of skills to determine whether the licensee can continue to practice with reasonable skill and safety, and to submit to any supervision, monitoring or limitation on practice determined by the board to be necessary.

A board may, upon a duly verified application of the Attorney General that either provides proof of a conviction of a court of competent jurisdiction for a crime or offense involving moral turpitude or relating adversely to the regulated profession or occupation, or alleges an act or practice violating any provision of an act or regulation administered by such board, enter a temporary order suspending or limiting any license issued by the board pending plenary hearing on an administrative complaint; provided, however, no such temporary order shall be entered unless the application made to the board palpably demonstrates a clear and imminent danger to the public health, safety and welfare and notice of such application is given to the licensee affected by such order. If, upon review of the Attorney General's application, the board determines that, although no palpable demonstration of a clear and imminent danger has been made, the licensee's continued unrestricted practice pending plenary hearing may pose a risk to the public health, safety and welfare, the board may order the licensee to submit to medical or diagnostic testing and monitoring, or psychological evaluation, or an assessment of skills to determine whether the licensee can continue to practice with reasonable skill and safety.

In any administrative proceeding commenced on a complaint alleging a violation of an act or regulation administered by a board, such board may issue subpoenas to compel the attendance of witnesses or the production of books, records, or documents at the hearing on the complaint.

3. Section 12 of P.L.1978, c.73 (C.45:1-25) is amended to read as follows:

C.45:1-25 Violations, penalties.

12. a. Any person who engages in any conduct in violation of any provision of an act or regulation administered by a board shall, in addition to any other sanctions provided herein, be liable to a civil penalty of not more than \$10,000 for the first violation and not more than \$20,000 for the second and each subsequent violation. For the purpose of construing this section, each act in violation of any provision of an act or regulation administered by a board shall constitute a separate violation and shall be deemed a second or subsequent violation under the following circumstances:

(1) an administrative or court order has been entered in a prior, separate and independent proceeding;

(2) the person is found within a single proceeding to have committed more than one violation of any provision of an act or regulation administered by a board; or

(3) the person is found within a single proceeding to have committed separate violations of any provision of more than one act or regulation administered by a board.

b. In lieu of an administrative proceeding or an action in the Superior Court, the Attorney General may bring an action in the name of any board for the collection or enforcement of civil penalties for the violation of any provision of an act or regulation administered by such board. Such action may be brought in summary manner pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.) and the rules of court governing actions for the collection of civil penalties in the municipal court where the offense occurred. Process in such action may be by summons or warrant and in the event that the defendant in such action fails to answer such action, the court shall, upon finding an unlawful act or practice to have been committed by the defendant, issue a warrant for the defendant's arrest in order to bring such person before the court to satisfy the civil penalties imposed. In any action commenced pursuant to this section, the court may order restored to any person in interest any moneys or property acquired by means of an unlawful act or practice.

c. Any action alleging the unlicensed practice of a profession or occupation shall be brought pursuant to this section or, where injunctive relief is sought, by an action commenced in the Superior Court.

d. In any action brought pursuant to this act, a board or the court may order the payment of costs for the use of the State, including, but not limited to, costs of investigation, expert witness fees and costs, attorney fees and costs, and transcript costs.

4. R.S.45:5-9 is amended to read as follows:

Biennial certificate of registration for licensed podiatrist; reinstatement procedure.

45:5-9. a. Every licensed podiatrist shall procure every two years from the executive director of the board, on or before November 1, a biennial certificate of registration, which shall be issued by the executive director upon payment of a fee to be determined by the board. The executive director shall mail to each licensed podiatrist on or before October 1 every two years a printed blank form to be properly filled in and returned to the executive director by such licensed person on or before the succeeding November 1, together with such fee. Upon the receipt of said form properly filled in, and such fee, the biennial certificate of registration shall be issued and transmitted. Every licensed podiatrist who continues the practice of podiatry after having failed to secure a biennial certificate of registration at the time and in the manner required by this section shall be subject to a penalty of \$25.00 for each failure. Immediately after November 1, the executive director shall send by registered mail to every podiatrist who has failed to obtain a biennial registration certificate for the ensuing two-year period a notice that their license will be automatically suspended within 30 days unless the penalty and registration fee is paid immediately. Upon failure to register after such notice, the license of such person shall be automatically suspended and shall not be reinstated except upon full payment of penalty and registration fee. However, such suspension shall not apply to anyone who has ceased to practice in this State. Any person whose license shall have been automatically suspended under this section shall during such period of suspension be regarded as an unlicensed person, and if he continue to engage in the practice of podiatry during such period, he shall be liable to the penalties prescribed by R.S.45:5-11.

b. If an applicant for reinstatement of licensure has not engaged in practice in any jurisdiction for a period of more than five years, or the board's review of the reinstatement application establishes a basis for concluding that there may be clinical deficiencies in need of remediation, before reinstatement the board may require the applicant to submit to, and successfully pass, an examination or an assessment of skills. If that examination or assessment identifies clinical deficiencies or educational needs, the board may require the licensee, as a condition of reinstatement of licensure, to take and successfully complete any educational training, or to submit to any supervision, monitoring or limitations, as the board determines are necessary to assure that the licensee practices with reasonable skill and safety.

5. Section 1 of P.L.1971, c.236 (C.45:9-6.1) is amended to read as follows:

C.45:9-6.1 Biennial registration for practitioners of medicine and surgery; reinstatement procedure.

1. All persons who are licensed to practice medicine and surgery shall be required on or before July 1 biennially to register on the form prescribed by the board and furnished by the executive director of the board, and to pay a biennial registration fee to be determined by the board.

The license of any licensee who fails to procure any biennial certificate of registration, shall be automatically suspended on July 1. It shall be the duty of the executive director of the board on June 1 of each year to send a written notice to each licensee whose license is expiring that year, whether a resident or not, at his last address on file with the board, that his biennial registration fee is due on or before July 1 and that his license to practice in this State will be suspended if he does not procure said certificate by July 1 of that year.

Any licensee whose license has been suspended under this section may be reinstated by the payment of all past due annual registration fees and in addition thereto a fee to be determined by the board to cover cost of reinstatement.

Any person who desires to retire from the practice of medicine and surgery, and during retirement to refrain from practicing under the terms of his license, upon application to the executive director of the board, may be registered biennially, without the payment of any registration fee, as a retired physician. The certificate of registration which shall be issued to a retired physician shall state, among other things, that the holder has been licensed to practice in New Jersey, but that during his retirement he shall not so practice. The holder of a certificate of registration as a retired licensee shall be entitled to resume practice at any time; provided, he first shall have obtained from the executive director a biennial certificate of registration as hereinbefore provided.

If an applicant for reinstatement of licensure has not engaged in practice in any jurisdiction for a period of more than five years, or the board's review of the reinstatement application establishes a basis for concluding that there may be clinical deficiencies in need of remediation, before reinstatement the board may require the applicant to submit to, and successfully pass, an examination or an assessment of skills. If that examination or assessment identifies clinical deficiencies or educational needs, the board may require the licensee, as a condition of reinstatement of licensure, to take and successfully complete any educational training, or to submit to any supervision, monitoring or limitations, as the board determines are necessary to assure that the licensee practices with reasonable skill and safety.

The license to practice medicine and surgery of any person who fails to procure any biennial certificate of registration, or in lieu thereof a biennial certificate of registration as a retired licensee, at the time and in the manner required by this act shall be automatically suspended. Any person whose license shall have been automatically suspended shall, during the period of such suspension, be regarded as an unlicensed person and, in case he shall continue or engage in practice under the terms of his license during such period, shall be liable to the penalties prescribed by R.S.45:9-22. Any person to whom a certificate of registration as a retired licensee shall have been issued who shall continue or engage in practice under the terms of his license without first having obtained a certificate of registration authorizing him to resume such practice, shall be liable to the penalties prescribed by R.S.45:9-22 for practicing without a license.

It shall be the duty of each such licensee holding a certificate to practice medicine and surgery in this State, whether a resident or not, to notify the executive director of the board in writing of any change in his office address or his employment within ten days after such change shall have taken place.

This section shall not be construed so as to render inoperative the provisions of R.S.45:9-17.

6. R.S.45:9-8 is amended to read as follows:

Additional requirements for licensure to practice medicine and surgery.

45:9-8. Except as otherwise provided in R.S.45:9-1 et seq., every applicant for admission to licensure by examination to practice medicine and surgery shall, in addition to the requirements set forth in R.S.45:9-1 et seq.:

a. (1) Prove to the board that the applicant has received (a) a diploma from some legally incorporated professional school or college of the United States, Canada or other foreign country, which school or college, in the opinion of the board, was in good standing at the time of the issuance of the diploma, or (b) a license conferring the full right to practice all of the branches of medicine and surgery in some foreign country; and

(2) Shall further prove that, prior to the receipt of such diploma or license, as aforesaid, the applicant had studied not less than 4 full school years, including four satisfactory courses of lectures of at least eight months each, consecutively or in four different calendar years, in some legally incorporated and registered American or foreign professional school or schools, college or colleges in good standing in the opinion of the board, which courses shall have included a thorough and satisfactory course of instruction in medicine and surgery; and

b. (1) The applicant, if he has graduated from a professional school or college after July 1, 1916 and before July 1, 2003, shall further prove to the board that, after receiving such diploma or license, he has completed an internship acceptable to the board for at least one year in a hospital approved by the board, or in lieu thereof he has completed one year of post-graduate work acceptable to the board in a school or hospital approved by the board, unless required by regulation to complete additional post-graduate work; or

(2) The applicant, if he has graduated from a medical school after July 1, 2003, shall further prove to the board that, after receiving his diploma, he has completed and received academic credit for at least two years of post-graduate training in an accredited program and has signed a contract for a third year of post-graduate training in an accredited program, and that at least two years of that training are in the same field or would, when considered together, be credited toward the criteria for certification by a single specialty board recognized by the American Board of Medical Specialties or the American Osteopathic Association or another certification entity with comparable standards that is acceptable to the board.

c. If an applicant for licensure has not engaged in practice for a period of more than five years, or the board's review of the application establishes a basis for concluding that there may be clinical deficiencies in need of remediation, the board may require the applicant to submit to, and successfully pass, an examination or an assessment of skills. If that examination or assessment identifies clinical deficiencies or educational needs, the board may require an applicant, as a condition of licensure, to take and successfully complete any educational training, or to submit to any supervision, monitoring or limitations, as the board determines are necessary to assure that the applicant will practice with reasonable skill and safety.

7. Section 6 of P.L.1989, c.300 (C.45:9-19.6) is amended to read as follows:

C.45:9-19.6 Medical director, educational director; requirements, duties.

6. The State Board of Medical Examiners shall employ a full-time medical director and a full-time educational director to assist the board in carrying out its duties pursuant to Title 45 of the Revised Statutes.

a. The medical director shall be a physician who is licensed to practice medicine and surgery in the State and who is knowledgeable about, or has clinical experience in, the field of chemical dependency or addiction-oriented psychiatry. The medical director shall receive such compensation as the board shall determine and shall serve at the pleasure of the board.

The duties of the medical director shall include, but are not limited to: reviewing complaints and reports of medical malpractice, impairment, incompetence or unprofessional conduct that are made to the board or the Medical Practitioner Review Panel established pursuant to section 8 of P.L.1989, c.300 (C.45:9-19.8), by other health care providers and by the public; coordinating and assisting in the investigation of these complaints and reports; and assisting the panel in making its recommendations and the board in making disciplinary determinations regarding a licensee. The medical director shall perform such other duties as the board may require in carrying out its responsibilities under Title 45 of the Revised Statutes.

The medical director also shall serve as the board's liaison to any licensed health care practitioner treatment program recognized by the board. The board, in conjunction with the medical director, shall establish standards for treatment and procedures for monitoring the

progress of a participating practitioner's treatment and for notifying the board when a practitioner fails to comply with the requirements of the treatment program or when a practitioner's impairment may jeopardize or improperly risk the health, safety or life of a patient.

b. The educational director shall be an educator, experienced in the field of medical education. The educational director shall receive such compensation as the board shall determine and shall serve at the pleasure of the board.

The duties of the educational director shall include, but are not limited to, facilitating the educational directives, goals and programs of the board. The educational director shall perform other duties as required by the board to carry out its responsibilities under chapter 9 of Title 45 of the Revised Statutes.

The educational director shall serve as the board's liaison to any focused education program recognized by the board. The board, in conjunction with the educational director, shall establish standards for continuing medical education programs and focused education programs as defined in subsection i. of section 9 of P.L.1989, c.300 (C.45:9-19.9), and procedures for notification of the board when a practitioner fails to comply with a monitoring program devised by a focused education program.

The board and the Division of Consumer Affairs in the Department of Law and Public Safety shall provide such investigative, medical consulting, administrative and clerical support as is necessary to assist the medical director and educational director in carrying out their duties.

8. Section 9 of P.L.1989, c.300 (C.45:9-19.9) is amended to read as follows:

C.45:9-19.9 Notice received by review panel; actions, recommendations.

9. a. The review panel shall receive:

(1) Notice from a health care facility or health maintenance organization, pursuant to section 1 of P.L.1983, c.247 (C.26:2H-12.2);

(2) Notice from an insurer or insurance association or a practitioner, pursuant to section 2 of P.L.1983, c.247 (C.17:30D-17), regarding a medical malpractice claim settlement, judgment or arbitration award or a termination or denial of, or surcharge on, the medical malpractice liability insurance coverage of a practitioner; and

b. The review panel may receive referrals from the board which may include complaints alleging professional misconduct, incompetence, negligence or impairment of a practitioner from other health care providers and consumers of health care.

c. Upon receipt of a notice or complaint pursuant to this section, the review panel shall promptly investigate the information received and obtain any additional information that may be necessary in order to make a recommendation to the board. The review panel may seek the assistance of a consultant or other knowledgeable person, as necessary, in making its recommendation. The review panel may request the board or the Attorney General to exercise investigative powers pursuant to section 5 of P.L.1978, c.73 (C.45:1-18) in the conduct of its investigation.

(1) If the review panel has reasonable cause to believe that a practitioner represents an imminent danger to his patients, the review panel shall immediately notify the State Board of Medical Examiners and the Attorney General and recommend the initiation of an application before the board to temporarily suspend or otherwise limit the practitioner's license pending further proceedings by the review panel or the board.

If the board temporarily suspends or otherwise limits the license, the board shall notify each licensed health care facility and health maintenance organization with which the practitioner is affiliated and every practitioner in the State with which the practitioner is directly associated in his private practice.

(2) A practitioner who is the subject of an investigation shall be promptly notified of the investigation, pursuant to procedures adopted by regulation of the board that give consideration to the health, safety and welfare of the practitioner's patients and to the necessity for a confidential or covert investigation by the review panel. At the panel's request or upon a good cause showing by the practitioner an informal hearing shall be scheduled before the review panel or a subcommittee of at least three review panel members, in accordance with regulations

adopted by the board. The hearing shall be transcribed and the practitioner shall be entitled to a copy of the transcript, at his own expense. A practitioner who presents information to the review panel is entitled to be represented by counsel.

(3) Notwithstanding any provision of this section to the contrary, in any case in which the board determines to conduct an investigation of a practitioner who it has reasonable cause to believe represents an imminent danger to his patients, the board may direct the review panel to provide the board with its files pertaining to that practitioner and may direct the review panel to promptly terminate its investigation of that practitioner without making a recommendation pursuant to subsection d. of this section.

Upon request of the review panel, the State Board of Medical Examiners shall provide the review panel with any information contained in the board's files concerning a practitioner.

d. Upon completion of its review, the review panel shall prepare a report recommending one of the following dispositions:

(1) Recommend to the State Board of Medical Examiners that the matter be referred to the Attorney General for the initiation of disciplinary action against the practitioner who is the subject of the notice or complaint, pursuant to section 8 or 9 of P.L.1978, c.73 (C.45:1-21 or 45:1-22);

(2) Defer making a recommendation to the board pending the outcome of litigation or a health care facility or health maintenance organization disciplinary proceeding, if there is no evidence that the practitioner's professional conduct may jeopardize or improperly risk the health, safety or life of a patient;

(3) Refer the practitioner to the appropriate licensed health care practitioner treatment program recognized by the State Board of Medical Examiners and promptly notify the medical director of the board of the referral;

(4) Refer the practitioner to the appropriate focused education program recognized by the State Board of Medical Examiners and promptly notify the educational director of the board of the referral; or

(5) Find that no further action is warranted at this time.

e. A member of the State Board of Medical Examiners shall not participate by voting or any other action in any matter before the board on which the board member has participated previously as a review panel member.

f. The State Board of Medical Examiners may affirm, reject or modify any disposition of the review panel. After its consideration of the panel recommendation the board shall notify the practitioner who has been the subject of a notice or complaint of the review panel's recommendation and the board's determination.

g. Nothing in this section shall be construed to prevent or limit the State Board of Medical Examiners, the Director of the Division of Consumer Affairs in the Department of Law and Public Safety or the Attorney General from taking any other action permitted by law against a practitioner who is the subject of an investigation by the review panel.

h. For the purposes of this section, "practitioner" means a person licensed to practice: medicine and surgery under chapter 9 of Title 45 of the Revised Statutes or a medical resident or intern; or podiatry under chapter 5 of Title 45 of the Revised Statutes.

i. As used in this section, "focused education program" means an individualized and systematic process to assess the educational needs of a licensee based on scientific analysis, technical skill and interpersonal evaluation as they relate to the licensee's professional practice, and the institution of remedial education and any supervision, monitoring or limitations of the licensee.

9. Section 12 of P.L.1989, c.300 (C.45:9-19.12) is amended to read as follows:

C.45:9-19.12 Issuance of permits, registration to practitioners in training.

12. The State Board of Medical Examiners shall, by regulation, provide for the issuance of permits to, or registration of, persons engaging in the practice of medicine or surgery or podiatry while in training, and establish the scope of permissible practice by these persons within the context of an accredited graduate medical education program conducted at a hospital licensed

by the Department of Health and Senior Services. A permit holder shall be permitted to engage in practice outside the context of a graduate medical education program for additional remuneration only if that practice is:

- a. Approved by the director of the graduate medical education program in which the permit holder is participating; and
- b. With respect to any practice at or through a health care facility licensed by the Department of Health and Senior Services, supervised by a plenary licensee who shall either remain on the premises of the health care facility or be available through electronic communications; or
- c. With respect to any practice outside of a health care facility licensed by the Department of Health and Senior Services, supervised by a plenary licensee who shall remain on the premises.

C.45:9-7.1 Continuing medical education required as condition for biennial registration.

10. a. The State Board of Medical Examiners shall require each person licensed as a physician, as a condition for biennial registration pursuant to section 1 of P.L.1971, c.236 (C.45:9-6.1), or as a podiatrist, as a condition for biennial registration pursuant to R.S.45:5-9, to complete 100 credits of continuing medical education, all of which shall be in Category I or Category II as defined in subsection i. of this section.

b. The board shall:

- (1) Establish standards for continuing medical education, including the subject matter and content of courses of study;
- (2) Accredit education programs offering credit toward continuing medical education requirements or recognize national or State organizations that may accredit education programs;
- (3) Allow satisfaction of continuing medical education requirements through equivalent educational programs, such as participation in accredited graduate medical education programs, examinations, papers, publications, scientific presentations, teaching and research appointments and scientific exhibits, and establish procedures for the issuance of credit upon satisfactory proof of attainment of these equivalent educational programs;
- (4) Create an advisory committee to be comprised of at least five members, including representatives of the Medical Society of New Jersey, the Academy of Medicine of New Jersey, the New Jersey Osteopathic Association, the New Jersey Podiatric Medical Association and such other professional societies and associations as the board may identify, to provide guidance to the board in discharging its responsibilities pursuant to this section; and
- (5) Delineate, through the promulgation of regulations, any specific courses or topics which, on the recommendation of the advisory committee created pursuant to paragraph (4) of this subsection and in the discretion of the board, are to be required.

c. Each hour of an educational course or program shall be equivalent to one credit of continuing medical education.

d. The board may, in its discretion, waive requirements for continuing medical education on an individual basis for reasons of hardship such as illness or disability, retirement of license, or other good cause. A waiver shall apply only to the current biennial renewal period at the time of board issuance.

e. The board shall not require completion of continuing medical education credits for any registration period commencing within 12 months of the effective date of this section.

f. The board shall require completion of medical education credits on a pro-rated basis for any registration period commencing more than 12 months but less than 24 months from the effective date of this section.

g. The board shall require new licensees to successfully complete, within 24 months of becoming licensed, an orientation course, in those topics identified by the board through regulation, conducted by an organization recognized by the board.

h. The board shall not require a new licensee to complete required continuing medical education credits, other than the orientation course described in subsection g. of this section, for any registration period commencing within 12 months of the licensee's participation in and completion of an accredited graduate medical education program.

i. As used in this section, "Category I and Category II" means those categories of medical education courses recognized by the American Medical Association, the American Osteopathic Association, the American Podiatric Medical Association, the Accreditation Council for Continuing Medical Education or other comparable organizations recognized by the board.

11. Sections 1 through 9 of this act shall take effect immediately and section 10 shall take effect on the 180th day after the date of enactment.

Approved January 3, 2002.