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No

§§1-4, 8
C.45:9-22.21
to 45:9-22.25
§5 - T&E
§9 - Note to
§§1-8

P.L. 2003, CHAPTER 96, *approved June 23, 2003*
Senate Committee Substitute (*First Reprint*) for
Senate, No. 571

1 **AN ACT** concerning the dissemination of certain information about
2 physicians and podiatrists to the public, amending P.L.1983, c.248
3 and P.L.1989, c.300 and supplementing Title 45 of the Revised
4 Statutes.

5

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

8

9 1. (New section) This act shall be known and may be cited as the
10 "New Jersey Health Care Consumer Information Act."

11

12 2. (New section) a. The Division of Consumer Affairs in the
13 Department of Law and Public Safety, in consultation with the State
14 Board of Medical Examiners, shall ¹ [, within 180 days of the effective
15 date of this act and thereafter,]¹ collect and maintain information
16 concerning all physicians and podiatrists licensed in the State for the
17 purpose of creating a profile of each physician and podiatrist pursuant
18 to this act. The profiles shall be made available to the public through
19 electronic and other appropriate means, at no charge to the public. The
20 division shall establish a toll-free telephone number for members of the
21 public to contact the division to obtain a paper copy of a physician or
22 podiatrist profile and to make other inquiries about the profiles.

23 b. A physician or podiatrist shall be required to provide the board
24 or division or its designated agent with any information necessary to
25 complete the profile as provided in section 3 of this act.

26 c. The board may request any additional information it deems
27 necessary to complete the profiles on the biennial license renewal form
28 submitted by physicians and podiatrists.

29 d. The board shall provide to the division or its designated agent
30 any information required pursuant to this act that is available to the
31 board concerning a physician or podiatrist, for the purpose of creating
32 the physician and podiatrist profiles.

33

34 3. (New section) a. The following information shall be included

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 amendments adopted in accordance with Governor's recommendations
May 19, 2003.

- 1 for each profile of a physician or podiatrist:
- 2 (1) Name of all medical schools attended and dates of graduation;
- 3 (2) Graduate medical education, including all internships,
4 residencies and fellowships;
- 5 (3) ¹[Number of years in practice] Year first licensed¹;
- 6 (4) ¹[Number of years in practice] Year first licensed¹ in New
7 Jersey;
- 8 (5) Location of the physician's or podiatrist's office practice site
9 or sites, as applicable;
- 10 (6) A description of any criminal convictions for crimes of the
11 first, second, third or fourth degree within the most recent 10 years.
12 For the purposes of this paragraph, a person shall be deemed to be
13 convicted of a crime if the individual pleaded guilty or was found or
14 adjudged guilty by a court of competent jurisdiction. The description
15 of criminal convictions shall not include any convictions that have been
16 expunged. The following statement shall be included with the
17 information about criminal convictions: "Information provided in this
18 section may not be comprehensive. Courts in New Jersey are required
19 by law to provide information about criminal convictions to the State
20 Board of Medical Examiners.";
- 21 (7) A description of any final board disciplinary actions within the
22 most recent 10 years, except that any such disciplinary action that is
23 being appealed shall be identified;
- 24 (8) A description of any final disciplinary actions by appropriate
25 licensing boards in other states within the most recent 10 years, except
26 that any such disciplinary action that is being appealed shall be
27 identified¹. The following statement shall be included with the
28 information about disciplinary actions in other states: "Information
29 provided in this section may not be comprehensive. The State Board
30 of Medical Examiners receives information about disciplinary actions
31 in other states from physicians themselves and outside sources."¹;
- 32 (9) A description of: the revocation or involuntary restriction of
33 privileges at a health care facility for reasons related to the
34 practitioner's competence or misconduct or impairment taken by a
35 health care facility's governing body or any other official of the health
36 care facility after procedural due process has been afforded; the
37 resignation from or nonrenewal of medical staff membership at the
38 health care facility for reasons related to the practitioner's competence
39 or misconduct or impairment; or the restriction of privileges at a health
40 care facility taken in lieu of or in settlement of a pending disciplinary
41 case related to the practitioner's competence or misconduct or
42 impairment. Only those cases that have occurred within the most
43 recent 10 years and that were reported by the health care facility
44 pursuant to section 1 of P.L.1983, c.247 (C.26:2H-12.2) shall be
45 included in the profile; and
- 46 (10) All medical malpractice court judgments and all medical

1 malpractice arbitration awards ¹reported to the board¹, in which a
2 payment has been awarded to the complaining party during the most
3 recent five years, and all settlements of medical malpractice claims
4 ¹reported to the board¹, in which a payment is made to the
5 complaining party within the most recent five years, as follows:

6 (a) Pending medical malpractice claims shall not be included in the
7 profile and information on pending medical malpractice claims shall
8 not be disclosed to the public;

9 (b) A medical malpractice judgment that is being appealed shall be
10 so identified;

11 (c) The context in which the payment of a medical malpractice
12 claim occurs shall be identified by categorizing the number of
13 judgments, arbitration awards and settlements against the physician or
14 podiatrist into three graduated categories: average, above average and
15 below average number of judgments, arbitration awards and
16 settlements. These groupings shall be arrived at by comparing the
17 number of an individual physician's or podiatrist's medical malpractice
18 judgments, arbitration awards and settlements to the experience of
19 other physicians or podiatrists within the same speciality¹. In addition
20 to any information provided by a physician or podiatrist, an insurer or
21 insurance association authorized to issue medical malpractice liability
22 insurance in the State shall, at the request of the division, provide data
23 and information necessary to effectuate this subparagraph¹; and

24 (d) The following statement shall be included with the information
25 concerning medical malpractice judgments, arbitration awards and
26 settlements: "Settlement of a claim and, in particular, the dollar
27 amount of the settlement may occur for a variety of reasons, which do
28 not necessarily reflect negatively on the professional competence or
29 conduct of the physician (or podiatrist). A payment in settlement of
30 a medical malpractice action or claim should not be construed as
31 creating a presumption that medical malpractice has occurred."

32 b. If requested by a physician or podiatrist, the following
33 information ¹[may] shall¹ be included in a physician's or podiatrist's
34 profile:

35 (1) Names of the hospitals where the physician or podiatrist has
36 privileges;

37 (2) Appointments of the physician or podiatrist to medical school
38 faculties within the most recent 10 years;

39 (3) Information regarding any ¹[nationally recognized specialty
40 board certification or accreditation by any] board certification granted
41 by a specialty board or other certifying entity recognized by the
42 American Board of Medical Specialties, the American Osteopathic
43 Association or the American Board of Podiatric Medicine or by any
44 other¹ national professional organization ¹that has been demonstrated
45 to have comparable standards¹;

46 (4) Information regarding any translating services that may be

1 available at the physician's or podiatrist's office practice site or sites,
2 as applicable, or languages other than English that are spoken by the
3 physician or podiatrist;

4 (5) Information regarding whether the physician or podiatrist
5 participates in the Medicaid program or accepts assignment under the
6 Medicare program;

7 (6) Information regarding the medical insurance plans in which the
8 physician or podiatrist is a participating provider;

9 (7) Information concerning the hours during which the physician
10 or podiatrist conducts his practice; and

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

13 The following disclaimer shall be included with the information
14 supplied by the physician or podiatrist pursuant to this subsection:
15 "This information has been provided by the physician (or podiatrist)
16 but has not been independently verified by the State Board of Medical
17 Examiners or the Division of Consumer Affairs."

18 If the physician or podiatrist includes information regarding
19 medical insurance plans in which the practitioner is a participating
20 provider, the following disclaimer shall be included with that
21 information: "This information may be subject to change. Contact your
22 health benefits plan to verify if the physician (or podiatrist) currently
23 participates in the plan."

24 c. Before a profile is made available to the public, each physician
25 or podiatrist shall be provided with a copy of his profile. ¹[The profile
26 shall be sent to the physician or podiatrist by certified mail, return
27 receipt requested.]¹ The physician or podiatrist shall be given 30
28 calendar days to correct a factual inaccuracy that may appear in the
29 profile and ¹[return it to] so advise¹ the Division of Consumer Affairs
30 or its designated agent; however, upon receipt of a written request that
31 the division or its designated agent deems reasonable, the physician or
32 podiatrist may be granted an extension of up to 15 calendar days to
33 correct a factual inaccuracy and ¹[return the corrected profile to] so
34 advise¹ the division or its designated agent.

35 d. If new information or a change in existing information is
36 received by the division concerning a physician or podiatrist, the
37 physician or podiatrist shall be provided with a copy of the proposed
38 revision and shall be given 30 calendar days to correct a factual
39 inaccuracy and to return the corrected information to the division or
40 its designated agent.

41 e. The profile and any revisions thereto shall not be made available
42 to the public until after the review period provided for in this section
43 has lapsed.

44

45 4. (New section) The Division of Consumer Affairs ¹[shall] may¹
46 contract with a public or private entity for the purpose of developing,

1 administering and maintaining the physician and podiatrist profiles
2 required pursuant to this act.

3 a. The contract shall specify the duties and responsibilities of the
4 entity with respect to the development, administration and
5 maintenance of the profile. The contract shall specify the duties and
6 responsibilities of the division with respect to providing the
7 information required pursuant to section 3 of this act to the entity on
8 a regular and timely basis.

9 b. The contract shall specify that any identifying information
10 concerning a physician or podiatrist provided to the entity by the
11 division, the State Board of Medical Examiners or the physician or
12 podiatrist shall be used only for the purpose of the profile.

13 c. The division shall monitor the work of the entity to ensure that
14 physician and podiatrist profiles are properly developed and
15 maintained pursuant to the requirements of this act.

16

17 5. (New section) The Director of the Division of Consumer
18 Affairs shall report to the Legislature no later than 18 months after the
19 effective date of this act on the status of the physician and podiatrist
20 profiles.

21 The director shall also make recommendations in the report on the
22 issue of developing profiles for other licensed health care
23 professionals, including, but not limited to, dentists, advanced practice
24 nurses, physician assistants, optometrists, physical therapists and
25 chiropractors, and the type of information that would be appropriate
26 to include in the respective profiles for each type of licensed health
27 care professional.

28

29 6. Section 3 of P.L.1983, c.248 (C.45:9-19.3) is amended to read
30 as follows:

31 3. Any information concerning the conduct of a physician or
32 surgeon provided to the State Board of Medical Examiners pursuant
33 to section 1 of P.L.1983, c.248 (C.45:9-19.1), section 5 of P.L.1978,
34 c.73 (C.45:1-18) or any other provision of law, is confidential pending
35 final disposition of the inquiry or investigation by the board, except for
36 that information required to be shared with the Division of Insurance
37 Fraud Prevention in the Department of Banking and Insurance to
38 comply with the provisions of section 9 of P.L.1983, c.320
39 (C.17:33A-9) or with any other law enforcement agency. If the result
40 of the inquiry or investigation is a finding of no basis for disciplinary
41 action by the board, the information shall remain confidential, except
42 that the board may release the information to a government agency,
43 for good cause shown, upon an order of the Superior Court after
44 notice to the physician or surgeon, who is the subject of the
45 information, and an opportunity to be heard. The application for the
46 court order shall be placed under seal.

1 The provisions of this section shall not apply to information that
2 the Division of Consumer Affairs in the Department of Law and Public
3 Safety, or its designated agent, is required to include in a physician's
4 profile pursuant to P.L. , c. (C.) (pending before the Legislature
5 as this bill).

6 (cf: P.L.1997, c.151, s.11)

7
8 7. Section 10 of P.L.1989, c.300 (C.45:9-19.10) is amended to
9 read as follows:

10 10. a. The review panel shall maintain records of all notices and
11 complaints it receives and all actions taken with respect to the notices
12 and complaints.

13 b. At least once a month, the review panel shall provide the State
14 Board of Medical Examiners with a summary report of all information
15 received by the review panel and all recommendations made by the
16 review panel. Upon request of the board, the review panel shall
17 provide the board with any information contained in the review panel's
18 files concerning a practitioner.

19 c. Any information concerning the professional conduct of a
20 practitioner provided to, or obtained by, the review panel is
21 confidential pending final disposition of an inquiry or investigation of
22 the practitioner by the State Board of Medical Examiners, and may be
23 disclosed only to the board, the Director of the Division of Consumer
24 Affairs in the Department of Law and Public Safety and the Attorney
25 General for the purposes of carrying out their respective
26 responsibilities pursuant to Title 45 of the Revised Statutes.

27 The provisions of this section shall not apply to information that
28 the division, or its designated agent, is required to include in a
29 physician's or podiatrist's profile pursuant to P.L. , c. (C.)
30 (pending before the Legislature as this bill).

31 (cf: P.L.1989, c.300, s.10)

32
33 8. (New section) Within 180 days of the effective date of this act,
34 the Director of the Division of Consumer Affairs in the Department of
35 Law and Public Safety, in consultation with the State Board of
36 Medical Examiners, shall adopt regulations pursuant to the
37 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.)
38 necessary to effectuate the purposes of this act.

39
40 9. This act shall take effect ¹[immediately] on the 365th day after
41 enactment, except that the division and the board may take such
42 anticipatory action in advance as may be necessary for the timely
43 implementation of the act¹.

44
45
46
47 _____
"New Jersey Health Care Consumer Information Act."

SENATE, No. 571

STATE OF NEW JERSEY 210th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2002 SESSION

Sponsored by:

Senator RICHARD J. CODEY

District 27 (Essex)

Senator JOSEPH F. VITALE

District 19 (Middlesex)

Co-Sponsored by:

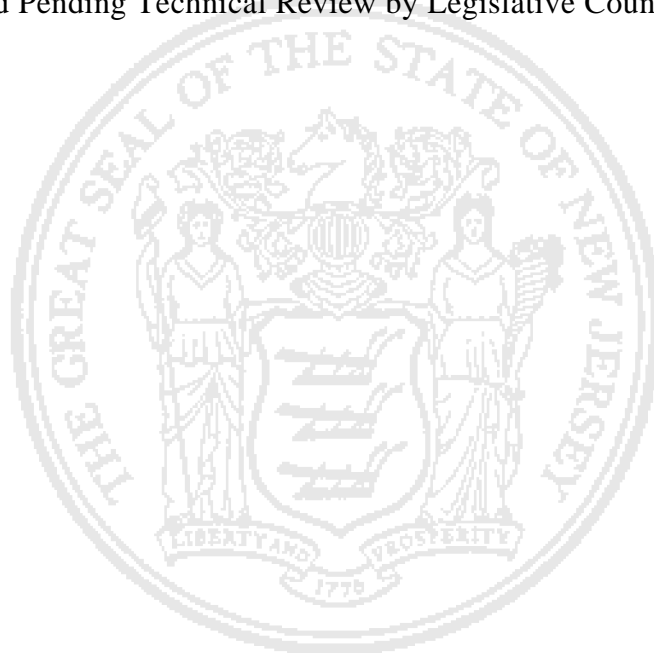
Senator Bryant

SYNOPSIS

"New Jersey Health Care Consumer Information Act;" appropriates \$300,000

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 5/17/2002)

1 AN ACT concerning the dissemination of certain information about
2 physicians and podiatrists to the public, amending P.L.1983, c.248
3 and P.L.1989, c.300, supplementing Title 45 of the Revised
4 Statutes and making an appropriation.

5

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

8

9 1. (New section) This act shall be known and may be cited as the
10 "New Jersey Health Care Consumer Information Act."

11

12 2. (New section) a. The Division of Consumer Affairs in the
13 Department of Law and Public Safety, in consultation with the State
14 Board of Medical Examiners, shall, within 180 days of the effective
15 date of this act and thereafter, collect and maintain information
16 concerning all physicians and podiatrists licensed in the State for the
17 purpose of creating a profile of each physician and podiatrist pursuant
18 to this act. The profiles shall be in a format established by the division
19 and made available to the public through electronic and other
20 appropriate means, at no charge to the public. The division shall also
21 establish a toll-free telephone number for members of the public to
22 contact the division to obtain a paper copy of a physician or podiatrist
23 profile and to make other inquiries about the profiles.

24 b. A physician or podiatrist shall be required to provide the board
25 or division with any information necessary to complete the profile as
26 provided in section 3 of this act.

27 c. The board may request any additional information it deems
28 necessary to complete the profiles on the biennial license renewal form
29 submitted by physicians and podiatrists.

30 d. The board shall provide to the division any information required
31 pursuant to this act that is available to the board concerning a
32 physician or podiatrist, for the purpose of creating the physician and
33 podiatrist profiles.

34

35 3. (New section) a. The Division of Consumer Affairs shall
36 include the following information for each profile of a physician or
37 podiatrist:

38 (1) Name of all medical schools attended and dates of graduation;

39 (2) Graduate medical education, including all internships,
40 residencies and fellowships;

41 (3) Number of years in practice;

42 (4) Number of years in practice in New Jersey;

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

- 1 (5) Location of the physician's or podiatrist's office practice site or
2 sites, as applicable;
- 3 (6) A description of any criminal convictions for crimes of the first,
4 second, third or fourth degree within the most recent 10 years. For
5 the purposes of this paragraph, a person shall be deemed to be
6 convicted of a crime if the individual pleaded guilty or was found or
7 adjudged guilty by a court of competent jurisdiction. The division
8 shall not include in the description of criminal convictions any
9 convictions that have been expunged. The division shall include the
10 following statement with the information about criminal convictions:
11 "Information provided in this section may not be comprehensive.
12 Courts in New Jersey are required by law to provide information about
13 criminal convictions to the State Board of Medical Examiners.";
- 14 (7) A description of any final board disciplinary actions within the
15 most recent 10 years, except that the division shall identify any such
16 disciplinary action that is being appealed;
- 17 (8) A description of any final disciplinary actions by appropriate
18 licensing boards in other states within the most recent 10 years, except
19 that the division shall identify any such disciplinary action that is being
20 appealed;
- 21 (9) A description of: the revocation or involuntary restriction of
22 privileges at a health care facility for reasons related to the
23 practitioner's competence or misconduct or impairment taken by a
24 health care facility's governing body or any other official of the health
25 care facility after procedural due process has been afforded; the
26 resignation from or nonrenewal of medical staff membership at the
27 health care facility for reasons related to the practitioner's competence
28 or misconduct or impairment; or the restriction of privileges at a health
29 care facility taken in lieu of or in settlement of a pending disciplinary
30 case related to the practitioner's competence or misconduct or
31 impairment. The division shall disclose to the public only those cases
32 which have occurred within the most recent 10 years and that were
33 reported by the health care facility pursuant to section 1 of P.L.1983,
34 c.247 (C.26:2H-12.2); and
- 35 (10) All medical malpractice court judgments and all medical
36 malpractice arbitration awards in which a payment has been awarded
37 to the complaining party during the most recent five years and all
38 settlements of medical malpractice claims in which a payment is made
39 to the complaining party within the most recent five years, as follows:
- 40 (a) The division shall not include pending medical malpractice
41 claims in the profile or disclose to the public information on pending
42 medical malpractice claims;
- 43 (b) The division shall identify a medical malpractice judgment that
44 is being appealed;
- 45 (c) The division shall identify the context in which the payment of
46 a medical malpractice claim occurs by categorizing the claims into

1 three graduated categories: average, above average and below average
2 payments. The division shall arrive at these groupings by comparing
3 the payment amounts of the claims of an individual physician's or
4 podiatrist's medical malpractice judgment awards and settlements to
5 the experience of other physicians or podiatrists within the same
6 specialty;

7 (d) The division shall identify the context in which the payment of
8 a medical malpractice claim occurs by categorizing the number of
9 claims against the physician or podiatrist into three graduated
10 categories; average, above average and below average number of
11 claims. The division shall arrive at these groupings by comparing the
12 number of an individual physician's or podiatrist's medical malpractice
13 judgment awards and settlements to the experience of other physicians
14 or podiatrists within the same speciality; and

15 (e) The division shall include the following statement with the
16 information concerning medical malpractice judgments and
17 settlements: "Settlement of a claim and, in particular, the dollar
18 amount of the settlement may occur for a variety of reasons, which do
19 not necessarily reflect negatively on the professional competence or
20 conduct of the physician (or podiatrist). A payment in settlement of
21 a medical malpractice action or claim should not be construed as
22 creating a presumption that medical malpractice has occurred."

23 b. If requested by a physician or podiatrist, the division may
24 include the following information in a physician's or podiatrist's
25 profile:

26 (1) Names of the hospitals where the physician or podiatrist has
27 privileges;

28 (2) Appointments of the physician or podiatrist to medical school
29 faculties within the most recent 10 years;

30 (3) Information regarding any nationally recognized specialty board
31 certification or accreditation by any national professional organization;

32 (4) Information regarding any translating services that may be
33 available at the physician's or podiatrist's office practice site or sites,
34 as applicable, or languages other than English that are spoken by the
35 physician or podiatrist;

36 (5) Information regarding whether the physician or podiatrist
37 participates in the Medicaid program or accepts assignment under the
38 Medicare program;

39 (6) Information regarding the medical insurance plans in which the
40 physician or podiatrist is a participating provider;

41 (7) Information concerning the hours during which the physician
42 or podiatrist conducts his practice; and

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

45 The division shall include the following disclaimer with the
46 information supplied by the physician or podiatrist pursuant to this

1 subsection: "This information has been provided by the physician (or
2 podiatrist) but has not been independently verified by the division."

3 If the physician or podiatrist includes information regarding medical
4 insurance plans in which the practitioner is a participating provider, the
5 division shall include the following disclaimer with that information:
6 "This information may be subject to change. Contact your health
7 benefits plan to verify if the physician (or podiatrist) currently
8 participates in the plan."

9 c. Before making a profile available to the public, the division shall
10 provide each physician or podiatrist with a copy of his profile. The
11 division shall send the profile to the physician or podiatrist by certified
12 mail, return receipt requested. The physician or podiatrist shall be
13 given 30 calendar days to correct a factual inaccuracy that may appear
14 in the profile and return it to the division, however, upon receipt of a
15 written request that the division deems reasonable, the division may
16 grant the physician or podiatrist an extension of up to 15 calendar days
17 to correct a factual inaccuracy and return the corrected profile to the
18 division.

19 d. If new information or a change in existing information is
20 received by the division concerning a physician or podiatrist, the
21 division shall provide the physician or podiatrist with a copy of the
22 proposed revision and the physician or podiatrist shall be given 30
23 calendar days to correct a factual inaccuracy and to return the
24 corrected information to the division.

25 e. The profile and any revisions thereto shall not be made available
26 to the public until after the review period provided for in this section
27 has lapsed.

28

29 4. (New section) The Division of Consumer Affairs may contract
30 with a public or private entity for the purpose of assisting the division
31 in developing, administering and maintaining the physician and
32 podiatrist profiles required pursuant to this act.

33 a. The contract shall specify the duties of the entity, the level of
34 staffing and qualifications of professional staff who will perform tasks
35 related to the profiles, and shall require that a minimum number of
36 professional staff serve on a full-time basis.

37 b. The contract shall specify that any identifying information
38 concerning a physician or podiatrist provided to the entity by the
39 division, the State Board of Medical Examiners or the physician or
40 podiatrist shall be used only for the purpose of the profile.

41 c. The division shall monitor the work of the entity to ensure that
42 physician and podiatrist profiles are properly developed and
43 maintained pursuant to the requirements of this act.

1 5. (New section) The Director of the Division of Consumer Affairs
2 shall report to the Legislature no later than 18 months after the
3 effective date of this act on the status of the physician and podiatrist
4 profiles.

5 The director shall also make recommendations in the report on the
6 issue of developing profiles for other licensed health care
7 professionals, including, but not limited to, dentists, advanced practice
8 nurses, physician assistants, optometrists, physical therapists and
9 chiropractors, and the type of information that would be appropriate
10 to include in the respective profiles for each type of licensed health
11 care professional.

12
13 6. Section 3 of P.L.1983, c.248 (45:9-19.3) is amended to read as
14 follows:

15 3. Any information concerning the conduct of a physician or
16 surgeon provided to the State Board of Medical Examiners pursuant
17 to section 1 of P.L.1983, c.248 (C.45:9-19.1), section 5 of P.L.1978,
18 c.73 (C.45:1-18) or any other provision of law, is confidential pending
19 final disposition of the inquiry or investigation by the board, except for
20 that information required to be shared with the Division of Insurance
21 Fraud Prevention in the Department of Banking and Insurance to
22 comply with the provisions of section 9 of P.L.1983, c.320
23 (C.17:33A-9) or with any other law enforcement agency. If the result
24 of the inquiry or investigation is a finding of no basis for disciplinary
25 action by the board, the information shall remain confidential, except
26 that the board may release the information to a government agency,
27 for good cause shown, upon an order of the Superior Court after
28 notice to the physician or surgeon who is the subject of the
29 information and an opportunity to be heard. The application for the
30 court order shall be placed under seal.

31 The provisions of this section shall not apply to information that the
32 Division of Consumer Affairs in the Department of Law and Public
33 Safety is required to include in a physician's profile pursuant to
34 P.L. , c. (C.) (pending before the Legislature as this bill).
35 (cf: P.L.1997, c.151, s.11)

36
37 7. Section 10 of P.L.1989, c.300 (45:9-19.10) is amended to read
38 as follows:

39 10. a. The review panel shall maintain records of all notices and
40 complaints it receives and all actions taken with respect to the notices
41 and complaints.

42 b. At least once a month, the review panel shall provide the State
43 Board of Medical Examiners with a summary report of all information
44 received by the review panel and all recommendations made by the
45 review panel. Upon request of the board, the review panel shall
46 provide the board with any information contained in the review panel's

1 files concerning a practitioner.

2 c. Any information concerning the professional conduct of a
3 practitioner provided to, or obtained by, the review panel is
4 confidential pending final disposition of an inquiry or investigation of
5 the practitioner by the State Board of Medical Examiners, and may be
6 disclosed only to the board, the Director of the Division of Consumer
7 Affairs in the Department of Law and Public Safety and the Attorney
8 General for the purposes of carrying out their respective
9 responsibilities pursuant to Title 45 of the Revised Statutes.

10 The provisions of this section shall not apply to information that the
11 division is required to include in a physician's or podiatrist's profile
12 pursuant to P.L. , c. (C.) (pending before the Legislature as
13 this bill).

14 (cf: P.L.1989, c.300, s.10)

15

16 8. (New section) Within 180 days of the effective date of this act,
17 the Director of the Division of Consumer Affairs in the Department of
18 Law and Public Safety, in consultation with the State Board of
19 Medical Examiners, shall adopt regulations pursuant to the
20 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.)
21 necessary to effectuate the purposes of this act.

22

23 9. There is appropriated \$300,000 from the General Fund to the
24 Division of Consumer Affairs in the Department of Law and Public
25 Safety to carry out the provisions of this act.

26

27 10. This act shall take effect immediately.

28

29

30

STATEMENT

31

32 This bill, the "New Jersey Health Care Consumer Information Act,"
33 requires the Division of Consumer Affairs in the Department of Law
34 and Public Safety, in consultation with the State Board of Medical
35 Examiners, to collect and maintain information concerning all
36 physicians and podiatrists licensed in the State for the purpose of
37 creating a profile of each physician and podiatrist. The purpose of this
38 bill is to enable health care consumers to make informed choices about
39 their physicians and podiatrists in a way that is not prejudicial or unfair
40 to physicians or podiatrists.

41 The profiles will be made available to the public electronically
42 through the Internet, and the division will also establish a toll-free
43 telephone number for members of the public to contact the division to
44 obtain a paper copy of a physician or podiatrist profile and to make
45 other inquiries about the profiles.

1 The bill provides that each physician or podiatrist profile contain
2 the following information:

- 3 C Name of all medical schools attended and graduate medical
4 education;
- 5 C Number of years in practice;
- 6 C Location of the physician's or podiatrist's office practice site or
7 sites, as applicable;
- 8 C A description of any criminal convictions for crimes of the first,
9 second, third or fourth degree within the most recent 10 years;
- 10 C A description of any final Board of Medical Examiners disciplinary
11 actions and any final disciplinary actions by appropriate licensing
12 boards in other states within the most recent 10 years;
- 13 C A description of the revocation or involuntary restriction of
14 privileges, or the resignation from or nonrenewal of medical staff
15 membership at a health care facility for reasons related to the
16 practitioner's competence or misconduct or impairment, which
17 action has been taken within the last 10 years by a health care
18 facility's governing body or any other official of the health care
19 facility after procedural due process has been afforded; and
- 20 C All medical malpractice court judgments and all medical malpractice
21 arbitration awards in which a payment has been awarded to the
22 complaining party during the most recent five years and all
23 settlements of medical malpractice claims in which a payment is
24 made to the complaining party within the most recent five years.

25 The bill also provides that a physician or podiatrist may request that
26 additional information be included in his profile, including: the names
27 of the hospitals where the practitioner has privileges; appointments of
28 the practitioner to medical school faculties within the most recent
29 10 years; information regarding any nationally recognized specialty
30 board certification or accreditation by any national professional
31 organization; information regarding any translating services that may
32 be available at the practitioner's office practice site or languages other
33 than English that are spoken by the practitioner; information regarding
34 whether the practitioner participates in the Medicaid program, accepts
35 Medicare assignment and in which medical insurance plans the
36 practitioner is a participating provider; information concerning the
37 practitioner's office; and information concerning accessibility of the
38 practice site to persons with disabilities.

39 The bill authorizes the Division of Consumer Affairs to contract
40 with a public or private entity for the purpose of assisting the division
41 in developing, administering and maintaining the physician and
42 podiatrist profiles. The bill appropriates \$300,000 to the division to
43 establish and maintain the profiles.

44 The bill also requires the Director of the Division of Consumer
45 Affairs to report to the Legislature no later than 18 months after its
46 effective date on the status of the physician and podiatrist profiles and

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9

1 to make recommendations on the issue of developing profiles for other
2 licensed health care professionals, including, but not limited to,
3 dentists, advanced practice nurses, physician assistants, optometrists,
4 physical therapists and chiropractors.

5 Finally, this bill amends the confidentiality provisions of P.L.1983,
6 c.248 (C.45:9-19.3), and P.L.1989, c.300 (C.45:9-19.10), to allow the
7 Board of Medical Examiners to release information required for the
8 profiles to the public. Currently, the board refuses to release certain
9 information concerning physicians and podiatrists citing these
10 confidentiality provisions.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 571**

STATE OF NEW JERSEY

DATED: DECEMBER 9, 2002

The Assembly Appropriations Committee reports favorably Senate Bill No. 571 (SCS).

Senate Bill No. 571 (SCS), the "New Jersey Health Care Consumer Information Act," requires the Division of Consumer Affairs in the Department of Law and Public Safety, in consultation with the State Board of Medical Examiners, to collect and maintain information concerning all physicians and podiatrists licensed in the State for the purpose of creating a profile of each physician and podiatrist. This bill will enable health care consumers to make informed choices about their physicians and podiatrists in a way that is not prejudicial or unfair to physicians or podiatrists.

The profiles will be made available to the public electronically through the Internet, and the division will also establish a toll-free telephone number for members of the public to contact the division to obtain a paper copy of a physician or podiatrist profile and to make other inquiries about the profiles.

This bill provides that each physician or podiatrist profile contain the following information:

- C Name of all medical schools attended and graduate medical education;
- C Number of years in practice;
- C Location of the physician's or podiatrist's office practice site or sites, as applicable;
- C A description of any criminal convictions for crimes of the first, second, third or fourth degree within the most recent 10 years;
- C A description of any final Board of Medical Examiners disciplinary actions and any final disciplinary actions by appropriate licensing boards in other states within the most recent 10 years;
- C A description of the revocation or involuntary restriction of privileges, or the resignation from or nonrenewal of medical staff membership, at a health care facility for reasons related to the practitioner's competence or misconduct or impairment, which action has been taken within the last 10 years by a health care facility's governing body or any other official of the health care facility after procedural due process has been afforded; and

C All medical malpractice court judgments and arbitration awards, in which a payment has been awarded to the complaining party during the most recent five years, and all settlements of medical malpractice claims, in which a payment is made to the complaining party within the most recent five years. Pending medical malpractice claims will not be included in the profile and information on pending medical malpractice claims will not be disclosed to the public, and a medical malpractice judgment that is being appealed shall be so identified.

The bill also provides that the context in which the payment of a medical malpractice claim occurs shall be identified by separately categorizing the number of judgments, arbitration awards and settlements against the physician or podiatrist into three graduated categories: average, above average and below average judgments, arbitration awards and settlements. These groupings shall be arrived at by comparing the number of the medical malpractice judgments, arbitration awards and settlements to the experience of other physicians or podiatrists within the same specialty.

The bill requires that the profiles include the following statement with the information concerning medical malpractice judgments, arbitration awards and settlements: "Settlement of a claim and, in particular, the dollar amount of the settlement may occur for a variety of reasons, which do not necessarily reflect negatively on the professional competence or conduct of the physician (or podiatrist). A payment in settlement of a medical malpractice action or claim should not be construed as creating a presumption that medical malpractice has occurred."

The bill allows a physician or podiatrist to request that additional information be included in his profile, including: the names of the hospitals where the practitioner has privileges; appointments of the practitioner to medical school faculties within the most recent 10 years; information regarding any nationally recognized specialty board certification or accreditation by any national professional organization; information regarding any translating services that may be available at the practitioner's office practice site or languages other than English that are spoken by the practitioner; information regarding whether the practitioner participates in the Medicaid program or accepts Medicare assignment and medical insurance plans in which the practitioner is a participating provider; information concerning the practitioner's office; and information concerning accessibility of the practice site to persons with disabilities.

The bill requires the Division of Consumer Affairs to contract with a public or private entity for the purpose of developing, administering and maintaining the physician and podiatrist profiles. The contract shall specify the duties and responsibilities of the entity with respect to the development, administration and maintenance of the profile, and the duties and responsibilities of the division with respect to providing

the information required for the profile to the entity on a regular and timely basis. The bill requires that the contract specify that any identifying information concerning a physician or podiatrist provided to the entity by the division, the State Board of Medical Examiners or the physician or podiatrist shall be used only for the purpose of the profile. The bill directs the division to monitor the work of the entity to ensure that physician and podiatrist profiles are properly developed and maintained pursuant to the requirements of this substitute.

The bill requires the Director of the Division of Consumer Affairs to report to the Legislature no later than 18 months after its effective date on the status of the physician and podiatrist profiles and to make recommendations on the issue of developing profiles for other licensed health care professionals, including, but not limited to, dentists, advanced practice nurses, physician assistants, optometrists, physical therapists and chiropractors.

Finally, this bill amends the confidentiality provisions of N.J.S.A.45:9-19.3, and N.J.S.A.45:9-19.10, to allow the Board of Medical Examiners to release information required for the profiles to the public. Currently, the board refuses to release certain information concerning physicians and podiatrists citing these confidentiality provisions.

As reported by the committee, this bill is identical to Assembly Bill No. 915 ACS, as also reported by the committee.

FISCAL IMPACT:

No information has been provided as to the fiscal impact of this bill; actual costs will depend upon the terms of the contract with the public or private entity that develops, administers and maintains the physician and podiatrist profiles.

ASSEMBLY BANKING AND INSURANCE COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 571**

STATE OF NEW JERSEY

DATED: DECEMBER 9, 2002

The Assembly Banking and Insurance Committee reports favorably Senate Bill No. 571 (SCS).

This committee substitute, which is designated the "New Jersey Health Care Consumer Information Act," requires the Division of Consumer Affairs in the Department of Law and Public Safety, in consultation with the State Board of Medical Examiners (BME), to collect and maintain information concerning all physicians and podiatrists licensed in the State for the purpose of creating a profile of each physician and podiatrist. The purpose of this substitute is to enable health care consumers to make informed choices about their physicians and podiatrists in a way that is not prejudicial or unfair to these health care practitioners.

The profiles will be made available to the public electronically through the Internet, and the division will also establish a toll-free telephone number for members of the public to contact the division to obtain a paper copy of a physician or podiatrist profile and to make other inquiries about the profiles.

The substitute requires that each physician or podiatrist profile contain the following information:

- C Name of all medical schools attended and graduate medical education;
- C Number of years in practice;
- C Location of the physician's or podiatrist's office practice site or sites, as applicable;
- C A description of any criminal convictions for crimes of the first, second, third or fourth degree within the most recent 10 years;
- C A description of any final BME disciplinary actions and any final disciplinary actions by appropriate licensing boards in other states within the most recent 10 years;
- C A description of the revocation or involuntary restriction of privileges, or the resignation from or nonrenewal of medical staff membership, at a health care facility for reasons related to the practitioner's competence or misconduct or impairment, which action has been taken within the last 10 years by a health care facility's governing body or any other official of the health care

- facility after procedural due process has been afforded; and
- C All medical malpractice court judgments and arbitration awards, in which a payment has been awarded to the complaining party during the most recent five years, and all settlements of medical malpractice claims, in which a payment is made to the complaining party within the most recent five years. Pending medical malpractice claims will not be included in the profile and information on pending medical malpractice claims will not be disclosed to the public, but a medical malpractice judgment that is being appealed is to be so identified.

The substitute stipulates that the context in which the payment of a medical malpractice claim occurs is to be identified by separately categorizing the number of judgments, arbitration awards and settlements against the physician or podiatrist into three graduated categories: average, above average and below average judgments, arbitration awards and settlements. These groupings are to be arrived at by comparing the number of an individual physician's or podiatrist's medical malpractice judgments, arbitration awards and settlements to the experience of other physicians or podiatrists within the same specialty.

The profiles are to include the following statement with the information concerning medical malpractice judgments, arbitration awards and settlements: "Settlement of a claim and, in particular, the dollar amount of the settlement may occur for a variety of reasons, which do not necessarily reflect negatively on the professional competence or conduct of the physician (or podiatrist). A payment in settlement of a medical malpractice action or claim should not be construed as creating a presumption that medical malpractice has occurred."

The substitute also provides that a physician or podiatrist may request that additional information be included in that individual's profile, including:

- the names of the hospitals where the practitioner has privileges;
- appointments of the practitioner to medical school faculties within the most recent 10 years;
- information regarding any nationally recognized specialty board certification or accreditation by any national professional organization;
- information regarding any translating services that may be available at the practitioner's office practice site or languages other than English that are spoken by the practitioner;
- information regarding whether the practitioner participates in the Medicaid program or accepts Medicare assignment and medical insurance plans in which the practitioner is a participating provider;
- information concerning the practitioner's hours of practice; and
- information concerning accessibility of the practice site to persons with disabilities.

The substitute requires that a physician or podiatrist be provided with a copy of his profile and have the opportunity to correct any

factual inaccuracy therein, within a specified review period, before the profile is made available to the public.

The substitute directs the Division of Consumer Affairs to contract with a public or private entity for the purpose of developing, administering and maintaining the physician and podiatrist profiles.

The contract is to specify:

-- the duties and responsibilities of the entity with respect to the development, administration and maintenance of the profile, and the duties and responsibilities of the division with respect to providing the information required for the profile to the entity on a regular and timely basis; and

-- that any identifying information concerning a physician or podiatrist provided to the entity by the division, the BME or the physician or podiatrist is to be used only for the purpose of the profile.

The division is directed to monitor the work of the entity to ensure that physician and podiatrist profiles are properly developed and maintained pursuant to the requirements of this substitute.

The substitute further requires that the Director of the Division of Consumer Affairs report to the Legislature no later than 18 months after the effective date of the substitute on the status of the physician and podiatrist profiles and make recommendations on the issue of developing profiles for other licensed health care professionals, including, but not limited to, dentists, advanced practice nurses, physician assistants, optometrists, physical therapists and chiropractors.

Finally, this substitute amends the confidentiality provisions of N.J.S.A.45:9-19.3, and N.J.S.A.45:9-19.10, to allow the BME to release information required for the profiles to the public. Currently, the BME refuses to release certain information concerning physicians and podiatrists, citing these confidentiality provisions.

This substitute is identical to the Assembly Committee Substitute for Assembly Bill No. 915 (Edwards/Weinberg), which the committee also reported on this date.

ASSEMBLY HEALTH AND HUMAN SERVICES COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 571**

STATE OF NEW JERSEY

DATED: DECEMBER 9, 2002

The Assembly Health and Human Services Committee reports favorably Senate Bill No. 571 (SCS).

This committee substitute, which is designated the "New Jersey Health Care Consumer Information Act," requires the Division of Consumer Affairs in the Department of Law and Public Safety, in consultation with the State Board of Medical Examiners (BME), to collect and maintain information concerning all physicians and podiatrists licensed in the State for the purpose of creating a profile of each physician and podiatrist. The purpose of this substitute is to enable health care consumers to make informed choices about their physicians and podiatrists in a way that is not prejudicial or unfair to these health care practitioners.

The profiles will be made available to the public electronically through the Internet, and the division will also establish a toll-free telephone number for members of the public to contact the division to obtain a paper copy of a physician or podiatrist profile and to make other inquiries about the profiles.

The substitute requires that each physician or podiatrist profile contain the following information:

- C Name of all medical schools attended and graduate medical education;
- C Number of years in practice;
- C Location of the physician's or podiatrist's office practice site or sites, as applicable;
- C A description of any criminal convictions for crimes of the first, second, third or fourth degree within the most recent 10 years;
- C A description of any final BME disciplinary actions and any final disciplinary actions by appropriate licensing boards in other states within the most recent 10 years;
- C A description of the revocation or involuntary restriction of privileges, or the resignation from or nonrenewal of medical staff membership, at a health care facility for reasons related to the practitioner's competence or misconduct or impairment, which action has been taken within the last 10 years by a health care facility's governing body or any other official of the health care

- facility after procedural due process has been afforded; and
- C All medical malpractice court judgments and arbitration awards, in which a payment has been awarded to the complaining party during the most recent five years, and all settlements of medical malpractice claims, in which a payment is made to the complaining party within the most recent five years. Pending medical malpractice claims will not be included in the profile and information on pending medical malpractice claims will not be disclosed to the public, and a medical malpractice judgment that is being appealed is to be so identified.

The substitute stipulates that the context in which the payment of a medical malpractice claim occurs is to be identified by separately categorizing the number of judgments, arbitration awards and settlements against the physician or podiatrist into three graduated categories: average, above average and below average judgments, arbitration awards and settlements. These groupings are to be arrived at by comparing the number of an individual physician's or podiatrist's medical malpractice judgments, arbitration awards and settlements to the experience of other physicians or podiatrists within the same specialty.

The profiles are to include the following statement with the information concerning medical malpractice judgments, arbitration awards and settlements: "Settlement of a claim and, in particular, the dollar amount of the settlement may occur for a variety of reasons, which do not necessarily reflect negatively on the professional competence or conduct of the physician (or podiatrist). A payment in settlement of a medical malpractice action or claim should not be construed as creating a presumption that medical malpractice has occurred."

The substitute also provides that a physician or podiatrist may request that additional information be included in that individual's profile, including:

- the names of the hospitals where the practitioner has privileges;
- appointments of the practitioner to medical school faculties within the most recent 10 years;
- information regarding any nationally recognized specialty board certification or accreditation by any national professional organization;
- information regarding any translating services that may be available at the practitioner's office practice site or languages other than English that are spoken by the practitioner;
- information regarding whether the practitioner participates in the Medicaid program or accepts Medicare assignment and medical insurance plans in which the practitioner is a participating provider;
- information concerning the practitioner's hours of practice; and
- information concerning accessibility of the practice site to persons with disabilities.

The substitute requires that a physician or podiatrist be provided with a copy of his profile and have the opportunity to correct any

factual inaccuracy therein, within a specified review period, before the profile is made available to the public.

The substitute directs the Division of Consumer Affairs to contract with a public or private entity for the purpose of developing, administering and maintaining the physician and podiatrist profiles.

The contract is to specify:

-- the duties and responsibilities of the entity with respect to the development, administration and maintenance of the profile, and the duties and responsibilities of the division with respect to providing the information required for the profile to the entity on a regular and timely basis; and

-- that any identifying information concerning a physician or podiatrist provided to the entity by the division, the BME or the physician or podiatrist is to be used only for the purpose of the profile.

The division is directed to monitor the work of the entity to ensure that physician and podiatrist profiles are properly developed and maintained pursuant to the requirements of this substitute.

The substitute further requires that the Director of the Division of Consumer Affairs report to the Legislature no later than 18 months after the effective date of the substitute on the status of the physician and podiatrist profiles and make recommendations on the issue of developing profiles for other licensed health care professionals, including, but not limited to, dentists, advanced practice nurses, physician assistants, optometrists, physical therapists and chiropractors.

Finally, this substitute amends the confidentiality provisions of N.J.S.A.45:9-19.3, and N.J.S.A.45:9-19.10, to allow the BME to release information required for the profiles to the public. Currently, the BME refuses to release certain information concerning physicians and podiatrists, citing these confidentiality provisions.

This substitute is identical to the Assembly Committee Substitute for Assembly Bill No. 915 (Edwards/Weinberg), which the committee also reported on this date.

SENATE HEALTH, HUMAN SERVICES AND SENIOR
CITIZENS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 571

STATE OF NEW JERSEY

DATED: MAY 30, 2002

The Senate Health, Human Services and Senior Citizens Committee reports favorably a Senate Committee Substitute for Senate Bill No. 571.

This committee substitute, the "New Jersey Health Care Consumer Information Act," requires the Division of Consumer Affairs in the Department of Law and Public Safety, in consultation with the State Board of Medical Examiners, to collect and maintain information concerning all physicians and podiatrists licensed in the State for the purpose of creating a profile of each physician and podiatrist. The purpose of this substitute is to enable health care consumers to make informed choices about their physicians and podiatrists in a way that is not prejudicial or unfair to physicians or podiatrists.

The profiles will be made available to the public electronically through the Internet, and the division will also establish a toll-free telephone number for members of the public to contact the division to obtain a paper copy of a physician or podiatrist profile and to make other inquiries about the profiles.

The substitute provides that each physician or podiatrist profile contain the following information:

- C Name of all medical schools attended and graduate medical education;
- C Number of years in practice;
- C Location of the physician's or podiatrist's office practice site or sites, as applicable;
- C A description of any criminal convictions for crimes of the first, second, third or fourth degree within the most recent 10 years;
- C A description of any final Board of Medical Examiners disciplinary actions and any final disciplinary actions by appropriate licensing boards in other states within the most recent 10 years;
- C A description of the revocation or involuntary restriction of privileges, or the resignation from or nonrenewal of medical staff membership, at a health care facility for reasons related to the practitioner's competence or misconduct or impairment, which

action has been taken within the last 10 years by a health care facility's governing body or any other official of the health care facility after procedural due process has been afforded; and

- C All medical malpractice court judgments and arbitration awards, in which a payment has been awarded to the complaining party during the most recent five years, and all settlements of medical malpractice claims, in which a payment is made to the complaining party within the most recent five years. Pending medical malpractice claims will not be included in the profile and information on pending medical malpractice claims will not be disclosed to the public, and a medical malpractice judgment that is being appealed shall be so identified.

The substitute also provides that the context in which the payment of a medical malpractice claim occurs shall be identified by separately categorizing the number of judgments, arbitration awards and settlements against the physician or podiatrist into three graduated categories: average, above average and below average judgments, arbitration awards and settlements. These groupings shall be arrived at by comparing the number of the medical malpractice judgments, arbitration awards and settlements to the experience of other physicians or podiatrists within the same specialty.

Also, the profiles shall include the following statement with the information concerning medical malpractice judgments, arbitration awards and settlements: "Settlement of a claim and, in particular, the dollar amount of the settlement may occur for a variety of reasons, which do not necessarily reflect negatively on the professional competence or conduct of the physician (or podiatrist). A payment in settlement of a medical malpractice action or claim should not be construed as creating a presumption that medical malpractice has occurred."

The substitute also provides that a physician or podiatrist may request that additional information be included in his profile, including: the names of the hospitals where the practitioner has privileges; appointments of the practitioner to medical school faculties within the most recent 10 years; information regarding any nationally recognized specialty board certification or accreditation by any national professional organization; information regarding any translating services that may be available at the practitioner's office practice site or languages other than English that are spoken by the practitioner; information regarding whether the practitioner participates in the Medicaid program or accepts Medicare assignment and medical insurance plans in which the practitioner is a participating provider; information concerning the practitioner's office; and information concerning accessibility of the practice site to persons with disabilities.

The substitute requires the Division of Consumer Affairs to contract with a public or private entity for the purpose of developing, administering and maintaining the physician and podiatrist profiles. The contract shall specify the duties and responsibilities of the entity

with respect to the development, administration and maintenance of the profile, and the duties and responsibilities of the division with respect to providing the information required for the profile to the entity on a regular and timely basis. The substitute further provides that the contract shall specify that any identifying information concerning a physician or podiatrist provided to the entity by the division, the State Board of Medical Examiners or the physician or podiatrist shall be used only for the purpose of the profile. The division is directed to monitor the work of the entity to ensure that physician and podiatrist profiles are properly developed and maintained pursuant to the requirements of this substitute.

The substitute also requires the Director of the Division of Consumer Affairs to report to the Legislature no later than 18 months after its effective date on the status of the physician and podiatrist profiles and to make recommendations on the issue of developing profiles for other licensed health care professionals, including, but not limited to, dentists, advanced practice nurses, physician assistants, optometrists, physical therapists and chiropractors.

Finally, this substitute amends the confidentiality provisions of N.J.S.A.45:9-19.3, and N.J.S.A.45:9-19.10, to allow the Board of Medical Examiners to release information required for the profiles to the public. Currently, the board refuses to release certain information concerning physicians and podiatrists citing these confidentiality provisions.

ASSEMBLY, No. 915

STATE OF NEW JERSEY

210th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2002 SESSION

Sponsored by:

Assemblyman WILLIS EDWARDS, III

District 34 (Essex and Passaic)

Assemblywoman LORETTA WEINBERG

District 37 (Bergen)

SYNOPSIS

"New Jersey Health Care Consumer Information Act;" appropriates \$300,000.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 12/10/2002)

1 AN ACT concerning the dissemination of certain information about
2 physicians and podiatrists to the public, amending P.L.1983, c.248
3 and P.L.1989, c.300, supplementing Title 45 of the Revised
4 Statutes and making an appropriation.

5

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

8

9 1. (New section) This act shall be known and may be cited as the
10 "New Jersey Health Care Consumer Information Act."

11

12 2. (New section) a. The Division of Consumer Affairs in the
13 Department of Law and Public Safety, in consultation with the State
14 Board of Medical Examiners, shall, within 180 days of the effective
15 date of this act and thereafter, collect and maintain information
16 concerning all physicians and podiatrists licensed in the State for the
17 purpose of creating a profile of each physician and podiatrist pursuant
18 to this act. The profiles shall be in a format established by the division
19 and made available to the public through electronic and other
20 appropriate means, at no charge to the public. The division shall also
21 establish a toll-free telephone number for members of the public to
22 contact the division to obtain a paper copy of a physician or podiatrist
23 profile and to make other inquiries about the profiles.

24 b. A physician or podiatrist shall be required to provide the board
25 or division with any information necessary to complete the profile as
26 provided in section 3 of this act.

27 c. The board may request any additional information it deems
28 necessary to complete the profiles on the biennial license renewal form
29 submitted by physicians and podiatrists.

30 d. The board shall provide to the division any information required
31 pursuant to this act that is available to the board concerning a
32 physician or podiatrist, for the purpose of creating the physician and
33 podiatrist profiles.

34

35 3. (New section) a. The Division of Consumer Affairs shall
36 include the following information for each profile of a physician or
37 podiatrist:

38 (1) Name of all medical schools attended and dates of graduation;

39 (2) Graduate medical education, including all internships,
40 residencies and fellowships;

41 (3) Number of years in practice;

42 (4) Number of years in practice in New Jersey;

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 (5) Location of the physician's or podiatrist's office practice site or
2 sites, as applicable;

3 (6) A description of any criminal convictions for crimes of the first,
4 second, third or fourth degree within the most recent 10 years. For
5 the purposes of this paragraph, a person shall be deemed to be
6 convicted of a crime if the individual pleaded guilty or was found or
7 adjudged guilty by a court of competent jurisdiction. The division
8 shall not include in the description of criminal convictions any
9 convictions that have been expunged. The division shall include the
10 following statement with the information about criminal convictions:
11 "Information provided in this section may not be comprehensive.
12 Courts in New Jersey are required by law to provide information about
13 criminal convictions to the State Board of Medical Examiners.";

14 (7) A description of any final board disciplinary actions within the
15 most recent 10 years, except that the division shall identify any such
16 disciplinary action that is being appealed;

17 (8) A description of any final disciplinary actions by appropriate
18 licensing boards in other states within the most recent 10 years, except
19 that the division shall identify any such disciplinary action that is being
20 appealed;

21 (9) A description of: the revocation or involuntary restriction of
22 privileges at a health care facility for reasons related to the
23 practitioner's competence or misconduct or impairment taken by a
24 health care facility's governing body or any other official of the health
25 care facility after procedural due process has been afforded; the
26 resignation from or nonrenewal of medical staff membership at the
27 health care facility for reasons related to the practitioner's competence
28 or misconduct or impairment; or the restriction of privileges at a health
29 care facility taken in lieu of or in settlement of a pending disciplinary
30 case related to the practitioner's competence or misconduct or
31 impairment. The division shall disclose to the public only those cases
32 which have occurred within the most recent 10 years and that were
33 reported by the health care facility pursuant to section 1 of P.L.1983,
34 c.247 (C.26:2H-12.2); and

35 (10) All medical malpractice court judgments and all medical
36 malpractice arbitration awards in which a payment has been awarded
37 to the complaining party during the most recent five years and all
38 settlements of medical malpractice claims in which a payment is made
39 to the complaining party within the most recent five years, as follows:

40 (a) The division shall not include pending medical malpractice
41 claims in the profile or disclose to the public information on pending
42 medical malpractice claims;

43 (b) The division shall identify a medical malpractice judgment that
44 is being appealed;

45 (c) The division shall identify the context in which the payment of
46 a medical malpractice claim occurs by categorizing the claims into

1 three graduated categories: average, above average and below average
2 payments. The division shall arrive at these groupings by comparing
3 the payment amounts of the claims of an individual physician's or
4 podiatrist's medical malpractice judgment awards and settlements to
5 the experience of other physicians or podiatrists within the same
6 specialty;

7 (d) The division shall identify the context in which the payment of
8 a medical malpractice claim occurs by categorizing the number of
9 claims against the physician or podiatrist into three graduated
10 categories; average, above average and below average number of
11 claims. The division shall arrive at these groupings by comparing the
12 number of an individual physician's or podiatrist's medical malpractice
13 judgment awards and settlements to the experience of other physicians
14 or podiatrists within the same speciality; and

15 (e) The division shall include the following statement with the
16 information concerning medical malpractice judgments and
17 settlements: "Settlement of a claim and, in particular, the dollar
18 amount of the settlement may occur for a variety of reasons, which do
19 not necessarily reflect negatively on the professional competence or
20 conduct of the physician (or podiatrist). A payment in settlement of
21 a medical malpractice action or claim should not be construed as
22 creating a presumption that medical malpractice has occurred."

23 b. If requested by a physician or podiatrist, the division may
24 include the following information in a physician's or podiatrist's
25 profile:

26 (1) Names of the hospitals where the physician or podiatrist has
27 privileges;

28 (2) Appointments of the physician or podiatrist to medical school
29 faculties within the most recent 10 years;

30 (3) Information regarding any nationally recognized specialty board
31 certification or accreditation by any national professional organization;

32 (4) Information regarding any translating services that may be
33 available at the physician's or podiatrist's office practice site or sites,
34 as applicable, or languages other than English that are spoken by the
35 physician or podiatrist;

36 (5) Information regarding whether the physician or podiatrist
37 participates in the Medicaid program or accepts assignment under the
38 Medicare program;

39 (6) Information regarding the medical insurance plans in which the
40 physician or podiatrist is a participating provider;

41 (7) Information concerning the hours during which the physician
42 or podiatrist conducts his practice; and

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

1 The division shall include the following disclaimer with the
2 information supplied by the physician or podiatrist pursuant to this
3 subsection: "This information has been provided by the physician (or
4 podiatrist) but has not been independently verified by the division."

5 If the physician or podiatrist includes information regarding medical
6 insurance plans in which the practitioner is a participating provider, the
7 division shall include the following disclaimer with that information:
8 "This information may be subject to change. Contact your health
9 benefits plan to verify if the physician (or podiatrist) currently
10 participates in the plan."

11 c. Before making a profile available to the public, the division shall
12 provide each physician or podiatrist with a copy of his profile. The
13 division shall send the profile to the physician or podiatrist by certified
14 mail, return receipt requested. The physician or podiatrist shall be
15 given 30 calendar days to correct a factual inaccuracy that may appear
16 in the profile and return it to the division, however, upon receipt of a
17 written request that the division deems reasonable, the division may
18 grant the physician or podiatrist an extension of up to 15 calendar days
19 to correct a factual inaccuracy and return the corrected profile to the
20 division.

21 d. If new information or a change in existing information is
22 received by the division concerning a physician or podiatrist, the
23 division shall provide the physician or podiatrist with a copy of the
24 proposed revision and the physician or podiatrist shall be given 30
25 calendar days to correct a factual inaccuracy and to return the
26 corrected information to the division.

27 e. The profile and any revisions thereto shall not be made available
28 to the public until after the review period provided for in this section
29 has lapsed.

30
31 4. (New section) The Division of Consumer Affairs may contract
32 with a public or private entity for the purpose of assisting the division
33 in developing, administering and maintaining the physician and
34 podiatrist profiles required pursuant to this act.

35 a. The contract shall specify the duties of the entity, the level of
36 staffing and qualifications of professional staff who will perform tasks
37 related to the profiles, and shall require that a minimum number of
38 professional staff serve on a full-time basis.

39 b. The contract shall specify that any identifying information
40 concerning a physician or podiatrist provided to the entity by the
41 division, the State Board of Medical Examiners or the physician or
42 podiatrist shall be used only for the purpose of the profile.

43 c. The division shall monitor the work of the entity to ensure that
44 physician and podiatrist profiles are properly developed and
45 maintained pursuant to the requirements of this act.

1 5. (New section) The Director of the Division of Consumer Affairs
2 shall report to the Legislature no later than 18 months after the
3 effective date of this act on the status of the physician and podiatrist
4 profiles.

5 The director shall also make recommendations in the report on the
6 issue of developing profiles for other licensed health care
7 professionals, including, but not limited to, dentists, advanced practice
8 nurses, physician assistants, optometrists, physical therapists and
9 chiropractors, and the type of information that would be appropriate
10 to include in the respective profiles for each type of licensed health
11 care professional.

12
13 6. Section 3 of P.L.1983, c.248 (45:9-19.3) is amended to read as
14 follows:

15 3. Any information concerning the conduct of a physician or
16 surgeon provided to the State Board of Medical Examiners pursuant
17 to section 1 of P.L.1983, c.248 (C.45:9-19.1), section 5 of P.L.1978,
18 c.73 (C.45:1-18) or any other provision of law, is confidential pending
19 final disposition of the inquiry or investigation by the board, except for
20 that information required to be shared with the Division of Insurance
21 Fraud Prevention in the Department of Banking and Insurance to
22 comply with the provisions of section 9 of P.L.1983, c.320
23 (C.17:33A-9) or with any other law enforcement agency. If the result
24 of the inquiry or investigation is a finding of no basis for disciplinary
25 action by the board, the information shall remain confidential, except
26 that the board may release the information to a government agency,
27 for good cause shown, upon an order of the Superior Court after
28 notice to the physician or surgeon who is the subject of the
29 information and an opportunity to be heard. The application for the
30 court order shall be placed under seal.

31 The provisions of this section shall not apply to information that the
32 Division of Consumer Affairs in the Department of Law and Public
33 Safety is required to include in a physician's profile pursuant to
34 P.L. , c. (C.) (pending before the Legislature as this bill).
35 (cf: P.L.1997, c.151, s.11)

36
37 7. Section 10 of P.L.1989, c.300 (45:9-19.10) is amended to read
38 as follows:

39 10. a. The review panel shall maintain records of all notices and
40 complaints it receives and all actions taken with respect to the notices
41 and complaints.

42 b. At least once a month, the review panel shall provide the State
43 Board of Medical Examiners with a summary report of all information
44 received by the review panel and all recommendations made by the
45 review panel. Upon request of the board, the review panel shall

1 provide the board with any information contained in the review panel's
2 files concerning a practitioner.

3 c. Any information concerning the professional conduct of a
4 practitioner provided to, or obtained by, the review panel is
5 confidential pending final disposition of an inquiry or investigation of
6 the practitioner by the State Board of Medical Examiners, and may be
7 disclosed only to the board, the Director of the Division of Consumer
8 Affairs in the Department of Law and Public Safety and the Attorney
9 General for the purposes of carrying out their respective
10 responsibilities pursuant to Title 45 of the Revised Statutes.

11 The provisions of this section shall not apply to information that the
12 division is required to include in a physician's or podiatrist's profile
13 pursuant to P.L. , c. (C.) (pending before the Legislature as
14 this bill).

15 (cf: P.L.1989, c.300, s.10)

16

17 8. (New section) Within 180 days of the effective date of this act,
18 the Director of the Division of Consumer Affairs in the Department of
19 Law and Public Safety, in consultation with the State Board of
20 Medical Examiners, shall adopt regulations pursuant to the
21 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.)
22 necessary to effectuate the purposes of this act.

23

24 9. There is appropriated \$300,000 from the General Fund to the
25 Division of Consumer Affairs in the Department of Law and Public
26 Safety to carry out the provisions of this act.

27

28 10. This act shall take effect immediately.

29

30

31

STATEMENT

32

33 This bill, the "New Jersey Health Care Consumer Information Act,"
34 requires the Division of Consumer Affairs in the Department of Law
35 and Public Safety, in consultation with the State Board of Medical
36 Examiners, to collect and maintain information concerning all
37 physicians and podiatrists licensed in the State for the purpose of
38 creating a profile of each physician and podiatrist. The purpose of this
39 bill is to enable health care consumers to make informed choices about
40 their physicians and podiatrists in a way that is not prejudicial or unfair
41 to physicians or podiatrists.

42 The profiles will be made available to the public electronically
43 through the Internet, and the division will also establish a toll-free
44 telephone number for members of the public to contact the division to
45 obtain a paper copy of a physician or podiatrist profile and to make
46 other inquiries about the profiles.

1 The bill provides that each physician or podiatrist profile contain
2 the following information:

- 3 C Name of all medical schools attended and graduate medical
4 education;
- 5 C Number of years in practice;
- 6 C Location of the physician's or podiatrist's office practice site or
7 sites, as applicable;
- 8 C A description of any criminal convictions for crimes of the first,
9 second, third or fourth degree within the most recent 10 years;
- 10 C A description of any final Board of Medical Examiners disciplinary
11 actions and any final disciplinary actions by appropriate licensing
12 boards in other states within the most recent 10 years;
- 13 C A description of the revocation or involuntary restriction of
14 privileges, or the resignation from or nonrenewal of medical staff
15 membership at a health care facility for reasons related to the
16 practitioner's competence or misconduct or impairment, which
17 action has been taken within the last 10 years by a health care
18 facility's governing body or any other official of the health care
19 facility after procedural due process has been afforded; and
- 20 C All medical malpractice court judgments and all medical malpractice
21 arbitration awards in which a payment has been awarded to the
22 complaining party during the most recent five years and all
23 settlements of medical malpractice claims in which a payment is
24 made to the complaining party within the most recent five years.

25 The bill also provides that a physician or podiatrist may request that
26 additional information be included in his profile, including: the names
27 of the hospitals where the practitioner has privileges; appointments of
28 the practitioner to medical school faculties within the most recent
29 10 years; information regarding any nationally recognized specialty
30 board certification or accreditation by any national professional
31 organization; information regarding any translating services that may
32 be available at the practitioner's office practice site or languages other
33 than English that are spoken by the practitioner; information regarding
34 whether the practitioner participates in the Medicaid program, accepts
35 Medicare assignment and in which medical insurance plans the
36 practitioner is a participating provider; information concerning the
37 practitioner's office; and information concerning accessibility of the
38 practice site to persons with disabilities.

39 The bill authorizes the Division of Consumer Affairs to contract
40 with a public or private entity for the purpose of assisting the division
41 in developing, administering and maintaining the physician and
42 podiatrist profiles. The bill appropriates \$300,000 to the division to
43 establish and maintain the profiles.

1 The bill also requires the Director of the Division of Consumer
2 Affairs to report to the Legislature no later than 18 months after its
3 effective date on the status of the physician and podiatrist profiles and
4 to make recommendations on the issue of developing profiles for other
5 licensed health care professionals, including, but not limited to,
6 dentists, advanced practice nurses, physician assistants, optometrists,
7 physical therapists and chiropractors.

8 Finally, this bill amends the confidentiality provisions of P.L.1983,
9 c.248 (C.45:9-19.3), and P.L.1989, c.300 (C.45:9-19.10), to allow the
10 Board of Medical Examiners to release information required for the
11 profiles to the public. Currently, the board refuses to release certain
12 information concerning physicians and podiatrists citing these
13 confidentiality provisions.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 915

STATE OF NEW JERSEY

DATED: DECEMBER 9, 2002

The Assembly Appropriations Committee reports favorably Assembly Bill No. 915 (ACS).

Assembly Bill No. 915 (ACS), the "New Jersey Health Care Consumer Information Act," requires the Division of Consumer Affairs in the Department of Law and Public Safety, in consultation with the State Board of Medical Examiners, to collect and maintain information concerning all physicians and podiatrists licensed in the State for the purpose of creating a profile of each physician and podiatrist. This bill will enable health care consumers to make informed choices about their physicians and podiatrists in a way that is not prejudicial or unfair to physicians or podiatrists.

The profiles will be made available to the public electronically through the Internet, and the division will also establish a toll-free telephone number for members of the public to contact the division to obtain a paper copy of a physician or podiatrist profile and to make other inquiries about the profiles.

This bill provides that each physician or podiatrist profile contain the following information:

- C Name of all medical schools attended and graduate medical education;
- C Number of years in practice;
- C Location of the physician's or podiatrist's office practice site or sites, as applicable;
- C A description of any criminal convictions for crimes of the first, second, third or fourth degree within the most recent 10 years;
- C A description of any final Board of Medical Examiners disciplinary actions and any final disciplinary actions by appropriate licensing boards in other states within the most recent 10 years;
- C A description of the revocation or involuntary restriction of privileges, or the resignation from or nonrenewal of medical staff membership, at a health care facility for reasons related to the practitioner's competence or misconduct or impairment, which action has been taken within the last 10 years by a health care facility's governing body or any other official of the health care facility after procedural due process has been afforded; and

C All medical malpractice court judgments and arbitration awards, in which a payment has been awarded to the complaining party during the most recent five years, and all settlements of medical malpractice claims, in which a payment is made to the complaining party within the most recent five years. Pending medical malpractice claims will not be included in the profile and information on pending medical malpractice claims will not be disclosed to the public, and a medical malpractice judgment that is being appealed shall be so identified.

The bill also provides that the context in which the payment of a medical malpractice claim occurs shall be identified by separately categorizing the number of judgments, arbitration awards and settlements against the physician or podiatrist into three graduated categories: average, above average and below average judgments, arbitration awards and settlements. These groupings shall be arrived at by comparing the number of the medical malpractice judgments, arbitration awards and settlements to the experience of other physicians or podiatrists within the same specialty.

The bill requires that the profiles include the following statement with the information concerning medical malpractice judgments, arbitration awards and settlements: "Settlement of a claim and, in particular, the dollar amount of the settlement may occur for a variety of reasons, which do not necessarily reflect negatively on the professional competence or conduct of the physician (or podiatrist). A payment in settlement of a medical malpractice action or claim should not be construed as creating a presumption that medical malpractice has occurred."

The bill allows a physician or podiatrist to request that additional information be included in his profile, including: the names of the hospitals where the practitioner has privileges; appointments of the practitioner to medical school faculties within the most recent 10 years; information regarding any nationally recognized specialty board certification or accreditation by any national professional organization; information regarding any translating services that may be available at the practitioner's office practice site or languages other than English that are spoken by the practitioner; information regarding whether the practitioner participates in the Medicaid program or accepts Medicare assignment and medical insurance plans in which the practitioner is a participating provider; information concerning the practitioner's office; and information concerning accessibility of the practice site to persons with disabilities.

The bill requires the Division of Consumer Affairs to contract with a public or private entity for the purpose of developing, administering and maintaining the physician and podiatrist profiles. The contract shall specify the duties and responsibilities of the entity with respect to the development, administration and maintenance of the profile, and the duties and responsibilities of the division with respect to providing the information required for the profile to the entity on a regular and

timely basis. The bill requires that the contract specify that any identifying information concerning a physician or podiatrist provided to the entity by the division, the State Board of Medical Examiners or the physician or podiatrist shall be used only for the purpose of the profile. The bill directs the division to monitor the work of the entity to ensure that physician and podiatrist profiles are properly developed and maintained pursuant to the requirements of this substitute.

The bill requires the Director of the Division of Consumer Affairs to report to the Legislature no later than 18 months after its effective date on the status of the physician and podiatrist profiles and to make recommendations on the issue of developing profiles for other licensed health care professionals, including, but not limited to, dentists, advanced practice nurses, physician assistants, optometrists, physical therapists and chiropractors.

Finally, this bill amends the confidentiality provisions of N.J.S.A.45:9-19.3, and N.J.S.A.45:9-19.10, to allow the Board of Medical Examiners to release information required for the profiles to the public. Currently, the board refuses to release certain information concerning physicians and podiatrists citing these confidentiality provisions.

As reported by the committee, this bill is identical to Senate Bill No. 571 SCS, as also reported by the committee.

FISCAL IMPACT:

No information has been provided as to the fiscal impact of this bill; actual costs will depend upon the terms of the contract with the public or private entity that develops, administers and maintains the physician and podiatrist profiles.

ASSEMBLY BANKING AND INSURANCE COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, No. 915**

STATE OF NEW JERSEY

DATED: DECEMBER 9, 2002

The Assembly Banking and Insurance Committee reports favorably Assembly Bill No. 915.(ACS).

This committee substitute, which is designated the "New Jersey Health Care Consumer Information Act," requires the Division of Consumer Affairs in the Department of Law and Public Safety, in consultation with the State Board of Medical Examiners (BME), to collect and maintain information concerning all physicians and podiatrists licensed in the State for the purpose of creating a profile of each physician and podiatrist. The purpose of this substitute is to enable health care consumers to make informed choices about their physicians and podiatrists in a way that is not prejudicial or unfair to these health care practitioners.

The profiles will be made available to the public electronically through the Internet, and the division will also establish a toll-free telephone number for members of the public to contact the division to obtain a paper copy of a physician or podiatrist profile and to make other inquiries about the profiles.

The substitute requires that each physician or podiatrist profile contain the following information:

- C Name of all medical schools attended and graduate medical education;
- C Number of years in practice;
- C Location of the physician's or podiatrist's office practice site or sites, as applicable;
- C A description of any criminal convictions for crimes of the first, second, third or fourth degree within the most recent 10 years;
- C A description of any final BME disciplinary actions and any final disciplinary actions by appropriate licensing boards in other states within the most recent 10 years;
- C A description of the revocation or involuntary restriction of privileges, or the resignation from or nonrenewal of medical staff membership, at a health care facility for reasons related to the practitioner's competence or misconduct or impairment, which action has been taken within the last 10 years by a health care

facility's governing body or any other official of the health care facility after procedural due process has been afforded; and

- C All medical malpractice court judgments and arbitration awards, in which a payment has been awarded to the complaining party during the most recent five years, and all settlements of medical malpractice claims, in which a payment is made to the complaining party within the most recent five years. Pending medical malpractice claims will not be included in the profile and information on pending medical malpractice claims will not be disclosed to the public, but a medical malpractice judgment that is being appealed is to be so identified.

The substitute stipulates that the context in which the payment of a medical malpractice claim occurs is to be identified by separately categorizing the number of judgments, arbitration awards and settlements against the physician or podiatrist into three graduated categories: average, above average and below average judgments, arbitration awards and settlements. These groupings are to be arrived at by comparing the number of an individual physician's or podiatrist's medical malpractice judgments, arbitration awards and settlements to the experience of other physicians or podiatrists within the same specialty.

The profiles are to include the following statement with the information concerning medical malpractice judgments, arbitration awards and settlements: "Settlement of a claim and, in particular, the dollar amount of the settlement may occur for a variety of reasons, which do not necessarily reflect negatively on the professional competence or conduct of the physician (or podiatrist). A payment in settlement of a medical malpractice action or claim should not be construed as creating a presumption that medical malpractice has occurred."

The substitute also provides that a physician or podiatrist may request that additional information be included in that individual's profile, including:

- the names of the hospitals where the practitioner has privileges;
- appointments of the practitioner to medical school faculties within the most recent 10 years;
- information regarding any nationally recognized specialty board certification or accreditation by any national professional organization;
- information regarding any translating services that may be available at the practitioner's office practice site or languages other than English that are spoken by the practitioner;
- information regarding whether the practitioner participates in the Medicaid program or accepts Medicare assignment and medical insurance plans in which the practitioner is a participating provider;
- information concerning the practitioner's hours of practice; and
- information concerning accessibility of the practice site to persons with disabilities.

The substitute requires that a physician or podiatrist be provided with a copy of his profile and have the opportunity to correct any factual inaccuracy therein, within a specified review period, before the profile is made available to the public.

The substitute directs the Division of Consumer Affairs to contract with a public or private entity for the purpose of developing, administering and maintaining the physician and podiatrist profiles.

The contract is to specify:

-- the duties and responsibilities of the entity with respect to the development, administration and maintenance of the profile, and the duties and responsibilities of the division with respect to providing the information required for the profile to the entity on a regular and timely basis; and

-- that any identifying information concerning a physician or podiatrist provided to the entity by the division, the BME or the physician or podiatrist is to be used only for the purpose of the profile.

The division is directed to monitor the work of the entity to ensure that physician and podiatrist profiles are properly developed and maintained pursuant to the requirements of this substitute.

The substitute further requires that the Director of the Division of Consumer Affairs report to the Legislature no later than 18 months after the effective date of the substitute on the status of the physician and podiatrist profiles and make recommendations on the issue of developing profiles for other licensed health care professionals, including, but not limited to, dentists, advanced practice nurses, physician assistants, optometrists, physical therapists and chiropractors.

Finally, this substitute amends the confidentiality provisions of N.J.S.A.45:9-19.3, and N.J.S.A.45:9-19.10, to allow the BME to release information required for the profiles to the public. Currently, the BME refuses to release certain information concerning physicians and podiatrists, citing these confidentiality provisions.

As reported by the committee, this substitute is identical to the Senate Committee Substitute for Senate Bill No. 571 (Codey/Vitale), which the committee also reported on this date.

ASSEMBLY HEALTH AND HUMAN SERVICES COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, No. 915**

STATE OF NEW JERSEY

DATED: DECEMBER 9, 2002

The Assembly Health and Human Services Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 915.

This committee substitute, which is designated the "New Jersey Health Care Consumer Information Act," requires the Division of Consumer Affairs in the Department of Law and Public Safety, in consultation with the State Board of Medical Examiners (BME), to collect and maintain information concerning all physicians and podiatrists licensed in the State for the purpose of creating a profile of each physician and podiatrist. The purpose of this substitute is to enable health care consumers to make informed choices about their physicians and podiatrists in a way that is not prejudicial or unfair to these health care practitioners.

The profiles will be made available to the public electronically through the Internet, and the division will also establish a toll-free telephone number for members of the public to contact the division to obtain a paper copy of a physician or podiatrist profile and to make other inquiries about the profiles.

The substitute requires that each physician or podiatrist profile contain the following information:

- C Name of all medical schools attended and graduate medical education;
- C Number of years in practice;
- C Location of the physician's or podiatrist's office practice site or sites, as applicable;
- C A description of any criminal convictions for crimes of the first, second, third or fourth degree within the most recent 10 years;
- C A description of any final BME disciplinary actions and any final disciplinary actions by appropriate licensing boards in other states within the most recent 10 years;
- C A description of the revocation or involuntary restriction of privileges, or the resignation from or nonrenewal of medical staff membership, at a health care facility for reasons related to the practitioner's competence or misconduct or impairment, which action has been taken within the last 10 years by a health care

facility's governing body or any other official of the health care facility after procedural due process has been afforded; and

- C All medical malpractice court judgments and arbitration awards, in which a payment has been awarded to the complaining party during the most recent five years, and all settlements of medical malpractice claims, in which a payment is made to the complaining party within the most recent five years. Pending medical malpractice claims will not be included in the profile and information on pending medical malpractice claims will not be disclosed to the public, and a medical malpractice judgment that is being appealed is to be so identified.

The substitute stipulates that the context in which the payment of a medical malpractice claim occurs is to be identified by separately categorizing the number of judgments, arbitration awards and settlements against the physician or podiatrist into three graduated categories: average, above average and below average judgments, arbitration awards and settlements. These groupings are to be arrived at by comparing the number of an individual physician's or podiatrist's medical malpractice judgments, arbitration awards and settlements to the experience of other physicians or podiatrists within the same specialty.

The profiles are to include the following statement with the information concerning medical malpractice judgments, arbitration awards and settlements: "Settlement of a claim and, in particular, the dollar amount of the settlement may occur for a variety of reasons, which do not necessarily reflect negatively on the professional competence or conduct of the physician (or podiatrist). A payment in settlement of a medical malpractice action or claim should not be construed as creating a presumption that medical malpractice has occurred."

The substitute also provides that a physician or podiatrist may request that additional information be included in that individual's profile, including:

- the names of the hospitals where the practitioner has privileges;
- appointments of the practitioner to medical school faculties within the most recent 10 years;
- information regarding any nationally recognized specialty board certification or accreditation by any national professional organization;
- information regarding any translating services that may be available at the practitioner's office practice site or languages other than English that are spoken by the practitioner;
- information regarding whether the practitioner participates in the Medicaid program or accepts Medicare assignment and medical insurance plans in which the practitioner is a participating provider;
- information concerning the practitioner's hours of practice; and
- information concerning accessibility of the practice site to persons with disabilities.

The substitute requires that a physician or podiatrist be provided

with a copy of his profile and have the opportunity to correct any factual inaccuracy therein, within a specified review period, before the profile is made available to the public.

The substitute directs the Division of Consumer Affairs to contract with a public or private entity for the purpose of developing, administering and maintaining the physician and podiatrist profiles.

The contract is to specify:

- the duties and responsibilities of the entity with respect to the development, administration and maintenance of the profile, and the duties and responsibilities of the division with respect to providing the information required for the profile to the entity on a regular and timely basis; and

- that any identifying information concerning a physician or podiatrist provided to the entity by the division, the BME or the physician or podiatrist is to be used only for the purpose of the profile.

The division is directed to monitor the work of the entity to ensure that physician and podiatrist profiles are properly developed and maintained pursuant to the requirements of this substitute.

The substitute further requires that the Director of the Division of Consumer Affairs report to the Legislature no later than 18 months after the effective date of the substitute on the status of the physician and podiatrist profiles and make recommendations on the issue of developing profiles for other licensed health care professionals, including, but not limited to, dentists, advanced practice nurses, physician assistants, optometrists, physical therapists and chiropractors.

Finally, this substitute amends the confidentiality provisions of N.J.S.A.45:9-19.3, and N.J.S.A.45:9-19.10 to allow the BME to release information required for the profiles to the public. Currently, the BME refuses to release certain information concerning physicians and podiatrists, citing these confidentiality provisions.

As reported by the committee, this substitute is identical to the Senate Committee Substitute for Senate Bill No. 571 (Codey/Vitale), which the committee also reported on this date.

profile will categorize doctors as either average, above average or below average based on each doctor's number of judgments, arbitration awards and settlements. These categories are to be determined by comparing the number of claims among doctors within specialty pools.

B. Recommended Action

I commend the sponsors of this bill and the Legislature for seeking to provide a valuable pro-consumer measure by making available to the public profiles for all physicians and podiatrists licensed in this State. This bill will assist health care consumers in making informed choices about their physicians and podiatrists by being able to evaluate their education, experience, criminal and disciplinary background, and information with respect to medical malpractice court judgments, arbitration awards and settlements made to a complaining party in the past five years. The information will be available on line as well as through a toll free telephone number established by the Division of Consumer Affairs which will be available to the public.

Although the Department of Law & Public Safety, Division of Consumer Affairs, fully supports the concept of providing information about physicians and podiatrists to the public, it has advised that the bill should be amended to address a variety of implementation concerns.

The bill, as currently drafted, requires the Division to contract out to a third party all aspects of the profiles. The Department of Law and Public Safety has concerns over the ability of the State to ensure the accuracy of the physician profile information because it will be gathered and posted by an outside vender. Accordingly, it is recommended that the Division retain control over the final product prior to making these profiles available to the consumers and the health care public. The suggested changes will allow the Division the discretion to

determine what tasks it will contract out. This will provide greater assurance for the accuracy and reliability of the data posted for each physician and podiatrist.

In addition, the bill's requirement that the Division of Consumer Affairs identify each physician's or podiatrist's number of medical malpractice claims and then categorize those claims by each doctor's particular specialty may require the expertise and input of insurance providers. It is therefore recommended that the Division of Consumer Affairs be permitted to engage in an exchange of information and dialogue with members of the medical malpractice insurance community in order to more accurately determine the classification of medical specialties as well as the aggregate number of malpractice claims filed against each medical professional.

Lastly, the bill currently provides for an effective date of one hundred and eighty days (180) after enactment. Because of the complex technical issues associated both with a comprehensive data collection system and the establishment of an appropriate on-line system, it is recommended that the legislation's effective date be extended to three hundred and sixty-five days (365) following enactment.

As a result of the above considerations, I recommend that the bill be conditionally vetoed to ensure that the legislation provides the most accurate and accessible information about physicians and podiatrists to our health care consumers.

Therefore, I herewith return Senate Committee Substitute for Senate Bill No. 571 and recommend that it be amended as follows:

Page 2, Section 2, Lines 14-15: Delete ", within 180 days of the effective date of this act and thereafter,"

Page 2, Section 3, Line 39: Delete "Number of years in practice" and insert "Year first licensed"

Page 2, Section 3, Line 40: Delete "Number of years in practice" and insert "Year

first licensed"

Page 3, Section 3, Line 18:

Following "identified" insert ". The following statement shall be included with the information about disciplinary actions in other states: "Information provided in this section may not be comprehensive. The State Board of Medical Examiners receives information about disciplinary actions in other states from physicians themselves and outside sources.""

Page 3, Section 3, Line 34:

Following "awards" insert "reported to the board"

Page 3, Section 3, Line 36:

Following "claims" insert "reported to the board"

Page 4, Section 3, Line 5:

Following "specialty" insert ". In addition to any information provided by a physician or podiatrist, an insurer or insurance association authorized to issue medical malpractice liability insurance in the State shall, at the request of the division, provide data and information necessary to effectuate this sub paragraph"

Page 4, Section 3, Line 15:

Delete "may" and insert "shall"

Page 4, Section 3, Lines 20-21:

Delete "nationally recognized specialty board certification or accreditation by any" and insert "board certification granted by a specialty board or other certifying entity recognized by the American Board of Medical Specialties, the American Osteopathic Association or the American Board of Podiatric Medicine or by any other"

Page 4, Section 3, Line 22:

Following "organization" insert "that has been demonstrated to have comparable standards"

Page 5, Section 3, Lines 2-4:

Delete "The profile shall be sent to the physician or podiatrist by certified mail, return receipt requested."

Page 5, Section 3, Line 6:

Delete "return it to" and insert "so advise"

Page 5, Section 3, Line 10:

Delete "return the corrected profile to" and insert "so advise"

Page 5, Section 4, Line 22:

Delete "shall" and insert "may"

Page 7, Section 9, Line 20:

Delete "immediately" and insert
"on the 365th day after
enactment, except that the
division and the board may take
such anticipatory action in
advance as may be necessary for
the timely implementation of
the act"

Respectfully,

/s/ James E. McGreevey

Governor

[seal]

Attest:

/s/ Paul P. Josephson

Chief Counsel to the Governor