

FLOOR AMENDMENT STATEMENT:

No

LEGISLATIVE FISCAL ESTIMATE:

Yes 10/30/2020

VETO MESSAGE:

No

GOVERNOR'S PRESS RELEASE ON SIGNING:

Yes

FOLLOWING WERE PRINTED:

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REPORTS:

No

HEARINGS:

No

NEWSPAPER ARTICLES:

No

RH/CL

Title 45.
Subtitle 1.
Chapter 1.
Article 7.(New)
Health Care
Transparency
§§1-7 -
C.45:1-67 to
45:1-73
§8 - Note

(CORRECTED COPY OF CORRECTED COPY)
P.L. 2020, CHAPTER 133, *approved December 14, 2020*
Senate, No. 2465 (*Third Reprint*)

1 AN ACT concerning health care professionals and supplementing
2 Title 45 of the Revised Statutes.

3

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

6

7 1. This act shall be known and may be cited as the “New Jersey
8 Health Care Transparency Act.”

9

10 2. The Legislature finds and declares that:

11 a. There are a multitude of professional degrees using the term
12 “doctor,” including “medical doctor” (M.D.); “doctor of osteopathy”
13 (D.O.); “doctor of dental surgery” (D.D.S.); ²“doctor of medicine in
14 dentistry” (D.M.D.);² “doctor of podiatric medicine” (D.P.M.); “doctor
15 of optometry” (O.D.); “doctor of chiropractic” (D.C.); “doctor of
16 nursing” (D.N.); ²“doctor of psychology” (PhD);”² and other
17 designations which may be used by health care professionals.

18 b. A July 2018 study by the American Medical Association found
19 that 27 percent of patients erroneously believe that a chiropractor is a
20 medical doctor; 39 percent of patients erroneously believe that a doctor
21 of nursing practice is a medical doctor; 43 percent of patients
22 erroneously believe that a psychologist is a medical doctor; 47 percent
23 of patients erroneously believe that an optometrist is a medical doctor;
24 and 67 percent of patients erroneously believe a podiatrist is a medical
25 doctor.

26 c. There are widespread differences regarding the training and
27 qualifications required to earn the degrees of the health care
28 professionals subject to P.L. , c. (C.) (pending before the
29 Legislature as this bill). These differences often concern the training

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SHH committee amendments adopted June 11, 2020.

²Senate SBA committee amendments adopted August 25, 2020.

³Assembly AHE committee amendments adopted October 22, 2020.

1 and skills necessary to correctly detect, diagnose, prevent ^{1,1} and treat
2 serious health care conditions.

3 d. There is a compelling ¹ **State** ¹ interest in patients being
4 promptly and clearly informed of the training and qualifications of the
5 health care professionals who provide health care services.

6 e. There is a compelling ¹ **State** ¹ interest in the public being
7 protected from potentially misleading and deceptive health care
8 advertising that might cause patients to have undue expectations
9 regarding their treatment and outcome.

10

11 3. As used in this act:

12 “Advertisement” means any communication or statement ² that is
13 directly controlled or administered by a health care professional or a
14 health care professional’s office personnel², whether printed, electronic
15 or oral, that names the health care professional in relation to his or her
16 practice, profession, or institution in which the individual is employed,
17 volunteers or otherwise provides health care services. This includes
18 business cards, letterhead, patient brochures, e-mail, Internet, audio and
19 video, and any other communication or statement used in the course of
20 business ² or where the health care professional is utilizing a professional
21 degree or license to influence opinion or infer expertise in a health care
22 topic². “Advertisement” does not include office building placards or
23 exterior building signage.

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

1 ³"Hospital" means an acute care general hospital licensed pursuant
2 to P.L.1971, c.136 (C.26:2H-1 et seq.).³

3 "Licensee" means a health care professional with an active New
4 Jersey license, certification, registration, or other valid authorization.

5 ³"Long-term care facility" means a nursing home, assisted living
6 residence, comprehensive personal care home, residential health care
7 facility, or dementia care home licensed pursuant to P.L.1971, c.136
8 (C.26:2H-1 et seq.).³

9 ²"Professional degree" means the academic degree conferred to a
10 health care professional, including, but not limited to, "medical doctor"
11 (M.D.); "doctor of osteopathy" (D.O.); "doctor of dental surgery"
12 (D.D.S.); "doctor of medicine in dentistry" (D.M.D.); "doctor of
13 podiatric medicine" (D.P.M.); "doctor of optometry" (O.D.); "doctor of
14 chiropractic" (D.C.); and "doctor of nursing" (D.N.).

15 "Professional license" means the credential issued by the State to
16 identify the profession practiced by a health care professional,
17 including, but not limited to, "physician," "chiropractor," "advanced
18 practice nurse," "dentist," "optometrist," "psychologist," "physician
19 assistant," "acupuncturist," and "podiatrist."²

20
21 4. a. An advertisement for health care services that includes the
22 name of a health care professional shall identify the type of ²**[licensure]**
23 professional license and professional degree² issued to the health care
24 professional and shall not contain deceptive or misleading information,
25 including, but not limited to, any affirmative communication or
26 representation that misstates, falsely describes, holds out, or falsely
27 details the health care professional's skills, training, expertise,
28 education, public or private board certification, or licensure.

29 b. ²**[A]** When providing in-person care, a² health care professional
30 shall communicate the ²**[specific licensure]** professional licensure and
31 professional degree² held by the professional in the following formats:

32 (1) a name tag ²or embroidered identification² to be worn during all
33 patient encounters that is to include ²at a minimum²:

34 (a) ²**[a recent photograph of the health care professional]** the full
35 name of the health care professional; however, in a hospital³ **[setting]**
36 , licensed ambulatory care facility or behavioral health care facility,
37 or long-term care facility³ and at the discretion of³ **[hospital]** facility³
38 administrators, either the health care professional's full first name and
39 last name or the full first name and first letter of the last name²;

40 (b) ²**[the full name of the health care professional]** the professional
41 license and professional degree issued to the health care professional²;
42 ²and²

43 (c) ²**[the profession in which the health care professional is licensed**
44 **;and**

45 (d) the expiration date of the health care professional's active
46 license **] a recent photograph of the health care professional if providing**

1 direct patient care at a hospital, unless otherwise directed by hospital
2 administrators²; and

3 (2) a poster or other ²[writing] signage², in font of a sufficient size,
4 placed in a clear and conspicuous manner ²[in] at² the office or offices
5 where the health care professional provides health care services ²to
6 scheduled patients in an ambulatory setting^{21, 1} that states the type of
7 ²[licensure] professional license and professional degree² held by the
8 health care professional. ²For purposes of this subsection, “office” does
9 not include in-patient hospital or emergency department patient care.

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

12 c. A medical doctor or doctor of osteopathic medicine who
13 supervises or participates in collaborative practice agreements with
14 ²[non-medical doctor or non-osteopathic doctor] non-physician² health
15 care professionals², including, but not limited to, physician assistants
16 and advance practice nurses, who provide in-person patient care at the
17 same practice location² shall be required to clearly and conspicuously
18 post in each office ²[where the medical doctor or doctor of osteopathic
19 medicine provides services the schedule of regular hours the] when a²
20 medical doctor or doctor of osteopathic medicine ¹[are] is¹ present ²[in
21 each office]. For purposes of this subsection, “office” does not include
22 in-patient hospital or emergency department patient care².

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

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

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

31 (a) successful completion of a post-graduate training program
32 approved by the Accreditation Council for Graduate Medical Education
33 (ACGME) or the AOA that provides complete training in the specialty
34 or subspecialty certified by the non-ABMS or non-AOA board;

35 (b) certification by an ABMS or AOA board covering that training
36 field that provides complete ACGME- or AOA-accredited training in
37 the specialty or subspecialty certified by the non-ABMS or non-AOA
38 board; and

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

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

43 ³e. The Division of Consumer Affairs in the Department of Law and
44 Public Safety shall adopt rules and regulations, in accordance with the
45 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.),

1 as are necessary to effectuate the provisions of subsections a. and b. of
 2 this section.³

3

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

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

10 (2) Delegating or contracting for the performance of health care
 11 services by a health care professional when the individual delegating or
 12 contracting for performance knows, or has reason to know, that the
 13 individual does not have the required authority under a professional
 14 license to delegate or contract for performance; or

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

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

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

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

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

38

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

SENATE, No. 2465

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED MAY 11, 2020

Sponsored by:

Senator STEPHEN M. SWEENEY

District 3 (Cumberland, Gloucester and Salem)

SYNOPSIS

“New Jersey Health Care Transparency Act.”

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning health care professionals and supplementing
2 Title 45 of the Revised Statutes.

3

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

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7 1. This act shall be known and may be cited as the “New Jersey
8 Health Care Transparency Act.”

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10 2. The Legislature finds and declares that:

11 a. There are a multitude of professional degrees using the term
12 “doctor,” including “medical doctor” (M.D.); “doctor of osteopathy”
13 (D.O.); “doctor of dental surgery” (D.D.S.); “doctor of podiatric
14 medicine” (D.P.M.); “doctor of optometry” (O.D.); “doctor of
15 chiropractic” (D.C.); “doctor of nursing” (D.N.); and other
16 designations which may be used by health care professionals.

17 b. A July 2018 study by the American Medical Association
18 found that 27 percent of patients erroneously believe that a
19 chiropractor is a medical doctor; 39 percent of patients erroneously
20 believe that a doctor of nursing practice is a medical doctor; 43
21 percent of patients erroneously believe that a psychologist is a
22 medical doctor; 47 percent of patients erroneously believe that an
23 optometrist is a medical doctor; and 67 percent of patients
24 erroneously believe a podiatrist is a medical doctor.

25 c. There are widespread differences regarding the training and
26 qualifications required to earn the degrees of the health care
27 professionals subject to P.L. , c. (C.) (pending before the
28 Legislature as this bill). These differences often concern the training
29 and skills necessary to correctly detect, diagnose, prevent and treat
30 serious health care conditions.

31 d. There is a compelling state interest in patients being promptly
32 and clearly informed of the training and qualifications of the health
33 care professionals who provide health care services.

34 e. There is a compelling state interest in the public being
35 protected from potentially misleading and deceptive health care
36 advertising that might cause patients to have undue expectations
37 regarding their treatment and outcome.

38

39 3. As used in this act:

40 “Advertisement” means any communication or statement, whether
41 printed, electronic or oral, that names the health care professional in
42 relation to his or her practice, profession, or institution in which the
43 individual is employed, volunteers or otherwise provides health care
44 services. This includes business cards, letterhead, patient brochures,
45 e-mail, Internet, audio and video, and any other communication or
46 statement used in the course of business. “Advertisement” does not
47 include office building placards or exterior building signage.

1 “Health care professional” means a person licensed, certified,
2 registered or otherwise authorized by any entity designated in section
3 2 of P.L.1978, c.73 (C.45:1-15), or by any principal department of
4 the Executive Branch of State government or any entity within any
5 department or any other entity hereafter created to license or
6 otherwise regulate a health care profession. “Health care
7 professional” does not include individuals licensed in electrology;
8 genetic counseling; massage and bodywork therapy; mortuary
9 science; or veterinarian medicine.

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

12

13 4. a. An advertisement for health care services that includes the
14 name of a health care professional shall identify the type of licensure
15 issued to the health care professional and shall not contain deceptive
16 or misleading information, including, but not limited to, any
17 affirmative communication or representation that misstates, falsely
18 describes, holds out, or falsely details the health care professional’s
19 skills, training, expertise, education, public or private board
20 certification, or licensure.

21 b. A health care professional shall communicate the specific
22 licensure held by the professional in the following formats:

23 (1) a name tag to be worn during all patient encounters that is to
24 include:

25 (a) a recent photograph of the health care professional;

26 (b) the full name of the health care professional;

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

29 (d) the expiration date of the health care professional’s active
30 license; and

31 (2) a poster or other writing, in font of a sufficient size, placed in
32 a clear and conspicuous manner in the office or offices where the
33 health care professional provides health care services that states the
34 type of licensure held by the health care professional.

35 c. A medical doctor or doctor of osteopathic medicine who
36 supervises or participates in collaborative practice agreements with
37 non-medical doctor or non-osteopathic doctor health care
38 professionals shall be required to clearly and conspicuously post in
39 each office where the medical doctor or doctor of osteopathic
40 medicine provides services the schedule of regular hours the medical
41 doctor or doctor of osteopathic medicine are present in each office.

42

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

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

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

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

8 b. Each day of a failure to comply with any provision of section 4
9 of P.L. , c. (C.) (pending before the Legislature as this bill)
10 shall constitute a separate and punishable offense.

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

18 d. Any imposition of professional sanctions, administrative fees,
19 or other disciplinary action taken by the appropriate State entity shall
20 be publicly reported in means determined by that State entity.

21
22 6. If any of provisions of P.L. , c. (C.) (pending before
23 the Legislature as this bill) or its application to any person or
24 circumstance is held to be invalid, the invalidity shall not affect any
25 other provision or application of P.L. , c. (C.) (pending
26 before the Legislature as this bill), which can be given effect without
27 the invalid provision or application and, to this end, the provisions of
28 P.L. , c. (C.) (pending before the Legislature as this bill) are
29 severable.

30
31 7. This act shall take effect on the first day of the seventh month
32 next following enactment.

33

34

35

STATEMENT

36

37 This bill, the "New Jersey Health Care Transparency Act,"
38 requires any advertisement of health care professionals, licensed by
39 the Division of Consumer Affairs, any principal department of the
40 Executive Branch of State government, or any entity within any
41 department or any other entity hereafter created to license or
42 otherwise regulate a health care profession, to include the type of
43 licensure the professional was issued. Advertisements are to exclude
44 deceptive or misleading information relating to the health care
45 professional, including, but not limited to, any affirmative
46 communication or representation that misstates, falsely describes,
47 holds out, or falsely details the professional's skills, training,

1 expertise, education, public or private board certification, or
2 licensure.

3 Under the bill, a health care professional is required to wear a
4 name tag that includes the following information about the
5 professional: a recent photograph, full name, the profession in which
6 they are licensed, and the expiration date of the current license.
7 Additionally, a poster or other writing, in sufficiently-sized font, has
8 to be placed in the office or offices where the health care professional
9 provides health care services and convey the type of licensure held
10 by the professional. Moreover, the bill requires a medical doctor or
11 doctor of osteopathic medicine who supervises or participates in
12 collaborative practice agreements with non-medical doctor or non-
13 osteopathic doctor health care professionals to clearly and
14 conspicuously post, in each office where the medical doctor or doctor
15 of osteopathic medicine provides services, the schedule of regular
16 hours the medical doctor or doctor of osteopathic medicine are
17 present in each office.

18 The bill makes it unlawful for a health care professional to
19 knowingly aid, abet, permit, advise, or procure an unlicensed person
20 or entity to practice or engage in acts contrary to the profession
21 practiced by the health care professional; delegate or contract for the
22 performance of health care services by a health care professional
23 when the individual delegating or contracting for performance
24 knows, or has reason to know, that the individual does not have the
25 required authority under a professional license to delegate or contract
26 for performance; and commit any other failure in complying with the
27 bill's provisions.

28 Under the bill, every day of a failure to comply is a separate and
29 punishable offense. Any fees or billings charged a patient by a health
30 care professional in violation of this bill would be rescinded or
31 refunded. This includes fees or billings charged to a patient by a third
32 party contracted to collect fees on behalf of a health care
33 professional, the health care professional's employer, or other entity
34 contracting with the health care professional. Any imposition of
35 professional sanctions, administrative fees, or other disciplinary
36 action taken by the appropriate State entity shall be publicly reported
37 in means determined by that State entity.

ASSEMBLY HEALTH COMMITTEE

STATEMENT TO

[Second Reprint]
SENATE, No. 2465

STATE OF NEW JERSEY

DATED: OCTOBER 21, 2020

The Assembly Health Committee reports favorably and with committee amendments Senate Bill No. 2465 (2R).

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

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

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

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

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

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

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

The bill states that it shall be unlawful for a health care professional to fail to comply with certain provisions of the bill. The bill clarifies that nothing in its provisions is to be construed so as to impose liability on news media that accept or publish advertising that may fall within the scope of the bill. The bill also provides that nothing in the bill is to limit a licensing board, principal department of the Executive Branch of State government, or any entity within any department or any other entity created to regulate a health care profession to adopt more stringent standards for its licensees. As reported by the committee, Senate Bill No. 2465(2R) is identical to Assembly Bill No. 4143 which was reported by the committee on this date.

COMMITTEE AMENDMENTS:

The committee amendments define “hospital” and “long-term care facility” and provide that at the discretion of certain facilities administrators, the professional’s name can be listed as the full first name and last name or the full first name and first initial of the last name. The amendments provide that rules and regulations be adopted to effectuate the provisions of subsections a. and b. of section 4.

SENATE HEALTH, HUMAN SERVICES AND SENIOR
CITIZENS COMMITTEE

STATEMENT TO
SENATE, No. 2465

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 12, 2020

The Senate Health, Human Services and Senior Citizens Committee reports favorably and with committee amendments Senate Bill No. 2465.

This bill, which is designated as the “New Jersey Health Care Transparency Act,” requires any advertisement for a health care professional licensed or certified to practice under State law to include the type of licensure the professional was issued. Advertisements are to exclude deceptive or misleading information relating to the health care professional, including, but not limited to, any affirmative communication or representation that misstates, falsely describes, holds out, or falsely details the professional’s skills, training, expertise, education, public or private board certification, or licensure.

Under the bill, a health care professional is required to wear a name tag that includes the following information about the professional: a recent photograph, full name, the profession in which the professional is licensed, and the expiration date of the current license. Additionally, a poster or other writing, in sufficiently-sized font, is to be placed in the office or offices where the health care professional provides health care services and convey the type of licensure held by the professional. Moreover, the bill requires a medical doctor or doctor of osteopathic medicine who supervises or participates in collaborative practice agreements with non-medical doctor or non-osteopathic doctor health care professionals to clearly and conspicuously post, in each office where the medical doctor or doctor of osteopathic medicine provides services, the schedule of regular hours the medical doctor or doctor of osteopathic medicine is present in each office.

The bill makes it unlawful for a health care professional to knowingly aid, abet, permit, advise, or procure an unlicensed person or entity to practice or engage in acts contrary to the profession practiced by the health care professional; delegate or contract for the performance of health care services by a health care professional when the individual delegating or contracting for performance knows, or has reason to know, that the individual does not have the required

authority under a professional license to delegate or contract for performance; or otherwise fail to comply with the bill's provisions.

Under the bill as amended, each day during which a health care professional fails to comply with the requirements of the bill constitutes a separate and punishable offense. Any fees or billings charged to a patient by a health care professional in violation of the bill are to be rescinded or refunded, including fees or billings charged to a patient by a third party contracted to collect fees on behalf of a health care professional, the health care professional's employer, or other entity contracting with the health care professional. Any imposition of professional sanctions, administrative fees, or other disciplinary action taken by the appropriate State entity shall be publicly reported in means determined by that State entity. The amended bill clarifies that nothing in the bill is to be construed to impose any liability on new media that accept or publish advertising for a health care professional that falls under the scope of the bill.

COMMITTEE AMENDMENTS:

The committee amendments expressly provide that the bill does not establish any liability for news media that accept or publish advertising that falls within the scope of the provisions of the bill.

The committee amendments make a number of technical changes involving grammar, punctuation, and syntax.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 2465

with committee amendments

STATE OF NEW JERSEY

DATED: AUGUST 24, 2020

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

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

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

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

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

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

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

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

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

COMMITTEE AMENDMENTS:

The committee amendments:

- 1) clarify the specific boards and health care professions to which the bill’s definitions apply;
- 2) stipulate which advertisements fall under the jurisdiction of the bill. The amendments also add definitions of “professional degree” and “professional license;”

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

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

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

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

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

FISCAL IMPACT:

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

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

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 2465 STATE OF NEW JERSEY 219th LEGISLATURE

DATED: JULY 6, 2020

SUMMARY

- Synopsis:** “New Jersey Health Care Transparency Act.”
- Type of Impact:** Annual State revenue and expenditure increases.
- Agencies Affected:** Department of Law and Public Safety, Division of Consumer Affairs.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost Increase		Indeterminate	
State Revenue Increase		Indeterminate	

- The Office of Legislative Services (OLS) finds that the bill may cause indeterminate increases in annual State revenues and expenditures. The OLS, however, cannot assess the direction of the net effect of the two increases given the absence of information on the future cost of regulating licensed or certified health care professionals and potential penalty collections.
- The OLS anticipates that the State may annually collect indeterminate fine and penalty payments from violators of statutory and regulatory requirements applicable to the bill’s provisions. Pursuant to current State law, a violator may receive a civil penalty of \$10,000 for an initial violation and \$20,000 for any subsequent violations.

BILL DESCRIPTION

This bill, which is designated as the “New Jersey Health Care Transparency Act,” requires any advertisement for a health care professional licensed or certified to practice under State law to include the type of licensure the professional was issued. Advertisements are to exclude deceptive or misleading information relating to the health care professional, including, but not limited to, any affirmative communication or representation that misstates, falsely describes, holds out, or

falsely details the professional's skills, training, expertise, education, public or private board certification, or licensure.

The bill makes it unlawful for a health care professional to knowingly aid, abet, permit, advise, or procure an unlicensed person or entity to practice or engage in acts contrary to the profession practiced by the health care professional; delegate or contract for the performance of health care services by a health care professional when the individual delegating or contracting for performance knows, or has reason to know, that the individual does not have the required authority under a professional license to delegate or contract for performance; or otherwise fail to comply with the bill's provisions.

Under the bill, each day during which a health care professional fails to comply with the requirements of the bill constitutes a separate and punishable offense. Any fees or billings charged to a patient by a health care professional in violation of the bill are to be rescinded or refunded, including fees or billings charged to a patient by a third party contracted to collect fees on behalf of a health care professional, the health care professional's employer, or other entity contracting with the health care professional.

Any imposition of professional sanctions, administrative fees, or other disciplinary action taken by the appropriate State entity shall be publicly reported in means determined by that State entity.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

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

The OLS anticipates that the State may annually collect indeterminate fine and penalty payments from violators of statutory and regulatory requirements applicable to the bill's provisions. Pursuant to the provisions of section 12 of P.L.1978, c.73 (C.45:1-25), a violator may receive a civil penalty of \$10,000 for an initial violation and \$20,000 for any subsequent violations. In addition, in any action brought pursuant to this provision, a board or the court may order the payment of costs for the use of the State, including, but not limited to, costs of investigation, expert witness fees and costs, attorney fees and costs, and transcript costs.

It is unknown if the bill's provisions will result in an increased workload for the Division of Consumer Affairs in the Department of Law and Public Safety, which currently regulates and enforces these certifications and licenses.

Section: Law and Public Safety

Analyst: Kristin Brunner Santos
Senior Fiscal Analyst

Approved: Frank W. Haines III
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

SENATE, No. 2465

STATE OF NEW JERSEY 219th LEGISLATURE

DATED: SEPTEMBER 1, 2020

SUMMARY

- Synopsis:** “New Jersey Health Care Transparency Act.”
- Type of Impact:** Annual State revenue and expenditure increases.
- Agencies Affected:** Department of Law and Public Safety, Division of Consumer Affairs.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost Increase		Indeterminate	
State Revenue Increase		Indeterminate	

- The Office of Legislative Services (OLS) finds that the bill may cause indeterminate increases in annual State revenues and expenditures. The OLS, however, cannot assess the direction of the net effect of the two increases given the absence of information on the future cost of regulating licensed or certified health care professionals and potential penalty collections.
- The OLS anticipates that the State may annually collect indeterminate fine and penalty payments from violators of statutory and regulatory requirements applicable to the bill’s provisions. Pursuant to current State law, a violator may receive a civil penalty of \$10,000 for an initial violation and \$20,000 for any subsequent violations.

BILL DESCRIPTION

This bill, which is designated as the “New Jersey Health Care Transparency Act,” requires any advertisement for a health care professional licensed or certified to practice under State law to include the type of professional license and professional degree the professional was issued. Advertisements are to exclude deceptive or misleading information relating to the health care professional, including, but not limited to, any affirmative communication or representation that

misstates, falsely describes, holds out, or falsely details the professional's skills, training, expertise, education, public or private board certification, or licensure.

Under the bill, it is unlawful for a healthcare professional to fail to comply with certain provisions of this bill. Additionally, nothing in this bill limits a licensing board, principal department of the Executive Branch of State government, or any entity within any department or any other entity created to regulate a health care profession to adopt standards that are more stringent for licensees.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

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

The OLS anticipates that the State may annually collect indeterminate fine and penalty payments from violators of statutory and regulatory requirements applicable to the bill's provisions. Pursuant to the provisions of section 12 of P.L.1978, c.73 (C.45:1-25), a violator may receive a civil penalty of \$10,000 for an initial violation and \$20,000 for any subsequent violations. In addition, in any action brought pursuant to this provision, a board or the court may order the payment of costs for the use of the State, including, but not limited to, costs of investigation, expert witness fees and costs, attorney fees and costs, and transcript costs.

It is unknown if the bill's provisions will result in an increased workload for the Division of Consumer Affairs in the Department of Law and Public Safety, which currently regulates and enforces these certifications and licenses.

Section: Law and Public Safety

*Analyst: Kristin Brunner Santos
Senior Fiscal Analyst*

*Approved: Frank W. Haines III
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

LEGISLATIVE FISCAL ESTIMATE

[Third Reprint]

SENATE, No. 2465

STATE OF NEW JERSEY 219th LEGISLATURE

DATED: OCTOBER 30, 2020

SUMMARY

- Synopsis:** “New Jersey Health Care Transparency Act.”
- Type of Impact:** Annual State revenue and expenditure increases.
- Agencies Affected:** Department of Law and Public Safety, Division of Consumer Affairs.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost Increase		Indeterminate	
State Revenue Increase		Indeterminate	

- The Office of Legislative Services (OLS) finds that the bill may cause indeterminate increases in annual State revenues and expenditures. The OLS, however, cannot assess the direction of the net effect of the two increases given the absence of information on the future cost of regulating licensed or certified health care professionals and potential penalty collections.
- The OLS anticipates that the State may annually collect indeterminate fine and penalty payments from violators of statutory and regulatory requirements applicable to the bill’s provisions. Pursuant to current State law, a violator may receive a civil penalty of \$10,000 for an initial violation and \$20,000 for any subsequent violations.

BILL DESCRIPTION

This bill, which is designated as the “New Jersey Health Care Transparency Act,” requires any advertisement for a health care professional licensed or certified to practice under State law to include the type of professional license and professional degree the professional was issued. Advertisements are to exclude deceptive or misleading information relating to the health care professional, including, but not limited to, any affirmative communication or representation that misstates, falsely describes, holds out, or falsely details the professional’s skills, training, expertise, education, public or private board certification, or licensure.

Under the bill, it is unlawful for a healthcare professional to fail to comply with certain provisions of this bill. Additionally, nothing in this bill limits a licensing board, principal department of the Executive Branch of State government, or any entity within any department or any other entity created to regulate a health care profession to adopt standards that are more stringent for licensees.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

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

The OLS anticipates that the State may collect indeterminate fine and penalty payments annually from violators of statutory and regulatory requirements applicable to the bill's provisions. Pursuant to current State law, a violator may receive a civil penalty of \$10,000 for an initial violation and \$20,000 for any subsequent violations. In addition, in any action brought pursuant to this provision, a board or the court may order the payment of costs for the use of the State resources, including, but not limited to, costs of investigation, expert witness fees and costs, attorney fees and costs, and transcript costs.

It is unknown if the bill's provisions will result in an increased workload for the Division of Consumer Affairs in the Department of Law and Public Safety, which currently regulates and enforces these certifications and licenses.

Section: Law and Public Safety

*Analyst: Kristin Brunner Santos
Senior Fiscal Analyst*

*Approved: Frank W. Haines III
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

ASSEMBLY, No. 4143

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED MAY 11, 2020

Sponsored by:

Assemblyman HERB CONAWAY, JR.

District 7 (Burlington)

Assemblyman THOMAS P. GIBLIN

District 34 (Essex and Passaic)

Assemblywoman ANGELICA M. JIMENEZ

District 32 (Bergen and Hudson)

SYNOPSIS

“New Jersey Health Care Transparency Act.”

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 9/17/2020)

1 AN ACT concerning health care professionals and supplementing
2 Title 45 of the Revised Statutes.

3

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

6

7 1. This act shall be known and may be cited as the “New Jersey
8 Health Care Transparency Act.”

9

10 2. The Legislature finds and declares that:

11 a. There are a multitude of professional degrees using the term
12 “doctor,” including “medical doctor” (M.D.); “doctor of osteopathy”
13 (D.O.); “doctor of dental surgery” (D.D.S.); “doctor of podiatric
14 medicine” (D.P.M.); “doctor of optometry” (O.D.); “doctor of
15 chiropractic” (D.C.); “doctor of nursing” (D.N.); and other
16 designations which may be used by health care professionals.

17 b. A July 2018 study by the American Medical Association
18 found that 27 percent of patients erroneously believe that a
19 chiropractor is a medical doctor; 39 percent of patients erroneously
20 believe that a doctor of nursing practice is a medical doctor; 43
21 percent of patients erroneously believe that a psychologist is a
22 medical doctor; 47 percent of patients erroneously believe that an
23 optometrist is a medical doctor; and 67 percent of patients
24 erroneously believe a podiatrist is a medical doctor.

25 c. There are widespread differences regarding the training and
26 qualifications required to earn the degrees of the health care
27 professionals subject to P.L. , c. (C.) (pending before the
28 Legislature as this bill). These differences often concern the training
29 and skills necessary to correctly detect, diagnose, prevent and treat
30 serious health care conditions.

31 d. There is a compelling state interest in patients being promptly
32 and clearly informed of the training and qualifications of the health
33 care professionals who provide health care services.

34 e. There is a compelling state interest in the public being
35 protected from potentially misleading and deceptive health care
36 advertising that might cause patients to have undue expectations
37 regarding their treatment and outcome.

38

39 3. As used in this act:

40 “Advertisement” means any communication or statement, whether
41 printed, electronic or oral, that names the health care professional in
42 relation to his or her practice, profession, or institution in which the
43 individual is employed, volunteers or otherwise provides health care
44 services. This includes business cards, letterhead, patient brochures,
45 e-mail, Internet, audio and video, and any other communication or
46 statement used in the course of business. “Advertisement” does not
47 include office building placards or exterior building signage.

1 “Health care professional” means a person licensed, certified,
2 registered or otherwise authorized by any entity designated in section
3 2 of P.L. 1978, c.73 (C.45:1-15), or by any principal department of
4 the Executive Branch of State government or any entity within any
5 department or any other entity hereafter created to license or
6 otherwise regulate a health care profession. “Health care
7 professional” does not include individuals licensed in electrology;
8 genetic counseling; massage and bodywork therapy; mortuary
9 science; or veterinarian medicine.

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

12

13 4. a. An advertisement for health care services that includes the
14 name of a health care professional shall identify the type of licensure
15 issued to the health care professional and shall not contain deceptive
16 or misleading information, including, but not limited to, any
17 affirmative communication or representation that misstates, falsely
18 describes, holds out, or falsely details the health care professional’s
19 skills, training, expertise, education, public or private board
20 certification, or licensure.

21 b. A health care professional shall communicate the specific
22 licensure held by the professional in the following formats:

23 (1) a name tag to be worn during all patient encounters that is to
24 include:

25 (a) a recent photograph of the health care professional;

26 (b) the full name of the health care professional;

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

29 (d) the expiration date of the health care professional’s active
30 license; and

31 (2) a poster or other writing, in font of a sufficient size, placed in
32 a clear and conspicuous manner in the office or offices where the
33 health care professional provides health care services that states the
34 type of licensure held by the health care professional.

35 c. A medical doctor or doctor of osteopathic medicine who
36 supervises or participates in collaborative practice agreements with
37 non-medical doctor or non-osteopathic doctor health care
38 professionals shall be required to clearly and conspicuously post in
39 each office where the medical doctor or doctor of osteopathic
40 medicine provides services the schedule of regular hours the medical
41 doctor or doctor of osteopathic medicine are present in each office.

42

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

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

- 1 (2) Delegating or contracting for the performance of health care
2 services by a health care professional when the individual delegating
3 or contracting for performance knows, or has reason to know, that
4 the individual does not have the required authority under a
5 professional license to delegate or contract for performance; or
6 (3) Any other failure to comply with any provision of section 4
7 of P.L. , c. (C.) (pending before the Legislature as this bill).
8 b. Each day of a failure to comply with any provision of section
9 4 of P.L. , c. (C.) (pending before the Legislature as this bill)
10 shall constitute a separate and punishable offense.
11 c. Any fees or other amounts billed to a patient by a health care
12 professional found in violation of section 4 of P.L. , c. (C.)
13 (pending before the Legislature as this bill) shall be effectively
14 rescinded, or refunded. This includes third parties contracted to
15 collect fees on behalf of a health care professional, the health care
16 professional's employer, or other entities contracting with the health
17 care professional.
18 d. Any imposition of professional sanctions, administrative fees,
19 or other disciplinary action taken by the appropriate State entity shall
20 be publicly reported in means determined by that State entity.
21
22 6. If any of provisions of P.L. , c. (C.) (pending before
23 the Legislature as this bill) or its application to any person or
24 circumstance is held to be invalid, the invalidity shall not affect any
25 other provision or application of P.L. , c. (C.) (pending
26 before the Legislature as this bill), which can be given effect without
27 the invalid provision or application and, to this end, the provisions of
28 P.L. , c. (C.) (pending before the Legislature as this bill) are
29 severable.
30
31 7. This act shall take effect on the first day of the seventh month
32 next following enactment.

33
34
35 STATEMENT

36
37 This bill, the "New Jersey Health Care Transparency Act,"
38 requires any advertisement of health care professionals, licensed by
39 the Division of Consumer Affairs, any principal department of the
40 Executive Branch of State government, or any entity within any
41 department or any other entity hereafter created to license or
42 otherwise regulate a health care profession, to include the type of
43 licensure the professional was issued. Advertisements are to exclude
44 deceptive or misleading information relating to the health care
45 professional, including, but not limited to, any affirmative
46 communication or representation that misstates, falsely describes,
47 holds out, or falsely details the professional's skills, training,

1 expertise, education, public or private board certification, or
2 licensure.

3 Under the bill, a health care professional is required to wear a
4 name tag that includes the following information about the
5 professional: a recent photograph, full name, the profession in which
6 they are licensed, and the expiration date of the current license.
7 Additionally, a poster or other writing, in sufficiently-sized font, has
8 to be placed in the office or offices where the health care professional
9 provides health care services and convey the type of licensure held
10 by the professional. Moreover, the bill requires a medical doctor or
11 doctor of osteopathic medicine who supervises or participates in
12 collaborative practice agreements with non-medical doctor or non-
13 osteopathic doctor health care professionals to clearly and
14 conspicuously post, in each office where the medical doctor or doctor
15 of osteopathic medicine provides services, the schedule of regular
16 hours the medical doctor or doctor of osteopathic medicine are
17 present in each office.

18 The bill makes it unlawful for a health care professional to
19 knowingly aid, abet, permit, advise, or procure an unlicensed person
20 or entity to practice or engage in acts contrary to the profession
21 practiced by the health care professional; delegate or contract for the
22 performance of health care services by a health care professional
23 when the individual delegating or contracting for performance
24 knows, or has reason to know, that the individual does not have the
25 required authority under a professional license to delegate or contract
26 for performance; and commit any other failure in complying with the
27 bill's provisions.

28 Under the bill, every day of a failure to comply is a separate and
29 punishable offense. Any fees or billings charged a patient by a health
30 care professional in violation of this bill would be rescinded or
31 refunded. This includes fees or billings charged to a patient by a third
32 party contracted to collect fees on behalf of a health care
33 professional, the health care professional's employer, or other entity
34 contracting with the health care professional. Any imposition of
35 professional sanctions, administrative fees, or other disciplinary
36 action taken by the appropriate State entity shall be publicly reported
37 in means determined by that State entity.

ASSEMBLY HEALTH COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4143

with committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 21, 2020

The Assembly Health Committee reports favorably and with committee amendments Assembly Bill No. 4143.

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

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

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

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

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

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

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

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

As reported by the committee, Assembly Bill No. 4143 is identical to Senate Bill No. 2465 (2R) which was reported by the committee on this date.

COMMITTEE AMENDMENTS:

The committee amendments:

- 1) provide that the bill does not establish any liability for news media that accept or publish advertising that falls within the scope of the provisions of the bill;
- 2) clarify the specific boards and health care professions to which the bill’s definitions apply;

3) stipulate which advertisements fall under the jurisdiction of the bill. The amendments define “hospital,” “long-term care facility,” “professional degree” and “professional license;”

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

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

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

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

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

9) provide that at the discretion of certain facilities administrators, the professional’s name can be listed as the full first name and last name or the full first name and first initial of the last name; and

(10) provide that rules and regulations be adopted to effectuate the provisions of subsections a. and b. of section 4.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 4143

STATE OF NEW JERSEY 219th LEGISLATURE

DATED: OCTOBER 30, 2020

SUMMARY

- Synopsis:** “New Jersey Health Care Transparency Act.”
- Type of Impact:** Annual State revenue and expenditure increases.
- Agencies Affected:** Department of Law and Public Safety, Division of Consumer Affairs.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost Increase		Indeterminate	
State Revenue Increase		Indeterminate	

- The Office of Legislative Services (OLS) finds that the bill may cause indeterminate increases in annual State revenues and expenditures. The OLS, however, cannot assess the direction of the net effect of the two increases given the absence of information on the future cost of regulating licensed or certified health care professionals and potential penalty collections.
- The OLS anticipates that the State may annually collect indeterminate fine and penalty payments from violators of statutory and regulatory requirements applicable to the bill’s provisions. Pursuant to current State law, a violator may receive a civil penalty of \$10,000 for an initial violation and \$20,000 for any subsequent violations.

BILL DESCRIPTION

This bill, which is designated as the “New Jersey Health Care Transparency Act,” requires any advertisement for a health care professional licensed or certified to practice under State law to include the type of professional license and professional degree the professional was issued. Advertisements are to exclude deceptive or misleading information relating to the health care professional, including, but not limited to, any affirmative communication or representation that misstates, falsely describes, holds out, or falsely details the professional’s skills, training, expertise, education, public or private board certification, or licensure.

Under the bill, it is unlawful for a healthcare professional to fail to comply with certain provisions of this bill. Additionally, nothing in this bill limits a licensing board, principal department of the Executive Branch of State government, or any entity within any department or any other entity created to regulate a health care profession to adopt standards that are more stringent for licensees.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

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

The OLS anticipates that the State may collect indeterminate fine and penalty payments annually from violators of statutory and regulatory requirements applicable to the bill's provisions. Pursuant to current State law, a violator may receive a civil penalty of \$10,000 for an initial violation and \$20,000 for any subsequent violations. In addition, in any action brought pursuant to this provision, a board or the court may order the payment of costs for the use of the State resources, including, but not limited to, costs of investigation, expert witness fees and costs, attorney fees and costs, and transcript costs.

It is unknown if the bill's provisions will result in an increased workload for the Division of Consumer Affairs in the Department of Law and Public Safety, which currently regulates and enforces these certifications and licenses.

Section: Law and Public Safety

*Analyst: Kristin Brunner Santos
Senior Fiscal Analyst*

*Approved: Frank W. Haines III
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

Governor Murphy Takes Action on Legislation

12/14/2020

TRENTON - Today, Governor Murphy signed the following bills into law:

S-848/A-2140 (Pou, Gopal, Tully/Vainieri Huttle, Freiman) - Revises requirements for health care service firms to report financial information to Division of Consumer Affairs.

S-2465/A-4143 (Sweeney/Conaway, Giblin, Jimenez) - "New Jersey Health Care Transparency Act."

A-543/S-2582 (Jimenez, Giblin, Vainieri Huttle/Gopal, Pou) - Revises psychologist training requirements.

A-4282/S-2566 (Pinkin, Karabinchak, Benson, Vainieri Huttle, DeCroce/Diegnan, Gopal, Vitale) - Requires long term care facilities and hospitals to maintain minimum supply of personal protective equipment.

A-4442/S-2755 (Downey, Benson, Houghtaling/Gopal, Bucco) - Authorizes individuals who have passed road test to use driving permit to operate motor vehicle for 60 days during COVID-19 public health emergency.

Governor Murphy conditionally vetoed the following bills:

S-2354/A-3920 (Greenstein, Oroho/Bramnick, Freiman, Speight) - Prohibits cancellation or nonrenewal of certain insurance policies and insurance premium finance agreements for a period of at least 60 days under certain circumstances after declaration of public health emergency, or state of emergency, or both.

[Copy of Statement](#)

S-2708/A-4446 (Sweeney, Codey/Benson, Vainieri Huttle, Verrelli) - Requires certain provisions in State contracts for delivery of publicly financed mental health, behavioral health, and addiction services.

[Copy of Statement](#)

Governor Murphy absolute vetoed the following bill:

S-1957/A-3756 (Greenstein, Oroho/DePhillips, Zwicker, Speight) - Supports activities of New Jersey Manufacturing Extension Program, Inc.

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