

LEGISLATIVE FACT SHEET

on Drug dispensing - Reg.

N.J.R.S. 45:1-13

(1975 Amendment)

LAWS OF 1975

CHAPTER 382 March 3, 1976

SENATE BILL

ASSEMBLY BILL 606 (A 1572-1972)

INTRODUCED pre-filed

BY Kean, Barbour

SPONSOR'S STATEMENT

YES NO

ASSEMBLY COMMITTEE STATEMENT

YES NO

SENATE COMMITTEE STATEMENT

YES NO

FISCAL NOTE

YES NO

AMENDED DURING PASSAGE

YES NO

HEARING

VETO Jan. 5, 1976 - Conditional

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SENATE LABOR, INDUSTRY AND PROFESSIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 606

[OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

DATED: APRIL 21, 1975

This bill attempts to protect the public from the indiscriminate prescribing or dispensing of controlled dangerous substances. It amends existing laws to provide that licenses to practice podestry, dentistry, medicine, surgery, chiropractic, pharmacy, veterinary medicine, or nursing may be suspended or revoked if controlled dangerous substances as defined in the "New Jersey Controlled Dangerous Substances Act" is prescribed or dispensed in an indiscriminate manner, without good professional cause, of where the licensee should have known that the substance dispensed was used for illicit or unauthorized consumption.

P. L. 1975, CHAPTER 382, *approved March 3, 1976*

1974 Assembly No. 606 (*Second Official Copy Reprint*)

AN ACT concerning controlled dangerous substances and amending
R. S. 45:5-8, R. S. 45:6-7, R. S. 45:9-16, R. S. 45:14-12, R. S.
45:16-6 and section 10 of P. L. 1947, c. 262 (C. 45:11-32).

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

1 ****[**1. R. S. 45:5-8 is amended to read as follows:

2 45:5-8. The board may refuse to grant or may revoke, or may
3 suspend a license for any of the following causes:

4 Chronic or persistent inebriety, or the habitual use of narcotics.
5 Conviction of crime involving moral turpitude; or where any
6 licensee or applicant for license has pleaded *nolo contendere*, *non*
7 *vult contendere* or *non vult* to any indictment, information, allega-
8 tion or complaint, alleging the commission of a crime involving
9 moral turpitude. The record of conviction or the entry of such a
10 plea in any court of this State or any other state or in any of the
11 courts of the United States or any foreign country shall be sufficient
12 warrant for the revocation or suspension of a license.

13 Where any licensee or applicant for license presents to the board
14 any diploma, license or certificate that shall have been obtained,
15 signed or issued unlawfully or under fraudulent representation.
16 *Violation of any laws of this or any other State or of the United*
17 *States relating to controlled dangerous substances or narcotic*
18 *drugs.*

19 *Prescribing or dispensing controlled dangerous substance or*
20 *substances, as defined by the "New Jersey Controlled Dangerous*
21 *Substances Act," (P. L. 1970, c. 226) (C. 24:21-1 et seq.), in an*
22 *indiscriminate manner, ***[**or not in good faith,**]**** or without good
23 *podiatric cause, or where the licensee reasonably knows or should*

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

24 *have known that the substance or substances previously prescribed*
25 *or dispensed were used by the patient for illicit consumption or*
26 *distribution.*

27 Unprofessional, dishonorable or unethical conduct in the practice
28 of podiatry.

29 Failure to comply with the reciprocity provision under section
30 45:5-7.

31 Employment by a duly licensed podiatrist of an unlicensed person
32 or persons to perform work, which under this chapter, can be legally
33 done only by persons licensed to practice podiatry in this State.

34 Conviction in a court of competent jurisdiction of a high
35 misdemeanor.

36 Fraudulently advertising.

37 Advertising in any manner, whether as an individual, through a
38 professional service corporation or through a third party on behalf
39 of a licensee, the practice of podiatry; provided, however, that the
40 following shall not be deemed to be advertising prohibited under
41 this chapter:

42 a. Public information for educational purposes on the practice
43 or profession of podiatry which does not contain the name of any
44 podiatrist licensed to practice in this State or the address of any
45 location where podiatric examination or treatment may be had or
46 is recommended or suggested;

47 b. Publication of a brief announcement of the opening of an office
48 or the removal to a new location, containing the name, professional
49 degree, address, telephone number, and office hours of the licensee;

50 c. A listing in an alphabetical telephone directory of the name of
51 a licensee together with his professional degree or the abbreviation
52 therefor;

53 d. A listing in a classified telephone directory with standard type
54 limited to the name, professional degree, office and home addresses
55 and telephone numbers, and office hours of a licensee;

56 e. The use of small signs on the doors, windows and walls of a
57 licensee's office or on the building in which he maintains an office
58 setting out his name, professional degree, address and office hours
59 in lettering no larger than 4 inches in height for street-level offices,
60 and no larger than 6 inches in height for offices above street-level;

61 f. Communications with or without the name of the licensee
62 distributed or mailed to his patients of record at his discretion.

63 Practicing podiatry under a name other than that under which he
64 has a license to practice podiatry or having an unlicensed person
65 practice podiatry under his name.

66 Use by a podiatrist of the words "clinic," "infirmery,"
67 "hospital," "school," "college," "university," or "institute" in
68 English or any other language in connection with any place where
69 podiatry may be practiced or demonstrated.

70 Before a license is refused, revoked or suspended under the pro-
71 visions of this section, the accused shall be furnished with a copy
72 of the complaint, and given a hearing before the board in person or
73 by attorney; and any person who, after such refusal or revocation
74 or suspension of license, attempts or continues the practice of
75 podiatry shall be subject to the penalties hereinafter prescribed.

1 2. R. S. 45:6-7 is amended to read as follows:

2 45:6-7. Any license to practice dentistry may be revoked or
3 suspended by the board upon proof to its satisfaction that the
4 licensee:

5 a. Has secured such license through deceit, fraud or willful mis-
6 representation; or

7 b. Has been convicted of a crime involving moral turpitude or
8 has pleaded nolo contendere, non vult contendere or non vult to an
9 indictment, information, allegation or complaint, alleging the com-
10 mission of a crime involving moral turpitude. The record of con-
11 viction or the record of the entry of such a plea in any court of this
12 State or any other state or in any of the courts of the United States
13 or any foreign country, shall be sufficient warrant for revocation
14 or suspension of a license; or

15 c. Habitually uses intoxicants to an extent rendering him unfit
16 for the practice of dentistry; or

17 d. Has been guilty of willful and gross malpractice or willful and
18 gross neglect in the practice of dentistry; or

19 e. Has been guilty of employing unlicensed persons to perform
20 work which, under this chapter, can only legally be done by persons
21 licensed to practice dentistry in this State; or has aided or assisted
22 any person not regularly licensed to practice dentistry in this State
23 to practice dentistry therein; or

24 f. Has been convicted more than once of practicing dentistry
25 under a corporate or trade or firm name in violation of the provi-
26 sions of this chapter; or

27 g. Has advertised in any manner his products or the price or
28 charge to be made, or the character or durability of his works or
29 products or anything identical to any of the foregoing, whether by
30 means of circular, card, sign, poster, advertising matches, mirrors,
31 or other articles, or by advertisements in newspapers, magazines,
32 or other publications or by projection by means of light or by crier

33 or radio broadcasting or by use of advertising solicitors or publicity
 34 agents; or has permitted the use of his name as a dentist by others
 35 in the sale of advertisements of products~~【.】~~; or

36 h. Has been employed by an unlicensed manager, proprietor,
 37 operator or conductor as defined in section 45:6-19 of this Title or
 38 has entered into possession of such dental material or equipment,
 39 as may be necessary for the management of a dental office which is
 40 owned by any such unlicensed manager, proprietor, operator or
 41 conductor on the basis of a lease or other agreement for compensa-
 42 tion for the use of such material, equipment or office or has entered
 43 into any arrangement by which there is made available to him, for
 44 his use, dental material, equipment or office, the ownership or con-
 45 trol of which is retained by any such unlicensed manager, pro-
 46 prietor, operator or conductor, except where the transaction is a
 47 bona fide sale of dental material or equipment secured by chattel
 48 mortgage or conditional sale agreement~~【.】~~; or

49 i. Has prescribed or dispensed a controlled dangerous substance
 50 or substances as defined by the "New Jersey Controlled Dangerous
 51 Substances Act," (P. L. 1970, c. 226) (C. 24:21-1 et seq.) (1) in an
 52 indiscriminate manner, *~~【or (2) not in good faith,】~~* or *~~【(3)】~~*
 53 *(2)* without good dental cause or *~~【(4)】~~* *(3)* where the
 54 licensed dentist reasonably knows or should have known that the
 55 controlled dangerous substance or substances previously pre-
 56 scribed or dispensed to the patient by him were used for unau-
 57 thorized or illicit consumption or distribution.

58 Any such license shall be revoked by the board upon proof to its
 59 satisfaction that the licensee habitually uses drugs or has been
 60 convicted of a violation or has pleaded nolo contendere, non vult
 61 contendere or non vult to an indictment, information or complaint
 62 alleging a violation of any Federal or State law relating to narcotic
 63 drugs.

64 Any person whose license is so suspended or revoked shall be
 65 deemed an unlicensed person during the period of such suspension
 66 or revocation, and as such shall be subject to the penalties pre-
 67 scribed for unlicensed persons who practice dentistry, and such
 68 person may, in the discretion of the board, be relicensed at any time
 69 to practice without an examination upon application to the board.

1 3. R. S. 45:9-16 is amended to read as follows:

2 45:9-16. The board may refuse to grant or may suspend or
 3 revoke a license or the registration of a certificate or diploma to
 4 practice medicine and surgery or chiropractic filed in the office of
 5 any county clerk in this State under any act of the Legislature,

6 upon proof to the satisfaction of the board that the holder of such
7 license (a) has been adjudicated insane, or (b) habitually uses
8 intoxicants, or (c) has practiced criminal abortion, or been con-
9 victed of the crime of criminal abortion, or has been convicted of
10 crime involving moral turpitude, or has pleaded nolo contendere,
11 non vult contendere or non vult to an indictment, information or
12 complaint alleging the commission of the crime of criminal abortion
13 or of crime involving moral turpitude, or (d) has been determined
14 to be physically or mentally incapacitated, (e) knowingly becomes
15 employed by any physician, surgeon, homeopath, eclectic, osteopath,
16 chiropractor, or doctor who advertises, or (f) shall have presented
17 to the board any diploma, license or certificate that shall have been
18 illegally obtained or shall have been signed or issued unlawfully
19 or under fraudulent representations, or obtains or shall have
20 obtained a license to practice in this State through fraud of any
21 kind, or (g) has been guilty of employing unlicensed persons to
22 perform work which, under this chapter (45:9-1, et seq.) can legally
23 be done only by persons licensed to practice medicine and surgery
24 or chiropractic in this State, or (h) has been guilty of gross
25 malpractice or gross neglect in the practice of medicine which has
26 endangered the health or life of any person, or (i) has been demon-
27 strated professionally incompetent to practice medicine or (j) has
28 advertised in any manner, whether as an individual, through a
29 professional service corporation or through a third party on his
30 behalf, the practice of medicine and surgery or chiropractic; or
31 *(k) has prescribed or dispensed a controlled dangerous substance*
32 *or substances as defined by the "New Jersey Controlled Dangerous*
33 *Substances Act," (P. L. 1970, c. 226) (C. 24:21-1 et seq.) (1) in an*
34 *indiscriminate manner, *[(or (2) not in good faith,)]* or *[(3)]**
35 **(2)* without good medical cause, or *[(4)]* *(3)* where the*
36 *licensee reasonably knows or should have known that the con-*
37 *trolled dangerous substance or substances when previously pre-*
38 *scribed or dispensed to the patient by him were used for unau-*
39 *thorized or illicit consumption or distribution; provided, however,*
40 *that the following shall not be deemed to be advertising prohibited*
40A *under this chapter:*

41 a. Public information for educational purposes on the practice or
42 professions of medicine and surgery or chiropractic which does not
43 contain the name of any person licensed to practice medicine and
44 surgery or chiropractic in this State or the address of any location
45 where medical or chiropractic examination or treatment may be
46 had or is recommended or suggested;

47 b. Publication of a brief announcement of the opening of an office
48 or the removal to a new location, containing the name, professional
49 degree, type of practice, address, telephone number, and office hours
50 of the licensee;

51 c. A listing in an alphabetical telephone directory of the name of
52 a licensee together with his professional degree or the abbreviation
53 therefor;

54 d. A listing in a classified telephone directory with standard type
55 limited to the name, professional degree, type of practice, office and
56 home addresses and telephone numbers, and office hours of a
57 licensee;

58 e. The use of small signs on the doors, windows and walls of a
59 licensee's office or on the building in which he maintains an office
60 setting out his name, professional degree, type of practice, address
61 and office hours in lettering no larger than 4 inches in height for
62 street-level offices, and no larger than 6 inches in height for offices
63 above street-level;

64 f. Communications with or without the name of the licensee
65 distributed or mailed to his patients of record at his discretion.
66 The board shall refuse to grant or shall suspend or revoke any
67 such license or the registration of any such certificate or diploma
68 upon proof to the satisfaction of the board that the applicant for,
69 or holder of, such license habitually uses drugs or has been con-
70 victed of a violation of or has pleaded nolo contendere, non vult
71 contendere or non vult to an indictment, information or complaint
72 alleging a violation of any Federal or State law relating to narcotic
73 drugs. Before any license, or registration of a certificate or diploma
74 to practice medicine or surgery or chiropractic filed in the office of
75 any county clerk of this State under any act of the Legislature, shall
76 be suspended or revoked, except in the case of convictions of
77 criminal abortions or convictions of crime involving moral turpitude
78 or plea of nolo contendere, non vult contendere or non vult to
79 indictment, information, or complaint alleging commission of the
80 crime of criminal abortion or crime involving moral turpitude, or
81 convictions of violations of or pleas of nolo contendere, non vult
82 contendere or non vult to an indictment, information or complaint
83 alleging violations of any Federal or State law relating to narcotic
84 drugs, the accused person shall be furnished with a copy of the
85 complaint and be given a hearing before said board in person or
86 by attorney, and any person whose license shall be suspended or
87 revoked in accordance with this section shall be deemed an un-
88 licensed person during the period of such suspension or revocation,

89 and as such shall be subject to the penalties hereinafter prescribed
90 for persons who practice medicine and surgery or chiropractic,
91 without first having obtained a license so to do. Any person whose
92 license, or registration of a certificate or diploma to practice
93 medicine and surgery or chiropractic filed in the office of any county
94 clerk of this State under any act of the Legislature, shall be
95 suspended or revoked under the authority of this chapter (45:9-1
96 et seq.) may, in the discretion of the board be relicensed at any time
97 to practice without an examination, or have his registration of a
98 certificate or diploma, as aforesaid, reinstated, on application being
99 made to the board.

100 The record of conviction or the record of entry of a plea of nolo
101 contendere, non vult contendere or non vult in any of the courts
102 of this State, or any other state of the United States, or any of the
103 courts of the United States, or the court of any foreign nation, shall
104 be sufficient warrant for the board to refuse to grant or to suspend
105 or revoke the license or the registration of a certificate or diploma
106 to practice medicine and surgery or chiropractic filed in the office
107 of any county clerk in this State under any act of the Legislature.

1 4. R. S. 45:14-12 is amended to read as follows:

2 45:14-12. The board may refuse an application for examination
3 or may suspend or revoke the certificate of a registered pharmacist
4 or a registered assistant pharmacist for any of the following causes:
5 When the application or registration is shown to have been obtained
6 by misrepresentation or fraudulent means or when the applicant or
7 registrant is guilty of chronic or persistent inebriety, or has been
8 adjudged guilty of violating any State or Federal law or any law
9 of the District of Columbia or of any territory of the United States
10 relating to the practice of pharmacy, or relating to the dispensing
11 of drugs, or has been convicted of a crime involving moral turpitude,
12 or has impersonated an applicant for registration before the board
13 or has been convicted of knowingly, intentionally or **fraudulently**
14 *fraudulently* adulterating or causing to be adulterated drugs,
15 chemicals or medicinal preparations or has sold or caused to be sold
16 adulterated drugs, chemicals or medicinal preparations knowing, or
17 having reason to know, that same were adulterated, or has procured
18 or attempted to procure registration for another by misrepresenta-
19 tion or fraudulent means, and the board shall refuse an application
20 for examination or suspend or revoke the certificate of a registered
21 pharmacist or a registered assistant pharmacist when the applicant
22 or registrant is shown to be addicted to the use of narcotic drugs,

23 or has been convicted of violating any law of this or any other
24 State or of the United States relating to narcotic drugs or has
25 been adjudicated an incompetent, or is shown to have any abnormal
26 physical or mental condition which threatens the safety of persons
27 to whom said applicant or registrant might sell or dispense pre-
28 scriptions, drugs, chemicals, medicinal preparations or devices or
29 for whom he might manufacture, prepare or package, or supervise
30 the manufacturing, preparation or packaging of prescriptions,
31 drugs, chemicals, medicinal preparations or devices, *or has appro-*
32 *propriated, dispensed, distributed, or sold a controlled dangerous sub-*
33 *stance or substances as defined by the "New Jersey Controlled*
34 *Dangerous Substances Act" (P. L. 1970, c. 226) (C. 24:21-1 et seq.)*
35 *where the pharmacist reasonably knows or should have known that*
36 *the substance or substances were to be used for illicit consumption*
37 *or distribution, or has been adjudged guilty of violating any*
38 *provision of this act, or any rule or regulation promulgated by the*
39 *board. In addition, the board may refuse an application for exam-*
40 *ination or may suspend or revoke the certificate of a registered*
41 *pharmacist or a registered assistant pharmacist upon proof satis-*
42 *factory to the board that such registered pharmacist or such*
43 *registered assistant pharmacist is guilty of grossly unprofessional*
44 *conduct [and the following acts are hereby declared to constitute*
45 *grossly unprofessional conduct for the purpose of this act], includ-*
46 *ing but not limited to the following acts:*

47 a. Paying rebates or entering into an agreement for payment of
48 rebates to any physician, dentist or other person for the recom-
49 mending of the services of any person.

50 b. The providing or causing to be provided to a physician,
51 dentist, veterinarian or other persons authorized to prescribe, pre-
52 scription blanks or forms bearing the pharmacist's or pharmacy's
53 name, address or other means of identification.

54 c. The promotion, direct or indirect, by any means, in any form
55 and through any media of the prices for prescription drugs and
56 narcotics or fees or for services relating thereto or any reference to
57 the price of said drugs or prescriptions whether specifically or as a
58 percentile of prevailing prices or by the use of the terms "cut rate,"
59 "discount," "bargain" or terms of similar connotation; but this
60 shall not include the term nonprofit if such term is used by a non-
61 profit entity; and this paragraph shall not be construed or apply to
62 have any effect with respect to sales made by pharmacists or
63 pharmacies directly to physicians, dentists, veterinarians or other
64 persons authorized to prescribe, or to hospitals, nursing homes,

65 governmental agencies, or other institutions licensed under Title
66 30 of the Revised Statutes, as amended or to the advertising or
67 issuance of trading stamps and similar devices in connection with
68 the sale of said prescription drugs and narcotics.

69 d. The claiming of professional superiority in the compounding
70 or filling of prescriptions or in any manner implying professional
71 superiority which may reduce public confidence in the ability, char-
72 acter or integrity of other pharmacists.

73 e. Fostering the interest of one group of patients at the expense
74 of another which compromises the quality or extent of professional
75 services or facilities made available.

76 f. The distribution of premiums or rebates of any kind whatever
77 in connection with the sale of drugs and medications provided,
78 however, that trading stamps and similar devices shall not be con-
79 sidered to be rebates for the purposes of this chapter and provided
80 further that discounts, premiums and rebates may be provided in
81 connection with the sale of drugs and medications to any person who
82 is 62 years of age or older. Before a certificate shall be refused,
83 suspended or revoked, the accused person shall be furnished with a
84 copy of the complaint and given a hearing before the board. Any
85 person whose certificate is so suspended or revoked shall be deemed
86 an unregistered person during the period of such suspension or
87 revocation, and as such shall be subject to the penalties prescribed
88 in this chapter, but such person may, at the discretion of the board,
89 have his certificate reinstated at any time without an examination,
90 upon application to the board. Any person to whom a certificate
91 shall be denied by the board or whose certificate shall be suspended
92 or revoked by the board shall have the right to review such action
93 by appeal to the Appellate Division of the Superior Court in lieu
94 of prerogative writ.

1 5. R. S. 45:16-6 is amended to read as follows:

2 45:16-6. The board may refuse to grant or may suspend or
3 revoke a license to practice veterinary medicine, surgery and
4 dentistry in this State, upon proof to the satisfaction of the board
5 that the holder of such license:

6 a. Has been adjudicated insane;

7 b. Habitually uses drugs or intoxicants;

8 c. Has been convicted of a crime involving moral turpitude, or
9 has pleaded nolo contendere, non vult contendere or non vult to an
10 indictment, information, or complaint alleging the commission of a
11 crime involving moral turpitude;

12 d. Shall have presented to the board any diploma, license or
13 certificate that shall have been illegally obtained or shall have been
14 signed or issued unlawfully or under fraudulent representations or
15 obtains or shall have obtained a license to practice in this State
16 through fraud of any kind;

17 e. Has been guilty of employing unlicensed persons to perform
18 work which, under this chapter (45:16-1 et seq.), can legally be
19 done only by persons licensed to practice veterinary medicine, sur-
20 gery and dentistry in this State or has aided or assisted any such
21 person to perform such work;

22 f. Has been convicted of a violation of any Federal or State law
23 relating to narcotic drugs;

24 g. Has violated any of the provisions of this act or any rule or
25 regulation promulgated by the board;

26 h. Has suffered the revocation or suspension by any State or
27 political subdivision of the United States or by any foreign country
28 or political subdivision thereof of a license or certificate autho-
29 rizing the practice of veterinary medicine;

30 i. Has committed acts of fraud or dishonesty;

31 j. Has been guilty of gross malpractice or gross neglect in the
32 practice of veterinary medicine which has endangered the health or
33 life of any person or animal.

34 *k. Has prescribed or dispensed a controlled dangerous substance*
35 *or substances as defined by the "New Jersey Controlled Dangerous*
36 *Substances Act," (P. L. 1970, c. 226) (C. 24:21-1 et seq.) (1) in an*
37 *indiscriminate manner, ***[or (2) not in good faith,]*** or ***[(3)]****
38 **(2)* without good veterinary medical cause, or ***[(4)]*** *(3)**
39 *when the licensee reasonably knows or should have known that the*
40 *substance or substances previously prescribed or dispensed by him*
41 *were used by a person for illicit consumption or distribution.*

42 Before any license to practice veterinary medicine, surgery and
43 dentistry in this State shall be suspended or revoked, except in the
44 case of convictions of crime involving moral turpitude or plea of
45 nolo contendere, non vult contendere or non vult to an indictment,
46 information or complaint alleging commission of crime involving
47 moral turpitude or convictions of violations of or pleas of nolo con-
48 tendere, non vult contendere or non vult to an indictment, informa-
49 tion or complaint alleging violations of any Federal or State law
50 relating to narcotic drugs, the accused person shall be furnished
51 with a copy of the complaint and be given a hearing before said
52 board in person or by attorney. Any person whose license shall be
53 so suspended or revoked shall be deemed an unlicensed person, and,
54 as such, subject to the penalties prescribed for other unlicensed

55 persons who practice veterinary medicine, surgery or dentistry in
56 this State. Any person whose license to practice veterinary medi-
57 cine, surgery and dentistry in this State shall be suspended or re-
58 voked under the authority of this chapter (45:16-1 et seq.) may, in
59 the discretion of the board, be relicensed at any time to practice
60 without an examination on application being made to the board.

61 The record of conviction or the record of entry of a plea of nolo
62 contendere, non vult contendere or non vult in any of the courts of
63 this State, or any other state of the United States, or any of the
64 courts of the United States, or the court of any foreign nation,
65 shall be sufficient warrant for the board to refuse to grant or to
66 suspend or revoke the license or the registration of a certificate to
67 practice veterinary medicine, surgery and dentistry filed in the
68 office of any county clerk in this State under any act of the
69 Legislature.

1 6. Section 10 of P. L. 1947, c. 262 (C. 45:11-32) is amended to
2 read as follows:

3 10. Refusal to renew a license; revocation or suspension of a
4 license; notice; hearing; review. The board may refuse to renew
5 a license, may suspend a license or revoke a license for any of the
6 following causes: dishonesty; unfitness or incompetency; conduct
7 derogatory to nursing; fraud or willful misrepresentation in an
8 application for license or renewal thereof; willful or repeated
9 violations of any provision of this act; *appropriation of controlled*
10 *dangerous substance or substances as defined by the "New Jersey*
11 *Controlled Dangerous Substances Act," (P. L. 1970, c. 226)*
12 *(C. 24:21-1 et seq.) for illicit consumption or distribution; con-*
13 *viction whether by trial or plea of guilty, non vult, or nolo con-*
14 *tendere of a crime involving moral turpitude or indicating unfitness*
15 *to practice nursing or of a violation of this act and shall refuse to*
16 *renew or shall revoke a license where the applicant or holder is a*
17 *habitual user of drugs or has been convicted or has pleaded nolo*
18 *contendere, non vult contendere or non vult to an indictment, in-*
19 *formation or complaint alleging a violation of any Federal or*
20 *State law relating to narcotic drugs. The board may revoke any*
21 *license for mistake of the board with respect to any material*
22 *matter. No license shall be suspended or revoked or renewal of*
23 *license refused except upon compliance with the following pro-*
24 *cedure: A complaint shall be filed with the board specifying the*
25 *charges and may be made by any member or employee of the board*
26 *upon information or belief. At least 10 days prior to the time fixed*
27 *for hearing notice of such hearing together with a copy of the com-*
28 *plaint shall be served personally or sent by registered mail ad-*

29 dressed to the licensee at the licensee's address appearing upon
 30 records of the board. Licensee shall have the right to be repre-
 31 sented by counsel, to cross-examine witnesses produced against the
 32 licensee, and to offer evidence. At the request of licensee or on
 33 the board's own motion the board shall issue subpoenas signed by a
 34 member of the board to compel the appearance and testimony of
 35 witnesses and the production of records and documents, and
 36 subpoenas issued at the request of the licensee or his or her counsel
 37 shall be delivered to such licensee or counsel for service. There
 38 shall be paid to witnesses at the time of service of subpoenas the
 39 same fees as in the case of subpoenas issued out of the Superior
 40 Court. Testimony shall be given under oath administered by a
 41 member of the board. Any person who shall willfully give false
 42 testimony under oath in any hearing before the board shall be
 43 guilty of perjury. The board shall not be bound by rules of evidence
 44 but its determination shall be supported by some competent evi-
 45 dence. The determination of the board suspending or revoking a
 46 license, or refusing to issue a renewal of a license after hearing,
 47 shall be reviewable by appeal to the Appellate Division of the
 48 Superior Court in lieu of prerogative writ. At any time, within 2
 49 years after its determination suspending, revoking or refusing to
 50 renew a license, the board may in its discretion, for any cause,
 51 grant an application for a rehearing and make such redetermina-
 52 tion as the case may warrant. The board may, notwithstanding
 53 any other provision hereof, also at any time permit a person whose
 54 license has been revoked or whose application for renewal has
 55 been denied, to make an original application for a new license on
 56 such terms and conditions as in the judgment of the board are just
 57 and equitable.]**

1 **1. *It shall be a valid ground for the refusal to grant, revocation*
 2 *or suspension of a license to practice a health care profession,*
 3 *subject to regulation in this State, including the practice of phar-*
 4 *macy, or for the refusal to admit to an examination a candidate*
 5 *for licensure, that the licensee has prescribed or dispensed a*
 6 *controlled dangerous substance or substances, as defined by the*
 7 *"New Jersey Controlled Dangerous Substances Act", (P. L. 1970,*
 8 *c. 226) (C. 24:21-1 et seq.), in an indiscriminate manner, or not*
 9 *in good faith, or without good cause, or where the licensee reason-*
 10 *ably knows or should have known that the substance or substances*
 11 *prescribed are to be used for unauthorized or illicit consumption or*
 12 *distribution or that a substance or substances previously prescribed*
 13 *or dispensed were used by the patient for unauthorized or illicit*
 14 *consumption or distribution.***

1 **[7.]** **2.** This act shall take effect immediately.

ASSEMBLY, No. 606

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1974 SESSION

By Assemblyman KEAN

AN ACT concerning controlled dangerous substances and amending
R. S. 45:5-8, R. S. 45:6-7, R. S. 45:9-16, R. S. 45:14-12, R. S.
45:16-6 and section 10 of P. L. 1947, c. 262 (C. 45:11-32).

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

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

2 45:5-8. The board may refuse to grant or may revoke, or may
3 suspend a license for any of the following causes:

4 Chronic or persistent inebriety, or the habitual use of narcotics.

5 Conviction of crime involving moral turpitude; or where any
6 licensee or applicant for license has pleaded *nolo contendere*, *non*
7 *vult contendere* or *non vult* to any indictment, information, allega-
8 tion or complaint, alleging the commission of a crime involving
9 moral turpitude. The record of conviction or the entry of such a
10 plea in any court of this State or any other state or in any of the
11 courts of the United States or any foreign country shall be sufficient
12 warrant for the revocation or suspension of a license.

13 Where any licensee or applicant for license presents to the board
14 any diploma, license or certificate that shall have been obtained,
15 signed or issued unlawfully or under fraudulent representation.

16 *Violation of any laws of this or any other State or of the United*
17 *States relating to controlled dangerous substances or narcotic*
18 *drugs.*

19 *Prescribing or dispensing controlled dangerous substance or*
20 *substances, as defined by the "New Jersey Controlled Dangerous*
21 *Substances Act," (P. L. 1970, c. 226) (C. 24:21-1 et seq.), in an*
22 *indiscriminate manner, or not in good faith, or without good*
23 *podiatric cause, or where the licensee reasonably knows or should*
24 *have known that the substance or substances previously prescribed*

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

25 *or dispensed were used by the patient for illicit consumption or*
26 *distribution.*

27 Unprofessional, dishonorable or unethical conduct in the practice
28 of podiatry.

29 Failure to comply with the reciprocity provision under section
30 45:5-7.

31 Employment by a duly licensed podiatrist of an unlicensed person
32 or persons to perform work, which under this chapter, can be legally
33 done only by persons licensed to practice podiatry in this State.

34 Conviction in a court of competent jurisdiction of a high
35 misdemeanor.

36 Fraudulently advertising.

37 Advertising in any manner, whether as an individual, through a
38 professional service corporation or through a third party on behalf
39 of a licensee, the practice of podiatry; provided, however, that the
40 following shall not be deemed to be advertising prohibited under
41 this chapter:

42 a. Public information for educational purposes on the practice
43 or profession of podiatry which does not contain the name of any
44 podiatrist licensed to practice in this State or the address of any
45 location where podiatric examination or treatment may be had or
46 is recommended or suggested;

47 b. Publication of a brief announcement of the opening of an office
48 or the removal to a new location, containing the name, professional
49 degree, address, telephone number, and office hours of the licensee;

50 c. A listing in an alphabetical telephone directory of the name of
51 a licensee together with his professional degree or the abbreviation
52 therefor;

53 d. A listing in a classified telephone directory with standard type
54 limited to the name, professional degree, office and home addresses
55 and telephone numbers, and office hours of a licensee;

56 e. The use of small signs on the doors, windows and walls of a
57 licensee's office or on the building in which he maintains an office
58 setting out his name, professional degree, address and office hours
59 in lettering no larger than 4 inches in height for street-level offices,
60 and no larger than 6 inches in height for offices above street-level;

61 f. Communications with or without the name of the licensee
62 distributed or mailed to his patients of record at his discretion.

63 Practicing podiatry under a name other than that under which he
64 has a license to practice podiatry or having an unlicensed person
65 practice podiatry under his name.

66 Use by a podiatrist of the words "clinic," "infirmary,"
 67 "hospital," "school," "college," "university," or "institute" in
 68 English or any other language in connection with any place where
 69 podiatry may be practiced or demonstrated.

70 Before a license is refused, revoked or suspended under the pro-
 71 visions of this section, the accused shall be furnished with a copy
 72 of the complaint, and given a hearing before the board in person or
 73 by attorney; and any person who, after such refusal or revocation
 74 or suspension of license, attempts or continues the practice of
 75 podiatry shall be subject to the penalties hereinafter prescribed.

1 2. R. S. 45:6-7 is amended to read as follows:

2 45:6-7. Any license to practice dentistry may be revoked or
 3 suspended by the board upon proof to its satisfaction that the
 4 licensee:

5 a. Has secured such license through deceit, fraud or willful mis-
 6 representation; or

7 b. Has been convicted of a crime involving moral turpitude or
 8 has pleaded nolo contendere, non vult contendere or non vult to an
 9 indictment, information, allegation or complaint, alleging the com-
 10 mission of a crime involving moral turpitude. The record of con-
 11 viction or the record of the entry of such a plea in any court of this
 12 State or any other state or in any of the courts of the United States
 13 or any foreign country, shall be sufficient warrant for revocation
 14 or suspension of a license; or

15 c. Habitually uses intoxicants to an extent rendering him unfit
 16 for the practice of dentistry; or

17 d. Has been guilty of willful and gross malpractice or willful and
 18 gross neglect in the practice of dentistry; or

19 e. Has been guilty of employing unlicensed persons to perform
 20 work which, under this chapter, can only legally be done by persons
 21 licensed to practice dentistry in this State; or has aided or assisted
 22 any person not regularly licensed to practice dentistry in this State
 23 to practice dentistry therein; or

24 f. Has been convicted more than once of practicing dentistry
 25 under a corporate or trade or firm name in violation of the provi-
 26 sions of this chapter; or

27 g. Has advertised in any manner his products or the price or
 28 charge to be made, or the character or durability of his works or
 29 products or anything identical to any of the foregoing, whether by
 30 means of circular, card, sign, poster, advertising matches, mirrors,
 31 or other articles, or by advertisements in newspapers, magazines,
 32 or other publications or by projection by means of light or by crier

33 or radio broadcasting or by use of advertising solicitors or publicity
 34 agents; or has permitted the use of his name as a dentist by others
 35 in the sale of advertisements of products[.]; or

36 h. Has been employed by an unlicensed manager, proprietor,
 37 operator or conductor as defined in section 45:6-19 of this Title or
 38 has entered into possession of such dental material or equipment,
 39 as may be necessary for the management of a dental office which is
 40 owned by any such unlicensed manager, proprietor, operator or
 41 conductor on the basis of a lease or other agreement for compensa-
 42 tion for the use of such material, equipment or office or has entered
 43 into any arrangement by which there is made available to him, for
 44 his use, dental material, equipment or office, the ownership or con-
 45 trol of which is retained by any such unlicensed manager, pro-
 46 prietor, operator or conductor, except where the transaction is a
 47 bona fide sale of dental material or equipment secured by chattel
 48 mortgage or conditional sale agreement[.]; or

49 i. *Has prescribed or dispensed a controlled dangerous substance*
 50 *or substances as defined by the "New Jersey Controlled Dangerous*
 51 *Substances Act," (P. L. 1970, c. 226) (C. 24:21-1 et seq.) (1) in an*
 52 *indiscriminate manner, or (2) not in good faith, or (3) without*
 53 *good dental cause or (4) where the licensed dentist reasonably*
 54 *knows or should have known that the controlled dangerous sub-*
 55 *stance or substances previously prescribed or dispensed to the*
 56 *patient by him were used for unauthorized or illicit consumption or*
 57 *distribution.*

58 Any such license shall be revoked by the board upon proof to its
 59 satisfaction that the licensee habitually uses drugs or has been
 60 convicted of a violation or has pleaded nolo contendere, non vult
 61 contendere or non vult to an indictment, information or complaint
 62 alleging a violation of any Federal or State law relating to narcotic
 63 drugs.

64 Any person whose license is so suspended or revoked shall be
 65 deemed an unlicensed person during the period of such suspension
 66 or revocation, and as such shall be subject to the penalties pre-
 67 scribed for unlicensed persons who practice dentistry, and such
 68 person may, in the discretion of the board, be relicensed at any time
 69 to practice without an examination upon application to the board.

1 3. R. S. 45:9-16 is amended to read as follows:

2 45:9-16. The board may refuse to grant or may suspend or
 3 revoke a license or the registration of a certificate or diploma to
 4 practice medicine and surgery or chiropractic filed in the office of
 5 any county clerk in this State under any act of the Legislature,

6 upon proof to the satisfaction of the board that the holder of such
7 license (a) has been adjudicated insane, or (b) habitually uses
8 intoxicants, or (c) has practiced criminal abortion, or been con-
9 victed of the crime of criminal abortion, or has been convicted of
10 crime involving moral turpitude, or has pleaded nolo contendere,
11 non vult contendere or non vult to an indictment, information or
12 complaint alleging the commission of the crime of criminal abortion
13 or of crime involving moral turpitude, or (d) has been determined
14 to be physically or mentally incapacitated, (e) knowingly becomes
15 employed by any physician, surgeon, homeopath, eclectic, osteopath,
16 chiropractor, or doctor who advertises, or (f) shall have presented
17 to the board any diploma, license or certificate that shall have been
18 illegally obtained or shall have been signed or issued unlawfully
19 or under fraudulent representations, or obtains or shall have
20 obtained a license to practice in this State through fraud of any
21 kind, or (g) has been guilty of employing unlicensed persons to
22 perform work which, under this chapter (45:9-1, et seq.) can legally
23 be done only by persons licensed to practice medicine and surgery
24 or chiropractic in this State, or (h) has been guilty of gross
25 malpractice or gross neglect in the practice of medicine which has
26 endangered the health or life of any person, or (i) has been demon-
27 strated professionally incompetent to practice medicine or (j) has
28 advertised in any manner, whether as an individual, through a
29 professional service corporation or through a third party on his
30 behalf, the practice of medicine and surgery or chiropractic; or
31 *(k) has prescribed or dispensed a controlled dangerous substance*
32 *or substances as defined by the "New Jersey Controlled Dangerous*
33 *Substances Act," (P. L. 1970, c. 226) (C. 24:21-1 et seq.) (1) in an*
34 *indiscriminate manner, or (2) not in good faith, or (3) without*
35 *good medical cause, or (4) where the licensee reasonably knows or*
36 *should have known that the controlled dangerous substance or*
37 *substances when previously prescribed or dispensed to the patient*
38 *by him were used for unauthorized or illicit consumption or*
39 *distribution; provided, however, that the following shall not be*
40 deemed to be advertising prohibited under this chapter:

41 a. Public information for educational purposes on the practice or
42 professions of medicine and surgery or chiropractic which does not
43 contain the name of any person licensed to practice medicine and
44 surgery or chiropractic in this State or the address of any location
45 where medical or chiropractic examination or treatment may be
46 had or is recommended or suggested;

47 b. Publication of a brief announcement of the opening of an office
48 or the removal to a new location, containing the name, professional
49 degree, type of practice, address, telephone number, and office hours
50 of the licensee;

51 c. A listing in an alphabetical telephone directory of the name of
52 a licensee together with his professional degree or the abbreviation
53 therefor;

54 d. A listing in a classified telephone directory with standard type
55 limited to the name, professional degree, type of practice, office and
56 home addresses and telephone numbers, and office hours of a
57 licensee;

58 e. The use of small signs on the doors, windows and walls of a
59 licensee's office or on the building in which he maintains an office
60 setting out his name, professional degree, type of practice, address
61 and office hours in lettering no larger than 4 inches in height for
62 street-level offices, and no larger than 6 inches in height for offices
63 above street-level;

64 f. Communications with or without the name of the licensee
65 distributed or mailed to his patients of record at his discretion.
66 The board shall refuse to grant or shall suspend or revoke any
67 such license or the registration of any such certificate or diploma
68 upon proof to the satisfaction of the board that the applicant for,
69 or holder of, such license habitually uses drugs or has been con-
70 victed of a violation of or has pleaded nolo contendere, non vult
71 contendere or non vult to an indictment, information or complaint
72 alleging a violation of any Federal or State law relating to narcotic
73 drugs. Before any license, or registration of a certificate or diploma
74 to practice medicine or surgery or chiropractic filed in the office of
75 any county clerk of this State under any act of the Legislature, shall
76 be suspended or revoked, except in the case of convictions of
77 criminal abortions or convictions of crime involving moral turpitude
78 or plea of nolo contendere, non vult contendere or non vult to
79 indictment, information, or complaint alleging commission of the
80 crime of criminal abortion or crime involving moral turpitude, or
81 convictions of violations of or pleas of nolo contendere, non vult
82 contendere or non vult to an indictment, information or complaint
83 alleging violations of any Federal or State law relating to narcotic
84 drugs, the accused person shall be furnished with a copy of the
85 complaint and be given a hearing before said board in person or
86 by attorney, and any person whose license shall be suspended or
87 revoked in accordance with this section shall be deemed an un-
88 licensed person during the period of such suspension or revocation,

89 and as such shall be subject to the penalties hereinafter prescribed
 90 for persons who practice medicine and surgery or chiropractic,
 91 without first having obtained a license so to do. Any person whose
 92 license, or registration of a certificate or diploma to practice
 93 medicine and surgery or chiropractic filed in the office of any county
 94 clerk of this State under any act of the Legislature, shall be
 95 suspended or revoked under the authority of this chapter (45:9-1
 96 et seq.) may, in the discretion of the board be relicensed at any time
 97 to practice without an examination, or have his registration of a
 98 certificate or diploma, as aforesaid, reinstated, on application being
 99 made to the board.

100 The record of conviction or the record of entry of a plea of nolo
 101 contendere, non vult contendere or non vult in any of the courts
 102 of this State, or any other state of the United States, or any of the
 103 courts of the United States, or the court of any foreign nation, shall
 104 be sufficient warrant for the board to refuse to grant or to suspend
 105 or revoke the license or the registration of a certificate or diploma
 106 to practice medicine and surgery or chiropractic filed in the office
 107 of any county clerk in this State under any act of the Legislature.

1 4. R. S. 45:14-12 is amended to read as follows:

2 45:14-12. The board may refuse an application for examination
 3 or may suspend or revoke the certificate of a registered pharmacist
 4 or a registered assistant pharmacist for any of the following causes:
 5 When the application or registration is shown to have been obtained
 6 by misrepresentation or fraudulent means or when the applicant or
 7 registrant is guilty of chronic or persistent inebriety, or has been
 8 adjudged guilty of violating any State or Federal law or any law
 9 of the District of Columbia or of any territory of the United States
 10 relating to the practice of pharmacy, or relating to the dispensing
 11 of drugs, or has been convicted of a crime involving moral turpitude,
 12 or has impersonated an applicant for registration before the board
 13 or has been convicted of knowingly, intentionally or **[fraudulently]**
 14 *fraudulently* adulterating or causing to be adulterated drugs,
 15 chemicals or medicinal preparations or has sold or caused to be sold
 16 adulterated drugs, chemicals or medicinal preparations knowing, or
 17 having reason to know, that same were adulterated, or has procured
 18 or attempted to procure registration for another by misrepresenta-
 19 tion or fraudulent means, and the board shall refuse an application
 20 for examination or suspend or revoke the certificate of a registered
 21 pharmacist or a registered assistant pharmacist when the applicant
 22 or registrant is shown to be addicted to the use of narcotic drugs,

23 or has been convicted of violating any law of this or any other
24 State or of the United States relating to narcotic drugs or has
25 been adjudicated an incompetent, or is shown to have any abnormal
26 physical or mental condition which threatens the safety of persons
27 to whom said applicant or registrant might sell or dispense pre-
28 scriptions, drugs, chemicals, medicinal preparations or devices or
29 for whom he might manufacture, prepare or package, or supervise
30 the manufacturing, preparation or packaging of prescriptions,
31 drugs, chemicals, medicinal preparations or devices, *or has appro-*
32 *priated, dispensed, distributed, or sold a controlled dangerous sub-*
33 *stance or substances as defined by the "New Jersey Controlled*
34 *Dangerous Substances Act" (P. L. 1970, c. 226) (C. 24:21-1 et seq.)*
35 *where the pharmacist reasonably knows or should have known that*
36 *the substance or substances were to be used for illicit consumption*
37 *or distribution, or has been adjudged guilty of violating any*
38 *provision of this act, or any rule or regulation promulgated by the*
39 *board.* In addition, the board may refuse an application for exam-
40 ination or may suspend or revoke the certificate of a registered
41 pharmacist or a registered assistant pharmacist upon proof satis-
42 factory to the board that such registered pharmacist or such
43 registered assistant pharmacist is guilty of grossly unprofessional
44 conduct [and the following acts are hereby declared to constitute
45 grossly unprofessional conduct for the purpose of this act], *includ-*
46 *ing but not limited to the following acts:*

47 a. Paying rebates or entering into an agreement for payment of
48 rebates to any physician, dentist or other person for the recom-
49 mending of the services of any person.

50 b. The providing or causing to be provided to a physician,
51 dentist, veterinarian or other persons authorized to prescribe, pre-
52 scription blanks or forms bearing the pharmacist's or pharmacy's
53 name, address or other means of identification.

54 c. The promotion, direct or indirect, by any means, in any form
55 and through any media of the prices for prescription drugs and
56 narcotics or fees or for services relating thereto or any reference to
57 the price of said drugs or prescriptions whether specifically or as a
58 percentile of prevailing prices or by the use of the terms "cut rate,"
59 "discount," "bargain" or terms of similar connotation; but this
60 shall not include the term nonprofit if such term is used by a non-
61 profit entity; and this paragraph shall not be construed or apply to
62 have any effect with respect to sales made by pharmacists or
63 pharmacies directly to physicians, dentists, veterinarians or other
64 persons authorized to prescribe, or to hospitals, nursing homes,

65 governmental agencies, or other institutions licensed under Title
66 30 of the Revised Statutes, as amended or to the advertising or
67 issuance of trading stamps and similar devices in connection with
68 the sale of said prescription drugs and narcotics.

69 d. The claiming of professional superiority in the compounding
70 or filling of prescriptions or in any manner implying professional
71 superiority which may reduce public confidence in the ability, char-
72 acter or integrity of other pharmacists.

73 e. Fostering the interest of one group of patients at the expense
74 of another which compromises the quality or extent of professional
75 services or facilities made available.

76 f. The distribution of premiums or rebates of any kind whatever
77 in connection with the sale of drugs and medications provided,
78 however, that trading stamps and similar devices shall not be con-
79 sidered to be rebates for the purposes of this chapter and provided
80 further that discounts, premiums and rebates may be provided in
81 connection with the sale of drugs and medications to any person who
82 is 62 years of age or older. Before a certificate shall be refused,
83 suspended or revoked, the accused person shall be furnished with a
84 copy of the complaint and given a hearing before the board. Any
85 person whose certificate is so suspended or revoked shall be deemed
86 an unregistered person during the period of such suspension or
87 revocation, and as such shall be subject to the penalties prescribed
88 in this chapter, but such person may, at the discretion of the board,
89 have his certificate reinstated at any time without an examination,
90 upon application to the board. Any person to whom a certificate
91 shall be denied by the board or whose certificate shall be suspended
92 or revoked by the board shall have the right to review such action
93 by appeal to the Appellate Division of the Superior Court in lieu
94 of prerogative writ.

1 5. R. S. 45:16-6 is amended to read as follows:

2 45:16-6. The board may refuse to grant or may suspend or
3 revoke a license to practice veterinary medicine, surgery and
4 dentistry in this State, upon proof to the satisfaction of the board
5 that the holder of such license:

6 a. Has been adjudicated insane;

7 b. Habitually uses drugs or intoxicants;

8 c. Has been convicted of a crime involving moral turpitude, or
9 has pleaded nolo contendere, non vult contendere or non vult to an
10 indictment, information, or complaint alleging the commission of a
11 crime involving moral turpitude;

12 d. Shall have presented to the board any diploma, license or
13 certificate that shall have been illegally obtained or shall have been
14 signed or issued unlawfully or under fraudulent representations or
15 obtains or shall have obtained a license to practice in this State
16 through fraud of any kind;

17 e. Has been guilty of employing unlicensed persons to perform
18 work which, under this chapter (45:16-1 et seq.), can legally be
19 done only by persons licensed to practice veterinary medicine, sur-
20 gery and dentistry in this State or has aided or assisted any such
21 person to perform such work;

22 f. Has been convicted of a violation of any Federal or State law
23 relating to narcotic drugs;

24 g. Has violated any of the provisions of this act or any rule or
25 regulation promulgated by the board;

26 h. Has suffered the revocation or suspension by any State or
27 political subdivision of the United States or by any foreign country
28 or political subdivision thereof of a license or certificate autho-
29 rizing the practice of veterinary medicine;

30 i. Has committed acts of fraud or dishonesty;

31 j. Has been guilty of gross malpractice or gross neglect in the
32 practice of veterinary medicine which has endangered the health or
33 life of any person or animal.

34 *k. Has prescribed or dispensed a controlled dangerous substance*
35 *or substances as defined by the "New Jersey Controlled Dangerous*
36 *Substances Act," (P. L. 1970, c. 226) (C. 24:21-1 et seq.) (1) in an*
37 *indiscriminate manner, or (2) not in good faith, or (3) without good*
38 *veterinary medical cause, or (4) when the licensee reasonably knows*
39 *or should have known that the substance or substances previously*
40 *prescribed or dispensed by him were used by a person for illicit*
41 *consumption or distribution.*

42 Before any license to practice veterinary medicine, surgery and
43 dentistry in this State shall be suspended or revoked, except in the
44 case of convictions of crime involving moral turpitude or plea of
45 nolo contendere, non vult contendere or non vult to an indictment,
46 information or complaint alleging commission of crime involving
47 moral turpitude or convictions of violations of or pleas of nolo con-
48 tendere, non vult contendere or non vult to an indictment, informa-
49 tion or complaint alleging violations of any Federal or State law
50 relating to narcotic drugs, the accused person shall be furnished
51 with a copy of the complaint and be given a hearing before said
52 board in person or by attorney. Any person whose license shall be
53 so suspended or revoked shall be deemed an unlicensed person, and,

54 as such, subject to the penalties prescribed for other unlicensed
55 persons who practice veterinary medicine, surgery or dentistry in
56 this State. Any person whose license to practice veterinary medi-
57 cine, surgery and dentistry in this State shall be suspended or re-
58 voked under the authority of this chapter (45:16-1 et seq.) may, in
59 the discretion of the board, be relicensed at any time to practice
60 without an examination on application being made to the board.

61 The record of conviction or the record of entry of a plea of nolo
62 contendere, non vult contendere or non vult in any of the courts of
63 this State, or any other state of the United States, or any of the
64 courts of the United States, or the court of any foreign nation,
65 shall be sufficient warrant for the board to refuse to grant or to
66 suspend or revoke the license or the registration of a certificate to
67 practice veterinary medicine, surgery and dentistry filed in the
68 office of any county clerk in this State under any act of the
69 Legislature.

1 6. Section 10 of P. L. 1947, c. 262 (C. 45:11-32) is amended to
2 read as follows:

3 10. Refusal to renew a license; revocation or suspension of a
4 license; notice; hearing; review. The board may refuse to renew
5 a license, may suspend a license or revoke a license for any of the
6 following causes: dishonesty; unfitness or incompetency; conduct
7 derogatory to nursing; fraud or willful misrepresentation in an
8 application for license or renewal thereof; willful or repeated
9 violations of any provision of this act; *appropriation of controlled*
10 *dangerous substance or substances as defined by the "New Jersey*
11 *Controlled Dangerous Substances Act,"* (P. L. 1970, c. 226)
12 (C. 24:21-1 et seq.) for illicit consumption or distribution; con-
13 viction whether by trial or plea of guilty, non vult, or nolo con-
14 tendere of a crime involving moral turpitude or indicating unfitness
15 to practice nursing or of a violation of this act and shall refuse to
16 renew or shall revoke a license where the applicant or holder is a
17 habitual user of drugs or has been convicted or has pleaded nolo
18 contendere, non vult contendere or non vult to an indictment, in-
19 formation or complaint alleging a violation of any Federal or
20 State law relating to narcotic drugs. The board may revoke any
21 license for mistake of the board with respect to any material
22 matter. No license shall be suspended or revoked or renewal of
23 license refused except upon compliance with the following pro-
24 cedure: A complaint shall be filed with the board specifying the
25 charges and may be made by any member or employee of the board
26 upon information or belief. At least 10 days prior to the time fixed

27 for hearing notice of such hearing together with a copy of the com-
28 plaint shall be served personally or sent by registered mail ad-
29 dressed to the licensee at the licensee's address appearing upon
30 records of the board. Licensee shall have the right to be repre-
31 sented by counsel, to cross-examine witnesses produced against the
32 licensee, and to offer evidence. At the request of licensee or on
33 the board's own motion the board shall issue subpoenas signed by a
34 member of the board to compel the appearance and testimony of
35 witnesses and the production of records and documents, and
36 subpoenas issued at the request of the licensee or his or her counsel
37 shall be delivered to such licensee or counsel for service. There
38 shall be paid to witnesses at the time of service of subpoenas the
39 same fees as in the case of subpoenas issued out of the Superior
40 Court. Testimony shall be given under oath administered by a
41 member of the board. Any person who shall willfully give false
42 testimony under oath in any hearing before the board shall be
43 guilty of perjury. The board shall not be bound by rules of evidence
44 but its determination shall be supported by some competent evi-
45 dence. The determination of the board suspending or revoking a
46 license, or refusing to issue a renewal of a license after hearing,
47 shall be reviewable by appeal to the Appellate Division of the
48 Superior Court in lieu of prerogative writ. At any time, within 2
49 years after its determination suspending, revoking or refusing to
50 renew a license, the board may in its discretion, for any cause,
51 grant an application for a rehearing and make such redetermina-
52 tion as the case may warrant. The board may, notwithstanding
53 any other provision hereof, also at any time permit a person whose
54 license has been revoked or whose application for renewal has
55 been denied, to make an original application for a new license on
56 such terms and conditions as in the judgment of the board are just
57 and equitable.

1 7. This act shall take effect immediately.

ASSEMBLY COMMITTEE AMENDMENTS TO
ASSEMBLY, No. 606

—————
STATE OF NEW JERSEY
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ADOPTED APRIL 29, 1974

Amend page 1, section 1, line 22, omit "or not in good faith,".

Amend page 4, section 2, line 52, omit "or (2) not in good faith,";
omit "(3)", insert "(2)".

Amend page 4, section 2, line 53, omit "(4)", insert "(3)".

Amend page 5, section 3, line 34, omit "or (2) not in good faith,";
omit "(3)", insert "(2)".

Amend page 5, section 3, line 35, omit "(4)", insert "(3)".

Amend page 10, section 5, line 37, omit "or (2) not in good faith,";
omit "(3)", insert "(2)".

Amend page 10, section 5, line 38, omit "(4)", insert "(3)".

ASSEMBLY AMENDMENTS TO
ASSEMBLY, No. 606
[OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

ADOPTED JANUARY 5, 1976

Amend pages 1-12, sections 1-6, delete entirely and insert:

“1. It shall be a valid ground for the refusal to grant, revocation or suspension of a license to practice a health care profession, subject to regulation in this State, including the practice of pharmacy, or for the refusal to admit to an examination a candidate for licensure, that the licensee has prescribed or dispensed a controlled dangerous substance or substances, as defined by the “New Jersey Controlled Dangerous Substances Act”, (P. L. 1970, c. 226) (C. 24:21-1 et seq.), in an indiscriminate manner, or not in good faith, or without good cause, or where the licensee reasonably knows or should have known that the substance or substances prescribed are to be used for unauthorized or illicit consumption or distribution or that a substance or substances previously prescribed or dispensed were used by the patient for unauthorized or illicit consumption or distribution.”.

Amend page 12, section 7, line 1, delete “7.”, and insert “2.”.

[SECOND OFFICIAL COPY REPRINT]

ASSEMBLY, No. 606

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1974 SESSION

By Assemblyman KEAN

AN ACT concerning controlled dangerous substances and amending R. S. 45:5-8, R. S. 45:6-7, R. S. 45:9-16, R. S. 45:14-12, R. S. 45:16-6 and section 10 of P. L. 1947, c. 262 (C. 45:11-32).

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

1 ****[**1. R. S. 45:5-8 is amended to read as follows:

2 45:5-8. The board may refuse to grant or may revoke, or may
3 suspend a license for any of the following causes:

4 Chronic or persistent inebriety, or the habitual use of narcotics.

5 Conviction of crime involving moral turpitude; or where any
6 licensee or applicant for license has pleaded *nolo contendere*, *non*
7 *vult contendere* or *non vult* to any indictment, information, allega-
8 tion or complaint, alleging the commission of a crime involving
9 moral turpitude. The record of conviction or the entry of such a
10 plea in any court of this State or any other state or in any of the
11 courts of the United States or any foreign country shall be sufficient
12 warrant for the revocation or suspension of a license.

13 Where any licensee or applicant for license presents to the board
14 any diploma, license or certificate that shall have been obtained,
15 signed or issued unlawfully or under fraudulent representation.

16 *Violation of any laws of this or any other State or of the United*
17 *States relating to controlled dangerous substances or narcotic*
18 *drugs.*

19 *Prescribing or dispensing controlled dangerous substance or*
20 *substances, as defined by the "New Jersey Controlled Dangerous*
21 *Substances Act," (P. L. 1970, c. 226) (C. 24:21-1 et seq.), in an*
22 *indiscriminate manner, ***[**or not in good faith,**]**** or without good
23 *podiatric cause, or where the licensee reasonably knows or should*

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

24 *have known that the substance or substances previously prescribed*
25 *or dispensed were used by the patient for illicit consumption or*
26 *distribution.*

27 Unprofessional, dishonorable or unethical conduct in the practice
28 of podiatry.

29 Failure to comply with the reciprocity provision under section
30 45:5-7.

31 Employment by a duly licensed podiatrist of an unlicensed person
32 or persons to perform work, which under this chapter, can be legally
33 done only by persons licensed to practice podiatry in this State.

34 Conviction in a court of competent jurisdiction of a high
35 misdemeanor.

36 Fraudulently advertising.

37 Advertising in any manner, whether as an individual, through a
38 professional service corporation or through a third party on behalf
39 of a licensee, the practice of podiatry; provided, however, that the
40 following shall not be deemed to be advertising prohibited under
41 this chapter:

42 a. Public information for educational purposes on the practice
43 or profession of podiatry which does not contain the name of any
44 podiatrist licensed to practice in this State or the address of any
45 location where podiatric examination or treatment may be had or
46 is recommended or suggested;

47 b. Publication of a brief announcement of the opening of an office
48 or the removal to a new location, containing the name, professional
49 degree, address, telephone number, and office hours of the licensee;

50 c. A listing in an alphabetical telephone directory of the name of
51 a licensee together with his professional degree or the abbreviation
52 therefor;

53 d. A listing in a classified telephone directory with standard type
54 limited to the name, professional degree, office and home addresses
55 and telephone numbers, and office hours of a licensee;

56 e. The use of small signs on the doors, windows and walls of a
57 licensee's office or on the building in which he maintains an office
58 setting out his name, professional degree, address and office hours
59 in lettering no larger than 4 inches in height for street-level offices,
60 and no larger than 6 inches in height for offices above street-level;

61 f. Communications with or without the name of the licensee
62 distributed or mailed to his patients of record at his discretion.

63 Practicing podiatry under a name other than that under which he
64 has a license to practice podiatry or having an unlicensed person
65 practice podiatry under his name.

66 Use by a podiatrist of the words "clinic," "infirmity,"
67 "hospital," "school," "college," "university," or "institute" in
68 English or any other language in connection with any place where
69 podiatry may be practiced or demonstrated.

70 Before a license is refused, revoked or suspended under the pro-
71 visions of this section, the accused shall be furnished with a copy
72 of the complaint, and given a hearing before the board in person or
73 by attorney; and any person who, after such refusal or revocation
74 or suspension of license, attempts or continues the practice of
75 podiatry shall be subject to the penalties hereinafter prescribed.

1 2. R. S. 45:6-7 is amended to read as follows:

2 45:6-7. Any license to practice dentistry may be revoked or
3 suspended by the board upon proof to its satisfaction that the
4 licensee:

5 a. Has secured such license through deceit, fraud or willful mis-
6 representation; or

7 b. Has been convicted of a crime involving moral turpitude or
8 has pleaded nolo contendere, non vult contendere or non vult to an
9 indictment, information, allegation or complaint, alleging the com-
10 mission of a crime involving moral turpitude. The record of con-
11 viction or the record of the entry of such a plea in any court of this
12 State or any other state or in any of the courts of the United States
13 or any foreign country, shall be sufficient warrant for revocation
14 or suspension of a license; or

15 c. Habitually uses intoxicants to an extent rendering him unfit
16 for the practice of dentistry; or

17 d. Has been guilty of willful and gross malpractice or willful and
18 gross neglect in the practice of dentistry; or

19 e. Has been guilty of employing unlicensed persons to perform
20 work which, under this chapter, can only legally be done by persons
21 licensed to practice dentistry in this State; or has aided or assisted
22 any person not regularly licensed to practice dentistry in this State
23 to practice dentistry therein; or

24 f. Has been convicted more than once of practicing dentistry
25 under a corporate or trade or firm name in violation of the provi-
26 sions of this chapter; or

27 g. Has advertised in any manner his products or the price or
28 charge to be made, or the character or durability of his works or
29 products or anything identical to any of the foregoing, whether by
30 means of circular, card, sign, poster, advertising matches, mirrors,
31 or other articles, or by advertisements in newspapers, magazines,
32 or other publications or by projection by means of light or by crier

33 or radio broadcasting or by use of advertising solicitors or publicity
 34 agents; or has permitted the use of his name as a dentist by others
 35 in the sale of advertisements of products[.]; or

36 h. Has been employed by an unlicensed manager, proprietor,
 37 operator or conductor as defined in section 45:6-19 of this Title or
 38 has entered into possession of such dental material or equipment,
 39 as may be necessary for the management of a dental office which is
 40 owned by any such unlicensed manager, proprietor, operator or
 41 conductor on the basis of a lease or other agreement for compensa-
 42 tion for the use of such material, equipment or office or has entered
 43 into any arrangement by which there is made available to him, for
 44 his use, dental material, equipment or office, the ownership or con-
 45 trol of which is retained by any such unlicensed manager, pro-
 46 prietor, operator or conductor, except where the transaction is a
 47 bona fide sale of dental material or equipment secured by chattel
 48 mortgage or conditional sale agreement[.]; or

49 i. *Has prescribed or dispensed a controlled dangerous substance*
 50 *or substances as defined by the "New Jersey Controlled Dangerous*
 51 *Substances Act," (P. L. 1970, c. 226) (C. 24:21-1 et seq.) (1) in an*
 52 *indiscriminate manner, *or (2) not in good faith,* or *[(3)]**
 53 **(2)* without good dental cause or *[(4)]* *(3)* where the*
 54 *licensed dentist reasonably knows or should have known that the*
 55 *controlled dangerous substance or substances previously pre-*
 56 *scribed or dispensed to the patient by him were used for unau-*
 57 *thorized or illicit consumption or distribution.*

58 Any such license shall be revoked by the board upon proof to its
 59 satisfaction that the licensee habitually uses drugs or has been
 60 convicted of a violation or has pleaded nolo contendere, non vult
 61 contendere or non vult to an indictment, information or complaint
 62 alleging a violation of any Federal or State law relating to narcotic
 63 drugs.

64 Any person whose license is so suspended or revoked shall be
 65 deemed an unlicensed person during the period of such suspension
 66 or revocation, and as such shall be subject to the penalties pre-
 67 scribed for unlicensed persons who practice dentistry, and such
 68 person may, in the discretion of the board, be relicensed at any time
 69 to practice without an examination upon application to the board.

1 3. R. S. 45:9-16 is amended to read as follows:

2 45:9-16. The board may refuse to grant or may suspend or
 3 revoke a license or the registration of a certificate or diploma to
 4 practice medicine and surgery or chiropractic filed in the office of
 5 any county clerk in this State under any act of the Legislature,

6 upon proof to the satisfaction of the board that the holder of such
7 license (a) has been adjudicated insane, or (b) habitually uses
8 intoxicants, or (c) has practiced criminal abortion, or been con-
9 victed of the crime of criminal abortion, or has been convicted of
10 crime involving moral turpitude, or has pleaded nolo contendere,
11 non vult contendere or non vult to an indictment, information or
12 complaint alleging the commission of the crime of criminal abortion
13 or of crime involving moral turpitude, or (d) has been determined
14 to be physically or mentally incapacitated, (e) knowingly becomes
15 employed by any physician, surgeon, homeopath, electric, osteopath,
16 chiropractor, or doctor who advertises, or (f) shall have presented
17 to the board any diploma, license or certificate that shall have been
18 illegally obtained or shall have been signed or issued unlawfully
19 or under fraudulent representations, or obtains or shall have
20 obtained a license to practice in this State through fraud of any
21 kind, or (g) has been guilty of employing unlicensed persons to
22 perform work which, under this chapter (45:9-1, et seq.) can legally
23 be done only by persons licensed to practice medicine and surgery
24 or chiropractic in this State, or (h) has been guilty of gross
25 malpractice or gross neglect in the practice of medicine which has
26 endangered the health or life of any person, or (i) has been demon-
27 strated professionally incompetent to practice medicine or (j) has
28 advertised in any manner, whether as an individual, through a
29 professional service corporation or through a third party on his
30 behalf, the practice of medicine and surgery or chiropractic; *or*
31 *(k) has prescribed or dispensed a controlled dangerous substance*
32 *or substances as defined by the "New Jersey Controlled Dangerous*
33 *Substances Act," (P. L. 1970, c. 226) (C. 24:21-1 et seq.) (1) in an*
34 *indiscriminate manner, *[(or (2) not in good faith,)]* or *[(3)]**
35 **(2)* without good medical cause, or *[(4)]* *(3)* where the*
36 *licensee reasonably knows or should have known that the con-*
37 *trolled dangerous substance or substances when previously pre-*
38 *scribed or dispensed to the patient by him were used for unau-*
39 *thorized or illicit consumption or distribution; provided, however,*
40 *that the following shall not be deemed to be advertising prohibited*
40A *under this chapter:*

41 a. Public information for educational purposes on the practice or
42 professions of medicine and surgery or chiropractic which does not
43 contain the name of any person licensed to practice medicine and
44 surgery or chiropractic in this State or the address of any location
45 where medical or chiropractic examination or treatment may be
46 had or is recommended or suggested;

47 b. Publication of a brief announcement of the opening of an office
48 or the removal to a new location, containing the name, professional
49 degree, type of practice, address, telephone number, and office hours
50 of the licensee;

51 c. A listing in an alphabetical telephone directory of the name of
52 a licensee together with his professional degree or the abbreviation
53 therefor;

54 d. A listing in a classified telephone directory with standard type
55 limited to the name, professional degree, type of practice, office and
56 home addresses and telephone numbers, and office hours of a
57 licensee;

58 e. The use of small signs on the doors, windows and walls of a
59 licensee's office or on the building in which he maintains an office
60 setting out his name, professional degree, type of practice, address
61 and office hours in lettering no larger than 4 inches in height for
62 street-level offices, and no larger than 6 inches in height for offices
63 above street-level;

64 f. Communications with or without the name of the licensee
65 distributed or mailed to his patients of record at his discretion.
66 The board shall refuse to grant or shall suspend or revoke any
67 such license or the registration of any such certificate or diploma
68 upon proof to the satisfaction of the board that the applicant for,
69 or holder of, such license habitually uses drugs or has been con-
70 victed of a violation of or has pleaded nolo contendere, non vult
71 contendere or non vult to an indictment, information or complaint
72 alleging a violation of any Federal or State law relating to narcotic
73 drugs. Before any license, or registration of a certificate or diploma
74 to practice medicine or surgery or chiropractic filed in the office of
75 any county clerk of this State under any act of the Legislature, shall
76 be suspended or revoked, except in the case of convictions of
77 criminal abortions or convictions of crime involving moral turpitude
78 or plea of nolo contendere, non vult contendere or non vult to
79 indictment, information, or complaint alleging commission of the
80 crime of criminal abortion or crime involving moral turpitude, or
81 convictions of violations of or pleas of nolo contendere, non vult
82 contendere or non vult to an indictment, information or complaint
83 alleging violations of any Federal or State law relating to narcotic
84 drugs, the accused person shall be furnished with a copy of the
85 complaint and be given a hearing before said board in person or
86 by attorney, and any person whose license shall be suspended or
87 revoked in accordance with this section shall be deemed an un-
88 licensed person during the period of such suspension or revocation,

89 and as such shall be subject to the penalties hereinafter prescribed
 90 for persons who practice medicine and surgery or chiropractic,
 91 without first having obtained a license so to do. Any person whose
 92 license, or registration of a certificate or diploma to practice
 93 medicine and surgery or chiropractic filed in the office of any county
 94 clerk of this State under any act of the Legislature, shall be
 95 suspended or revoked under the authority of this chapter (45:9-1
 96 et seq.) may, in the discretion of the board be relicensed at any time
 97 to practice without an examination, or have his registration of a
 98 certificate or diploma, as aforesaid, reinstated, on application being
 99 made to the board.

100 The record of conviction or the record of entry of a plea of nolo
 101 contendere, non vult contendere or non vult in any of the courts
 102 of this State, or any other state of the United States, or any of the
 103 courts of the United States, or the court of any foreign nation, shall
 104 be sufficient warrant for the board to refuse to grant or to suspend
 105 or revoke the license or the registration of a certificate or diploma
 106 to practice medicine and surgery or chiropractic filed in the office
 107 of any county clerk in this State under any act of the Legislature.

1 4. R. S. 45:14-12 is amended to read as follows:

2 45:14-12. The board may refuse an application for examination
 3 or may suspend or revoke the certificate of a registered pharmacist
 4 or a registered assistant pharmacist for any of the following causes:
 5 When the application or registration is shown to have been obtained
 6 by misrepresentation or fraudulent means or when the applicant or
 7 registrant is guilty of chronic or persistent inebriety, or has been
 8 adjudged guilty of violating any State or Federal law or any law
 9 of the District of Columbia or of any territory of the United States
 10 relating to the practice of pharmacy, or relating to the dispensing
 11 of drugs, or has been convicted of a crime involving moral turpitude,
 12 or has impersonated an applicant for registration before the board
 13 or has been convicted of knowingly, intentionally or **fradulently**
 14 *fradulently* adulterating or causing to be adulterated drugs,
 15 chemicals or medicinal preparations or has sold or caused to be sold
 16 adulterated drugs, chemicals or medicinal preparations knowing, or
 17 having reason to know, that same were adulterated, or has procured
 18 or attempted to procure registration for another by misrepresenta-
 19 tion or fraudulent means, and the board shall refuse an application
 20 for examination or suspend or revoke the certificate of a registered
 21 pharmacist or a registered assistant pharmacist when the applicant
 22 or registrant is shown to be addicted to the use of narcotic drugs,

23 or has been convicted of violating any law of this or any other
24 State or of the United States relating to narcotic drugs or has
25 been adjudicated an incompetent, or is shown to have any abnormal
26 physical or mental condition which threatens the safety of persons
27 to whom said applicant or registrant might sell or dispense pre-
28 scriptions, drugs, chemicals, medicinal preparations or devices or
29 for whom he might manufacture, prepare or package, or supervise
30 the manufacturing, preparation or packaging of prescriptions,
31 drugs, chemicals, medicinal preparations or devices, *or has appro-*
32 *propriated, dispensed, distributed, or sold a controlled dangerous sub-*
33 *stance or substances as defined by the "New Jersey Controlled*
34 *Dangerous Substances Act" (P. L. 1970, c. 226) (C. 24:21-1 et seq.)*
35 *where the pharmacist reasonably knows or should have known that*
36 *the substance or substances were to be used for illicit consumption*
37 *or distribution, or has been adjudged guilty of violating any*
38 *provision of this act, or any rule or regulation promulgated by the*
39 *board.* In addition, the board may refuse an application for exam-
40 ination or may suspend or revoke the certificate of a registered
41 pharmacist or a registered assistant pharmacist upon proof satis-
42 factory to the board that such registered pharmacist or such
43 registered assistant pharmacist is guilty of grossly unprofessional
44 conduct [and the following acts are hereby declared to constitute
45 grossly unprofessional conduct for the purpose of this act], *includ-*
46 *ing but not limited to the following acts:*

47 a. Paying rebates or entering into an agreement for payment of
48 rebates to any physician, dentist or other person for the recom-
49 mending of the services of any person.

50 b. The providing or causing to be provided to a physician,
51 dentist, veterinarian or other persons authorized to prescribe, pre-
52 scription blanks or forms bearing the pharmacist's or pharmacy's
53 name, address or other means of identification.

54 c. The promotion, direct or indirect, by any means, in any form
55 and through any media of the prices for prescription drugs and
56 narcotics or fees or for services relating thereto or any reference to
57 the price of said drugs or prescriptions whether specifically or as a
58 percentile of prevailing prices or by the use of the terms "cut rate,"
59 "discount," "bargain" or terms of similar connotation; but this
60 shall not include the term nonprofit if such term is used by a non-
61 profit entity; and this paragraph shall not be construed or apply to
62 have any effect with respect to sales made by pharmacists or
63 pharmacies directly to physicians, dentists, veterinarians or other
64 persons authorized to prescribe, or to hospitals, nursing homes,

65 governmental agencies, or other institutions licensed under Title
66 30 of the Revised Statutes, as amended or to the advertising or
67 issuance of trading stamps and similar devices in connection with
68 the sale of said prescription drugs and narcotics.

69 d. The claiming of professional superiority in the compounding
70 or filling of prescriptions or in any manner implying professional
71 superiority which may reduce public confidence in the ability, char-
72 acter or integrity of other pharmacists.

73 e. Fostering the interest of one group of patients at the expense
74 of another which compromises the quality or extent of professional
75 services or facilities made available.

76 f. The distribution of premiums or rebates of any kind whatever
77 in connection with the sale of drugs and medications provided,
78 however, that trading stamps and similar devices shall not be con-
79 sidered to be rebates for the purposes of this chapter and provided
80 further that discounts, premiums and rebates may be provided in
81 connection with the sale of drugs and medications to any person who
82 is 62 years of age or older. Before a certificate shall be refused,
83 suspended or revoked, the accused person shall be furnished with a
84 copy of the complaint and given a hearing before the board. Any
85 person whose certificate is so suspended or revoked shall be deemed
86 an unregistered person during the period of such suspension or
87 revocation, and as such shall be subject to the penalties prescribed
88 in this chapter, but such person may, at the discretion of the board,
89 have his certificate reinstated at any time without an examination,
90 upon application to the board. Any person to whom a certificate
91 shall be denied by the board or whose certificate shall be suspended
92 or revoked by the board shall have the right to review such action
93 by appeal to the Appellate Division of the Superior Court in lieu
94 of prerogative writ.

1 5. R. S. 45:16-6 is amended to read as follows:

2 45:16-6. The board may refuse to grant or may suspend or
3 revoke a license to practice veterinary medicine, surgery and
4 dentistry in this State, upon proof to the satisfaction of the board
5 that the holder of such license:

6 a. Has been adjudicated insane;

7 b. Habitually uses drugs or intoxicants;

8 c. Has been convicted of a crime involving moral turpitude, or
9 has pleaded nolo contendere, non vult contendere or non vult to an
10 indictment, information, or complaint alleging the commission of a
11 crime involving moral turpitude;

12 d. Shall have presented to the board any diploma, license or
 13 certificate that shall have been illegally obtained or shall have been
 14 signed or issued unlawfully or under fraudulent representations or
 15 obtains or shall have obtained a license to practice in this State
 16 through fraud of any kind;

17 e. Has been guilty of employing unlicensed persons to perform
 18 work which, under this chapter (45:16-1 et seq.), can legally be
 19 done only by persons licensed to practice veterinary medicine, sur-
 20 gery and dentistry in this State or has aided or assisted any such
 21 person to perform such work;

22 f. Has been convicted of a violation of any Federal or State law
 23 relating to narcotic drugs;

24 g. Has violated any of the provisions of this act or any rule or
 25 regulation promulgated by the board;

26 h. Has suffered the revocation or suspension by any State or
 27 political subdivision of the United States or by any foreign country
 28 or political subdivision thereof of a license or certificate autho-
 29 rizing the practice of veterinary medicine;

30 i. Has committed acts of fraud or dishonesty;

31 j. Has been guilty of gross malpractice or gross neglect in the
 32 practice of veterinary medicine which has endangered the health or
 33 life of any person or animal.

34 *k. Has prescribed or dispensed a controlled dangerous substance*
 35 *or substances as defined by the "New Jersey Controlled Dangerous*
 36 *Substances Act," (P. L. 1970, c. 226) (C. 24:21-1 et seq.) (1) in an*
 37 *indiscriminate manner, *[(or (2) not in good faith,)]* or *[(3)]**
 38 **(2)* without good veterinary medical cause, or *[(4)]* *(3)**
 39 *when the licensee reasonably knows or should have known that the*
 40 *substance or substances previously prescribed or dispensed by him*
 41 *were used by a person for illicit consumption or distribution.*

42 Before any license to practice veterinary medicine, surgery and
 43 dentistry in this State shall be suspended or revoked, except in the
 44 case of convictions of crime involving moral turpitude or plea of
 45 nolo contendere, non vult contendere or non vult to an indictment,
 46 information or complaint alleging commission of crime involving
 47 moral turpitude or convictions of violations of or pleas of nolo con-
 48 tendere, non vult contendere or non vult to an indictment, informa-
 49 tion or complaint alleging violations of any Federal or State law
 50 relating to narcotic drugs, the accused person shall be furnished
 51 with a copy of the complaint and be given a hearing before said
 52 board in person or by attorney. Any person whose license shall be
 53 so suspended or revoked shall be deemed an unlicensed person, and,
 54 as such, subject to the penalties prescribed for other unlicensed

55 persons who practice veterinary medicine, surgery or dentistry in
 56 this State. Any person whose license to practice veterinary medi-
 57 cine, surgery and dentistry in this State shall be suspended or re-
 58 voked under the authority of this chapter (45:16-1 et seq.) may, in
 59 the discretion of the board, be relicensed at any time to practice
 60 without an examination on application being made to the board.

61 The record of conviction or the record of entry of a plea of nolo
 62 contendere, non vult contendere or non vult in any of the courts of
 63 this State, or any other state of the United States, or any of the
 64 courts of the United States, or the court of any foreign nation,
 65 shall be sufficient warrant for the board to refuse to grant or to
 66 suspend or revoke the license or the registration of a certificate to
 67 practice veterinary medicine, surgery and dentistry filed in the
 68 office of any county clerk in this State under any act of the
 69 Legislature.

1 6. Section 10 of P. L. 1947, c. 262 (C. 45:11-32) is amended to
 2 read as follows:

3 10. Refusal to renew a license; revocation or suspension of a
 4 license; notice; hearing; review. The board may refuse to renew
 5 a license, may suspend a license or revoke a license for any of the
 6 following causes: dishonesty; unfitness or incompetency; conduct
 7 derogatory to nursing; fraud or willful misrepresentation in an
 8 application for license or renewal thereof; willful or repeated
 9 violations of any provision of this act; *appropriation of controlled*
 10 *dangerous substance or substances as defined by the "New Jersey*
 11 *Controlled Dangerous Substances Act," (P. L. 1970, c. 226)*
 12 *(C. 24:21-1 et seq.) for illicit consumption or distribution; con-*
 13 *viction whether by trial or plea of guilty, non vult, or nolo con-*
 14 *tendere of a crime involving moral turpitude or indicating unfitness*
 15 *to practice nursing or of a violation of this act and shall refuse to*
 16 *renew or shall revoke a license where the applicant or holder is a*
 17 *habitual user of drugs or has been convicted or has pleaded nolo*
 18 *contendere, non vult contendere or non vult to an indictment, in-*
 19 *formation or complaint alleging a violation of any Federal or*
 20 *State law relating to narcotic drugs. The board may revoke any*
 21 *license for mistake of the board with respect to any material*
 22 *matter. No license shall be suspended or revoked or renewal of*
 23 *license refused except upon compliance with the following pro-*
 24 *cedure: A complaint shall be filed with the board specifying the*
 25 *charges and may be made by any member or employee of the board*
 26 *upon information or belief. At least 10 days prior to the time fixed*
 27 *for hearing notice of such hearing together with a copy of the com-*
 28 *plaint shall be served personally or sent by registered mail ad-*

29 dressed to the licensee at the licensee's address appearing upon
 30 records of the board. Licensee shall have the right to be repre-
 31 sented by counsel, to cross-examine witnesses produced against the
 32 licensee, and to offer evidence. At the request of licensee or on
 33 the board's own motion the board shall issue subpoenas signed by a
 34 member of the board to compel the appearance and testimony of
 35 witnesses and the production of records and documents, and
 36 subpoenas issued at the request of the licensee or his or her counsel
 37 shall be delivered to such licensee or counsel for service. There
 38 shall be paid to witnesses at the time of service of subpoenas the
 39 same fees as in the case of subpoenas issued out of the Superior
 40 Court. Testimony shall be given under oath administered by a
 41 member of the board. Any person who shall willfully give false
 42 testimony under oath in any hearing before the board shall be
 43 guilty of perjury. The board shall not be bound by rules of evidence
 44 but its determination shall be supported by some competent evi-
 45 dence. The determination of the board suspending or revoking a
 46 license, or refusing to issue a renewal of a license after hearing,
 47 shall be reviewable by appeal to the Appellate Division of the
 48 Superior Court in lieu of prerogative writ. At any time, within 2
 49 years after its determination suspending, revoking or refusing to
 50 renew a license, the board may in its discretion, for any cause,
 51 grant an application for a rehearing and make such redetermina-
 52 tion as the case may warrant. The board may, notwithstanding
 53 any other provision hereof, also at any time permit a person whose
 54 license has been revoked or whose application for renewal has
 55 been denied, to make an original application for a new license on
 56 such terms and conditions as in the judgment of the board are just
 57 and equitable.】**

1 **1. It shall be a valid ground for the refusal to grant, revocation
 2 or suspension of a license to practice a health care profession,
 3 subject to regulation in this State, including the practice of phar-
 4 macy, or for the refusal to admit to an examination a candidate
 5 for licensure, that the licensee has prescribed or dispensed a
 6 controlled dangerous substance or substances, as defined by the
 7 "New Jersey Controlled Dangerous Substances Act", (P. L. 1970,
 8 c. 226) (C. 24:21-1 et seq.), in an indiscriminate manner, or not
 9 in good faith, or without good cause, or where the licensee reason-
 10 ably knows or should have known that the substance or substances
 11 prescribed are to be used for unauthorized or illicit consumption or
 12 distribution or that a substance or substances previously prescribed
 13 or dispensed were used by the patient for unauthorized or illicit
 14 consumption or distribution.**

1 **【7.】** **2.** This act shall take effect immediately.

This bill is intended to oblige a mortgagee to record the cancellation of a mortgage within 45 days after it has been satisfied. Although I agree with that goal, I am convinced that a technical deficiency in the bill obstructs its accomplishment. Pursuant to this bill, the 45 day period begins to run only after the mortgagee has notified the mortgagor that he can demand that the mortgagee effect cancellation. As a result, simply by deferring that original notice, a mortgagee can circumvent the 45 day time requirement which the bill purports to impose. Thus, in order to ensure full compliance, there should be injected a ten day time requirement which would attach to that initial notice.

Accordingly, I herewith return Assembly Bill No. 501 (3rd OCR) for reconsideration and recommend that it be amended as follows:

Page 1, Section 1, Line 4: After "shall" insert "within ten days"

Respectfully,

/s/ BRENDAN BYRNE,
Governor.

[SEAL]
Attest:

/s/ DONALD LAN,
Executive Secretary to the Governor.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
January 5, 1976. }

ASSEMBLY BILL No. 606

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14(b) of the Constitution, I herewith return Assembly Bill No. 606, with my objections, for reconsideration.

Assembly Bill No. 606 amends the statutes governing physicians and surgeons, podiatrists, dentists, and veterinarians to provide that the prescribing or dispensing of a controlled dangerous substance in an indiscriminate manner, without good cause, or under circumstances in which the prescriber or dispenser knows or should have known that it would be used for illicit consumption or distribution is a ground for license suspension or revocation. Also amended is the statute governing pharmacists

to make the appropriation or distribution of a controlled dangerous substance under the above enumerated circumstances a ground for suspension or revocation of the registration certificate. The statute governing nurses is similarly amended to make appropriation of a controlled dangerous substance a ground for revocation or suspension of license.

I am in wholehearted agreement with the purpose of the bill. The availability of controlled dangerous substances must be limited to prevent abuse. The unwarranted dissemination of such substances by those entrusted with access to them is a breach of professional ethics so serious as to warrant suspension or revocation of the right to practice. However, I feel that the bill is unnecessarily convoluted. A general omnibus provision, governing all those professionals with access to controlled dangerous substances, would clearly suffice.

Accordingly, I herewith return Assembly Bill No. 606 for reconsideration and recommend that it be amended as follows:

Pages 1-12, Sections 1-6: Delete entirely and insert "1. It shall be a valid ground for the refusal to grant, revocation or suspension of a license to practice a health care profession, subject to regulation in this State, including the practice of pharmacy, or for the refusal to admit to an examination a candidate for licensure, that the licensee has prescribed or dispensed a controlled dangerous substance or substances, as defined by the "New Jersey Controlled Dangerous Substances Act", (P. L. 1970, c. 226) (C. 24:21-1 *et seq.*), in an indiscriminate manner, or not in good faith, or without good cause, or where the licensee reasonably knows or should have known that the substance or substances prescribed are to be used for unauthorized or illicit consumption or distribution or that a substance or substances previously prescribed or dispensed were used by the patient for unauthorized or illicit consumption or distribution."

Page 12, Section 7, Line 1: Delete "7" and insert "2"

Respectfully,

[SEAL]
Attest: /s/ BRENDAN BYRNE,
Governor.

/s/ CHARLES C. CARELLA,
Executive Secretary to the Governor.