

45:9-16

LEGISLATIVE FACT SHEET

ON Doctors all -- prohibits from advertising

N.J.R.S. 45:9-16

(1971 Amendment)

LAWS OF 1971

SENATE

INTRODUCED March 24, 1971

STATEMENT

AMENDED DURING PASSAGE

HEARING None discovered

VETO

CHAPTER 453 July 16, 1972

ASSEMBLY 2305

BY Crane et al.

<input checked="" type="radio"/> YES	NO
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STATEMENT to A2305 (1971)

The purpose of this bill is to prohibit podiatrists, doctors of medicine and surgery, chiropractors, and psychologists, from any form of advertising, whether as individuals or through professional service corporations. Any of the above mentioned including dentists and optometrists, who are already prohibited from advertising by R. S. 45:6-7 and R. S. 45:12-11 may have their license suspended, revoked, or be refused a license or renewal by their respective licensing boards for advertising in violation of this act.

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ASSEMBLY, No. 2305

STATE OF NEW JERSEY

INTRODUCED MARCH 29, 1971

By Assemblymen CRANE, CONNELL, VOLK, HURLEY, CAFIERO,
RUSSO and HOLLENBECK

Referred to Committee on Commerce, Industry and Professions

AN ACT prohibiting advertising by podiatrists, doctors of medicine and surgery, chiropractors, and psychologists, and amending R. S. 45:5-8, R. S. 45:9-16, and s. 24 of P. L. 1966, c. 282.

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 *no lo 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 Unprofessional, dishonorable or unethical conduct in the practice
17 of podiatry.

18 Failure to comply with the reciprocity provision under section
19 45:5-7.

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

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 Conviction in a court of competent jurisdiction of a high
25 misdemeanor.

26 Fraudulently advertising.

27 *Advertising in any manner, whether as an individual ***[or]** * *,*
28 *through a professional service corporation *or through a third*
29 *party on behalf of a licensee*, the practice of podiatry*; provided,*
30 *however, that the following shall not be deemed to be advertising*
31 *prohibited under this chapter:*

32 *a. Public information for educational purposes on the practice or*
33 *profession of podiatry which does not contain the name of any*
34 *podiatrist licensed to practice in this State or the address of any*
35 *location where podiatric examination or treatment may be had or*
36 *is recommended or suggested;*

37 *b. Publication of a brief announcement of the opening of an*
38 *office or the removal to a new location, containing the name, pro-*
39 *fessional degree, address, telephone number, and office hours of the*
40 *licensee;*

41 *c. A listing in an alphabetical telephone directory of the name of*
42 *a licensee together with his professional degree or the abbreviation*
43 *therefor;*

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

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

52-53 *f. Communications with or without the name of the licensee*
54 *distributed or mailed to his patients of record at his discretion*.*

55 Practicing podiatry under a name other than that under which he
56 has a license to practice podiatry or having an unlicensed person
57 practice podiatry under his name.

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

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

1 2. 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 no vult to an indictment, information or
 12 complaint alleging the commission of the crime of criminal abor-
 13 tion or of crime involving moral turpitude, or (d) ****[has advertised**
 14 **fraudulently]**** ***has been determined to be physically or mentally*
 15 *incapacitated***, (e) ***knowingly*** becomes employed by any
 16 physician, surgeon, homeopath, eclectic, osteopath, chiropractor, or
 17 doctor who advertises ****[fraudulently]****, or (f) shall have pre-
 18 sented to the board any diploma, license or certificate that shall
 19 have been illegally obtained or shall have been signed or issued
 20 unlawfully or under fraudulent representations, or obtains or shall
 21 have obtained a license to practice in this State through fraud of
 22 any kind, or (g) has been guilty of employing unlicensed persons
 23 to perform work which, under this chapter-(45:9-1, et seq.) can
 24 legally be done only by persons licensed to practice medicine and
 25 surgery or chiropractic in this State, or (h) has been guilty of gross
 26 malpractice or gross neglect in the practice of medicine which has
 27 endangered the health or life of any person, or (i) ***has been*
 28 *demonstrated professionally incompetent to practice medicine or*
 29 *(j)** has advertised in any manner, whether as an individual*
 30 **[or]* *,* through a professional service corporation *or through*
 31 *a third party on his behalf*, the practice of medicine and surgery
 31A *or chiropractic**; provided, however, that the following shall not
 31B *be deemed to be advertising prohibited under this chapter:**

32 a. *Public information for educational purposes on the practice*
 33 *or professions of medicine and surgery or chiropractic which does*
 34 *not contain the name of any person licensed to practice medicine*
 35 *and surgery or chiropractic in this State or the address of any loca-*
 36 *tion where medical or chiropractic examination or treatment may*
 37 *be had or is recommended or suggested;*

38 b. *Publication of a brief announcement of the opening of an office*
 39 *or the removal to a new location, containing the name, professional*
 40 *degree, type of practice, address, telephone number, and office hours*
 41 *of the licensee;*

42 c. *A listing in an alphabetical telephone directory of the name of*
43 *a licensee together with his professional degree or the abbreviation*
44 *therefor;*

45 d. *A listing in a classified telephone directory with standard type*
46 *limited to the name, professional degree, type of practice, office and*
47 *home addresses and telephone numbers, and office hours of a*
48 *licensee;*

49 e. *The use of small signs on the doors, windows and walls of a*
50 *licensee's office or on the building in which he maintains an office*
51 *setting out his name, professional degree, type of practice, address*
52 *and office hours in lettering no larger than 4 inches in height for*
53 *street-level offices, and no larger than 6 inches in height for offices*
54 *above street-level;*

55 f. *Communications with or without the name of the licensee*
56 *distributed or mailed to his patients of record at his discretion*.*

57 The board shall refuse to grant or shall suspend or revoke any
58 such license or the registration of any such certificate or diploma
59 upon proof to the satisfaction of the board that the applicant for,
60 or holder of, such license habitually uses drugs or has been con-
61 victed of a violation of or has pleaded nolo contendere, non vult
62 contendere or non vult to an indictment, information or complaint
63 alleging a violation of any Federal or State law relating to narcotic
64 drugs. Before any license, or registration of a certificate or diploma
65 to practice medicine or surgery or chiropractic filed in the office of
66 any county clerk of this State under any act of the Legislature, shall
67 be suspended or revoked, except in the case of convictions of
68 criminal abortions or convictions of crime involving moral turpitude
69 or plea of nolo contendere, non vult contendere or non vult to in-
70 dictment, information, or complaint alleging commission of the
71 crime of criminal abortion or crime involving moral turpitude, or
72 convictions of violations of or pleas of nolo contendere, non vult
73 contendere or non vult to an indictment, information or complaint
74 alleging violations of any Federal or State law relating to narcotic
75 drugs, the accused person shall be furnished with a copy of the
76 complaint and be given a hearing before said board in person or by
77 attorney, and any person whose license shall be suspended or
78 revoked in accordance with this section shall be deemed an un-
79 licensed person during the period of such suspension or revocation,
80 and as such shall be subject to the penalties hereinafter prescribed
81 for persons who practice medicine and surgery or chiropractic,
82 without first having obtained a license so to do. Any person whose
83 license, or registration of a certificate or diploma to practice
84 medicine and surgery or chiropractic filed in the office of any county

85 clerk of this State under any act of the Legislature, shall be
 86 suspended or revoked under the authority of this chapter (45:9-1,
 87 et seq.) may, in the discretion of the board be relicensed at any time
 88 to practice without an examination, or have his registration of a
 89 certificate or diploma, as aforesaid, reinstated, on application being
 90 made to the board.

91 The record of conviction or the record of entry of a plea of nolo
 92 contendere, non vult contendere or non vult in any of the courts
 93 of this State, or any other state of the United States, or any of the
 94 courts of the United States, or the court of any foreign nation, shall
 95 be sufficient warrant for the board to refuse to grant or to suspend
 96 or revoke the license or the registration of a certificate or diploma
 97 to practice medicine and surgery or chiropractic filed in the office
 98 of any county clerk in this State under any act of the Legislature.

1 3. Section 24 of P. L. 1966, c. 282 (C. 45:14B-24) is amended to
 2 read as follows:

3 24. The board may refuse to grant or renew or may revoke or
 4 suspend a license on any of the following grounds:

5 (a) Use of fraud or deception in applying for a certificate or in
 6 passing the examination therefor required by this act.

7 (b) Practice of psychology under a false or assumed name or
 8 impersonation of a licensed practicing psychologist of like or
 9 different name, or permitting an unlicensed person to practice psy-
 10 chology in the name of a licensee and to use his license for that
 11 purpose.

12 (c) Conviction of a crime involving moral turpitude.

13 (d) Habitual intemperance in the use of intoxicants, narcotics
 14 or stimulants to such an extent as to incapacitate him for the per-
 15 formance of his professional duties as a licensed practicing psy-
 16 chologist or conviction of or has pleaded nolo contendere, non vult
 17 contendere or non vult to an indictment, information or complaint
 18 alleging a violation of any Federal or State law relating to narcotic
 19 drugs.

20 (e) Violation of any provision of this act or rule, regulation or
 21 code of ethics promulgated by the board.

22 (f) Negligence or misconduct in the performance of his pro-
 23 fessional duties as a licensed practicing psychologist.

24 (g) *Advertising in any manner, whether as an individual*
 25 **[or] * *,* through a professional service corporation *or through*
 26 *a third party on behalf of a licensee*, the practice of psychology*;
 27 *provided, however, that the following shall not be deemed to be*
 28 *advertising prohibited under this act:**

29 (1) *Public information for educational purposes on the practice*
30 *or profession of psychology which does not contain the name of any*
31 *psychologist licensed to practice in this State or the address of any*
32 *location where psychological examination or treatment may be had*
33 *or is recommended or suggested;*

34 (2) *Publication of a brief announcement of the opening of an*
35 *office or the removal to a new location, containing the name, pro-*
36 *fessional degree, address, telephone number, and office hours of the*
37 *licensee;*

38 (3) *A listing in an alphabetical telephone directory of the name*
39 *of a licensee together with his professional degree or the abbrevia-*
40 *tion therefor;*

41 (4) *A listing in a classified telephone directory with standard*
42 *type limited to the name, professional degree, office and home*
43 *addresses and telephone numbers, and office hours of a licensee;*

44 (5) *The use of small signs on the doors, windows and walls of a*
45 *licensee's office or on the building in which he maintains an office*
46 *setting out his name, professional degree, address and office hours*
47 *in lettering no larger than 4 inches in height for street-level offices,*
48 *and no larger than 6 inches in height for offices above street-level;*

49 (6) *Communications with or without the name of the licensee*
50 *distributed or mailed to his patients of record at his discretion*.*

51 The board shall not refuse to grant and shall not revoke or
52 suspend the license of any person for any of the foregoing reasons,
53 until after a hearing of the charges against the accused (which shall
54 be public, unless the accused requests a private hearing thereon),
55 and at least 20 days prior written notice to the accused of the
56 charges against him and of the date fixed for such hearing. Such
57 written notice shall be mailed by the United States certified or
58 registered mail to the accused's last known address, but the
59 accused's failure to appear shall not prevent or invalidate such
60 hearing or any action taken by the board thereat.

61 Every action of the board in refusing to issue a license or in
62 suspending or revoking a license pursuant to this section shall be
63 subject to review by appeal to the Superior Court by a proceeding
64 in lieu of prerogative writ.

1 4. This act shall take effect immediately.

STATEMENT

The purpose of this bill is to prohibit podiatrists, doctors of medicine and surgery, chiropractors, and psychologists, from any form of advertising, whether as individuals or through professional service corporations. Any of the above mentioned including dentists and optometrists, who are already prohibited from advertising by R. S. 45:6-7 and R. S. 45:12-11 may have their license suspended, revoked, or be refused a license or renewal by their respective licensing boards for advertising in violation of this act.