

45:9-22.12 to 45:9-22.18

**LEGISLATIVE HISTORY CHECKLIST**  
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(Physicians--charges in excess of  
Medicare limiting fees)

**NJSA:** 45:9-22.12 to 45:9-22.18

**LAWS OF:** 1993 **CHAPTER:** 250

**BILL NO:** A1329

**SPONSOR(S)** Mikulak and others

**DATE INTRODUCED:** April 30, 1992

**COMMITTEE:** **ASSEMBLY:** Senior Citizens  
**SENATE:** Health and Human Services

**AMENDED DURING PASSAGE:** Yes Amendments during passage  
Second reprint enacted denoted by superscript numbers

**DATE OF PASSAGE:** **ASSEMBLY:** February 25, 1993  
**SENATE:** June 21, 1993

**DATE OF APPROVAL:** August 11, 1993

**FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:**

**SPONSOR STATEMENT:** Yes

**COMMITTEE STATEMENT:** **ASSEMBLY:** Yes  
**SENATE:** Yes

**FISCAL NOTE:** No

**VETO MESSAGE:** No

**MESSAGE ON SIGNING:** No

**FOLLOWING WERE PRINTED:**

**REPORTS:** No

**HEARINGS:** No

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[SECOND REPRINT]  
ASSEMBLY, No. 1329

STATE OF NEW JERSEY

INTRODUCED APRIL 30, 1992

By Assemblymen MIKULAK, OROS,  
Assemblywoman Heck and Assemblyman Roma

1 AN ACT concerning the regulation of physicians and  
2 supplementing <sup>2</sup>[Titles 45 and 52] Title 45<sup>2</sup> of the Revised  
3 Statutes.

4

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

7 1. a. A physician licensed pursuant to the provisions of Title  
8 45 of the Revised Statutes who provides medical services to a  
9 beneficiary of the Medicare program established pursuant to  
10 section 1801 of the federal Social Security Act (42 U.S.C. §1395  
11 et seq.) shall prominently display in his office, and include on all  
12 billing statements to Medicare beneficiaries, his policy regarding  
13 the imposition of any charge in excess of the <sup>1</sup>[reasonable charge]  
14 limiting fee<sup>1</sup> for a service as determined by the United States  
15 Secretary of Health and Human Services.

16 b. The physician shall prominently display in his office, and  
17 inform, in writing, the State Board of Medical Examiners <sup>2</sup>[and  
18 the Division on Aging in the Department of Community Affairs] ,  
19 of any changes in his excess charge policy <sup>2</sup>[at least 90 days]<sup>2</sup>  
20 before the imposition of these changes <sup>2</sup>in accordance with  
21 federal regulations<sup>2</sup>.

22 2. a. The State Board of Medical Examiners shall <sup>2</sup>issue a  
23 letter of reprimand for the first and each subsequent offense  
24 against a physician who knowingly and willingly charges a  
25 Medicare beneficiary in a manner not in compliance with the  
26 provisions of P.L. , c. (C. )(now pending before the  
27 Legislature as this bill). The board shall also<sup>2</sup> assess a civil  
28 penalty pursuant to section 12 of P.L.1978, c.73 (C.45:1-25) of up  
29 to \$1,000 for <sup>2</sup>the second and<sup>2</sup> each <sup>2</sup>subsequent<sup>2</sup> offense against  
30 a physician who knowingly and willingly charges a Medicare  
31 beneficiary in a manner not in compliance with the provisions of  
32 P.L. , c. (C. )(now pending before the Legislature as this  
33 bill).

34 b. In addition to any civil penalties the board shall assess, the  
35 board shall order a physician who is not in compliance with this  
36 act to repay the beneficiary the amount of excess payments made  
37 and received, plus interest on that amount at the maximum legal  
38 rate from the date payment was made until the date repayment is  
39 made. <sup>2</sup>[The board may also issue a letter of reprimand to a  
40 physician who is not in compliance with the provisions of P.L. ,  
41 c. (C. )(now pending before the Legislature as this bill).]<sup>2</sup>

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Assembly ASC committee amendments adopted January 11, 1993.

<sup>2</sup> Assembly floor amendments adopted February 18, 1993.

1 3. A physician who treats beneficiaries of the Medicare  
2 program established pursuant to section 1801 of the Social  
3 Security Act (42 U.S.C. §1395 et seq.) shall post a sign in his  
4 office which sets forth the following:

5 a. The physician's policy regarding the imposition of any  
6 charge in excess of the <sup>1</sup>[reasonable charge] limiting fee<sup>1</sup> for a  
7 service as determined by the United States Secretary of Health  
8 and Human Services.

9 b. The <sup>2</sup>[addresses and telephone numbers of the Division on  
10 Aging in the Department of Community Affairs and the county  
11 office on aging in the county in which the physician's office is  
12 located] address and telephone number of the State Board of  
13 Medical Examiners<sup>2</sup>.

14 <sup>1</sup>4. If a physician does not provide services to Medicare  
15 beneficiaries, he shall prominently display in his office an  
16 appropriate notice, and inform, in writing, the State Board of  
17 Medical Examiners <sup>2</sup>[and the Division on Aging in the Department  
18 of Community Affairs]<sup>2, 1</sup>

19 <sup>1</sup>[4.] <sup>5.1</sup> a. The <sup>2</sup>[Director of the Division on Aging] State  
20 Board of Medical Examiners<sup>2</sup> shall establish procedures for  
21 reviewing a physician's billing disclosure statement, and shall  
22 print and distribute the signs which are required to be posted by a  
23 physician who treats beneficiaries of the Medicare program  
24 established pursuant to section 1801 of the Social Security Act  
25 (42 U.S.C. §1395 et seq.) under section 1 of P.L. ,c. (C. )(now  
26 pending before the Legislature as this bill).

27 b. The <sup>2</sup>[director] board<sup>2</sup> shall establish procedures by which a  
28 beneficiary of the Medicare program may initiate a complaint  
29 regarding any incident of noncompliance with the provisions of  
30 P.L. ,c. (C. )(now pending before the Legislature as this  
31 bill) with the <sup>2</sup>[Division on Aging in the Department of  
32 Community Affairs and the county office on aging in the county  
33 in which the physician's office is located] board<sup>2</sup>.

34 <sup>2</sup>[c. The director shall promptly report all patient complaints  
35 relating to overcharges which are received by the division and the  
36 county offices on aging to the State Board of Medical  
37 Examiners.]<sup>2</sup>

38 <sup>1</sup>[5.] <sup>6.1</sup> a. All penalties collected pursuant to P.L. , c.  
39 (C. )(now pending before the Legislature as this bill) shall be  
40 <sup>2</sup>[forwarded to the Department of Community Affairs to be]<sup>2</sup>  
41 deposited in a non-lapsing revolving fund in the <sup>2</sup>[Division on  
42 Aging] State Board of Medical Examiners<sup>2</sup> to be known as the  
43 "Medicare Assignment Compliance Fund." The fund shall be  
44 dedicated for use by the <sup>2</sup>[Director of the Division on Aging]  
45 board<sup>2</sup> to offset any administrative costs incurred by the  
46 <sup>2</sup>[division] board<sup>2</sup> in carrying out the purposes of P.L. c.  
47 (C. )(now pending before the Legislature as this bill). When the  
48 amount in the fund exceeds \$500,000, the excess money shall be  
49 transferred semiannually to the Casino Revenue Fund.

50 b. Within one year after the effective date of this act and  
51 annually thereafter, the <sup>2</sup>[Director of the Division on Aging]  
52 board<sup>2</sup> shall report to the Legislature on the amount collected  
53 and the use of the fund.

54 <sup>1</sup>[6.] <sup>7.1</sup> Pursuant to the "Administrative Procedure Act,"

1 P.L.1968, c.410 (C.52:14B-1 et seq.), the <sup>2</sup>[Director of the  
2 Division on Aging] State Board of Medical Examiners<sup>2</sup> shall adopt  
3 rules and regulations necessary to carry out the purposes of  
4 sections <sup>1</sup>[4 and 5] 5 and 6<sup>1</sup> of this act.

5 <sup>1</sup>[7.] 8.<sup>1</sup> This act shall take effect 60 days after enactment.

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10 Requires physicians who treat Medicare patients to inform their  
11 patients of their Medicare assignment policies.

1 4. a. The Director of the Division on Aging shall establish  
2 procedures for reviewing a physician's billing disclosure  
3 statement, and shall print and distribute the signs which are  
4 required to be posted by a physician who treats beneficiaries of  
5 the Medicare program established pursuant to section 1801 of the  
6 Social Security Act (42 U.S.C. § 1395 et seq.) under section 1 of  
7 P.L. ,c. (C. )(now pending before the Legislature as this bill).

8 b. The director shall establish procedures by which a  
9 beneficiary of the Medicare program may initiate a complaint  
10 regarding any incident of noncompliance with the provisions of  
11 P.L. ,c. (C. )(now pending before the Legislature as this bill)  
12 with the Division on Aging in the Department of Community  
13 Affairs and the county office on aging in the county in which the  
14 physician's office is located.

15 c. The director shall promptly report all patient complaints  
16 relating to overcharges which are received by the division and the  
17 county offices on aging to the State Board of Medical Examiners.

18 5. a. All penalties collected pursuant to P.L. ,c. (C. )(now  
19 pending before the Legislature as this bill) shall be forwarded to  
20 the Department of Community Affairs to be deposited in a  
21 non-lapsing revolving fund in the Division on Aging to be known  
22 as the "Medicare Assignment Compliance Fund." The fund shall  
23 be dedicated for use by the Director of the Division on Aging to  
24 offset any administrative costs incurred by the division in  
25 carrying out the purposes of P.L. c. (C. )(now pending before  
26 the Legislature as this bill). When the amount in the fund  
27 exceeds \$500,000, the excess money shall be transferred  
28 semiannually to the Casino Revenue Fund.

29 b. Within one year after the effective date of this act and  
30 annually thereafter, the Director of the Division on Aging shall  
31 report to the Legislature on the amount collected and the use of  
32 the fund.

33 6. Pursuant to the "Administrative Procedure Act," P.L.1968,  
34 c.410 (C.52:14B-1 et seq.), the Director of the Division on Aging  
35 shall adopt rules and regulations necessary to carry out the  
36 purposes of sections 4 and 5 of this act.

37 7. This act shall take effect 60 days after enactment.

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#### STATEMENT

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42 This bill requires a physician who agrees to treat Medicare  
43 patients to prominently display in his office, and include on all  
44 billing statements to Medicare beneficiaries, his policy regarding  
45 the imposition of any charge in excess of the reasonable charge  
46 for that service as determined by the United States Secretary of  
47 Health and Human Services.

48 The bill directs the physician to prominently display in his  
49 office, and inform, in writing, the State Board of Medical  
50 Examiners and the Division on Aging in the Department of  
51 Community Affairs of any changes in his excess charge policy at  
52 least 90 days before imposition of these changes.

53 The Director of the Division on Aging in the Department of  
54 Community Affairs is authorized to establish procedures by which

1 a beneficiary of the Medicare program may initiate a complaint  
2 regarding any incident of noncompliance with this act by a  
3 physician.

4 Physicians who do not comply with the provisions of the bill  
5 shall be subject to a fine of up to \$1,000 for each offense. The  
6 physician shall also repay the beneficiary the amount of excess  
7 payments made and received, plus interest on that amount at the  
8 maximum legal rate from the date payment was made until the  
9 date repayment is made. The State Board of Medical Examiners  
10 may also issue a letter of reprimand to a physician who is not in  
11 compliance with the provisions of this act.

12 The Director of the Division on Aging will establish procedures  
13 for reviewing a physician's billing disclosure statement, and shall  
14 print and distribute the signs which are required to be posted by a  
15 physician who treats Medicare patients. The director shall  
16 promptly report all patient complaints relating to overcharges  
17 which are received by the division and the county offices on aging  
18 to the State Board of Medical Examiners.

19 The monies collected from the fines shall be deposited in the  
20 "Medicare Assignment Compliance Fund" established by the bill  
21 in the Division on Aging and shall be used to offset any  
22 administrative costs incurred by the division in carrying out the  
23 purposes of this act. When the amount in the fund exceeds  
24 \$500,000, the excess money shall be transferred semiannually to  
25 the Casino Revenue Fund.

26 The Director of the Division on Aging shall annually report to  
27 the Legislature on the amount collected and the use of the fund.

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32 Requires physicians who treat Medicare patients to inform their  
33 patients of their Medicare assignment policies.

ASSEMBLY SENIOR CITIZENS AND  
SOCIAL SERVICES COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 1329**

with committee amendments

**STATE OF NEW JERSEY**

DATED: January 11, 1993

The Assembly Senior Citizens and Social Services Committee favorably reports Assembly Bill No. 1329 with committee amendments.

As amended, this bill requires a physician who agrees to treat Medicare patients to prominently display in his office, and include on all billing statements to Medicare beneficiaries, his policy regarding the imposition of any charge in excess of the limiting fee for that service as determined by the United States Secretary of Health and Human Services.

The bill directs the physician to prominently display in his office, and inform, in writing, the State Board of Medical Examiners and the Division on Aging in the Department of Community Affairs of any changes in his excess charge policy at least 90 days before imposition of these changes.

The Director of the Division on Aging in the Department of Community Affairs is authorized to establish procedures by which a beneficiary of the Medicare program may initiate a complaint regarding any incident of noncompliance with this bill by a physician.

Physicians who do not comply with the provisions of the bill shall be subject to a fine of up to \$1,000 for each offense. The physician shall also repay the beneficiary the amount of excess payments made and received, plus interest on that amount at the maximum legal rate from the date payment was made until the date repayment is made. The State Board of Medical Examiners may also issue a letter of reprimand to a physician who is not in compliance with the provisions of this bill.

The Director of the Division on Aging will establish procedures for reviewing a physician's billing disclosure statement, and shall print and distribute the signs which are required to be posted by a physician who treats Medicare patients. The director shall promptly report all patient complaints relating to overcharges which are received by the division and the county offices on aging to the State Board of Medical Examiners.

The monies collected from the fines shall be deposited in the "Medicare Assignment Compliance Fund" established by the bill in the Division on Aging and shall be used to offset any administrative costs incurred by the division in carrying out the purposes of this bill. When the amount in the fund exceeds \$500,000, the excess money shall be transferred semiannually to the Casino Revenue Fund.

The Director of the Division on Aging shall annually report to the Legislature on the amount collected and the use of the fund.

The amendments require the physician to prominently display a notice in his office, and inform, in writing, the State Board of

Medical Examiners and the Division on Aging in the Department of Community Affairs, if he does not provide services to Medicare beneficiaries. The amendments also change the term "reasonable charge" to "limiting fee."



SENATE HEALTH AND HUMAN SERVICES COMMITTEE

STATEMENT TO

[SECOND REPRINT]

ASSEMBLY, No. 1329

STATE OF NEW JERSEY

DATED: JUNE 14, 1993

The Senate Health and Human Services Committee favorably reports Assembly Bill No. 1329(2R).

This bill requires a physician who agrees to treat Medicare patients to prominently display in his office, and include on all billing statements to Medicare beneficiaries, his policy regarding the imposition of any charge in excess of the limiting fee for that service as determined by the United States Secretary of Health and Human Services.

The bill also directs the physician to prominently display in his office, and inform, in writing, the State Board of Medical Examiners of any changes in his excess charge policy before imposition of these changes. The board will establish procedures for reviewing a physician's billing disclosure statement, and shall print and distribute the signs which are required to be posted by a physician who treats Medicare patients.

If the physician does not provide services to Medicare beneficiaries, he is required to prominently display a notice in his office, and so inform, in writing, the State Board of Medical Examiners.

The State Board of Medical Examiners is directed to establish procedures by which a beneficiary of the Medicare program may initiate a complaint regarding any incident of noncompliance with this bill by a physician. Physicians who knowingly and willingly do not comply with the provisions of the bill shall be issued a letter of reprimand from the board for the first and each subsequent offense and shall be subject to a fine of up to \$1,000 for the second and each subsequent offense. The physician shall also repay the beneficiary the amount of excess payments made and received, plus interest on that amount at the maximum legal rate from the date payment was made until the date repayment is made.

The monies collected from the fines shall be deposited in the "Medicare Assignment Compliance Fund" established by the bill and shall be used to offset any administrative costs incurred by the board in carrying out the purposes of this bill. If the amount in the fund exceeds \$500,000, the excess money shall be transferred semiannually to the Casino Revenue Fund.

The board shall annually report to the Legislature on the amount collected and the use of the fund.

This bill is identical to Senate Bill No. 1556 SCA (Corman), which was also reported favorably by the committee on this date.