

45:9-1

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2011 **CHAPTER:** 22

NJSA: 45:9-1 (Requires Board of Medical Examiners to take certain actions to investigate licensees)

BILL NO: S1795 (Substituted for A2736)

SPONSOR(S) Weinberg and others

DATE INTRODUCED: March 11, 2010

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

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** November 22, 2010
 SENATE: December 20, 2010

DATE OF APPROVAL: February 3, 2011

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (Second reprint enacted)

S1795

SPONSOR'S STATEMENT: (Begins on page 6 of original bill) Yes

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

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

A2736

SPONSOR'S STATEMENT: (Begins on page 6 of original bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes
 SENATE: No

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

(continued)

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

LAW/RWH

P.L.2011, CHAPTER 22, *approved February 3, 2011*
Senate, No. 1795 (*Second Reprint*)

1 AN ACT concerning the Board of Medical Examiners and amending
2 R.S.45:9-1, P.L.1989, c.300, P.L.1995, c.69, and supplementing
3 Title 45 of the Revised Statutes.

4

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

7

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

9 45:9-1. The State Board of Medical Examiners, hereinafter in
10 this chapter designated as the “board” shall consist of 21 members,
11 one of whom shall be the Commissioner of Health and Senior
12 Services, or his designee, three of whom shall be public members
13 and one an executive department designee as required pursuant to
14 section 2 of P.L.1971, c.60 (C.45:1-2.2), and 16 of whom shall be
15 persons of recognized professional ability and honor, and shall
16 possess a license to practice their respective professions in New
17 Jersey, and all of whom shall be appointed by the Governor in
18 accordance with the provisions of section 2 of P.L.1971, c.60
19 (C.45:1-2.2); provided, however, that said board shall consist of 12
20 graduates of schools of medicine or osteopathic medicine who shall
21 possess the degree of M.D. or D.O.¹ **[, at least one of whom shall be**
22 **a pediatrician]**¹. The number of osteopathic physicians on the board
23 shall be a minimum of, but not limited to, two members. In
24 addition the membership of said board shall comprise: one podiatric
25 physician who does not possess a license to practice in any other
26 health care profession regulated under Title 45 of the Revised
27 Statutes; one physician assistant; one certified nurse midwife; and
28 one licensed bio-analytical laboratory director, who may or may not
29 be the holder of a degree of M.D. The term of office of members of
30 the board hereafter appointed shall be three years or until their
31 successors are appointed. A member is eligible for reappointment
32 for one additional term of office, but no member shall serve more
33 than two consecutive terms of office. Said appointees shall, within
34 30 days after receipt of their respective commissions, take and
35 subscribe the oath or affirmation prescribed by law and file the
36 same in the office of the Secretary of State.

37 The Governor shall also appoint an advisory committee to
38 consist of four licensed bio-analytical laboratory directors, only two
39 of whom shall possess the degree of M.D. or D.O., and who shall be

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SHH committee amendments adopted March 18, 2010.

²Assembly AHE committee amendments adopted November 8, 2010.

1 appointed from a list to be submitted by the society or organization
2 of which the persons nominated are members. The members of this
3 advisory committee shall serve for a term of three years and until
4 their successors are appointed and qualified, and shall be available
5 to assist the board in the administration of the “Bio-analytical
6 Laboratory and Laboratory Directors Act (1953),” P.L.1953, c.420
7 (C.45:9-42.1 et al.). The advisory committee shall meet at the call
8 of the board. The board may authorize reimbursement of the
9 members of the advisory committee for their actual expenses
10 incurred in connection with the performance of their duties as
11 members of the committee.

12 (cf: P.L.2009, c.234, s.1)

13

14 2. (New section) ¹[a. The physician members serving on the
15 effective date of P.L. , c. (pending before the Legislature as this
16 bill) shall continue to serve until the expiration of their respective
17 terms, and if no physician member on the effective date of this act
18 is a pediatrician, the appointment of a pediatrician shall be made
19 upon the expiration of a physician member’s term.

20 b.]¹ The limitation on serving no more than two consecutive
21 terms pursuant to R.S.45:9-1 shall apply to any member newly
22 appointed after the effective date of P.L. , c. (pending before the
23 Legislature as this bill), and in the case of any member serving on
24 the effective date of P.L. , c. (pending before the Legislature as
25 this bill), the member shall be limited to two additional consecutive
26 terms.

27

28 3. Section 9 of P.L.1989, c.300 (C.45:9-19.9) is amended to read
29 as follows:

30 9. a. The review panel shall receive:

31 (1) Notice from a health care entity, provided through the
32 Division of Consumer Affairs in the Department of Law and Public
33 Safety, pursuant to section 2 of P.L.2005, c.83 (C.26:2H-12.2b);

34 (2) Notice from an insurer or insurance association or a
35 practitioner, pursuant to section 2 of P.L.1983, c.247 (C.17:30D-
36 17), regarding a medical malpractice claim settlement, judgment or
37 arbitration award or a termination or denial of, or surcharge on, the
38 medical malpractice liability insurance coverage of a practitioner;
39 and

40 b. The review panel may receive referrals from the board which
41 may include complaints alleging professional misconduct,
42 incompetence, negligence or impairment of a practitioner from
43 other health care providers and consumers of health care.

44 c. Upon receipt of a notice or complaint pursuant to this section,
45 the review panel shall **[promptly]** investigate the information
46 received **[and]**, obtain any additional information that may be
47 necessary in order to make a recommendation to the board, and
48 make that recommendation within 90 days after receipt of the

1 '[complaint] referral, except that the 90-day period shall be tolled,
2 whenever additional time is required: to obtain information,
3 records, or evidence sought pursuant to this section that is necessary
4 for the review panel to make its recommendation; for the review
5 panel to consider additional information furnished more than 30
6 days after receipt of the referral; for expert consultation related to
7 the subject matter under investigation; or for other good cause
8 shown due to extraordinary or unforeseen circumstances.' In the
9 event that the '[review panel requires additional time due to
10 extenuating circumstances, it] 90-day period is tolled, the review
11 panel' shall so notify the board, indicating the reason and the
12 amount of additional time required to make its recommendation. A
13 copy of the notice shall be transmitted to the Attorney General and
14 the '[complainant] referring entity'. Nothing in this subsection
15 shall be construed to limit or otherwise impair the authority of the
16 board to take any action against a licensee or applicant for a license,
17 or of the review panel to make a recommendation. The review
18 panel may seek the assistance of a consultant or other
19 knowledgeable person, as necessary, in making its recommendation.
20 The review panel may request the board or the Attorney General to
21 exercise investigative powers pursuant to section 5 of P.L.1978,
22 c.73 (C.45:1-18) in the conduct of its investigation.

23 (1) If the review panel has reasonable cause to believe that a
24 practitioner represents an imminent danger to his patients, the
25 review panel shall immediately notify the State Board of Medical
26 Examiners and the Attorney General and recommend the initiation
27 of an application before the board to temporarily suspend or
28 otherwise limit the practitioner's license pending further
29 proceedings by the review panel or the board.

30 If the board temporarily suspends or otherwise limits the license,
31 the board shall notify each health care entity with which the
32 practitioner is affiliated and every practitioner in the State with
33 which the practitioner is directly associated in his private practice.

34 (2) A practitioner who is the subject of an investigation shall be
35 promptly notified of the investigation, pursuant to procedures
36 adopted by regulation of the board that give consideration to the
37 health, safety and welfare of the practitioner's patients and to the
38 necessity for a confidential or covert investigation by the review
39 panel. At the panel's request or upon a good cause showing by the
40 practitioner an informal hearing shall be scheduled before the
41 review panel or a subcommittee of at least three review panel
42 members, in accordance with regulations adopted by the board. The
43 hearing shall be transcribed and the practitioner shall be entitled to
44 a copy of the transcript, at his own expense. A practitioner who
45 presents information to the review panel is entitled to be
46 represented by counsel.

1 (3) Notwithstanding any provision of this section to the
2 contrary, in any case in which the board determines to conduct an
3 investigation of a practitioner who it has reasonable cause to believe
4 represents an imminent danger to his patients, the board may direct
5 the review panel to provide the board with its files pertaining to that
6 practitioner and may direct the review panel to promptly terminate
7 its investigation of that practitioner without making a
8 recommendation pursuant to subsection d. of this section.

9 Upon request of the review panel, the State Board of Medical
10 Examiners shall provide the review panel with any information
11 contained in the board's files concerning a practitioner.

12 d. Upon completion of its review, the review panel shall prepare
13 a report recommending one of the following dispositions:

14 (1) Recommend to the State Board of Medical Examiners that
15 the matter be referred to the Attorney General for the initiation of
16 disciplinary action against the practitioner who is the subject of the
17 notice or complaint, pursuant to section 8 or 9 of P.L.1978, c.73
18 (C.45:1-21 or 45:1-22);

19 (2) Defer making a recommendation to the board pending the
20 outcome of litigation or a health care entity disciplinary proceeding,
21 if there is no evidence that the practitioner's professional conduct
22 may jeopardize or improperly risk the health, safety or life of a
23 patient;

24 (3) Refer the practitioner to the appropriate licensed health care
25 practitioner treatment program recognized by the State Board of
26 Medical Examiners and promptly notify the medical director of the
27 board of the referral;

28 (4) Refer the practitioner to the appropriate focused education
29 program recognized by the State Board of Medical Examiners and
30 promptly notify the educational director of the board of the referral;
31 or

32 (5) Find that no further action is warranted at this time.

33 e. A member of the State Board of Medical Examiners shall not
34 participate by voting or any other action in any matter before the
35 board on which the board member has participated previously as a
36 review panel member.

37 f. The State Board of Medical Examiners may affirm, reject or
38 modify any disposition of the review panel. After its consideration
39 of the panel recommendation the board shall notify the practitioner
40 who has been the subject of a notice or complaint of the review
41 panel's recommendation and the board's determination.

42 g. Nothing in this section shall be construed to prevent or limit
43 the State Board of Medical Examiners, the Director of the Division
44 of Consumer Affairs in the Department of Law and Public Safety or
45 the Attorney General from taking any other action permitted by law
46 against a practitioner who is the subject of an investigation by the
47 review panel.

1 h. For the purposes of this section, "practitioner" means a person
2 licensed to practice: medicine and surgery under chapter 9 of Title
3 45 of the Revised Statutes or a medical resident or intern; or
4 podiatric medicine under chapter 5 of Title 45 of the Revised
5 Statutes.

6 i. As used in this section, "focused education program" means
7 an individualized and systematic process to assess the educational
8 needs of a licensee based on scientific analysis, technical skill and
9 interpersonal evaluation as they relate to the licensee's professional
10 practice, and the institution of remedial education and any
11 supervision, monitoring or limitations of the licensee.

12 (cf: P.L.2005, c.259, s.14)

13

14 4. Section 1 of P.L.1995, c.69 (C.45:9-19.16) is amended to
15 read as follows:

16 1. a. A physician licensed by the State Board of Medical
17 Examiners, or a physician who is an applicant for a license from the
18 State Board of Medical Examiners, shall notify the board within 10
19 days of:

20 (1) any action taken against the physician's medical license by
21 any other state licensing board or any action affecting the
22 physician's privileges to practice medicine by any out-of-State
23 hospital, health care facility, health maintenance organization or
24 other employer;

25 (2) any pending or final action by any criminal authority for
26 violations of law or regulation, or any arrest or conviction for any
27 criminal or quasi-criminal offense pursuant to the laws of the
28 United States, this State or another state, including, but not limited
29 to:

30 (a) criminal homicide pursuant to N.J.S.2C:11-2;

31 (b) aggravated assault pursuant to N.J.S.2C:12-1;

32 (c) sexual assault, criminal sexual contact or lewdness pursuant
33 to N.J.S.2C:14-2 through 2C:14-4; or

34 (d) an offense involving any controlled dangerous substance or
35 controlled substance analog as set forth in chapter 35 of Title 2C of
36 the New Jersey Statutes.

37 b. A physician who is in violation of this section is subject to
38 disciplinary action and civil penalties pursuant to sections 8, 9 and
39 12 of P.L.1978, c.73 (C.45:1-21 to 22 and 45:1-25).

40 c. The State Board of Medical Examiners shall notify all
41 physicians licensed by the board of the requirements of this section
42 within 30 days of the date of enactment of this act.

43 d. Upon receipt of notification from a physician pursuant to
44 this section, the State Board of Medical Examiners shall, within 60
45 days, investigate the information received and obtain any additional
46 information that may be necessary in order to make a determination
47 whether to initiate disciplinary action against the physician.
48 Nothing in this subsection shall be construed to limit or otherwise

1 impair the authority of the board to take any action against a
2 licensee or applicant for a license.

3 (cf: P.L.2004, c.17, s.11)

4

5 5. This act shall take effect immediately.

6

7

8

9

10 Requires Board of Medical Examiners to take certain actions to
11 investigate licensees.

SENATE, No. 1795

STATE OF NEW JERSEY
214th LEGISLATURE

INTRODUCED MARCH 11, 2010

Sponsored by:
Senator LORETTA WEINBERG
District 37 (Bergen)

SYNOPSIS

Specifies pediatrician on Board of Medical Examiners and requires board to take certain actions to investigate licensees.

CURRENT VERSION OF TEXT

As introduced.



S1795 WEINBERG

2

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3 Title 45 of the Revised Statutes.

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

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

9 45:9-1. The State Board of Medical Examiners, hereinafter in
10 this chapter designated as the “board” shall consist of 21 members,
11 one of whom shall be the Commissioner of Health and Senior
12 Services, or his designee, three of whom shall be public members
13 and one an executive department designee as required pursuant to
14 section 2 of P.L.1971, c.60 (C.45:1-2.2), and 16 of whom shall be
15 persons of recognized professional ability and honor, and shall
16 possess a license to practice their respective professions in New
17 Jersey, and all of whom shall be appointed by the Governor in
18 accordance with the provisions of section 2 of P.L.1971, c.60
19 (C.45:1-2.2); provided, however, that said board shall consist of 12
20 graduates of schools of medicine or osteopathic medicine who shall
21 possess the degree of M.D. or D.O., at least one of whom shall be a
22 pediatrician. The number of osteopathic physicians on the board
23 shall be a minimum of, but not limited to, two members. In
24 addition the membership of said board shall comprise: one podiatric
25 physician who does not possess a license to practice in any other
26 health care profession regulated under Title 45 of the Revised
27 Statutes; one physician assistant; one certified nurse midwife; and
28 one licensed bio-analytical laboratory director, who may or may not
29 be the holder of a degree of M.D. The term of office of members of
30 the board hereafter appointed shall be three years or until their
31 successors are appointed. A member is eligible for reappointment
32 for one additional term of office, but no member shall serve more
33 than two consecutive terms of office. Said appointees shall, within
34 30 days after receipt of their respective commissions, take and
35 subscribe the oath or affirmation prescribed by law and file the
36 same in the office of the Secretary of State.

37 The Governor shall also appoint an advisory committee to
38 consist of four licensed bio-analytical laboratory directors, only two
39 of whom shall possess the degree of M.D. or D.O., and who shall be
40 appointed from a list to be submitted by the society or organization
41 of which the persons nominated are members. The members of this
42 advisory committee shall serve for a term of three years and until
43 their successors are appointed and qualified, and shall be available
44 to assist the board in the administration of the “Bio-analytical
45 Laboratory and Laboratory Directors Act (1953),” P.L.1953, c.420

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.

S1795 WEINBERG

1 (C.45:9-42.1 et al.). The advisory committee shall meet at the call
2 of the board. The board may authorize reimbursement of the
3 members of the advisory committee for their actual expenses
4 incurred in connection with the performance of their duties as
5 members of the committee.

6 (cf: P.L.2009, c.234, s.1)

7

8 2. (New section) a. The physician members serving on the
9 effective date of P.L. , c. (pending before the Legislature as this
10 bill) shall continue to serve until the expiration of their respective
11 terms, and if no physician member on the effective date of this act
12 is a pediatrician, the appointment of a pediatrician shall be made
13 upon the expiration of a physician member's term.

14 b. The limitation on serving no more than two consecutive terms
15 pursuant to R.S.45:9-1 shall apply to any member newly appointed
16 after the effective date of P.L. , c. (pending before the Legislature
17 as this bill), and in the case of any member serving on the effective
18 date of P.L. , c. (pending before the Legislature as this bill), the
19 member shall be limited to two additional consecutive terms.

20

21 3. Section 9 of P.L.1989, c.300 (C.45:9-19.9) is amended to
22 read as follows:

23 9. a. The review panel shall receive:

24 (1) Notice from a health care entity, provided through the
25 Division of Consumer Affairs in the Department of Law and Public
26 Safety, pursuant to section 2 of P.L.2005, c.83 (C.26:2H-12.2b);

27 (2) Notice from an insurer or insurance association or a
28 practitioner, pursuant to section 2 of P.L.1983, c.247 (C.17:30D-
29 17), regarding a medical malpractice claim settlement, judgment or
30 arbitration award or a termination or denial of, or surcharge on, the
31 medical malpractice liability insurance coverage of a practitioner;
32 and

33 b. The review panel may receive referrals from the board which
34 may include complaints alleging professional misconduct,
35 incompetence, negligence or impairment of a practitioner from
36 other health care providers and consumers of health care.

37 c. Upon receipt of a notice or complaint pursuant to this
38 section, the review panel shall **【promptly】** investigate the
39 information received **【and】** , obtain any additional information that
40 may be necessary in order to make a recommendation to the board,
41 and make that recommendation within 90 days after receipt of the
42 complaint. In the event that the review panel requires additional
43 time due to extenuating circumstances, it shall so notify the board,
44 indicating the reason and the amount of additional time required to
45 make its recommendation. A copy of the notice shall be transmitted
46 to the Attorney General and the complainant. Nothing in this
47 subsection shall be construed to limit or otherwise impair the
48 authority of the board to take any action against a licensee or

1 applicant for a license, or of the review panel to make a
2 recommendation. The review panel may seek the assistance of a
3 consultant or other knowledgeable person, as necessary, in making
4 its recommendation. The review panel may request the board or the
5 Attorney General to exercise investigative powers pursuant to
6 section 5 of P.L.1978, c.73 (C.45:1-18) in the conduct of its
7 investigation.

8 (1) If the review panel has reasonable cause to believe that a
9 practitioner represents an imminent danger to his patients, the
10 review panel shall immediately notify the State Board of Medical
11 Examiners and the Attorney General and recommend the initiation
12 of an application before the board to temporarily suspend or
13 otherwise limit the practitioner's license pending further
14 proceedings by the review panel or the board.

15 If the board temporarily suspends or otherwise limits the license,
16 the board shall notify each health care entity with which the
17 practitioner is affiliated and every practitioner in the State with
18 which the practitioner is directly associated in his private practice.

19 (2) A practitioner who is the subject of an investigation shall be
20 promptly notified of the investigation, pursuant to procedures
21 adopted by regulation of the board that give consideration to the
22 health, safety and welfare of the practitioner's patients and to the
23 necessity for a confidential or covert investigation by the review
24 panel. At the panel's request or upon a good cause showing by the
25 practitioner an informal hearing shall be scheduled before the
26 review panel or a subcommittee of at least three review panel
27 members, in accordance with regulations adopted by the board. The
28 hearing shall be transcribed and the practitioner shall be entitled to
29 a copy of the transcript, at his own expense. A practitioner who
30 presents information to the review panel is entitled to be
31 represented by counsel.

32 (3) Notwithstanding any provision of this section to the
33 contrary, in any case in which the board determines to conduct an
34 investigation of a practitioner who it has reasonable cause to believe
35 represents an imminent danger to his patients, the board may direct
36 the review panel to provide the board with its files pertaining to that
37 practitioner and may direct the review panel to promptly terminate
38 its investigation of that practitioner without making a
39 recommendation pursuant to subsection d. of this section.

40 Upon request of the review panel, the State Board of Medical
41 Examiners shall provide the review panel with any information
42 contained in the board's files concerning a practitioner.

43 d. Upon completion of its review, the review panel shall
44 prepare a report recommending one of the following dispositions:

45 (1) Recommend to the State Board of Medical Examiners that
46 the matter be referred to the Attorney General for the initiation of
47 disciplinary action against the practitioner who is the subject of the

1 notice or complaint, pursuant to section 8 or 9 of P.L.1978, c.73
2 (C.45:1-21 or 45:1-22);

3 (2) Defer making a recommendation to the board pending the
4 outcome of litigation or a health care entity disciplinary proceeding,
5 if there is no evidence that the practitioner's professional conduct
6 may jeopardize or improperly risk the health, safety or life of a
7 patient;

8 (3) Refer the practitioner to the appropriate licensed health care
9 practitioner treatment program recognized by the State Board of
10 Medical Examiners and promptly notify the medical director of the
11 board of the referral;

12 (4) Refer the practitioner to the appropriate focused education
13 program recognized by the State Board of Medical Examiners and
14 promptly notify the educational director of the board of the referral;
15 or

16 (5) Find that no further action is warranted at this time.

17 e. A member of the State Board of Medical Examiners shall
18 not participate by voting or any other action in any matter before
19 the board on which the board member has participated previously as
20 a review panel member.

21 f. The State Board of Medical Examiners may affirm, reject or
22 modify any disposition of the review panel. After its consideration
23 of the panel recommendation the board shall notify the practitioner
24 who has been the subject of a notice or complaint of the review
25 panel's recommendation and the board's determination.

26 g. Nothing in this section shall be construed to prevent or limit
27 the State Board of Medical Examiners, the Director of the Division
28 of Consumer Affairs in the Department of Law and Public Safety or
29 the Attorney General from taking any other action permitted by law
30 against a practitioner who is the subject of an investigation by the
31 review panel.

32 h. For the purposes of this section, "practitioner" means a
33 person licensed to practice: medicine and surgery under chapter 9
34 of Title 45 of the Revised Statutes or a medical resident or intern; or
35 podiatric medicine under chapter 5 of Title 45 of the Revised
36 Statutes.

37 i. As used in this section, "focused education program" means
38 an individualized and systematic process to assess the educational
39 needs of a licensee based on scientific analysis, technical skill and
40 interpersonal evaluation as they relate to the licensee's professional
41 practice, and the institution of remedial education and any
42 supervision, monitoring or limitations of the licensee.

43 (cf: P.L.2005, c.259, s.14)

44

45 4. Section 1 of P.L.1995, c.69 (C.45:9-19.16) is amended to
46 read as follows:

47 1. a. A physician licensed by the State Board of Medical
48 Examiners, or a physician who is an applicant for a license from the

1 State Board of Medical Examiners, shall notify the board within 10
2 days of:

3 (1) any action taken against the physician's medical license by
4 any other state licensing board or any action affecting the
5 physician's privileges to practice medicine by any out-of-State
6 hospital, health care facility, health maintenance organization or
7 other employer;

8 (2) any pending or final action by any criminal authority for
9 violations of law or regulation, or any arrest or conviction for any
10 criminal or quasi-criminal offense pursuant to the laws of the
11 United States, this State or another state, including, but not limited
12 to:

13 (a) criminal homicide pursuant to N.J.S.2C:11-2;

14 (b) aggravated assault pursuant to N.J.S.2C:12-1;

15 (c) sexual assault, criminal sexual contact or lewdness pursuant
16 to N.J.S.2C:14-2 through 2C:14-4; or

17 (d) an offense involving any controlled dangerous substance or
18 controlled substance analog as set forth in chapter 35 of Title 2C of
19 the New Jersey Statutes.

20 b. A physician who is in violation of this section is subject to
21 disciplinary action and civil penalties pursuant to sections 8, 9 and
22 12 of P.L.1978, c.73 (C.45:1-21 to 22 and 45:1-25).

23 c. The State Board of Medical Examiners shall notify all
24 physicians licensed by the board of the requirements of this section
25 within 30 days of the date of enactment of this act.

26 d. Upon receipt of notification from a physician pursuant to
27 this section, the State Board of Medical Examiners shall, within 60
28 days, investigate the information received and obtain any additional
29 information that may be necessary in order to make a determination
30 whether to initiate disciplinary action against the physician.
31 Nothing in this subsection shall be construed to limit or otherwise
32 impair the authority of the board to take any action against a
33 licensee or applicant for a license.

34 (cf: P.L.2004, c.17, s.11)

35

36 5. This act shall take effect immediately.

37

38

39

STATEMENT

40

41 This bill makes various changes to the membership and duties of
42 the State Board of Medical Examiners (BME).

43 Specifically, the bill requires that:

44 • At least one of the 12 physician members of the BME shall be a
45 pediatrician.

46 • A member of the BME is eligible for reappointment for one
47 additional term of office, but no member shall serve more than
48 two consecutive terms of office. This limitation shall apply to

- 1 any member newly appointed after the effective date of the bill,
2 and any member serving on the effective date of the bill shall be
3 limited to two additional consecutive terms.
- 4 • To ensure that the BME takes timely disciplinary action to protect
5 the public, when appropriate, the Medical Practitioner Review
6 Panel of the BME shall investigate notices or complaints it
7 receives from health care facilities and health maintenance
8 organizations regarding a licensee in order to make a
9 recommendation to the BME, and to make its recommendation
10 within 90 days after receipt of the complaint, rather than to
11 investigate “promptly,” as the law currently provides. If the
12 review panel requires additional time due to extenuating
13 circumstances, it shall so notify the board, indicating the reason
14 and the amount of additional time required to make its
15 recommendation, and transmit a copy of the notice to the
16 Attorney General and the complainant. The bill also provides
17 that nothing respecting this time-frame is to be construed to limit
18 or otherwise impair the BME’s authority to take any action
19 against a licensee or applicant for a license, or the review panel’s
20 authority to make a recommendation.
 - 21 • Within 60 days upon receipt of notification from a physician of
22 any action taken against the physician's medical license by any
23 other state licensing board or any action affecting the physician’s
24 privileges to practice medicine by any out-of-State hospital,
25 health care facility, health maintenance organization or other
26 employer, the BME shall investigate the information received and
27 obtain any additional information that may be necessary in order
28 to make a determination whether to initiate disciplinary action
29 against the physician. The bill also provides that nothing
30 respecting this time-frame is to be construed to limit or otherwise
31 impair the BME’s authority to take any action against a licensee.

SENATE HEALTH, HUMAN SERVICES AND SENIOR
CITIZENS COMMITTEE

STATEMENT TO

SENATE, No. 1795

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 18, 2010

The Senate Health, Human Services and Senior Citizens Committee reports favorably and with amendments Senate Bill No. 1795.

As amended by the committee, this bill makes various changes to the membership terms and duties of the State Board of Medical Examiners (BME).

Specifically, the bill requires that:

- A member of the BME is eligible for reappointment for one additional term of office, but no member shall serve more than two consecutive terms. This limitation shall apply to any member newly appointed after the effective date of the bill, and any member serving on the effective date of the bill shall be limited to two additional consecutive terms.
- To ensure that the BME takes timely disciplinary action to protect the public, the BME's Medical Practitioner Review Panel shall investigate notices or complaints it receives from health care facilities and health maintenance organizations regarding a licensee in order to make a recommendation to the BME, and make its recommendation within 90 days after receipt of the complaint, rather than investigate "promptly," as the law currently provides. If the review panel requires additional time due to extenuating circumstances, it shall so notify the BME, indicating the reason and amount of additional time required to make its recommendation, and transmit a copy of the notice to the Attorney General and the complainant. The bill also clarifies that this time-frame is not to be construed to limit or otherwise impair the BME's authority to take any action against a licensee or applicant for a license, or the review panel's authority to make a recommendation.
- Within 60 days upon receipt of notification from a physician of any action taken against the physician's medical license by any other state licensing board or any action affecting the physician's privileges to practice medicine by any out-of-State hospital, health care facility, health maintenance organization or other employer, the

BME shall investigate the information received and obtain any additional information that may be necessary in order to make a determination whether to initiate disciplinary action against the physician. The bill also provides that this time-frame is not to be construed to limit or otherwise impair the BME's authority to take any action against a licensee.

The committee amended the bill to delete the provision that would have required that at least one BME member be a pediatrician.

ASSEMBLY HEALTH AND SENIOR SERVICES COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 1795

with committee amendments

STATE OF NEW JERSEY

DATED: NOVEMBER 8, 2010

The Assembly Health and Senior Services Committee reports favorably and with committee amendments Senate Bill No. 1795 (1R).

As amended by the committee, this bill makes various changes to the membership terms and duties of the State Board of Medical Examiners (BME).

Specifically, the bill requires that:

- A member of the BME is eligible for reappointment for one additional term of office, but no member is to serve more than two consecutive terms. This limitation will apply to any member newly appointed after the effective date of this bill, and any member serving on the effective date of this bill will be limited to two additional consecutive terms.
- The Medical Practitioner Review Panel, established by the BME pursuant to section 8 of P.L.1989, c.300 (C.45:9-19.8), is to investigate referrals (notices or complaints) that it receives from health care facilities and health maintenance organizations regarding a licensee in order to make a recommendation to the BME, and make its recommendation within 90 days after receipt of the referral, rather than investigate “promptly,” as the law currently provides.
- The 90-day period is to be tolled, whenever additional time is required: to obtain information, records, or evidence sought pursuant to section 9 of P.L.1989, c.300 (C.45:9-19.9) that is necessary for the review panel to make its recommendation; for the review panel to consider additional information furnished more than 30 days after receipt of the referral; for expert consultation related to the subject matter under investigation; or for other good cause shown due to extraordinary or unforeseen circumstances.
- If the 90-day period is tolled, the review panel is to so notify the BME, indicating the reason and amount of additional time required to make its recommendation, and transmit a copy of the notice to the Attorney General and the referring entity. This time frame is not to be construed to limit or otherwise impair the authority of the BME

to take any action against a licensee or applicant for a license, or the authority of the review panel to make a recommendation.

- Upon receipt of notification from a physician of any action taken against the physician's medical license by any other state licensing board or any action affecting the physician's privileges to practice medicine by any out-of-State hospital, health care facility, health maintenance organization or other employer, the BME, within 60 days, is to investigate the information received and obtain any additional information that may be necessary in order to make a determination whether to initiate disciplinary action against the physician. This time frame is not to be construed to limit or otherwise impair the authority of the BME to take any action against a licensee.

As reported by the committee, this bill is identical to Assembly Bill No. 2736 ACA (Johnson), which the committee also reported on this date.

COMMITTEE AMENDMENTS

The committee amendments to the bill provide that the 90-day period (in which the Medical Practitioner Review Panel is to make its recommendation to the BME concerning referrals regarding a licensee) is to be tolled, whenever additional time is required: to obtain information, records, or evidence sought pursuant to section 9 of P.L.1989, c.300 (C.45:9-19.9) that is necessary for the review panel to make its recommendation; for the review panel to consider additional information furnished more than 30 days after receipt of the referral; for expert consultation related to the subject matter under investigation; or for other good cause shown due to extraordinary or unforeseen circumstances.

ASSEMBLY, No. 2736

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED MAY 13, 2010

Sponsored by:

Assemblyman GORDON M. JOHNSON

District 37 (Bergen)

SYNOPSIS

Requires Board of Medical Examiners to take certain actions to investigate licensees.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the Board of Medical Examiners and amending
2 R.S.45:9-1, P.L.1989, c.300, P.L.1995, c.69, and supplementing
3 Title 45 of the Revised Statutes.

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

7
8 1. R.S.45:9-1 is amended to read as follows:

9 45:9-1. The State Board of Medical Examiners, hereinafter in
10 this chapter designated as the “board” shall consist of 21 members,
11 one of whom shall be the Commissioner of Health and Senior
12 Services, or his designee, three of whom shall be public members
13 and one an executive department designee as required pursuant to
14 section 2 of P.L.1971, c.60 (C.45:1-2.2), and 16 of whom shall be
15 persons of recognized professional ability and honor, and shall
16 possess a license to practice their respective professions in New
17 Jersey, and all of whom shall be appointed by the Governor in
18 accordance with the provisions of section 2 of P.L.1971, c.60
19 (C.45:1-2.2); provided, however, that said board shall consist of 12
20 graduates of schools of medicine or osteopathic medicine who shall
21 possess the degree of M.D. or D.O. The number of osteopathic
22 physicians on the board shall be a minimum of, but not limited to,
23 two members. In addition the membership of said board shall
24 comprise: one podiatric physician who does not possess a license to
25 practice in any other health care profession regulated under Title 45
26 of the Revised Statutes; one physician assistant; one certified nurse
27 midwife; and one licensed bio-analytical laboratory director, who
28 may or may not be the holder of a degree of M.D. The term of
29 office of members of the board hereafter appointed shall be three
30 years or until their successors are appointed. A member is eligible
31 for reappointment for one additional term of office, but no member
32 shall serve more than two consecutive terms of office. Said
33 appointees shall, within 30 days after receipt of their respective
34 commissions, take and subscribe the oath or affirmation prescribed
35 by law and file the same in the office of the Secretary of State.

36 The Governor shall also appoint an advisory committee to
37 consist of four licensed bio-analytical laboratory directors, only two
38 of whom shall possess the degree of M.D. or D.O., and who shall be
39 appointed from a list to be submitted by the society or organization
40 of which the persons nominated are members. The members of this
41 advisory committee shall serve for a term of three years and until
42 their successors are appointed and qualified, and shall be available
43 to assist the board in the administration of the “Bio-analytical
44 Laboratory and Laboratory Directors Act (1953),” P.L.1953, c.420
45 (C.45:9-42.1 et al.). The advisory committee shall meet at the call

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.

1 of the board. The board may authorize reimbursement of the
2 members of the advisory committee for their actual expenses
3 incurred in connection with the performance of their duties as
4 members of the committee.

5 (cf: P.L.2009, c.234, s.1)

6
7 2. (New section) The limitation on serving no more than two
8 consecutive terms pursuant to R.S.45:9-1 shall apply to any member
9 newly appointed after the effective date of P.L. , c. (pending
10 before the Legislature as this bill), and in the case of any member
11 serving on the effective date of P.L. , c. (pending before the
12 Legislature as this bill), the member shall be limited to two
13 additional consecutive terms.

14
15 3. Section 9 of P.L.1989, c.300 (C.45:9-19.9) is amended to
16 read as follows:

17 9. a. The review panel shall receive:

18 (1) Notice from a health care entity, provided through the
19 Division of Consumer Affairs in the Department of Law and Public
20 Safety, pursuant to section 2 of P.L.2005, c.83 (C.26:2H-12.2b);

21 (2) Notice from an insurer or insurance association or a
22 practitioner, pursuant to section 2 of P.L.1983, c.247 (C.17:30D-
23 17), regarding a medical malpractice claim settlement, judgment or
24 arbitration award or a termination or denial of, or surcharge on, the
25 medical malpractice liability insurance coverage of a practitioner;
26 and

27 b. The review panel may receive referrals from the board which
28 may include complaints alleging professional misconduct,
29 incompetence, negligence or impairment of a practitioner from
30 other health care providers and consumers of health care.

31 c. Upon receipt of a notice or complaint pursuant to this
32 section, the review panel shall **[promptly]** investigate the
33 information received **[and]**, obtain any additional information that
34 may be necessary in order to make a recommendation to the board,
35 and make that recommendation within 90 days after receipt of the
36 complaint. In the event that the review panel requires additional
37 time due to extenuating circumstances, it shall so notify the board,
38 indicating the reason and the amount of additional time required to
39 make its recommendation. A copy of the notice shall be transmitted
40 to the Attorney General and the complainant. Nothing in this
41 subsection shall be construed to limit or otherwise impair the
42 authority of the board to take any action against a licensee or
43 applicant for a license, or of the review panel to make a
44 recommendation. The review panel may seek the assistance of a
45 consultant or other knowledgeable person, as necessary, in making
46 its recommendation. The review panel may request the board or the
47 Attorney General to exercise investigative powers pursuant to

1 section 5 of P.L.1978, c.73 (C.45:1-18) in the conduct of its
2 investigation.

3 (1) If the review panel has reasonable cause to believe that a
4 practitioner represents an imminent danger to his patients, the
5 review panel shall immediately notify the State Board of Medical
6 Examiners and the Attorney General and recommend the initiation
7 of an application before the board to temporarily suspend or
8 otherwise limit the practitioner's license pending further
9 proceedings by the review panel or the board.

10 If the board temporarily suspends or otherwise limits the license,
11 the board shall notify each health care entity with which the
12 practitioner is affiliated and every practitioner in the State with
13 which the practitioner is directly associated in his private practice.

14 (2) A practitioner who is the subject of an investigation shall be
15 promptly notified of the investigation, pursuant to procedures
16 adopted by regulation of the board that give consideration to the
17 health, safety and welfare of the practitioner's patients and to the
18 necessity for a confidential or covert investigation by the review
19 panel. At the panel's request or upon a good cause showing by the
20 practitioner an informal hearing shall be scheduled before the
21 review panel or a subcommittee of at least three review panel
22 members, in accordance with regulations adopted by the board. The
23 hearing shall be transcribed and the practitioner shall be entitled to
24 a copy of the transcript, at his own expense. A practitioner who
25 presents information to the review panel is entitled to be
26 represented by counsel.

27 (3) Notwithstanding any provision of this section to the
28 contrary, in any case in which the board determines to conduct an
29 investigation of a practitioner who it has reasonable cause to believe
30 represents an imminent danger to his patients, the board may direct
31 the review panel to provide the board with its files pertaining to that
32 practitioner and may direct the review panel to promptly terminate
33 its investigation of that practitioner without making a
34 recommendation pursuant to subsection d. of this section.

35 Upon request of the review panel, the State Board of Medical
36 Examiners shall provide the review panel with any information
37 contained in the board's files concerning a practitioner.

38 d. Upon completion of its review, the review panel shall
39 prepare a report recommending one of the following dispositions:

40 (1) Recommend to the State Board of Medical Examiners that
41 the matter be referred to the Attorney General for the initiation of
42 disciplinary action against the practitioner who is the subject of the
43 notice or complaint, pursuant to section 8 or 9 of P.L.1978, c.73
44 (C.45:1-21 or 45:1-22);

45 (2) Defer making a recommendation to the board pending the
46 outcome of litigation or a health care entity disciplinary proceeding,
47 if there is no evidence that the practitioner's professional conduct

1 may jeopardize or improperly risk the health, safety or life of a
2 patient;

3 (3) Refer the practitioner to the appropriate licensed health care
4 practitioner treatment program recognized by the State Board of
5 Medical Examiners and promptly notify the medical director of the
6 board of the referral;

7 (4) Refer the practitioner to the appropriate focused education
8 program recognized by the State Board of Medical Examiners and
9 promptly notify the educational director of the board of the referral;
10 or

11 (5) Find that no further action is warranted at this time.

12 e. A member of the State Board of Medical Examiners shall
13 not participate by voting or any other action in any matter before
14 the board on which the board member has participated previously as
15 a review panel member.

16 f. The State Board of Medical Examiners may affirm, reject or
17 modify any disposition of the review panel. After its consideration
18 of the panel recommendation the board shall notify the practitioner
19 who has been the subject of a notice or complaint of the review
20 panel's recommendation and the board's determination.

21 g. Nothing in this section shall be construed to prevent or limit
22 the State Board of Medical Examiners, the Director of the Division
23 of Consumer Affairs in the Department of Law and Public Safety or
24 the Attorney General from taking any other action permitted by law
25 against a practitioner who is the subject of an investigation by the
26 review panel.

27 h. For the purposes of this section, "practitioner" means a
28 person licensed to practice: medicine and surgery under chapter 9
29 of Title 45 of the Revised Statutes or a medical resident or intern; or
30 podiatric medicine under chapter 5 of Title 45 of the Revised
31 Statutes.

32 i. As used in this section, "focused education program" means
33 an individualized and systematic process to assess the educational
34 needs of a licensee based on scientific analysis, technical skill and
35 interpersonal evaluation as they relate to the licensee's professional
36 practice, and the institution of remedial education and any
37 supervision, monitoring or limitations of the licensee.

38 (cf: P.L.2005, c.259, s.14)

39

40 4. Section 1 of P.L.1995, c.69 (C.45:9-19.16) is amended to
41 read as follows:

42 1. a. A physician licensed by the State Board of Medical
43 Examiners, or a physician who is an applicant for a license from the
44 State Board of Medical Examiners, shall notify the board within 10
45 days of:

46 (1) any action taken against the physician's medical license by
47 any other state licensing board or any action affecting the
48 physician's privileges to practice medicine by any out-of-State

1 hospital, health care facility, health maintenance organization or
2 other employer;

3 (2) any pending or final action by any criminal authority for
4 violations of law or regulation, or any arrest or conviction for any
5 criminal or quasi-criminal offense pursuant to the laws of the
6 United States, this State or another state, including, but not limited
7 to:

8 (a) criminal homicide pursuant to N.J.S.2C:11-2;

9 (b) aggravated assault pursuant to N.J.S.2C:12-1;

10 (c) sexual assault, criminal sexual contact or lewdness pursuant
11 to N.J.S.2C:14-2 through 2C:14-4; or

12 (d) an offense involving any controlled dangerous substance or
13 controlled substance analog as set forth in chapter 35 of Title 2C of
14 the New Jersey Statutes.

15 b. A physician who is in violation of this section is subject to
16 disciplinary action and civil penalties pursuant to sections 8, 9 and
17 12 of P.L.1978, c.73 (C.45:1-21 to 22 and 45:1-25).

18 c. The State Board of Medical Examiners shall notify all
19 physicians licensed by the board of the requirements of this section
20 within 30 days of the date of enactment of this act.

21 d. Upon receipt of notification from a physician pursuant to
22 this section, the State Board of Medical Examiners shall, within 60
23 days, investigate the information received and obtain any additional
24 information that may be necessary in order to make a determination
25 whether to initiate disciplinary action against the physician.
26 Nothing in this subsection shall be construed to limit or otherwise
27 impair the authority of the board to take any action against a
28 licensee or applicant for a license.

29 (cf: P.L.2004, c.17, s.11)

30

31 5. This act shall take effect immediately.

32

33

34

STATEMENT

35

36 This bill makes various changes to the membership terms and
37 duties of the State Board of Medical Examiners (BME).

38 Specifically, the bill requires that:

39 • A member of the BME is eligible for reappointment for one
40 additional term of office, but no member shall serve more than
41 two consecutive terms. This limitation shall apply to any member
42 newly appointed after the effective date of the bill, and any
43 member serving on the effective date of the bill shall be limited to
44 two additional consecutive terms.

45 • To ensure that the BME takes timely disciplinary action to protect
46 the public, the BME's Medical Practitioner Review Panel shall
47 investigate notices or complaints it receives from health care
48 facilities and health maintenance organizations regarding a

1 licensee in order to make a recommendation to the BME, and
2 make its recommendation within 90 days after receipt of the
3 complaint, rather than investigate “promptly,” as the law
4 currently provides. If the review panel requires additional time
5 due to extenuating circumstances, it shall so notify the BME,
6 indicating the reason and amount of additional time required to
7 make its recommendation, and transmit a copy of the notice to the
8 Attorney General and the complainant. The bill also clarifies that
9 this time-frame is not to be construed to limit or otherwise impair
10 the BME’s authority to take any action against a licensee or
11 applicant for a license, or the review panel’s authority to make a
12 recommendation.

- 13 • Within 60 days upon receipt of notification from a physician of
14 any action taken against the physician's medical license by any
15 other state licensing board or any action affecting the physician’s
16 privileges to practice medicine by any out-of-State hospital,
17 health care facility, health maintenance organization or other
18 employer, the BME shall investigate the information received and
19 obtain any additional information that may be necessary in order
20 to make a determination whether to initiate disciplinary action
21 against the physician. The bill also provides that this time-frame
22 is not to be construed to limit or otherwise impair the BME’s
23 authority to take any action against a licensee.

ASSEMBLY HEALTH AND SENIOR SERVICES COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2736

with committee amendments

STATE OF NEW JERSEY

DATED: NOVEMBER 8, 2010

The Assembly Health and Senior Services Committee reports favorably and with committee amendments Assembly Bill No. 2736.

As amended by the committee, this bill makes various changes to the membership terms and duties of the State Board of Medical Examiners (BME).

Specifically, the bill requires that:

- A member of the BME is eligible for reappointment for one additional term of office, but no member is to serve more than two consecutive terms. This limitation will apply to any member newly appointed after the effective date of this bill, and any member serving on the effective date of this bill will be limited to two additional consecutive terms.
- The Medical Practitioner Review Panel, established by the BME pursuant to section 8 of P.L.1989, c.300 (C.45:9-19.8), is to investigate referrals (notices or complaints) that it receives from health care facilities and health maintenance organizations regarding a licensee in order to make a recommendation to the BME, and make its recommendation within 90 days after receipt of the referral, rather than investigate “promptly,” as the law currently provides.
- The 90-day period is to be tolled, whenever additional time is required: to obtain information, records, or evidence sought pursuant to section 9 of P.L.1989, c.300 (C.45:9-19.9) that is necessary for the review panel to make its recommendation; for the review panel to consider additional information furnished more than 30 days after receipt of the referral; for expert consultation related to the subject matter under investigation; or for other good cause shown due to extraordinary or unforeseen circumstances.
- If the 90-day period is tolled, the review panel is to so notify the BME, indicating the reason and amount of additional time required to make its recommendation, and transmit a copy of the notice to the Attorney General and the referring entity. This time frame is not to be construed to limit or otherwise impair the authority of the BME to take any action against a licensee or applicant for a license, or the authority of the review panel to make a recommendation.

- Upon receipt of notification from a physician of any action taken against the physician's medical license by any other state licensing board or any action affecting the physician's privileges to practice medicine by any out-of-State hospital, health care facility, health maintenance organization or other employer, the BME, within 60 days, is to investigate the information received and obtain any additional information that may be necessary in order to make a determination whether to initiate disciplinary action against the physician. This time frame is not to be construed to limit or otherwise impair the authority of the BME to take any action against a licensee.

As reported by the committee, this bill is identical to Senate Bill No. 1795 (1R) ACA (Weinberg), which the committee also reported on this date.

COMMITTEE AMENDMENTS

The committee amendments to the bill provide that the 90-day period (in which the Medical Practitioner Review Panel is to make its recommendation to the BME concerning referrals regarding a licensee) is to be tolled, whenever additional time is required: to obtain information, records, or evidence sought pursuant to section 9 of P.L.1989, c.300 (C.45:9-19.9) that is necessary for the review panel to make its recommendation; for the review panel to consider additional information furnished more than 30 days after receipt of the referral; for expert consultation related to the subject matter under investigation; or for other good cause shown due to extraordinary or unforeseen circumstances.