

# New Jersey Health Care Consumer Information Act

## CHAPTER 96

AN ACT concerning the dissemination of certain information about physicians and podiatrists to the public, amending P.L.1983, c.248 and P.L.1989, c.300 and supplementing Title 45 of the Revised Statutes.

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

C.45:9-22.21 Short title.

1. This act shall be known and may be cited as the "New Jersey Health Care Consumer Information Act."

C.45:9-22.22 Collection, maintenance of information regarding physicians, podiatrists.

2. a. The Division of Consumer Affairs in the Department of Law and Public Safety, in consultation with the State Board of Medical Examiners, shall collect and maintain information concerning all Physicians and podiatrists licensed in the State for the purpose of creating a profile of each physician and podiatrist pursuant to this act. The profiles shall be made available to the public through electronic and other appropriate means, at no charge to the public. The division shall establish a toll-free telephone number for members of the public to contact the division to obtain a paper copy of a physician or podiatrist profile and to make other inquiries about the profiles.

b. A physician or podiatrist shall be required to provide the board or division or its designated agent with any information necessary to complete the profile as provided in section 3 of this act.

c. The board may request any additional information it deems necessary to complete the profiles on the biennial license renewal form submitted by physicians and podiatrists.

d. The board shall provide to the division or its designated agent any information required pursuant to this act that is available to the board concerning a physician or podiatrist, for the purpose of creating the physician and podiatrist profiles.

C.45:9-22.23 Information included in profile of physician, podiatrist.

3. a. The following information shall be included for each profile of a physician or podiatrist:

(1) Name of all medical schools attended and dates of graduation;

(2) Graduate medical education, including all internships, residencies and fellowships;

(3) Year first licensed;

(4) Year first licensed in New Jersey;

(5) Location of the physician's or podiatrist's office practice site or sites, as applicable;

(6) A description of any criminal convictions for crimes of the first, second, third or fourth degree within the most recent 10 years. For the purposes of this paragraph, a person shall be deemed to be convicted of a crime if the individual pleaded guilty or was found or adjudged guilty by a court of competent jurisdiction. The description of criminal convictions shall not include any convictions that have been expunged. The following statement shall be included with the information about criminal convictions: "Information provided in this section may not be comprehensive. Courts in New Jersey are required by law to provide information about criminal convictions to the State Board of Medical Examiners.";

(7) A description of any final board disciplinary actions within the most recent 10 years, except that any such disciplinary action that is being appealed shall be identified;

(8) A description of any final disciplinary actions by appropriate licensing boards in other states within the most recent 10 years, except that any such disciplinary action that is being appealed shall be

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identified. The following statement shall be included with the information about disciplinary actions in other states: "Information provided in this section may not be comprehensive. The State Board of Medical Examiners receives information about disciplinary actions in other states from physicians themselves and outside sources.";

(9) A description of: the revocation or involuntary restriction of privileges at a health care facility for reasons related to the practitioner's competence or misconduct or impairment taken by a health care facility's governing body or any other official of the health care facility after procedural due process has been afforded; the resignation from or nonrenewal of medical staff membership at the health care facility for reasons related to the practitioner's competence or misconduct or impairment; or the restriction of privileges at a health care facility taken in lieu of or in settlement of a pending disciplinary case related to the practitioner's competence or misconduct or impairment. Only those cases that have occurred within the most recent 10 years and that were reported by the health care facility pursuant to section 1 of P.L.1983, c.247 (C.26:2H-12.2) shall be included in the profile; and

(10) All medical malpractice court judgments and all medical malpractice arbitration awards reported to the board, in which a payment has been awarded to the complaining party during the most recent five years, and all settlements of medical malpractice claims reported to the board, in which a payment is made to the complaining party within the most recent five years, as follows:

(a) Pending medical malpractice claims shall not be included in the profile and information on pending medical malpractice claims shall not be disclosed to the public;

(b) A medical malpractice judgment that is being appealed shall be so identified;

(c) The context in which the payment of a medical malpractice claim occurs shall be identified by categorizing the number of judgments, arbitration awards and settlements against the physician or podiatrist into three graduated categories: average, above average and below average number of judgments, arbitration awards and settlements. These groupings shall be arrived at by comparing the number of an individual physician's or podiatrist's medical malpractice judgments, arbitration awards and settlements to the Experience of other physicians or podiatrists within the same speciality. In addition to any information provided by a physician or podiatrist, an insurer or insurance association authorized to issue medical malpractice liability insurance in the State shall, at the request of the division, provide data and information necessary to effectuate this subparagraph; and

(d) The following statement shall be included with the information concerning medical malpractice judgments, arbitration awards and settlements: "Settlement of a claim and, in particular, the dollar amount of the settlement may occur for a variety of reasons, which do not necessarily reflect negatively on the professional competence or conduct of the physician (or podiatrist). A payment in settlement of a medical malpractice action or claim should not be construed as creating a presumption that medical malpractice has occurred."

b. If requested by a physician or podiatrist, the following information shall be included in a physician's or podiatrist's profile:

(1) Names of the hospitals where the physician or podiatrist has privileges;

(2) Appointments of the physician or podiatrist to medical school faculties within the most recent 10 years;

(3) Information regarding any board certification granted by a specialty board or other certifying entity recognized by the American Board of Medical Specialties, the American Osteopathic Association or the American Board of Podiatric Medicine or by any other national professional organization that has been demonstrated to have comparable standards;

(4) Information regarding any translating services that may be available at the physician's or podiatrist's office practice site or sites, as applicable, or languages other than English that are spoken by the physician or podiatrist;

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- (5) Information regarding whether the physician or podiatrist participates in the Medicaid program or accepts assignment under the Medicare program;
- (6) Information regarding the medical insurance plans in which the physician or podiatrist is a participating provider;
- (7) Information concerning the hours during which the physician or podiatrist conducts his practice; and
- (8) Information concerning accessibility of the practice site or sites, as applicable, to persons with disabilities.

The following disclaimer shall be included with the information supplied by the physician or podiatrist pursuant to this subsection: "This information has been provided by the physician (or podiatrist) but has not been independently verified by the State Board of Medical Examiners or the Division of Consumer Affairs."

If the physician or podiatrist includes information regarding medical insurance plans in which the practitioner is a participating provider, the following disclaimer shall be included with that information: "This information may be subject to change. Contact your health benefits plan to verify if the physician (or podiatrist) currently participates in the plan."

c. Before a profile is made available to the public, each physician or podiatrist shall be provided with a copy of his profile. The physician or podiatrist shall be given 30 calendar days to correct a factual inaccuracy that may appear in the profile and so advise the Division of Consumer Affairs or its designated agent; however, upon receipt of a written request that the division or its designated agent deems reasonable, the physician or podiatrist may be granted an extension of up to 15 calendar days to correct a factual inaccuracy and so advise the division or its designated agent.

d. If new information or a change in existing information is received by the division concerning a physician or podiatrist, the physician or podiatrist shall be provided with a copy of the proposed revision and shall be given 30 calendar days to correct a factual inaccuracy and to return the corrected information to the division or its designated agent.

e. The profile and any revisions thereto shall not be made available to the public until after the review period provided for in this section has lapsed.

### **C.45:9-22.24 Contracts with public, private entity for profiles.**

4. The Division of Consumer Affairs may contract with a public or private entity for the purpose of developing, administering and maintaining the physician and podiatrist profiles required pursuant to this act.

a. The contract shall specify the duties and responsibilities of the entity with respect to the development, administration and maintenance of the profile. The contract shall specify the duties and responsibilities of the division with respect to providing the information required pursuant to section 3 of this act to the entity on a regular and timely basis.

b. The contract shall specify that any identifying information concerning a physician or podiatrist provided to the entity by the division, the State Board of Medical Examiners or the physician or podiatrist shall be used only for the purpose of the profile.

c. The division shall monitor the work of the entity to ensure that physician and podiatrist profiles are properly developed and maintained pursuant to the requirements of this act.

5. The Director of the Division of Consumer Affairs shall report to the Legislature no later than 18 months after the effective date of this act on the status of the physician and podiatrist profiles.

The director shall also make recommendations in the report on the issue of developing profiles for other licensed health care professionals, including, but not limited to, dentists, advanced practice nurses, physician assistants, optometrists, physical therapists and chiropractors, and the type of information that would be appropriate to include in the respective profiles for each type of licensed health care professional.

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6. Section 3 of P.L.1983, c.248 (C.45:9-19.3) is amended to read as follows:

### **C.45:9-19.3 Confidentiality of information.**

3. Any information concerning the conduct of a physician or surgeon provided to the State Board of Medical Examiners pursuant to section 1 of P.L.1983, c.248 (C.45:9-19.1), section 5 of P.L.1978, c.73 (C.45:1-18) or any other provision of law, is confidential pending final disposition of the inquiry or investigation by the board, except for that information required to be shared with the Division of Insurance Fraud Prevention in the Department of Banking and Insurance to comply with the provisions of section 9 of P.L.1983, c.320 (C.17:33A-9) or with any other law enforcement agency. If the result of the inquiry or investigation is a finding of no basis for disciplinary action by the board, the information shall remain confidential, except that the board may release the information to a government agency, for good cause shown, upon an order of the Superior Court after notice to the physician or surgeon, who is the subject of the information, and an opportunity to be heard. The application for the court order shall be placed under seal.

The provisions of this section shall not apply to information that the Division of Consumer Affairs in the Department of Law and Public Safety, or its designated agent, is required to include in a physician's profile pursuant to P.L.2003, c.96 (C.45:9-22.21 et al.).

7. Section 10 of P.L.1989, c.300 (C.45:9-19.10) is amended to read as follows:

### **C.45:9-19.10 Records maintained by review panel.**

10. a. The review panel shall maintain records of all notices and complaints it receives and all actions taken with respect to the notices and complaints.

b. At least once a month, the review panel shall provide the State Board of Medical Examiners with a summary report of all information received by the review panel and all recommendations made by the review panel. Upon request of the board, the review panel shall provide the board with any information contained in the review panel's files concerning a practitioner.

c. Any information concerning the professional conduct of a practitioner provided to, or obtained by, the review panel is confidential pending final disposition of an inquiry or investigation of the practitioner by the State Board of Medical Examiners, and may be disclosed only to the board, the Director of the Division of Consumer Affairs in the Department of Law and Public Safety and the Attorney General for the purposes of carrying out their respective responsibilities pursuant to Title 45 of the Revised Statutes.

The provisions of this section shall not apply to information that the division, or its designated agent, is required to include in a physician's or podiatrist's profile pursuant to P.L.2003, c.96 (C.45:9-22.21 et al.).

### **C.45:9-22.25 Regulations.**

8. Within 180 days of the effective date of this act, the Director of the Division of Consumer Affairs in the Department of Law and Public Safety, in consultation with the State Board of Medical Examiners, shall adopt regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) necessary to effectuate the purposes of this act.

9. This act shall take effect on the 365th day after enactment, except that the division and the board may take such anticipatory action in advance as may be necessary for the timely implementation of the act

Approved June 23, 2003.