

**SENATE, No. 2171**

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**STATE OF NEW JERSEY**

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INTRODUCED JUNE 12, 1997

**By Senator BASSANO**

1   **AN ACT** concerning medical practice and amending R.S.45:9-16.

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

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

7       45:9-16. The board may refuse to grant or may suspend or revoke  
8   a license or the registration of a certificate or diploma to practice  
9   medicine and surgery filed in the office of any county clerk in this  
10   State under any act of the Legislature, upon a showing of the  
11   preponderance of the credible evidence that the holder of such license  
12   (a) has been adjudicated insane, or (b) has demonstrated any physical,  
13   mental or emotional condition or drug or alcohol use which impairs his  
14   ability to practice with reasonable skill or safety, or (c) has practiced  
15   criminal abortion, or been convicted of the crime of criminal abortion,  
16   or has been convicted of crime involving moral turpitude, or has  
17   pleaded nolo contendere, non vult contendere or non vult to an  
18   indictment, information or complaint alleging the commission of the  
19   crime of criminal abortion or of crime involving moral turpitude, or (d)  
20   has been determined to be physically or mentally incapacitated, (e)  
21   knowingly becomes employed by any physician, surgeon, homeopath,  
22   eclectic, osteopath, or doctor who advertises, or (f) shall have  
23   presented to the board any diploma, license or certificate that shall  
24   have been illegally obtained or shall have been signed or issued  
25   unlawfully or under fraudulent representations, or obtains or shall have  
26   obtained a license to practice in this State through fraud of any kind,  
27   or (g) has been guilty of employing unlicensed persons to perform  
28   work which, under chapter 9 of Title 45 of the Revised Statutes can  
29   legally be done only by persons licensed to practice medicine and  
30   surgery in this State, or (h) has been guilty of gross malpractice or  
31   gross neglect in the practice of medicine which has endangered the  
32   health or life of any person, or (i) has been demonstrated  
33   professionally incompetent to practice medicine, or (j) has advertised  
34   in any manner, whether as an individual, through a professional service

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

Matter underlined thus is new matter.

1 corporation or through a third party on his behalf, the practice of  
2 medicine and surgery, or (k) has repeatedly dispensed or prescribed  
3 antibiotic prescription drugs without clinical justification. [; provided,  
4 however, that the]

5       The following shall not be deemed to be advertising prohibited  
6 under (j) of [this chapter] the preceding paragraph:

7       a. Public information for educational purposes on the practice or  
8 profession of medicine and surgery which does not contain the name  
9 of any person licensed to practice medicine and surgery in this State  
10 or the address of any location where medical examination or treatment  
11 may be had or is recommended or suggested;

12      b. Publication of a brief announcement of the opening of an office  
13 or the removal to a new location, containing the name, professional  
14 degree, type of practice, address, telephone number, and office hours  
15 of the licensee;

16      c. A listing in an alphabetical telephone directory of the name of a  
17 licensee together with his professional degree or the abbreviation  
18 therefor;

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

22      e. The use of small signs on the doors, windows and walls of a  
23 licensee's office or on the building in which he maintains an office, or  
24 the use of a sign directory separate and apart from, but in reasonable  
25 proximity to, the building in which he maintains an office as an aid to  
26 the public in locating the office, setting out his name, professional  
27 degree, type of practice, address and office hours in lettering no larger  
28 than six inches in height for street-level offices, and no larger than  
29 eight inches in height for offices above street-level;

30      f. Communications with or without the name of the licensee  
31 distributed or mailed to his patients of record at his discretion;

32      g. A directory of physicians for consumer use which shall include  
33 the educational background, degrees, fellowships, certifications,  
34 specialties, experience and any other pertinent information which is  
35 related to the practice of medicine and surgery of the physicians.

36      The board shall refuse to grant or shall suspend or revoke any such  
37 license or the registration of any such certificate or diploma upon a  
38 showing of the preponderance of the credible evidence that the  
39 applicant for, or holder of, such license habitually uses drugs or has  
40 been convicted of a violation of or has pleaded nolo contendere, non  
41 vult contendere or non vult to an indictment, information or complaint  
42 alleging a violation of any federal or State law relating to narcotic  
43 drugs. Before any license, or registration of a certificate or diploma to  
44 practice medicine and surgery filed in the office of any county clerk of  
45 this State under any act of the Legislature, shall be suspended or  
46 revoked, except in the case of conviction of criminal abortion or

1 conviction of crime involving moral turpitude or plea of nolo  
2 contendere, non vult contendere or non vult to indictment, information  
3 or complaint alleging commission of the crime of criminal abortion or  
4 crime involving moral turpitude, or conviction of violation of or plea  
5 of nolo contendere, non vult contendere or non vult to an indictment,  
6 information or complaint alleging violation of any federal or State law  
7 relating to narcotic drugs, the accused person shall be furnished with  
8 a copy of the complaint and be given a hearing before said board in  
9 person or by attorney, and any person whose license shall be  
10 suspended or revoked in accordance with this section shall be deemed  
11 an unlicensed person during the period of such suspension or  
12 revocation, and as such shall be subject to the penalties hereinafter  
13 prescribed for persons who practice medicine and surgery, without  
14 first having obtained a license so to do. Any person whose license, or  
15 registration of a certificate or diploma to practice medicine and  
16 surgery filed in the office of any county clerk of this State under any  
17 act of the Legislature, shall be suspended or revoked under the  
18 authority of chapter 9 of Title 45 of the Revised Statutes may, in the  
19 discretion of the board be relicensed at any time to practice without an  
20 examination, or have his registration of a certificate or diploma, as  
21 aforesaid, reinstated, on application being made to the board.

22 The record of conviction or the record of entry of a plea of nolo  
23 contendere, non vult contendere or non vult in any of the courts of this  
24 State, or any other state of the United States, or any of the courts of  
25 the United States, or the court of any foreign nation, shall be sufficient  
26 warrant for the board to refuse to grant or to suspend or revoke the  
27 license or the registration of a certificate or diploma to practice  
28 medicine and surgery filed in the office of any county clerk in this  
29 State under any act of the Legislature.

30 (cf: P.L.1989, c.300, s.20)

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32 2. This act shall take effect immediately.

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35 STATEMENT

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37 This bill provides the State Board of Medical Examiners with the  
38 authority to deny, suspend or revoke the license of a physician or  
39 surgeon whom the board determines, based upon a showing of the  
40 preponderance of the credible evidence, has repeatedly dispensed or  
41 prescribed antibiotic prescription drugs without clinical justification.

42 This bill is similar to legislation which is currently pending in the  
43 Colorado State Legislature as an amendment to that state's medical  
44 practice statute.

45 The overuse or misuse of antibiotic drugs can lead to the creation  
46 of drug-resistant forms of bacteria that may be harmful, and even life-

1 threatening, not only to the patient but also to others in society. The  
2 practice of repeatedly treating young children with antibiotics  
3 increases their risk of contracting drug-resistant forms of bacteria that  
4 can seriously damage their health. Moreover, the possible emergence  
5 of multiple drug-resistant strains of bacteria because of increased use  
6 of antibiotics leads to a serious public health risk if common antibiotics  
7 become incapable of attacking bacteria and infection.

8 The purpose of this bill is to help curtail the indiscriminate use and  
9 misuse of antibiotic drugs by health care professionals by making the  
10 repeated dispensing or prescribing of antibiotics without justification  
11 unprofessional conduct and grounds for professional discipline.

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16 Permits Board of Medical Examiners to deny, suspend or revoke a  
17 physician's license for repeatedly dispensing or prescribing antibiotics  
18 without clinical justification.