

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 3975**

**STATE OF NEW JERSEY**  
**220th LEGISLATURE**

ADOPTED JUNE 27, 2022

**Sponsored by:**

**Assemblywoman LISA SWAIN**

**District 38 (Bergen and Passaic)**

**Assemblywoman MILA M. JASEY**

**District 27 (Essex and Morris)**

**Assemblyman RAJ MUKHERJI**

**District 33 (Hudson)**

**Senator NIA H. GILL**

**District 34 (Essex and Passaic)**

**Senator NELLIE POU**

**District 35 (Bergen and Passaic)**

**Senator GORDON M. JOHNSON**

**District 37 (Bergen)**

**Co-Sponsored by:**

**Assemblywoman Reynolds-Jackson, Assemblyman Verrelli,  
Assemblywomen Park, Lopez, Assemblymen Freiman, McKeon, Conaway,  
Assemblywoman Haider, Assemblymen Tully, Stanley, Assemblywomen  
Tucker, Jaffer, Lampitt, McKnight and Senator Ruiz**

**SYNOPSIS**

Concerns protections with respect to nondisclosure of certain patient information relating to reproductive healthcare services, and protecting access to services and procedures related to abortion for certain out-of-State persons.

**CURRENT VERSION OF TEXT**

Substitute as adopted by the Assembly Budget Committee.

(Sponsorship Updated As Of: 6/29/2022)

1 **AN ACT** concerning reproductive health care services,  
 2 supplementing Title 2A of the New Jersey Statutes, and  
 3 amending P.L.1978, c.73.

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

7  
 8 1. (New section) As used in sections 1 and 2 of P.L. ,  
 9 c. (C. ) (pending before the Legislature as this bill):

10 "Person" includes an individual, partnership, association, limited  
 11 liability company, or corporation.

12 "Reproductive health care services" means all medical, surgical,  
 13 counseling, or referral services relating to the human reproductive  
 14 system including, but not limited to, services relating to pregnancy,  
 15 contraception, or termination of a pregnancy.

16 a. Except as provided in sections 3 through 7 of P.L.1968,  
 17 c.185 (C.2A:84A-22.3 through 2A:84A-22.7), section 1 of  
 18 P.L.1970, c. 313 (C.2A:84A-22.8), section 29 of P.L.1968, c.401  
 19 (C.45:8B-29), and subsection b. of this section, in any civil action  
 20 or proceeding preliminary thereto or in any probate, legislative or  
 21 administrative proceeding, a covered entity, as set forth in the  
 22 medical privacy and security rules pursuant to Parts 160 and 164 of  
 23 Subchapter C of Subtitle A of Title 45 of the Code of Federal  
 24 Regulations, established pursuant to the "Health Insurance  
 25 Portability and Accountability Act of 1996," Pub.L.104-191, shall  
 26 not disclose, unless the patient or that patient's conservator,  
 27 guardian, or other authorized legal representative explicitly  
 28 consents in writing to the disclosure:

29 (1) any communication made to the covered entity, or any  
 30 information obtained by the covered entity from, a patient or the  
 31 conservator, guardian, or other authorized legal representative of a  
 32 patient relating to reproductive health care services that are  
 33 permitted under the laws of this State; or

34 (2) any information obtained by personal examination of a  
 35 patient relating to reproductive health care services that are  
 36 permitted under the laws of this State.

37 A covered entity shall inform the patient or the patient's  
 38 conservator, guardian, or other authorized legal representative of  
 39 the patient's right to withhold such written consent at or before the  
 40 time reproductive health care services are rendered or at such time  
 41 as the patient discloses any information relating to reproductive  
 42 health care services that have been previously rendered.

43 b. Written consent of the patient or the patient's conservator,  
 44 guardian, or other authorized legal representative shall not be  
 45 required for the disclosure of any communication or information:

**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 (1) pursuant to the laws of this State or the Rules of Court;  
2 (2) by a covered entity against whom a claim has been made, or  
3 there is a reasonable belief will be made, in an action or proceeding,  
4 to the covered entity's attorney or professional liability insurer or  
5 insurer's agent for use in the defense of the action or proceeding;  
6 (3) to the Commissioner of Health, Human Services, or Banking  
7 and Insurance, or any professional licensing board operating under  
8 the authority of the Division of Consumer Affairs in the Department  
9 of Law and Public Safety for records of a patient of a covered entity  
10 in connection with an investigation of a complaint, if the records are  
11 related to the complaint; or  
12 (4) if child abuse, abuse of an elderly individual, abuse of an  
13 individual who is incapacitated, or abuse of an individual with a  
14 physical or mental disability is known or in good faith suspected.  
15 For the purposes of this paragraph, the provision of or material  
16 support for reproductive health care services that are permitted  
17 under the laws of this State shall not constitute abuse.  
18 Nothing in this subsection shall be construed to conflict with or  
19 displace any requirements or conditions for disclosure set forth  
20 under 45 C.F.R. ss.160.203 and 164.514.  
21 c. Nothing in this section shall be construed to impede the  
22 lawful sharing of medical records as permitted by State or federal  
23 law or the Rules of Court.  
24  
25 2. (New section) A public entity of this State or employee,  
26 appointee, officer or official or any other person acting on behalf of  
27 a public entity shall not provide any information or expend or use  
28 time, money, facilities, property, equipment, personnel or other  
29 resources in furtherance of any interstate investigation or  
30 proceeding seeking to impose civil or criminal liability upon a  
31 person or entity for:  
32 (1) the provision, receipt, or seeking of, or inquiring or  
33 responding to an inquiry about, reproductive health care services, as  
34 defined in section 1 of P.L. , c. (C. ) (pending before the  
35 Legislature as this bill), that are legal in this State; or  
36 (2) assisting, advising, aiding, abetting, facilitating, soliciting, or  
37 conspiring with any person or entity providing, receiving, seeking,  
38 or inquiring or responding to an inquiry about, reproductive health  
39 care services, as defined in section 1 of P.L. , c. (C. )  
40 (pending before the Legislature as this bill), that are legal in this  
41 State.  
42 This section shall not apply to any investigation or proceeding  
43 when the conduct subject to potential liability under the  
44 investigation or proceeding would be subject to liability under the  
45 laws of this State if committed in this State. This section shall not  
46 apply if it is necessary for the agency or person to engage in  
47 conduct otherwise prohibited by this section in order to comply  
48 with a valid order issued by a court with jurisdiction over the

1 agency or person, or to comply with applicable provisions of State  
2 or federal law.

3  
4 3. Section 8 of P.L.1978, c.73 (C.45:1-21) is amended to read  
5 as follows:

6 8. A board may refuse to admit a person to an examination or  
7 may refuse to issue or may suspend or revoke any certificate,  
8 registration or license issued by the board upon proof that the  
9 applicant or holder of such certificate, registration or license:

10 a. Has obtained a certificate, registration, license or  
11 authorization to sit for an examination, as the case may be, through  
12 fraud, deception, or misrepresentation;

13 b. Has engaged in the use or employment of dishonesty, fraud,  
14 deception, misrepresentation, false promise or false pretense;

15 c. Has engaged in gross negligence, gross malpractice or gross  
16 incompetence which damaged or endangered the life, health,  
17 welfare, safety or property of any person;

18 d. Has engaged in repeated acts of negligence, malpractice or  
19 incompetence;

20 e. Has engaged in professional or occupational misconduct as  
21 may be determined by the board;

22 f. Has been convicted of, or engaged in acts constituting, any  
23 crime or offense that has a direct or substantial relationship to the  
24 activity regulated by the board or is of a nature such that  
25 certification, registration or licensure of the person would be  
26 inconsistent with the public's health, safety, or welfare, provided  
27 that the board shall make this determination in a manner consistent  
28 with section 2 of P.L.2021, c.81 (C.45:1-21.5). For the purposes of  
29 this subsection a judgment of conviction or a plea of guilty, non  
30 vult, nolo contendere or any other such disposition of alleged  
31 criminal activity shall be deemed a conviction;

32 g. Has had his authority to engage in the activity regulated by  
33 the board revoked or suspended by any other state, agency or  
34 authority for reasons consistent with this section;

35 h. Has violated or failed to comply with the provisions of any  
36 act or regulation administered by the board;

37 i. Is incapable, for medical or any other good cause, of  
38 discharging the functions of a licensee in a manner consistent with  
39 the public's health, safety and welfare;

40 j. Has repeatedly failed to submit completed applications, or  
41 parts of, or documentation submitted in conjunction with, such  
42 applications, required to be filed with the Department of  
43 Environmental Protection;

44 k. Has violated any provision of P.L.1983, c.320 (C.17:33A-1  
45 et seq.) or any insurance fraud prevention law or act of another  
46 jurisdiction or has been adjudicated, in civil or administrative  
47 proceedings, of a violation of P.L.1983, c.320 (C.17:33A-1 et seq.)  
48 or has been subject to a final order, entered in civil or

1 administrative proceedings, that imposed civil penalties under that  
2 act against the applicant or holder;

3 l. Is presently engaged in drug or alcohol use that is likely to  
4 impair the ability to practice the profession or occupation with  
5 reasonable skill and safety. For purposes of this subsection, the  
6 term "presently" means at this time or any time within the previous  
7 365 days;

8 m. Has prescribed or dispensed controlled dangerous substances  
9 indiscriminately or without good cause, or where the applicant or  
10 holder knew or should have known that the substances were to be  
11 used for unauthorized consumption or distribution;

12 n. Has permitted an unlicensed person or entity to perform an  
13 act for which a license or certificate of registration or certification  
14 is required by the board, or aided and abetted an unlicensed person  
15 or entity in performing such an act;

16 o. Advertised fraudulently in any manner.

17 The division is authorized, for purposes of facilitating  
18 determinations concerning licensure eligibility, to require the  
19 fingerprinting of each applicant in accordance with applicable State  
20 and federal laws, rules and regulations. Each applicant shall submit  
21 the applicant's name, address, and written consent to the director for  
22 a criminal history record background check to be performed. The  
23 division is authorized to receive criminal history record information  
24 from the State Bureau of Identification in the Division of State  
25 Police and the Federal Bureau of Investigation. Upon receipt of  
26 such notification, the division shall forward the information to the  
27 appropriate board which shall make a determination regarding the  
28 issuance of licensure. The applicant shall bear the cost for the  
29 criminal history record background check, including all costs of  
30 administering and processing the check, unless otherwise provided  
31 for by an individual enabling act. The Division of State Police shall  
32 promptly notify the division in the event an applicant or licensee,  
33 who was the subject of a criminal history record background check  
34 pursuant to this section, is convicted of a crime or offense in this  
35 State after the date the background check was performed.

36 Notwithstanding the provisions of any law, rule, or regulation to  
37 the contrary, a board shall not refuse to admit a person to an  
38 examination and shall not suspend, revoke, or refuse to renew any  
39 certificate, registration, or license issued by the board based solely  
40 on the applicant's or the certificate, registration, or license holder's  
41 provision of, authorization of, participation in, referral for, or  
42 assistance with any health care, medical service, or procedure  
43 related to an abortion for a person who resides in a jurisdiction  
44 where the provision, authorization, participation, referral, or  
45 assistance is illegal, if the provision, authorization, participation,  
46 referral, or assistance would not be a basis for refusing to admit a  
47 person to an examination or for suspending, revoking, or refusing to  
48 renew a certificate, registration, or license in this State.

- 1       For purposes of this act:
- 2       "Completed application" means the submission of all of the
- 3 information designated on the checklist, adopted pursuant to section
- 4 1 of P.L.1991, c.421 (C.13:1D-101), for the class or category of
- 5 permit for which application is made.
- 6       "Permit" has the same meaning as defined in section 1 of
- 7 P.L.1991, c.421 (C.13:1D-101).
- 8 (cf: P.L.2021, c.81, s.1)
- 9
- 10       4. This act shall take effect immediately.