

ASSEMBLY, No. 5790

STATE OF NEW JERSEY

220th LEGISLATURE

INTRODUCED NOVEMBER 30, 2023

Sponsored by:

Assemblyman HERB CONAWAY, JR.

District 7 (Burlington)

Assemblywoman SHANIQUE SPEIGHT

District 29 (Essex)

SYNOPSIS

Removes exemption from law regulating patient referrals.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/14/2023)

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1 AN ACT concerning patient referrals and amending P.L.1989, c.19.

2

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

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6 1. Section 2 of P.L.1989, c.19 (C.45:9-22.5) is amended to read
7 as follows:

8 2. a. A practitioner shall not refer a patient or direct an
9 employee of the practitioner to refer a patient to a health care
10 service in which the practitioner, or the practitioner's immediate
11 family, or the practitioner in combination with the practitioner's
12 immediate family has a significant beneficial interest; except that,
13 in the case of a practitioner, a practitioner's immediate family, or a
14 practitioner in combination with the practitioner's immediate family
15 who had the significant beneficial interest prior to the effective date
16 of P.L.1991, c.187 (C.26:2H-18.24 et al.), and in the case of a
17 significant beneficial interest in a health care service that provides
18 lithotripsy or radiation therapy pursuant to an oncological protocol
19 that was held prior to the effective date of this section of P.L.2009,
20 c.24, the practitioner may continue to refer a patient or direct an
21 employee to do so if that practitioner discloses the significant
22 beneficial interest to the patient.

23 b. If a practitioner is permitted to refer a patient to a health care
24 service pursuant to this section, the practitioner shall provide the
25 patient with a written disclosure form, prepared pursuant to section
26 3 of P.L.1989, c.19 (C.45:9-22.6), and post a copy of this disclosure
27 form in a conspicuous public place in the practitioner's office.

28 c. The restrictions on referral of patients established in this
29 section shall not apply to:

30 (1) medical treatment or a procedure that is provided at the
31 practitioner's medical office and for which a bill is issued directly in
32 the name of the practitioner or the practitioner's medical office;

33 (2) renal dialysis;

34 (3) ambulatory surgery or procedures involving the use of any
35 anesthesia performed at a surgical practice licensed by the
36 Department of Health pursuant to subsection g. of section 12 of
37 P.L.1971, c.136 (C.26:2H-12) or at an ambulatory care facility
38 licensed by the Department of Health to perform surgical and
39 related services or lithotripsy services, if the following conditions
40 are met:

41 (a) the practitioner who provided the referral personally
42 performs the procedure;

43 (b) the practitioner's remuneration as an owner of or investor in
44 the practice or facility is directly proportional to the practitioner's

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 ownership interest and not to the volume of patients the practitioner
2 refers to the practice or facility;

3 (c) all clinically-related decisions at a facility owned in part by
4 non-practitioners are made by practitioners and are in the best
5 interests of the patient; and

6 (d) disclosure of the referring practitioner's significant
7 beneficial interest in the practice or facility is made to the patient in
8 writing, at or prior to the time that the referral is made, consistent
9 with the provisions of section 3 of P.L.1989, c.19 (C.45:9-22.6);

10 ~~[(4)medically-necessary intraoperative monitoring services
11 rendered during a neurosurgical, neurological, or neuro-radiological
12 surgical procedure that is performed in a hospital;] (Deleted by
13 amendment, P.L. _____, c. _____) (pending before the Legislature as this
14 bill)~~

15 (5) a value-based arrangement made in accordance with 42
16 C.F.R. 411.357(aa), a payment model authorized under a Medicare
17 shared savings program pursuant to 42 U.S.C. s.1395jjj, or a
18 demonstration operated by the Center for Medicare and Medicaid
19 Innovation established pursuant to at 42 U.S.C. s.1315a; and

20 (6) Referrals that a practitioner makes, or directs an employee of
21 the practitioner to make, to a health care service in which the
22 referring practitioner has a significant beneficial interest, when
23 participants in an alternative payment model registered with the
24 Department of Health pursuant to section 3 of P.L.2017, c.111
25 (C.45:9-22.5c) make a bona fide determination that: the significant
26 beneficial interest is reasonably related to the alternative payment
27 model standards filed with the Department of Health, provided that
28 the determination is documented and retained for a period of 10
29 years; and the referral is made in accordance with alternative
30 payment model standards and professional standards applicable to
31 the health care service in which the referring practitioner has a
32 significant beneficial interest.

33 (cf: P.L.2021, c.347, s.1)

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35 2. This act shall take effect immediately.

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STATEMENT

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40 This bill removes an exemption from the law regulating patient
41 referrals.

42 In general, N.J.S.A.45:9-22.5 provides that a practitioner shall
43 not refer a patient for a medical procedure to a health care service in
44 which the practitioner or the practitioner's immediate family has a
45 significant beneficial interest. N.J.S.A.45:9-22.5 exempts certain
46 medical procedures from the above prohibition.

47 This bill amends N.J.S.A.45:9-22.5 to remove the following
48 medical procedure from the statute's exemption list: "medically-

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- 1 necessary intraoperative monitoring services rendered during a
- 2 neurosurgical, neurological, or neuro-radiological surgical
- 3 procedure that is performed in a hospital.”