

P.L. 2022, CHAPTER 51, *approved July 1, 2022*
Assembly Committee Substitute for
Assembly, No. 3975

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.

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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. (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

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 the patient's right to withhold such written consent at or before the
2 time reproductive health care services are rendered or at such time
3 as the patient discloses any information relating to reproductive
4 health care services that have been previously rendered.

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

8 (1) pursuant to the laws of this State or the Rules of Court;

9 (2) by a covered entity against whom a claim has been made, or
10 there is a reasonable belief will be made, in an action or proceeding,
11 to the covered entity's attorney or professional liability insurer or
12 insurer's agent for use in the defense of the action or proceeding;

13 (3) to the Commissioner of Health, Human Services, or Banking
14 and Insurance, or any professional licensing board operating under
15 the authority of the Division of Consumer Affairs in the Department
16 of Law and Public Safety for records of a patient of a covered entity
17 in connection with an investigation of a complaint, if the records are
18 related to the complaint; or

19 (4) if child abuse, abuse of an elderly individual, abuse of an
20 individual who is incapacitated, or abuse of an individual with a
21 physical or mental disability is known or in good faith suspected.
22 For the purposes of this paragraph, the provision of or material
23 support for reproductive health care services that are permitted
24 under the laws of this State shall not constitute abuse.

25 Nothing in this subsection shall be construed to conflict with or
26 displace any requirements or conditions for disclosure set forth
27 under 45 C.F.R. ss.160.203 and 164.514.

28 c. Nothing in this section shall be construed to impede the
29 lawful sharing of medical records as permitted by State or federal
30 law or the Rules of Court.

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32 2. (New section) A public entity of this State or employee,
33 appointee, officer or official or any other person acting on behalf of
34 a public entity shall not provide any information or expend or use
35 time, money, facilities, property, equipment, personnel or other
36 resources in furtherance of any interstate investigation or
37 proceeding seeking to impose civil or criminal liability upon a
38 person or entity for:

39 (1) the provision, receipt, or seeking of, or inquiring or
40 responding to an inquiry about, reproductive health care services, as
41 defined in section 1 of P.L. , c. (C.) (pending before the
42 Legislature as this bill), that are legal in this State; or

43 (2) assisting, advising, aiding, abetting, facilitating, soliciting, or
44 conspiring with any person or entity providing, receiving, seeking,
45 or inquiring or responding to an inquiry about, reproductive health
46 care services, as defined in section 1 of P.L. , c. (C.)
47 (pending before the Legislature as this bill), that are legal in this
48 State.

1 This section shall not apply to any investigation or proceeding
2 when the conduct subject to potential liability under the
3 investigation or proceeding would be subject to liability under the
4 laws of this State if committed in this State. This section shall not
5 apply if it is necessary for the agency or person to engage in
6 conduct otherwise prohibited by this section in order to comply
7 with a valid order issued by a court with jurisdiction over the
8 agency or person, or to comply with applicable provisions of State
9 or federal law.

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

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

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

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

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

25 d. Has engaged in repeated acts of negligence, malpractice or
26 incompetence;

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

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

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

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

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

47 j. Has repeatedly failed to submit completed applications, or
48 parts of, or documentation submitted in conjunction with, such

1 applications, required to be filed with the Department of
2 Environmental Protection;

3 k. Has violated any provision of P.L.1983, c.320 (C.17:33A-1
4 et seq.) or any insurance fraud prevention law or act of another
5 jurisdiction or has been adjudicated, in civil or administrative
6 proceedings, of a violation of P.L.1983, c.320 (C.17:33A-1 et seq.)
7 or has been subject to a final order, entered in civil or
8 administrative proceedings, that imposed civil penalties under that
9 act against the applicant or holder;

10 l. Is presently engaged in drug or alcohol use that is likely to
11 impair the ability to practice the profession or occupation with
12 reasonable skill and safety. For purposes of this subsection, the
13 term "presently" means at this time or any time within the previous
14 365 days;

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

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

23 o. Advertised fraudulently in any manner.

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

43 Notwithstanding the provisions of any law, rule, or regulation to
44 the contrary, a board shall not refuse to admit a person to an
45 examination and shall not suspend, revoke, or refuse to renew any
46 certificate, registration, or license issued by the board based solely
47 on the applicant's or the certificate, registration, or license holder's
48 provision of, authorization of, participation in, referral for, or

1 assistance with any health care, medical service, or procedure
2 related to an abortion for a person who resides in a jurisdiction
3 where the provision, authorization, participation, referral, or
4 assistance is illegal, if the provision, authorization, participation,
5 referral, or assistance would not be a basis for refusing to admit a
6 person to an examination or for suspending, revoking, or refusing to
7 renew a certificate, registration, or license in this State.

8 For purposes of this act:

9 "Completed application" means the submission of all of the
10 information designated on the checklist, adopted pursuant to section
11 1 of P.L.1991, c.421 (C.13:1D-101), for the class or category of
12 permit for which application is made.

13 "Permit" has the same meaning as defined in section 1 of
14 P.L.1991, c.421 (C.13:1D-101).

15 (cf: P.L.2021, c.81, s.1)

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17 4. This act shall take effect immediately.

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