

CHAPTER 51
(CORRECTED COPY)

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

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

C.2A:84A-22.18 Definitions.

1. As used in sections 1 and 2 of P.L.2022, c.51 (C.2A:84A-22.18 and C.2A:84A-22.19): “Person” includes an individual, partnership, association, limited liability company, or corporation.

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

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

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

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

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

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

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

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

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

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

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

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

2A:84A-22.19 Disclosure of information, certain, expending of resources, certain, prohibited.

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

(1) the provision, receipt, or seeking of, or inquiring or responding to an inquiry about, reproductive health care services, as defined in section 1 of P.L.2022, c.51 (C.2A:84A-22.18), that are legal in this State; or

(2) assisting, advising, aiding, abetting, facilitating, soliciting, or conspiring with any person or entity providing, receiving, seeking, or inquiring or responding to an inquiry about, reproductive health care services, as defined in section 1 of P.L.2022, c.51 (C.2A:84A-22.18), that are legal in this State.

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

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

C.45:1-21 Refusal to license or renew, grounds.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

o. Advertised fraudulently in any manner.

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

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

For purposes of this act:

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

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

4. This act shall take effect immediately.

Approved July 1, 2022.