

SENATE, No. 2452

STATE OF NEW JERSEY
220th LEGISLATURE

INTRODUCED MAY 9, 2022

Sponsored by:

Senator ROBERT W. SINGER

District 30 (Monmouth and Ocean)

Senator VIN GOPAL

District 11 (Monmouth)

SYNOPSIS

Exempts birthing facilities from certain health care practitioner referral restrictions.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/30/2023)

1 AN ACT concerning health care practitioner referrals to birthing
2 facilities and amending P.L.1989, c.19

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

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

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

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

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

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

34 (2) renal dialysis;

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

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

44 (b) the practitioner's remuneration as an owner of or investor in
45 the practice or facility is directly proportional to the practitioner's
46 ownership interest and not to the volume of patients the practitioner
47 refers to the practice or facility;

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

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

8 (4) medically-necessary intraoperative monitoring services
9 rendered during a neurosurgical, neurological, or neuro-radiological
10 surgical procedure that is performed in a hospital;

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

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

29 (7) health care services provided at a birthing facility licensed
30 by the Department of Health to provide birthing and newborn care
31 services pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.).

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

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34 2. This act shall take effect immediately.

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STATEMENT

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39 This bill provides that health care services provided at a birthing
40 facility are exempt from the prohibition against health care
41 practitioners referring patients to health care services in which the
42 practitioner, the practitioner's immediate family, or the practitioner
43 in combination with the practitioner's immediate family, has a
44 significant beneficial interest.

45 Under current law, a health care practitioner generally is not to
46 refer a patient, or direct an employee of the practitioner to refer, a
47 patient to a health care service in which the practitioner, the
48 practitioner's immediate family, or the practitioner in combination

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1 with the practitioner's immediate family, has a significant beneficial
2 interest. However, there are exceptions to this general rule. This
3 bill adds to the list of exceptions by permitting health care
4 practitioners to refer patients to birthing facilities in which the
5 practitioner has a significant beneficial interest.