

**SENATE, No. 2452**

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

INTRODUCED MAY 9, 2022

**Sponsored by:**

**Senator ROBERT W. SINGER**

**District 30 (Monmouth and Ocean)**

**SYNOPSIS**

Exempts birthing facilities from certain health care practitioner referral restrictions.

**CURRENT VERSION OF TEXT**

As introduced.



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.