

[First Reprint]

ASSEMBLY, No. 4447

STATE OF NEW JERSEY
221st LEGISLATURE

INTRODUCED JUNE 3, 2024

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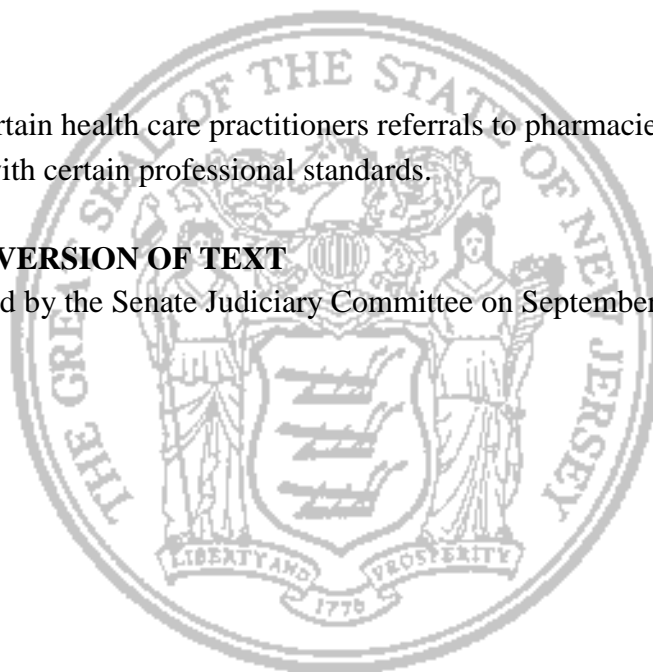
**Assemblyman Conaway, Assemblywoman Speight, Senator O'Scanlon,
Assemblywoman Flynn and Assemblyman Scharfenberger**

SYNOPSIS

Allows certain health care practitioners referrals to pharmacies to be made in accordance with certain professional standards.

CURRENT VERSION OF TEXT

As reported by the Senate Judiciary Committee on September 26, 2024, with amendments.



(Sponsorship Updated As Of: 10/28/2024)

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

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

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

9 2. a. A practitioner shall not refer a patient or direct an employee
10 of the practitioner to refer a patient to a health care service in which
11 the practitioner, or the practitioner's immediate family, or the
12 practitioner in combination with the practitioner's immediate family
13 has a significant beneficial interest **;** **except that,** as follows:

14 (1) in the case of a practitioner, a practitioner's immediate family,
15 or a practitioner in combination with the practitioner's immediate
16 family who had the significant beneficial interest prior to the effective
17 date of P.L.1991, c.187 (C.26:2H-18.24 et al.) **;** **and** **;**

18 (2) in the case of a significant beneficial interest in a health care
19 service that provides lithotripsy or radiation therapy pursuant to an
20 oncological protocol that was held prior to the effective date of this
21 section of P.L.2009, c.24 **;** **and**

22 (3) in the case of a practitioner, a practitioner's immediate family,
23 or a practitioner in combination with the practitioner's immediate
24 family who ¹**had** ¹has¹ a significant beneficial interest in a pharmacy
25 ¹**and whose application for a permit to operate a pharmacy site was**
26 **approved prior to the effective date of this section** that is integrated
27 with an oncology practice, that only dispenses medications exclusively
28 to patients of that practice, and that complies with the additional
29 requirements set forth in subsection d. of this section¹, the practitioner
30 may continue to refer a patient or direct an employee to do so if that
31 practitioner discloses the significant beneficial interest to the patient.

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

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

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

42 (2) renal dialysis;

43 (3) ambulatory surgery or procedures involving the use of any
44 anesthesia performed at a surgical practice licensed by the Department

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

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SJU committee amendments adopted September 26, 2024.

1 of Health pursuant to subsection g. of section 12 of P.L.1971, c.136
2 (C.26:2H-12) or at an ambulatory care facility licensed by the
3 Department of Health to perform surgical and related services or
4 lithotripsy services, if the following conditions are met:

5 (a) the practitioner who provided the referral personally performs
6 the procedure;

7 (b) the practitioner's remuneration as an owner of or investor in the
8 practice or facility is directly proportional to the practitioner's
9 ownership interest and not to the volume of patients the practitioner
10 refers to the practice or facility;

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

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

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

21 (5) a value-based arrangement made in accordance with 42 C.F.R.
22 411.357(aa), a payment model authorized under a Medicare shared
23 savings program pursuant to 42 U.S.C. s.1395jjj, or a demonstration
24 operated by the Center for Medicare and Medicaid Innovation
25 established pursuant to at 42 U.S.C. s.1315a; and

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

38 ¹d. The exemption set forth in paragraph (3) of subsection a. of this
39 section shall apply to a pharmacy that is integrated with an oncology
40 practice, provided that the pharmacy:

41 (1) has direct access to the oncology practice's patient records;

42 (2) communicates with each patient in person or via telemedicine to
43 review the prescription instructions and assesses the patient for
44 interactions with other drugs and food;

45 (3) synchronously consults with the oncology practice's treating
46 physicians as appropriate; and

1 (4) complies with the requirements for timely delivery of
2 medications, hours of operation, and recordkeeping that are established
3 by rule or regulation by the State Board of Pharmacy.¹

4 (cf: P.L.2021, c.347)

5

6 2. This act shall take effect immediately.