

ASSEMBLY, No. 5645

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED MAY 12, 2021

Sponsored by:

Assemblyman HERB CONAWAY, JR.

District 7 (Burlington)

Assemblyman RAJ MUKHERJI

District 33 (Hudson)

Assemblyman STERLEY S. STANLEY

District 18 (Middlesex)

SYNOPSIS

Requires certain health care practitioner referrals to be made in accordance with certain professional standards.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 11/15/2021)

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
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

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 ownership interest and not to the volume of patients the practitioner
2 refers to the practice or facility;

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

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

11 (4) medically-necessary intraoperative monitoring services
12 rendered during a neurosurgical, neurological, or neuro-radiological
13 surgical procedure that is performed in a hospital; and

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

27 (cf: P.L.2017, c.283, s.2)

28
29 2. This act shall take effect immediately.

30 31 32 STATEMENT

33
34 This bill requires that certain health care practitioner referrals be
35 made in accordance with certain professional standards.

36 Under current law, a health care practitioner generally is not to
37 refer a patient or direct an employee of the practitioner to refer a
38 patient to a health care service in which the practitioner, the
39 practitioner's immediate family, or the practitioner in combination
40 with the practitioner's immediate family, has a significant beneficial
41 interest.

42 However, there are exceptions to this general rule. One
43 exception pertains to referrals a health care practitioner makes to a
44 health care service in which the referring practitioner has a
45 significant beneficial interest, when participants in an alternative
46 payment model registered with the Department of Health make a

1 bona fide determination that the significant beneficial interest is
2 reasonably related to the alternative payment model standards filed
3 with the Department of Health, provided that the determination is
4 documented and retained for a period of 10 years.

5 This bill narrows the above exception by also requiring that the
6 referral be made in accordance with alternative payment model
7 standards and the professional standards applicable to the health
8 care service in which the referring practitioner has a significant
9 beneficial interest.