

P.L. 2021, CHAPTER 347, *approved January 10, 2022*
Senate, No. 3632 (*First Reprint*)

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:

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 SHH committee amendments adopted June 10, 2021.

- 1 (a) the practitioner who provided the referral personally
2 performs the procedure;
- 3 (b) the practitioner's remuneration as an owner of or investor in
4 the practice or facility is directly proportional to the practitioner's
5 ownership interest and not to the volume of patients the practitioner
6 refers to the practice or facility;
- 7 (c) all clinically-related decisions at a facility owned in part by
8 non-practitioners are made by practitioners and are in the best
9 interests of the patient; and
- 10 (d) disclosure of the referring practitioner's significant
11 beneficial interest in the practice or facility is made to the patient in
12 writing, at or prior to the time that the referral is made, consistent
13 with the provisions of section 3 of P.L.1989, c.19 (C.45:9-22.6);
14 **'[and]'**
- 15 (4) medically-necessary intraoperative monitoring services
16 rendered during a neurosurgical, neurological, or neuro-radiological
17 surgical procedure that is performed in a hospital; **'[and]'**
- 18 (5) 'a value-based arrangement made in accordance with 42
19 C.F.R. 411.357(aa), a payment model authorized under a Medicare
20 shared savings program pursuant to 42 U.S.C. s.1395jjj, or a
21 demonstration operated by the Center for Medicare and Medicaid
22 Innovation established pursuant to at 42 U.S.C. s.1315a; and
- 23 (6)¹ Referrals that a practitioner makes, or directs an employee
24 of the practitioner to make, to a health care service in which the
25 referring practitioner has a significant beneficial interest, when
26 participants in an alternative payment model registered with the
27 Department of Health pursuant to section 3 of P.L.2017, c.111
28 (C.45:9-22.5c) make a bona fide determination that; the significant
29 beneficial interest is reasonably related to the alternative payment
30 model standards filed with the Department of Health, provided that
31 the determination is documented and retained for a period of 10
32 years; and the referral is made in accordance with alternative
33 payment model standards and professional standards applicable to
34 the health care service in which the referring practitioner has a
35 significant beneficial interest.

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37 2. This act shall take effect immediately.
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42 Expands exemption from restrictions on health care practitioner
43 referrals; requires certain referrals to be made in accordance with
44 certain professional standards.