# ASSEMBLY, No. 4447
# STATE OF NEW JERSEY
## 221st LEGISLATURE

INTRODUCED JUNE 3, 2024

**Sponsored by:**
**Assemblywoman LUANNE M. PETERPAUL**
**District 11 (Monmouth)**
**Assemblyman CHRISTOPHER P. DEPHILLIPS**
**District 40 (Bergen, Essex and Passaic)**
**Assemblyman JOHN V. AZZARITI JR., M.D.**
**District 39 (Bergen)**

**Co-Sponsored by:**
**Assemblyman Conaway and Assemblywoman Speight**

**SYNOPSIS**

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

**CURRENT VERSION OF TEXT**

As introduced.

**An Act** concerning health care practitioner referrals and amending P.L.1989, c.19.

**Be It Enacted** *by the Senate and General Assembly of the State of New Jersey:*

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

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

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

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

(3) in the case of a practitioner, a practitioner's immediate family, or a practitioner in combination with the practitioner's immediate family who had a significant beneficial interest in a pharmacy and whose application for a permit to operate a pharmacy site was approved prior to the effective date of this section, the practitioner may continue to refer a patient or direct an employee to do so if that practitioner discloses the significant beneficial interest to the patient.

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

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

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

(2) renal dialysis;

(3) ambulatory surgery or procedures involving the use of any anesthesia performed at a surgical practice licensed by the Department of Health pursuant to subsection g. of section 12 of

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

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

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

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

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

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

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

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

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

2. This act shall take effect immediately.

STATEMENT

Under section 2 of P.L.1989, c.19 (C.45:9-22.5) health care practitioners are prohibited from referring a patient to a health care service in which the practitioner, or the practitioner's immediate family, or a combination of both has a significant beneficial interest, except for the exceptions provided for in statutes.

This bill amends section 2 of P.L.1989, c.19 (C. 45:9-22.5) to expand the exceptions under which a health care practitioner can refer a patient to a health care service to include the exception in which a practitioner, a practitioner's immediate family, or a combination of both has a significant beneficial interest in a pharmacy and whose application for a permit to operate a pharmacy site was approved prior to the effective date of section 2 of P.L.1989, c.19.

Permitting health care practitioners to refer patients to pharmacies, licensed prior to the effective date of section 2 of P.L.1989, c.19, in which the practitioner, or the practitioner's immediate family, or a combination of both have a significant beneficial interest will allow for the continuity of care and facilitate ongoing collaboration between the practitioner and pharmacy with respect to medication adherence, efficient and effective drug refill management, and reduction in the incidence and severity of adverse medication-related events.