2A:53A-26 LEGISLATIVE HISTORY CHECKLIST

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LAWS OF:	2010	CHAPTER:	88		
NJSA:		2A:53A-26 (Includes midwives within definition of "licensed person" for purposes of affidavits of merit in certain actions filed on or after effective date			
BILL NO:	A1392 (Subs	A1392 (Substituted for S1526)			
SPONSOR(S)	Carroll and others				
DATE INTRO					
COMMITTEE:	COMMITTEE: ASSEMBLY:		ciary		
	SENA	ATE: Judici	ciary		
AMENDED DURING PASSAGE:					
DATE OF PAS	SAGE:	ASSEMBLY:	: March 15, 2010		
		SENATE:	September 30, 2010		
DATE OF APPROVAL: Novemb			2, 2010		
FOLLOWING ARE ATTACHED IF AVAILABLE:					
FINAL TEXT OF BILL (First reprint enacted)					
A1392					
	SPONSOR'S	(Begins on page 2 of introduced bill) Yes			
	COMMITTEE	STATEMENT:	ASSEMBLY: Yes		
			SENATE: Yes		
(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, <i>may possibly</i> be found at www.njleg.state.nj.us)					
FLOO	R AMENDMEN	: No			
LEGIS	SLATIVE FISCA	No			
S1526					
	SPONSOR'S	(Begins on page 2 of introduced bill) Yes			
	COMMITTEE	STATEMENT:	ASSEMBLY: No		
			SENATE: Yes		
	FLOOR AME	NDMENT STATE	EMENT: No		
	LEGISLATIV	E FISCAL ESTI	IMATE: No		

(continued)

VETO MESSAGE:	No		
GOVERNOR'S PRESS RELEASE ON SIGNING:	No		
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HEARINGS:	No		
NEWSPAPER ARTICLES:	No		
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LAW/RWH

[First Reprint] ASSEMBLY, No. 1392 STATE OF NEW JERSEY 214th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2010 SESSION

Sponsored by: Assemblyman MICHAEL PATRICK CARROLL District 25 (Morris) Assemblywoman CARIDAD RODRIGUEZ District 33 (Hudson)

Co-Sponsored by: Assemblywoman Spencer, Senators Gill and Ruiz

SYNOPSIS

Includes midwives within definition of "licensed person" for purposes of affidavits of merit in certain actions filed on or after effective date.

CURRENT VERSION OF TEXT

As reported by the Assembly Judiciary Committee on March 8, 2010, with amendments.



(Sponsorship Updated As Of: 10/1/2010)

A1392 [1R] CARROLL, RODRIGUEZ

2

AN ACT concerning certain causes of action for negligence or 1 2 malpractice and amending P.L.1995, c.139. 3 4 BE IT ENACTED by the Senate and General Assembly of the State 5 of New Jersey: 6 7 1. Section 1 of P.L.1995, c.139 (C.2A:53A-26) is amended to 8 read as follows: 1. As used in this act, "licensed person" means any person who 9 10 is licensed as: a. an accountant pursuant to [P.L.1977, c.144 (C.45:2B-1 et 11 12 seq.) P.L.1997, c.259 (C.45:2B-42 et seq.); 13 an architect pursuant to R.S.45:3-1 et seq.; b. 14 an attorney admitted to practice law in New Jersey; c. 15 d. a dentist pursuant to R.S.45:6-1 et seq.; an engineer pursuant to P.L.1938, c.342 (C.45:8-27 et seq.); 16 e. 17 f. a physician in the practice of medicine or surgery pursuant 18 to R.S.45:9-1 et seq.; a podiatrist pursuant to R.S.45:5-1 et seq.; 19 g. a chiropractor pursuant to P.L.1989, c.153 (C.45:9-41.17 et 20 h. 21 seq.); 22 a registered professional nurse pursuant to P.L.1947, c.262 i. 23 (C.45:11-23 et seq.); a health care facility as defined in section 2 of P.L.1971, 24 j. 25 c.136 (C.26:2H-2); k. a physical therapist pursuant to P.L.1983, c.296 (C.45:9-26 27 37.11 et seq.); a land surveyor pursuant to P.L.1938, c.342 (C.45:8-27 et 28 1. 29 seq.); m. a registered pharmacist pursuant to [R.S.45:14-1 et seq.] 30 P.L.2003, c.280 (C.45:14-40 et seq.); 31 32 n. a veterinarian pursuant to R.S.45:16-1 et seq.; [and] o. an insurance producer pursuant to [P.L.1987, c.293] 33 (C.17:22A-1 et seq.)] P.L.2001, c.210 (C.17:22A-26 et seq.); and 34 <u>p.</u> a ¹certified¹ midwife ¹, certified professional midwife, or 35 certified nurse midwife¹ pursuant to R.S.45:10-1 et seq. 36 (cf: P.L.2001, c.372, s.1) 37 38 39 2. This act shall take effect on the 30th day next following enactment and apply to causes of action filed on or after that date. 40

Matter underlined <u>thus</u> is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

EXPLANATION – Matter enclosed in **bold-faced brackets** [thus] in the above bill is not enacted and is intended to be omitted in the law.

¹Assembly AJU committee amendments adopted March 8, 2010.

ASSEMBLY, No. 1392 STATE OF NEW JERSEY 214th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2010 SESSION

Sponsored by: Assemblyman MICHAEL PATRICK CARROLL District 25 (Morris) Assemblywoman CARIDAD RODRIGUEZ District 33 (Hudson)

SYNOPSIS

Includes midwives within definition of "licensed person" for purposes of affidavits of merit in certain actions filed on or after effective date.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



A1392 CARROLL, RODRIGUEZ

2

AN ACT concerning certain causes of action for negligence or 1 2 malpractice and amending P.L.1995, c.139. 3 4 **BE IT ENACTED** by the Senate and General Assembly of the State 5 of New Jersey: 6 7 1. Section 1 of P.L.1995, c.139 (C.2A:53A-26) is amended to 8 read as follows: 9 1. As used in this act, "licensed person" means any person who 10 is licensed as: a. an accountant pursuant to [P.L.1977, c.144 (C.45:2B-1 et 11 seq.)] P.L.1997, c.259 (C.45:2B-42 et seq.); 12 13 b. an architect pursuant to R.S.45:3-1 et seq.; 14 c. an attorney admitted to practice law in New Jersey; 15 d. a dentist pursuant to R.S.45:6-1 et seq.; 16 e. an engineer pursuant to P.L.1938, c.342 (C.45:8-27 et seq.); 17 f. a physician in the practice of medicine or surgery pursuant 18 to R.S.45:9-1 et seq.; g. a podiatrist pursuant to R.S.45:5-1 et seq.; 19 20 h. a chiropractor pursuant to P.L.1989, c.153 (C.45:9-41.17 et 21 seq.); 22 a registered professional nurse pursuant to P.L.1947, c.262 i. 23 (C.45:11-23 et seq.); j. a health care facility as defined in section 2 of P.L.1971, 24 c.136 (C.26:2H-2); 25 k. a physical therapist pursuant to P.L.1983, c.296 (C.45:9-26 27 37.11 et seq.); a land surveyor pursuant to P.L.1938, c.342 (C.45:8-27 et 28 1. 29 seq.); m. a registered pharmacist pursuant to [R.S.45:14-1 et seq.] 30 P.L.2003, c.280 (C.45:14-40 et seq.); 31 n. a veterinarian pursuant to R.S.45:16-1 et seq.; [and] 32 o. an insurance producer pursuant to [P.L.1987, c.293 33 (C.17:22A-1 et seq.)] P.L.2001, c.210 (C.17:22A-26 et seq.); and 34 35 p. a midwife pursuant to R.S.45:10-1 et seq. 36 (cf: P.L.2001, c.372, s.1) 37 2. This act shall take effect on the 30th day next following 38 39 enactment and apply to causes of action filed on or after that date. 40 41 42 **STATEMENT** 43 44 Pursuant to section 2 of P.L.1995, c.139 (C.2A:53A-27), once a 45 defendant has filed an answer to a malpractice or negligence 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.

A1392 CARROLL, RODRIGUEZ

3

complaint, a plaintiff is required to file an affidavit from an 1 2 appropriate licensed person stating that a reasonable probability of 3 care, skill or knowledge was absent in the treatment or practice 4 provided by the defendant. This bill includes midwives as a licensed person who may now provide an affidavit for a cause of 5 action filed against a defendant midwife. The bill will take effect 6 7 on the 30th day next following enactment and apply to causes of 8 action filed on or after that date.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1392

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 8, 2010

The Assembly Judiciary Committee reports favorably and with committee amendments Assembly Bill No. 1392.

Under the "affidavit of merit" statute, set out in section 2 of P.L.1995, c.139 (C.2A:53A-27), a plaintiff in a malpractice or negligence action is required to file an affidavit from an appropriate licensed person stating that there is a reasonable probability that the care, skill or knowledge exercised or exhibited by the defendant in the treatment, practice or work that is the subject of the complaint fell outside acceptable professional or occupational standards or treatment practices. The affidavit must be filed within 60 days following the date the defendant files the answer to the complaint.

This bill includes midwives within the definition of "licensed persons" under the statute. Thus, under the bill, a plaintiff who files an action against a defendant midwife would be required to provide an affidavit of merit from a midwife in order for the case to proceed.

The bill would take effect on the 30th day next following enactment and apply to causes of action filed on or after that date.

The committee amended the bill to more precisely delineate the term "midwife." Currently, the Board of Medical Examiners regulates three categories of midwives: certified midwives (CM), certified professional midwives (CPM) and certified nurse midwives (CNM). The amendments list all three.

This bill was pre-filed for introduction in the 2010-2011 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

COMMITTEE AMENDMENTS

Amend section 1 of the bill to replace the term "midwife" with "certified midwife," "certified professional midwife," and "certified nurse midwife."

SENATE JUDICIARY COMMITTEE

STATEMENT TO

[First Reprint] ASSEMBLY, No. 1392

STATE OF NEW JERSEY

DATED: SEPTEMBER 23, 2010

The Senate Judiciary Committee reports favorably Assembly Bill No. 1392 (1R).

Under the "affidavit of merit" statute, set out in section 2 of P.L.1995, c.139 (C.2A:53A-27), a plaintiff in a malpractice or negligence action is required to file an affidavit from an appropriate licensed person stating that there is a reasonable probability that the care, skill or knowledge exercised or exhibited by the defendant in the treatment, practice or work that is the subject of the complaint fell outside acceptable professional or occupational standards or treatment practices. The affidavit must be filed within 60 days following the date the defendant files the answer to the complaint.

This bill includes midwives within the definition of "licensed persons" under the statute. Thus, under the bill, a plaintiff who files an action against a midwife would be required to provide an affidavit of merit from a midwife in order for the case to proceed. The bill includes the three categories of midwives which are regulated by the Board of Medical Examiners: certified midwives (CM), certified professional midwives (CPM) and certified nurse midwives (CNM).

The bill would take effect on the 30th day next following enactment and apply to causes of action filed on or after that date.

This bill is identical to Senate Bill No. 1526 (1R).

SENATE, No. 1526 STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED FEBRUARY 22, 2010

Sponsored by: Senator NIA H. GILL District 34 (Essex and Passaic)

SYNOPSIS

Includes midwives within definition of "licensed person" for purposes of affidavits of merit in certain actions filed on or after effective date.

CURRENT VERSION OF TEXT

As introduced.



S1526 GILL

2

1 AN ACT concerning certain causes of action for negligence or 2 malpractice and amending P.L.1995, c.139. 3 4 **BE IT ENACTED** by the Senate and General Assembly of the State 5 of New Jersey: 6 7 1. Section 1 of P.L.1995, c.139 (C.2A:53A-26) is amended to 8 read as follows: 9 1. As used in this act, "licensed person" means any person who 10 is licensed as: 11 an accountant pursuant to [P.L.1977, c.144 (C.45:2B-1 et a. seq.)] P.L.1997, c.259 (C.45:2B-42 et seq.); 12 13 b. an architect pursuant to R.S.45:3-1 et seq.; 14 an attorney admitted to practice law in New Jersey; c. 15 d. a dentist pursuant to R.S.45:6-1 et seq.; an engineer pursuant to P.L.1938, c.342 (C.45:8-27 et seq.); 16 e. 17 a physician in the practice of medicine or surgery pursuant f. to R.S.45:9-1 et seq.; 18 a podiatrist pursuant to R.S.45:5-1 et seq.; 19 g. 20 a chiropractor pursuant to P.L.1989, c.153 (C.45:9-41.17 et h. 21 seq.); 22 a registered professional nurse pursuant to P.L.1947, c.262 i. 23 (C.45:11-23 et seq.); 24 a health care facility as defined in section 2 of P.L.1971, į. 25 c.136 (C.26:2H-2); k. a physical therapist pursuant to P.L.1983, c.296 (C.45:9-26 27 37.11 et seq.); a land surveyor pursuant to P.L.1938, c.342 (C.45:8-27 et 28 1. 29 seq.); 30 m. a registered pharmacist pursuant to [R.S.45:14-1 et seq.] 31 P.L.2003, c.280 (C.45:14-40 et seq.); n. a veterinarian pursuant to R.S.45:16-1 et seq.; [and] 32 an insurance producer pursuant to [P.L.1987, c.293 33 0. (C.17:22A-1 et seq.)] P.L.2001, c.210 (C.17:22A-26 et seq.); and 34 35 p. a midwife pursuant to R.S.45:10-1 et seq. 36 (cf: P.L.2001, c.372, s.1) 37 38 2. This act shall take effect on the 30th day next following 39 enactment and apply to causes of action filed on or after that date. 40 41 42 **STATEMENT** 43 44 Pursuant to section 2 of P.L.1995, c.139 (C.2A:53A-27), once a 45 defendant has filed an answer to a malpractice or negligence

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 complaint, a plaintiff is required to file an affidavit from an 2 appropriate licensed person stating that a reasonable probability of 3 care, skill or knowledge was absent in the treatment or practice 4 provided by the defendant. This bill includes midwives as a 5 licensed person who may now provide an affidavit for a cause of 6 action filed against a defendant midwife. The bill will take effect 7 on the 30th day next following enactment and apply to causes of 8 action filed on or after that date.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 1526

with committee amendments

STATE OF NEW JERSEY

DATED: SEPTEMBER 23, 2010

The Senate Judiciary Committee reports favorably and with committee amendments Senate Bill No. 1526.

Under the "affidavit of merit" statute, set out in section 2 of P.L.1995, c.139 (C.2A:53A-27), a plaintiff in a malpractice or negligence action is required to file an affidavit from an appropriate licensed person stating that there is a reasonable probability that the care, skill or knowledge exercised or exhibited by the defendant in the treatment, practice or work that is the subject of the complaint fell outside acceptable professional or occupational standards or treatment practices. The affidavit must be filed within 60 days following the date the defendant files the answer to the complaint.

The bill includes midwives within the definition of "licensed persons" under the statute. Thus, under the bill, a plaintiff who files an action against a midwife would be required to provide an affidavit of merit from a midwife in order for the case to proceed.

The bill would take effect on the 30th day next following enactment and apply to causes of action filed on or after that date.

The amendments add additional language specifying the three categories of midwives licensed by the Board of Medical Examiners: Certified midwives (CM), certified professional midwives (CPM), and certified nurse midwives (CNM). The bill as introduced refers only to a "midwife."

These amendments make this bill identical to Assembly Bill No. 1392 (1R).