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[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:

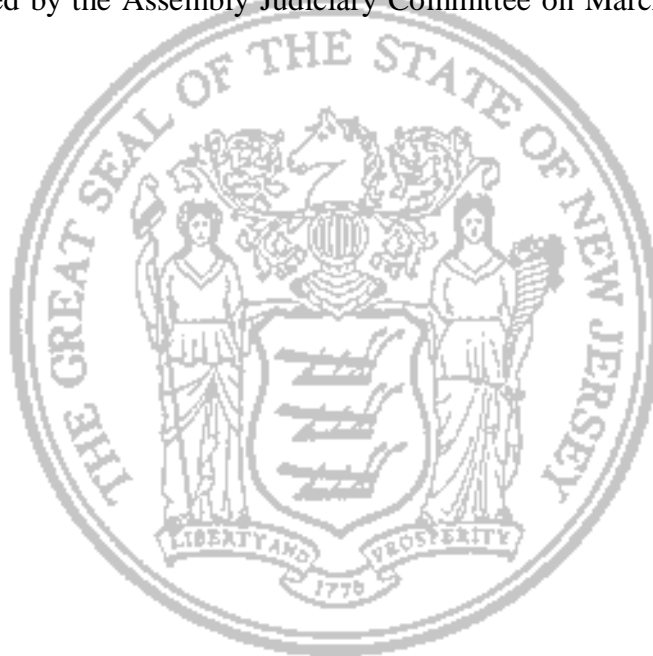
Assemblywoman Spencer, Senators Gill and Ruiz

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)

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 a. an accountant pursuant to **[P.L.1977, c.144 (C.45:2B-1 et**
12 **seq.)]** P.L.1997, c.259 (C.45:2B-42 et seq.);

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.;

19 g. a podiatrist pursuant to R.S.45:5-1 et seq.;

20 h. a chiropractor pursuant to P.L.1989, c.153 (C.45:9-41.17 et
21 seq.);

22 i. a registered professional nurse pursuant to P.L.1947, c.262
23 (C.45:11-23 et seq.);

24 j. a health care facility as defined in section 2 of P.L.1971,
25 c.136 (C.26:2H-2);

26 k. a physical therapist pursuant to P.L.1983, c.296 (C.45:9-
27 37.11 et seq.);

28 l. a land surveyor pursuant to P.L.1938, c.342 (C.45:8-27 et
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.);

32 n. a veterinarian pursuant to R.S.45:16-1 et seq.; **[and]**

33 o. an insurance producer pursuant to **[P.L.1987, c.293**
34 **(C.17:22A-1 et seq.)]** P.L.2001, c.210 (C.17:22A-26 et seq.); and

35 p. a ¹'certified' midwife ¹, certified professional midwife, or
36 certified nurse midwife¹ pursuant to R.S.45:10-1 et seq.

37 (cf: P.L.2001, c.372, s.1)

38

39 2. This act shall take effect on the 30th day next following
40 enactment and apply to causes of action filed on or after that date.

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:

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



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:

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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 a. an accountant pursuant to **[P.L.1977, c.144 (C.45:2B-1 et**
12 **seq.)]** P.L.1997, c.259 (C.45:2B-42 et seq.);

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.;

19 g. a podiatrist pursuant to R.S.45:5-1 et seq.;

20 h. a chiropractor pursuant to P.L.1989, c.153 (C.45:9-41.17 et
21 seq.);

22 i. a registered professional nurse pursuant to P.L.1947, c.262
23 (C.45:11-23 et seq.);

24 j. a health care facility as defined in section 2 of P.L.1971,
25 c.136 (C.26:2H-2);

26 k. a physical therapist pursuant to P.L.1983, c.296 (C.45:9-
27 37.11 et seq.);

28 l. a land surveyor pursuant to P.L.1938, c.342 (C.45:8-27 et
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.);

32 n. a veterinarian pursuant to R.S.45:16-1 et seq.; **[and]**

33 o. an insurance producer pursuant to **[P.L.1987, c.293**
34 **(C.17:22A-1 et seq.)]** P.L.2001, c.210 (C.17:22A-26 et seq.); and

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.

A1392 CARROLL, RODRIGUEZ

3

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.

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.



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2 malpractice and amending P.L.1995, c.139.

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14 c. an attorney admitted to practice law in New Jersey;

15 d. a dentist pursuant to R.S.45:6-1 et seq.;

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17 f. a physician in the practice of medicine or surgery pursuant
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19 g. a podiatrist pursuant to R.S.45:5-1 et seq.;

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25 c.136 (C.26:2H-2);

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27 37.11 et seq.);

28 l. a land surveyor pursuant to P.L.1938, c.342 (C.45:8-27 et
29 seq.);

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STATEMENT

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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.

S1526 GILL

3

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
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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).