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LAW/KR

P.L.2013, CHAPTER 178, *approved January 13, 2014*
Senate, No. 2779

1 AN ACT concerning certain health care service referrals and
2 amending 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; and

35 (3) ambulatory surgery or procedures requiring anesthesia
36 performed at a surgical practice registered with the Department of
37 Health pursuant to subsection g. of section 12 of P.L.1971, c.136
38 (C.26:2H-12) or at an ambulatory care facility licensed by the
39 Department of Health to perform surgical and related services or
40 lithotripsy services, if the following conditions 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.

- 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 **【practioner's】**
5 practitioner's ownership interest and not to the volume of patients
6 the practitioner 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 (cf: P.L. 2012, c.17, s.410)

15
16 2. The State Board of Medical Examiners shall adopt rules and
17 regulations, pursuant to the "Administrative Procedure Act,"
18 P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to carry out the
19 provisions of this act.

20
21 3. This act shall take effect immediately.

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STATEMENT

26 This bill amends section 2 of P.L.1989, C.19 (C.45:9-22.5) to
27 eliminate the prohibition on certain patient referrals for lithotripsy,
28 which is a procedure that uses shock waves to break up stones in the
29 kidney, bladder, or ureter, after which pieces of the stones pass
30 from the body. Lithotripsy procedures are provided in licensed
31 ambulatory surgical facilities or in freestanding ambulatory care
32 facilities licensed to provide lithotripsy, rather than in practitioners'
33 medical offices.

34 Current law generally prohibits health care practitioners from
35 referring patients to health care services in which the practitioner or
36 his or her immediate family has a financial interest, but provides
37 various exceptions to this general prohibition and sets forth certain
38 conditions that must be met in order to qualify under an exception.
39 With respect to referrals of patients for lithotripsy, current law
40 allows a practitioner to refer patients to a health care service in
41 which the practitioner has a financial interest if: (1) he or she held a
42 financial interest in the health care service prior to the effective date
43 of P.L.2009, c.24 and discloses the financial interest to the patient;
44 or (2) he or she has a financial interest in an ambulatory surgical
45 facility that provides lithotripsy services and the practitioner
46 personally performs the procedure, the practitioner's remuneration
47 is directly proportional to his or her ownership interest and not to
48 the volume of patients referred by the practitioner, all clinically-

1 related decisions are made by the facility's practitioners and are in
2 the best interests of the patient, and the practitioner discloses the
3 financial interest to the patient at or prior to the time the referral is
4 made. Current law does not permit referrals by practitioners who
5 invest in a licensed facility that provides lithotripsy if the
6 practitioner obtained his or her financial interest in that facility after
7 the effective date of P.L.2009, c.24. This bill would allow for such
8 referrals, under the same conditions that apply to referrals to
9 ambulatory surgical facilities.

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14 _____
15 Allows practitioner with financial interest in health care service
16 providing lithotripsy to refer patients to that health care service if
certain conditions are met.

SENATE, No. 2779

STATE OF NEW JERSEY 215th LEGISLATURE

INTRODUCED MAY 20, 2013

Sponsored by:

Senator JOSEPH F. VITALE

District 19 (Middlesex)

Senator RICHARD J. CODEY

District 27 (Essex and Morris)

Assemblyman HERB CONAWAY, JR.

District 7 (Burlington)

Assemblyman DANIEL R. BENSON

District 14 (Mercer and Middlesex)

Assemblywoman NANCY F. MUNOZ

District 21 (Morris, Somerset and Union)

Assemblywoman AMY H. HANDLIN

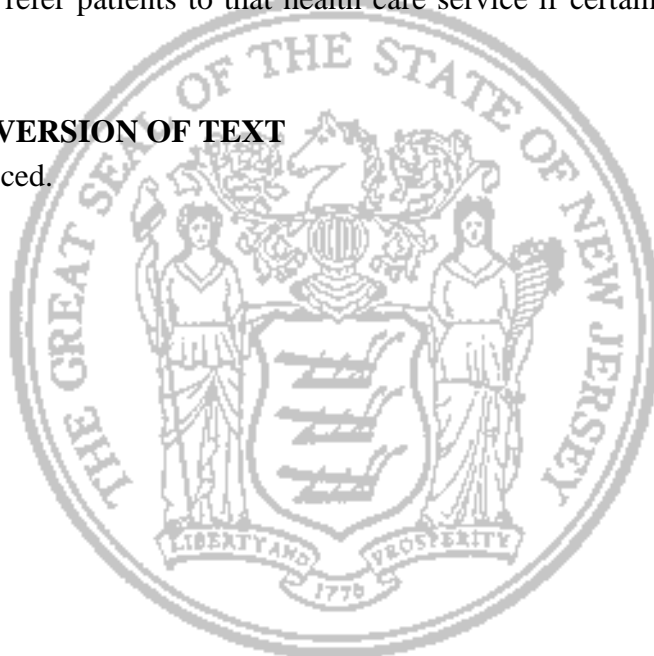
District 13 (Monmouth)

SYNOPSIS

Allows practitioner with financial interest in health care service providing lithotripsy to refer patients to that health care service if certain conditions are met.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/20/2013)

1 AN ACT concerning certain health care service referrals and
2 amending 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; and

35 (3) ambulatory surgery or procedures requiring anesthesia
36 performed at a surgical practice registered with the Department of
37 Health pursuant to subsection g. of section 12 of P.L.1971, c.136
38 (C.26:2H-12) or at an ambulatory care facility licensed by the
39 Department of Health to perform surgical and related services or
40 lithotripsy services, if the following conditions are met:

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

43 (b) the practitioner's remuneration as an owner of or investor in
44 the practice or facility is directly proportional to the **[practioner'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 practitioner's ownership interest and not to the volume of patients
2 the practitioner 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 (cf: P.L. 2012, c.17, s.410)

11
12 2. The State Board of Medical Examiners shall adopt rules and
13 regulations, pursuant to the "Administrative Procedure Act,"
14 P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to carry out the
15 provisions of this act.

16
17 3. This act shall take effect immediately.

18
19

20 STATEMENT

21

22 This bill amends section 2 of P.L.1989, C.19 (C.45:9-22.5) to
23 eliminate the prohibition on certain patient referrals for lithotripsy,
24 which is a procedure that uses shock waves to break up stones in the
25 kidney, bladder, or ureter, after which pieces of the stones pass
26 from the body. Lithotripsy procedures are provided in licensed
27 ambulatory surgical facilities or in freestanding ambulatory care
28 facilities licensed to provide lithotripsy, rather than in practitioners'
29 medical offices.

30 Current law generally prohibits health care practitioners from
31 referring patients to health care services in which the practitioner or
32 his or her immediate family has a financial interest, but provides
33 various exceptions to this general prohibition and sets forth certain
34 conditions that must be met in order to qualify under an exception.
35 With respect to referrals of patients for lithotripsy, current law
36 allows a practitioner to refer patients to a health care service in
37 which the practitioner has a financial interest if: (1) he or she held a
38 financial interest in the health care service prior to the effective date
39 of P.L.2009, c.24 and discloses the financial interest to the patient;
40 or (2) he or she has a financial interest in an ambulatory surgical
41 facility that provides lithotripsy services and the practitioner
42 personally performs the procedure, the practitioner's remuneration
43 is directly proportional to his or her ownership interest and not to
44 the volume of patients referred by the practitioner, all clinically-
45 related decisions are made by the facility's practitioners and are in
46 the best interests of the patient, and the practitioner discloses the
47 financial interest to the patient at or prior to the time the referral is
48 made. Current law does not permit referrals by practitioners who

S2779 VITALE, CODEY

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1 invest in a licensed facility that provides lithotripsy if the
2 practitioner obtained his or her financial interest in that facility after
3 the effective date of P.L.2009, c.24. This bill would allow for such
4 referrals, under the same conditions that apply to referrals to
5 ambulatory surgical facilities.

SENATE HEALTH, HUMAN SERVICES AND SENIOR
CITIZENS COMMITTEE

STATEMENT TO

SENATE, No. 2779

STATE OF NEW JERSEY

DATED: JUNE 3, 2013

The Senate Health, Human Services and Senior Citizens Committee reports favorably Senate Bill No. 2779.

As reported, this bill amends section 2 of P.L.1989, C.19 (C.45:9-22.5) to eliminate the prohibition on certain patient referrals for lithotripsy, which is a procedure that uses shock waves to break up stones in the kidney, bladder, or ureter, after which pieces of the stones pass from the body. Lithotripsy procedures are provided in licensed ambulatory surgical facilities or in freestanding ambulatory care facilities licensed to provide lithotripsy, rather than in practitioners' medical offices.

Current law generally prohibits health care practitioners from referring patients to health care services in which the practitioner or his or her immediate family has a financial interest, but provides various exceptions to this general prohibition and sets forth certain conditions that must be met in order to qualify under an exception. With respect to referrals of patients for lithotripsy, current law allows a practitioner to refer patients to a health care service in which the practitioner has a financial interest if: (1) he or she held a financial interest in the health care service prior to the effective date of P.L.2009, c.24 and discloses the financial interest to the patient; or (2) he or she has a financial interest in an ambulatory surgical facility that provides lithotripsy services and the practitioner personally performs the procedure, the practitioner's remuneration is directly proportional to his or her ownership interest and not to the volume of patients referred by the practitioner, all clinically-related decisions are made by the facility's practitioners and are in the best interests of the patient, and the practitioner discloses the financial interest to the patient at or prior to the time the referral is made. Current law does not permit referrals by practitioners who invest in a licensed facility that provides lithotripsy if the practitioner obtained his or her financial interest in that facility after the effective date of P.L.2009, c.24. This bill would allow for such referrals, under the same conditions that apply to referrals to ambulatory surgical facilities.

ASSEMBLY, No. 4222

STATE OF NEW JERSEY 215th LEGISLATURE

INTRODUCED JUNE 10, 2013

Sponsored by:

Assemblyman HERB CONAWAY, JR.

District 7 (Burlington)

Assemblyman DANIEL R. BENSON

District 14 (Mercer and Middlesex)

Assemblywoman NANCY F. MUNOZ

District 21 (Morris, Somerset and Union)

Assemblywoman AMY H. HANDLIN

District 13 (Monmouth)

SYNOPSIS

Allows practitioner with financial interest in health care service providing lithotripsy to refer patients to that health care service if certain conditions are met.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 11/19/2013)

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2 amending P.L.1989, c.19.

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18 significant beneficial interest in a health care service that provides
19 lithotripsy or radiation therapy pursuant to an oncological protocol
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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.

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38 (C.26:2H-12) or at an ambulatory care facility licensed by the
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42 performs the procedure;

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44 the practice or facility is directly proportional to the **[practioner'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.**

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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 (cf: P.L. 2012, c.17, s.410)

11
12 2. The State Board of Medical Examiners shall adopt rules and
13 regulations, pursuant to the "Administrative Procedure Act,"
14 P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to carry out the
15 provisions of this act.

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17 3. This act shall take effect immediately.
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20 STATEMENT
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25 kidney, bladder, or ureter, after which pieces of the stones pass
26 from the body. Lithotripsy procedures are provided in licensed
27 ambulatory surgical facilities or in freestanding ambulatory care
28 facilities licensed to provide lithotripsy, rather than in practitioners'
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39 of P.L.2009, c.24 and discloses the financial interest to the patient;
40 or (2) he or she has a financial interest in an ambulatory surgical
41 facility that provides lithotripsy services and the practitioner
42 personally performs the procedure, the practitioner's remuneration
43 is directly proportional to his or her ownership interest and not to
44 the volume of patients referred by the practitioner, all clinically-
45 related decisions are made by the facility's practitioners and are in
46 the best interests of the patient, and the practitioner discloses the
47 financial interest to the patient at or prior to the time the referral is
48 made. Current law does not permit referrals by practitioners who

A4222 CONAWAY, BENSON

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1 invest in a licensed facility that provides lithotripsy if the
2 practitioner obtained his or her financial interest in that facility after
3 the effective date of P.L.2009, c.24. This bill would allow for such
4 referrals, under the same conditions that apply to referrals to
5 ambulatory surgical facilities.

ASSEMBLY HEALTH AND SENIOR SERVICES COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4222

STATE OF NEW JERSEY

DATED: NOVEMBER 18, 2013

The Assembly Health and Senior Services Committee reports favorably Assembly Bill No. 4222.

This bill amends section 2 of P.L.1989, c.19 (C.45:9-22.5) to eliminate the prohibition on certain patient referrals for lithotripsy, which is a procedure that uses shock waves to break up stones in the kidney, bladder, or ureter, after which pieces of the stones pass from the body. Lithotripsy procedures are provided in licensed ambulatory surgical facilities or in freestanding ambulatory care facilities licensed to provide lithotripsy, rather than in practitioners' medical offices.

Current law generally prohibits health care practitioners from referring patients to health care services in which the practitioner or his or her immediate family has a financial interest, but provides various exceptions to this general prohibition and sets forth certain conditions that must be met in order to qualify under an exception. With respect to referrals of patients for lithotripsy, current law allows a practitioner to refer patients to a health care service in which the practitioner has a financial interest if he or she held a financial interest in the health care service prior to the effective date of P.L.2009, c.24 and discloses the financial interest to the patient. Current law does not permit referrals for lithotripsy services provided by a licensed facility in which the referring practitioner has a financial interest if the practitioner obtained his or her financial interest in that facility after the effective date of P.L.2009, c.24.

This bill would allow a practitioner to refer patients to lithotripsy services provided by a licensed ambulatory surgical facility or a licensed ambulatory care facility in which the practitioner has a financial interest under the following conditions, which currently apply to referrals to ambulatory surgery services at such facilities: the practitioner personally performs the procedure; the practitioner's remuneration is directly proportional to his or her ownership interest and not to the volume of patients referred by the practitioner; all clinically-related decisions are made by the facility's practitioners and are in the best interests of the patient; and the practitioner discloses the financial interest to the patient at or prior to the time that the referral is made.