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**NEWSPAPER ARTICLES:** Yes

"Governor Chris Christie Takes Action on Pending Legislation," Targeted News Service, August 2, 2016

RWH/JA

P.L.2016, CHAPTER 20, *approved August 1, 2016*  
Senate, No. 1164 (*First Reprint*)

1 AN ACT concerning referrals for intraoperative monitoring services  
2 and 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

**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:

<sup>1</sup>Senate SHH committee amendments adopted March 7, 2016.

1 Department of Health to perform surgical and related services or  
2 lithotripsy services, if the following conditions are met:

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

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

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

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

17 (4) medically-necessary intraoperative monitoring services  
18 rendered during a <sup>1</sup>neurosurgical, neurological, or neuro-  
19 radiological<sup>1</sup> surgical procedure that is performed <sup>1</sup>**[as an inpatient]**  
20 in a<sup>1</sup> hospital <sup>1</sup>**[service]**<sup>1</sup>.

21 (cf: P.L.2013, c.178, s.1)

22

23 2. The Board of Medical Examiners shall adopt such rules and  
24 regulations, pursuant to the "Administrative Procedure Act,"  
25 P.L.1968, c.410 (C.52:14B-1 et seq.), as may be necessary to carry  
26 out the provisions of this act.

27

28 3. This act shall take effect immediately.

29

30

31

32

33 Exempts intraoperative monitoring services rendered during  
34 certain neurosurgical, neurological, and neuro-radiological surgical  
35 procedures from physician self-referral restrictions.

**SENATE, No. 1164**

**STATE OF NEW JERSEY**  
**217th LEGISLATURE**

INTRODUCED FEBRUARY 8, 2016

**Sponsored by:**

**Senator FRED H. MADDEN, JR.**

**District 4 (Camden and Gloucester)**

**SYNOPSIS**

Exempts intraoperative monitoring services rendered during inpatient surgical procedures from physician self-referral restrictions.

**CURRENT VERSION OF TEXT**

As introduced.



S1164 MADDEN

2

1 AN ACT concerning referrals for intraoperative monitoring services  
2 and amending P.L.1989, c.19.

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 2 of P.L.1989, c.19 (C.45:9-22.5) is amended to read  
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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 practitioner'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 ownership interest and not to the volume of patients the practitioner  
2 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 and

11 (4) medically-necessary intraoperative monitoring services  
12 rendered during a surgical procedure that is performed as an  
13 inpatient hospital service.

14 (cf: P.L.2013, c.178, s.1)

15

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

20

21 3. This act shall take effect immediately.

22

23

24

#### STATEMENT

25

26 This bill provides that certain intraoperative monitoring (IOM)  
27 services are exempt from the prohibition against physicians  
28 referring patients for health care services in which the physician or  
29 the physician's family has a financial interest. IOM takes place  
30 during surgery and consists of a technician recording and  
31 stimulating various nerves and muscles through leads attached to  
32 the patient's body. The purpose of IOM is to elicit responses from  
33 the nerves and muscles to determine if they are functioning  
34 normally, thereby helping reduce the risk of neurological damage  
35 during surgery.

36 Current law prohibits physicians from referring patients to health  
37 care services in which the physician or the physician's family has a  
38 significant financial interest, but provides certain exceptions in  
39 cases where: the financial interest was held prior to a certain date  
40 and the physician provides the patient with written disclosure of the  
41 financial interest; the procedure is performed in the physician's  
42 medical office and the patient is billed directly by the physician or  
43 the physician's office; the procedure is renal dialysis; or the  
44 procedure requires anesthesia and is performed at a surgical practice  
45 or ambulatory surgery center, provided certain other conditions are  
46 met.

47 This bill provides that, in addition to these exceptions, the  
48 prohibition will not apply to medically-necessary IOM services

**S1164 MADDEN**

4

1 rendered during a surgical procedure that is performed as an  
2 inpatient hospital service. It is the sponsor's belief that, because  
3 IOM services rendered under these conditions are not likely to  
4 result in overuse or abuse, and because of the difficulty some  
5 hospitals have experienced in locating and retaining qualified IOM  
6 service providers, establishing this exception is an appropriate and  
7 necessary measure to help improve the provision of health care in  
8 New Jersey.



SENATE HEALTH, HUMAN SERVICES AND SENIOR  
CITIZENS COMMITTEE

STATEMENT TO  
**SENATE, No. 1164**

with committee amendments

**STATE OF NEW JERSEY**

DATED: MARCH 7, 2016

The Senate Health, Human Services and Senior Citizens Committee reports favorably and with committee amendments Senate Bill No. 1164.

As amended, this bill provides that certain intraoperative monitoring (IOM) services are exempt from the prohibition against physicians referring patients for health care services in which the physician or the physician's family has a financial interest. IOM takes place during surgery and consists of a technician recording and stimulating various nerves and muscles through leads attached to the patient's body. The purpose of IOM is to elicit responses from the nerves and muscles to determine if they are functioning normally, thereby helping reduce the risk of neurological damage during surgery.

Current law prohibits physicians from referring patients to health care services in which the physician or the physician's family has a significant financial interest, but it provides certain exceptions in cases where: the financial interest was held prior to a certain date and the physician provides the patient with written disclosure of the financial interest; the procedure is performed in the physician's medical office and the patient is billed directly by the physician or the physician's office; the procedure is renal dialysis; or the procedure requires anesthesia and is performed at a surgical practice or ambulatory surgery center, provided certain other conditions are met.

As amended, this bill provides that, in addition to these exceptions, the prohibition will not apply to medically-necessary IOM services rendered during a neurosurgical, neurological, or neuro-radiological surgical procedure that is performed in a hospital.

The committee amended the bill to provide that the exception from the prohibition against physician self-referrals, which originally applied to any intraoperative monitoring services performed during an inpatient surgical procedure, will now apply only to neurosurgical, neurological, and neuro-radiological surgical procedures performed in a hospital. The amendments also update the bill synopsis to reflect this change.

# ASSEMBLY, No. 1835

## STATE OF NEW JERSEY 217th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2016 SESSION

**Sponsored by:**

**Assemblyman HERB CONAWAY, JR.**

**District 7 (Burlington)**

**Assemblywoman NANCY J. PINKIN**

**District 18 (Middlesex)**

**Assemblyman RAJ MUKHERJI**

**District 33 (Hudson)**

**SYNOPSIS**

Exempts intraoperative monitoring services rendered during inpatient surgical procedures from physician self-referral restrictions.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



**(Sponsorship Updated As Of: 3/8/2016)**

1 AN ACT concerning referrals for intraoperative monitoring services  
2 and amending P.L.1989, c.19.

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 2 of P.L.1989, c.19 (C.45:9-22.5) is amended to read  
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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 practitioner's  
45 ownership interest and not to the volume of patients the practitioner  
46 refers to the practice or facility;

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

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

9 (4) medically-necessary intraoperative monitoring services  
10 rendered during a surgical procedure that is performed as an  
11 inpatient hospital service.

12 (cf: P.L.2013, c.178, s.1)

13

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

18

19 3. This act shall take effect immediately.

20

21

22

#### STATEMENT

23

24 This bill provides that certain intraoperative monitoring (IOM)  
25 services are exempt from the prohibition against physicians  
26 referring patients for health care services in which the physician or  
27 the physician's family has a financial interest. IOM takes place  
28 during surgery and consists of a technician recording and  
29 stimulating various nerves and muscles through leads attached to  
30 the patient's body. The purpose of IOM is to elicit responses from  
31 the nerves and muscles to determine if they are functioning  
32 normally, thereby helping reduce the risk of neurological damage  
33 during surgery.

34 Current law prohibits physicians from referring patients to health  
35 care services in which the physician or the physician's family has a  
36 significant financial interest, but provides certain exceptions in  
37 cases where: the financial interest was held prior to a certain date  
38 and the physician provides the patient with written disclosure of the  
39 financial interest; the procedure is performed in the physician's  
40 medical office and the patient is billed directly by the physician or  
41 the physician's office; the procedure is renal dialysis; or the  
42 procedure requires anesthesia and is performed at a surgical practice  
43 or ambulatory surgery center, provided certain other conditions are  
44 met.

45 This bill provides that, in addition to these exceptions, the  
46 prohibition will not apply to medically-necessary IOM services  
47 rendered during a surgical procedure that is performed as an  
48 inpatient hospital service. It is the sponsor's belief that, because

**A1835 CONAWAY, PINKIN**

4

1 IOM services rendered under these conditions are not likely to  
2 result in overuse or abuse, and because of the difficulty some  
3 hospitals have experienced in locating and retaining qualified IOM  
4 service providers, establishing this exception is an appropriate and  
5 necessary measure to help improve the provision of health care in  
6 New Jersey.

# ASSEMBLY HEALTH AND SENIOR SERVICES COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 1835**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: MARCH 7, 2016

The Assembly Health and Senior Services Committee reports favorably and with committee amendments Assembly Bill No. 1835.

As amended, this bill provides that certain intraoperative monitoring (IOM) services are exempt from the prohibition against physicians referring patients for health care services in which the physician or the physician's family has a financial interest. IOM takes place during surgery and consists of a technician recording and stimulating various nerves and muscles through leads attached to the patient's body. The purpose of IOM is to elicit responses from the nerves and muscles to determine if they are functioning normally, thereby helping reduce the risk of neurological damage during surgery.

Current law prohibits physicians from referring patients to health care services in which the physician or the physician's family has a significant financial interest, but provides certain exceptions in cases where: the financial interest was held prior to a certain date and the physician provides the patient with written disclosure of the financial interest; the procedure is performed in the physician's medical office and the patient is billed directly by the physician or the physician's office; the procedure is renal dialysis; or the procedure requires anesthesia and is performed at a surgical practice or ambulatory surgery center, provided certain other conditions are met.

As amended, this bill provides that, in addition to these exceptions, the prohibition will not apply to medically-necessary IOM services rendered during a neurosurgical, neurological, or neuro-radiological surgical procedure that is performed in a hospital.

This bill was pre-filed for introduction in the 2016-2017 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

COMMITTEE AMENDMENTS:

The committee amendments provide that the exception from the prohibition against physician self-referrals that applied to any intraoperative monitoring services performed during an inpatient surgical procedure under the bill as originally introduced will apply only to neurosurgical, neurological, and neuro-radiological surgical procedures performed in a hospital. The amendments update the synopsis to reflect this change.

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## Governor Chris Christie Takes Action On Pending Legislation

Monday, August 1, 2016

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State of New Jersey  
OFFICE OF THE GOVERNOR

**Trenton, NJ** – Governor Chris Christie announced action that has been taken on the following legislation:

### BILLS SIGNED:

**S-557/A-1613 (O'Toole, Ruiz/Rumana, Lagana, Russo, Gibling, Danielsen, Mukherji, Sumter, McKnight)** – "Madison Holleran Suicide Prevention Act"; requires institutions of higher education to have individuals who focus on reducing student suicides and attempted suicides available 24 hours a day

**S-855/A-2088 (Stack, Beach/Mukherji, Tucker, Zwicker, Lampitt, McKnight, Downey)** – Requires Commissioner of DCA to promulgate rules and regulations providing for veterans' affordable housing assistance preference

**S-1164/A-1835 (Madden/Conaway, Pinkin, Mukherji, Vainieri Huttle)** – Exempts intraoperative monitoring services rendered during certain neurosurgical, neurological, and neuro-radiological surgical procedures from physician self-referral restrictions

**S-1992/A-2518 (Beach, Allen/DeAngelo, Tucker, Andrzejczak, Conaway, Land)** – Facilitates coordination of land use planning between civilian and military interests to preserve viability of federal military installations within State

###

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Brian Murray  
609-777-2600


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