

CHAPTER 20

AN ACT concerning referrals for intraoperative monitoring services 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:

C.45:9-22.5 Referral of patient by practitioner regulated.

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, 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 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, 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 requiring anesthesia performed at a surgical practice registered with 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); and

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

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

3. This act shall take effect immediately.

Approved August 1, 2016.