
BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 12 of P.L.1971, c.136 (C.26:2H-12) is amended to read as follows:

12. a. No health care service or health care facility shall be operated unless it shall: (1) possess a valid license issued pursuant to this act, which license shall specify the kind or kinds of health care services the facility is authorized to provide; (2) establish and maintain a uniform system of cost accounting approved by the commissioner; (3) establish and maintain a uniform system of reports and audits meeting the requirements of the commissioner; (4) prepare and review annually a long range plan for the provision of health care services; and (5) establish and maintain a centralized, coordinated system of discharge planning which assures every patient a planned program of continuing care and which meets the requirements of the commissioner which requirements shall, where feasible, equal or exceed those standards and regulations established by the federal government for all federally-funded health care facilities but shall not require any person who is not in receipt of State or federal assistance to be discharged against his will.

b. (1) Application for a license for a health care service or health care facility shall be made upon forms prescribed by the department. The department shall charge a single, nonrefundable fee for the filing of an application for and issuance of a license and a single, nonrefundable fee for any renewal thereof, and a single, nonrefundable fee for a biennial inspection of the facility, as it shall from time to time fix in rules or regulations; provided, however, that no such licensing fee shall exceed $10,000 in the case of a hospital and $4,000 in the case of any other health care facility for all services provided by the hospital or other health care facility, and no such inspection fee shall exceed $5,000 in the case of a hospital and $2,000 in the case of any other health care facility for all services provided by the hospital or other health care facility. No inspection fee shall be charged for inspections other than biennial inspections. 2Any surgical practice required to apply for licensure by the department as an ambulatory

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:

1Senate SHH committee amendments adopted May 15, 2017.
2Senate floor amendments adopted June 26, 2017.
3Assembly floor amendments adopted December 7, 2017.
care facility pursuant to P.L. , c. 3[(C. )]² (pending before the
Legislature as this bill) shall be exempt from the initial and renewal
license fees required by this section.² The application shall contain the
name of the health care facility, the kind or kinds of health care service
to be provided, the location and physical description of the institution,
and such other information as the department may require.

(2) A license shall be issued by the department upon its findings
that the premises, equipment, personnel, including principals and
management, finances, rules and bylaws, and standards of health care
service are fit and adequate and there is reasonable assurance the
health care facility will be operated in the manner required by this act
and rules and regulations thereunder.

(3) The department shall post on its Internet website each
inspection report prepared following an inspection of a residential
health care facility, as defined in section 1 of P.L.1953, c.212
(C.30:11A-1) or licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et
seq.), that is performed pursuant to this subsection, along with any
other inspection report prepared by or on behalf of the department for
such facility.

If an inspection reveals a serious health and safety violation at a
residential health care facility, the department shall post the inspection
report, including the name of the facility and the owner of the facility,
on its website no later than 72 hours following the inspection. If a
license of a residential health care facility is suspended, the department
shall post the suspension on its website no later than 72 hours
following the suspension. The department shall update its website to
reflect the correction of a serious health and safety violation, and the
lifting of a suspension.

The department shall notify, as soon as possible, the Commissioner
of Human Services, or the commissioner's designee, and the director
of the county board of social services or county welfare agency, as
appropriate, in the county in which a residential health care facility is
located, of a serious health and safety violation at the facility and of
any suspension of a license to operate such facility.

If the inspection responsibilities under this subsection with respect
to such facility are transferred or otherwise assigned to another
department, that other department shall post on its Internet website
each inspection report prepared following an inspection of such
facility performed pursuant to this subsection, along with any other
inspection report prepared by or on behalf of that department for such
facility, and shall comply with the other requirements specified in this
subsection.

c. (Deleted by amendment, P.L.1998, c.43) []

d. The commissioner may amend a facility's license to reduce that
facility's licensed bed capacity to reflect actual utilization at the
facility if the commissioner determines that 10 or more licensed beds
in the health care facility have not been used for at least the last two
succeeding years. For the purposes of this subsection, the
commissioner may retroactively review utilization at a facility for a
two-year period beginning on January 1, 1990.

e. If a prospective applicant for licensure for a health care service
or facility that is not subject to certificate of need review pursuant to
P.L.1971, c.136 (C.26:2H-1 et al.) so requests, the department shall
provide the prospective applicant with a pre-licensure consultation.
The purpose of the consultation is to provide the prospective applicant
with information and guidance on rules, regulations, standards and
procedures appropriate and applicable to the licensure process. The
department shall conduct the consultation within 60 days of the request
of the prospective applicant.

f. Notwithstanding the provisions of any other law to the
contrary, an entity that provides magnetic resonance imaging or
computerized axial tomography services shall be required to obtain a
license from the department to operate those services prior to
commencement of services, except that a physician who is operating
such services on the effective date of P.L.2004, c.54 shall have one
year from the effective date of P.L.2004, c.54 to obtain the license.

g. (1) Notwithstanding the provisions of any other law to the
contrary, an entity that operates a surgical practice on the effective
date of this section of P.L.2009, c.24, as defined in this subsection,
shall be required to register with the department within one year of the
effective date of P.L.2009, c.24. (Deleted by amendment, P.L.,
(2) An entity that has not commenced operation as a surgical
practice on the effective date of this section of P.L.2009, c.24, but has
filed or files before the 180th day after the effective date of this section
of P.L.2009, c.24 its plans, specifications, and required documents
with the municipality in which the surgical practice will be located,
shall register with the department prior to the commencement of
services. (Deleted by amendment, P.L., c. ) (pending before the
Legislature as this bill)

(3) As a condition of registration with the department, a surgical
practice shall be required to obtain certification by the Centers for
Medicare and Medicaid Services as an ambulatory surgery center
provider or obtain ambulatory care accreditation from an accrediting
body recognized by the Centers for Medicare and Medicaid Services
and continually maintain such accreditation. (Deleted by amendment,
P.L., c. ) (pending before the Legislature as this bill)

(4) As a condition of registration with the department, a surgical
practice shall be required to report the following information annually:
the number of patients served by payment source, including the
number of Medicaid-eligible and medically indigent persons served;
the number of new patients accepted; and the number of physicians,
physician assistants, and advanced practice nurses providing
professional services at the surgical practice. (Deleted by
amendment, P.L._____, c.____ (pending before the Legislature as this bill)²

A surgical practice in operation on the date of enactment of P.L._____, c.____ (pending before the Legislature as this bill) shall be required to
²[be licensed by] apply to² the department² for licensure² as an
ambulatory care facility licensed to provide surgical and related
services within one year of the date of enactment of P.L._____,
c.____ (pending before the Legislature as this bill) ¹.

A surgical practice that is certified by the Centers for Medicare and
Medicaid Services (CMS) shall not be required to meet the physical
plant and functional requirements specified in N.J.A.C.8:43A-19.1 et seq. A surgical practice that is not Medicare certified, either by CMS
or by any deeming authority recognized by ³[CMS], but which
has obtained accreditation from the American Association of
Ambulatory Surgery Facilities or any accrediting body recognized by
CMS and is in operation on the date of enactment of P.L._____, c.
(pending before the Legislature as this bill), shall not be required to
meet the physical plant and functional requirements specified in
N.J.A.C.8:43A-19.1 et seq. A surgical practice not in operation on the
date of enactment of P.L._____, c.____ (pending before the
Legislature as this bill), if it is certified by CMS as an ambulatory
surgery center provider, shall also be exempt from these requirements.

A surgical practice required by this subsection to meet the physical
plant and functional requirements specified in N.J.A.C.8:43A-19.1 et seq. may apply for a waiver of any such requirement in accordance
with N.J.A.C.8:43A-2.9. The commissioner shall grant a waiver of
those physical plant and functional requirements, as the commissioner
deems appropriate, if the waiver does not endanger the life, safety, or
health of patients or the public.

A surgical practice required to be licensed pursuant to this
subsection shall be exempt from the ambulatory care facility
assessment pursuant to section 7 of P.L.1992, c.160 (C.26:2H-18.57);
except that, if the entity expands to include any additional room
dedicated for use as an operating room, the entity shall be subject to
the assessment.¹

¹(5) ¹(5)¹ As used in this subsection and subsection i. of this
section, "surgical practice" means a structure or suite of rooms that has
the following characteristics:
(a) has no more than one room dedicated for use as an operating
room which is specifically equipped to perform surgery, and is
designed and constructed to accommodate invasive diagnostic and
surgical procedures;
(b) has one or more post-anesthesia care units or a dedicated
recovery area where the patient may be closely monitored and
observed until discharged; and
(c) is established by a physician, physician professional
association surgical practice, or other professional practice form
specified by the State Board of Medical Examiners pursuant to regulation solely for the physician's, association's, or other professional entity's private medical practice or a dentist, dentist professional association, or other professional practice form authorized by the New Jersey Board of Dentistry pursuant to regulation solely for the dentist's, association's, or other professional entity's private dental practice.

"Surgical practice" includes an unlicensed entity that is certified by the Centers for Medicare and Medicaid Services as an ambulatory surgery center provider.

Nothing in this subsection shall be construed to limit the State Board of Medical Examiners from establishing standards of care with respect to the practice of medicine.

h. An ambulatory care facility licensed to provide surgical and related services shall be required to obtain ambulatory care accreditation from an accrediting body recognized by the Centers for Medicare and Medicaid Services as a condition of licensure by the department.

An ambulatory care facility that is licensed to provide surgical and related services on the effective date of this section of P.L.2009, c.24 shall have one year from the effective date of this section of P.L.2009, c.24 to obtain ambulatory care accreditation.

i. Beginning on the effective date of this section of P.L.2009, c.24, and as provided in P.L. , c. (pending before the Legislature as this bill), the department shall not issue a new registration to a surgical practice or a new license to an ambulatory care facility to provide surgical and related services unless:

(1) in the case of a licensed surgical practice or licensed facility in which a transfer of ownership of the practice or facility is proposed, the commissioner reviews the qualifications of the new owner or owners and approves the transfer;

(2) (a) except as provided in subparagraph (b) of this paragraph, in the case of a licensed surgical practice or licensed facility for which a relocation of the practice or facility is proposed, the relocation is within 20 miles of the practice or facility's current location or the relocation is to a "Health Enterprise Zone" designated pursuant to section 1 of P.L.2004, c.139 (C.54A:3-7), there is no expansion in the scope of services number of operating rooms provided at the new location from that of the current location, and the commissioner reviews and approves the relocation prior to its occurrence; or

(b) in the case of a licensed facility described in paragraph (5) or (6) of this subsection for which a relocation of the facility is proposed, the commissioner reviews and approves the relocation prior to its occurrence;
(3) the entity is a registered surgical practice required to be licensed pursuant to paragraph (1) of subsection g. of this section and meets the requirements of that subsection;

(4) the entity has filed its plans, specifications, and required documents with the Health Care Plan Review Unit of the Department of Community Affairs or the municipality in which the surgical practice or facility will be located, as applicable, on or before the 180th day following the effective date of this section of P.L. 2009, c.24;

(5) the facility is owned jointly by a general hospital in this State and one or more other parties;

(6) the facility is owned by a hospital or medical school in this State, or the facility is owned by any hospital approved on or before the effective date of P.L. 2015, c.305 to provide ambulatory surgery services in this State, or the facility is owned by a hospital which applied on or before the effective date of this act P.L.2015, c.305 to provide ambulatory surgery services in this State so long as the hospital is later approved to provide ambulatory surgery services at the facility, or the facility is owned by any hospital approved to provide ambulatory surgery services at another facility in this State; or

(7) (a) in the case of the facility is a newly licensed ambulatory surgical facility that was created by combining two or more registered surgical practices, combining to create a newly licensed ambulatory surgical facility, provided that the number of operating rooms at the newly licensed facility is not greater than the total number of operating rooms prior to the establishment of the newly licensed facility;

(b) in the case of the facility is a licensed ambulatory surgical facility that has expanded by combining with one or more registered surgical practices, combining with a licensed ambulatory surgical facility, provided that the number of operating rooms at the newly enlarged expanded facility is not greater than the total number of operating rooms prior to the combination of the practices and facility; or

(c) in the case the facility is a licensed ambulatory surgical facility that has expanded through the combination of two or more licensed ambulatory surgical facilities, combining, provided that the number of operating rooms at the newly enlarged expanded facility is not greater than the total number of operating rooms prior to the combining of the facilities.

Beginning on the effective date of P.L. c. (pending before the Legislature as this bill), the department shall not issue a new registration to a surgical practice. Any registered surgical practice in operation on the effective date of P.L. c. (pending before the Legislature as this bill) that proposes to transfer its ownership or
relocate on or after the effective date of P.L. , c. (pending before the Legislature as this bill) shall be required to be licensed by the department as an ambulatory care facility 1[licensed to provide] providing 1[surgical and related services] 1[prior to applying for a new license pursuant to this subsection] pursuant to subsection g. of this section 1.

j. 1(1) The department shall require an applicant for registration as a surgical practice, as provided in subsection g. of this section, to submit an application for registration in a form and manner prescribed by the department. The applicant shall submit the name and address of the surgical practice that is to be registered, the name of the chief administrator or designated agent of the practice, the names and addresses of all owners of the practice, the scope of services provided at the practice, proof of certification by the Centers for Medicare and Medicaid Services or accreditation from an accrediting body recognized by the Centers for Medicare and Medicaid Services, and such other information as the commissioner deems necessary and as provided by regulation.

(2) The registration shall be valid for a one-year period and may be renewed upon submission to the department of an application for renewal.

(3) The commissioner may suspend, revoke, or deny a registration if the registrant or applicant, as applicable, is not in compliance with the requirements of this section.

(4) No registered surgical practice shall be owned, managed, or operated by any person convicted of a crime relating adversely to the person's capability of owning, managing, or operating the practice.

(5) The department may charge a reasonable fee for filing an application for registration and for each renewal thereof. 1(Deleted by amendment, P.L. , c.) (pending before the Legislature as this bill)

1k. An ambulatory care facility licensed to provide surgical and related services and a surgical practice shall:

(1) report to the department any change in ownership of the facility within 30 days of the change in ownership; and

(2) annually report to the department the name of the facility’s medical director, physician director, and physician director of anesthesia, as applicable, and the director of nursing services. The facility shall notify the department 1[if] if 2there is any change in a named director within 30 days of the change 1[of] or 2of the director. 1

(cf: P.L.2015, c.305, s.1)

2. Section 2 of P.L.1989, c.19 (C.45:9-22.5) is amended to read as follows:

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; \[\text{and}\] ambulatory surgery or procedures \[\text{requiring} \] involving the use of any anesthesia performed at a surgical practice \[\text{registered with} \] licensed by the Department of Health \[\text{and Senior Services} \] 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 \[\text{and Senior Services} \] to perform surgical and related services \[\text{or} \] 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) \[\text{and}\] and
(4) medically-necessary intraoperative monitoring services rendered during a neurosurgical, neurological, or neuro-radiological surgical procedure that is performed in a hospital.
3. Section 4 of P.L.2009, c.24 (C.45:9-22.5a) is amended to read as follows:

4. a. A referral for ambulatory surgery or a procedure requiring anesthesia made prior to the effective date of this section of P.L.2009, c.24 by a practitioner to a surgical practice or ambulatory care facility licensed by the Department of Health [and Senior Services] to perform surgical and related services shall be deemed to comply with the provisions of section 2 of P.L.1989, c.19 (C.45:9-22.5) if the practitioner personally performed the procedure that is the subject of the referral.

b. As used in this section, "surgical practice" means a structure or suite of rooms that has the following characteristics:

   (1) has no more than one room dedicated for use as an operating room which is specifically equipped to perform surgery, and is designed and constructed to accommodate invasive diagnostic and surgical procedures;

   (2) has one or more post-anesthesia care units or a dedicated recovery area where the patient may be closely monitored and observed until discharged; and

   (3) is established by a physician, physician professional association surgical practice, or other professional practice form specified by the State Board of Medical Examiners pursuant to N.J.A.C.13:35-6.16(f) solely for the physician's, association's or other professional entity's private medical practice.

   ["Surgical practice" includes an unlicensed entity that is certified by the Centers for Medicare and Medicaid Services as an ambulatory surgery center provider.]

4. The Commissioner of Health [the State Board of Medical Examiners, and the New Jersey Board of Dentistry] shall, in accordance with the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), adopt any rules and regulations as they deem necessary to carry out the provisions of this act.
Requires surgical practices to apply for licensure as ambulatory care facilities.