

ASSEMBLY, No. 2851

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 20, 2020

Sponsored by:

Assemblyman GARY S. SCHAER

District 36 (Bergen and Passaic)

SYNOPSIS

Requires practitioners to disclose business relationship with out-of-State facilities when making patient referrals to those facilities.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning practitioner referrals to out-of-State health care
2 services and supplementing Title 45 of the Revised Statutes.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. a. If a practitioner refers a patient, or directs an employee of
8 the practitioner to refer a patient, to an out-of-State health care
9 service, and the practitioner has a business relationship with the
10 out-of-State health care service, the practitioner shall provide the
11 patient with a written disclosure, as provided in subsection b. of this
12 section, at or prior to the time that the referral is made, and post a
13 copy of the disclosure in a conspicuous public place in the
14 practitioner's medical office and on the practitioner's or the
15 practitioner's professional corporation's website, if applicable. The
16 disclosure that is posted by the practitioner in the office and on the
17 website need not contain the specific information regarding
18 participation in the network of a patient's health plan as provided in
19 subsection b. of this section, but shall list those health plans in
20 which the out-of-State health services is a participating provider.

21 b. The written disclosure shall be in the following form and
22 contain the applicable information required in the form:

23 P.L. , c. (pending before the Legislature as this bill)
24 requires that a practitioner provide his patients with this
25 disclosure form if the practitioner or the practitioner's
26 professional corporation may have a business relationship with
27 an out-of-State health care service, prior to referring his patient
28 to that health care service.

29 The law also requires that this disclosure include a list of
30 health care service providers located within the county and
31 contiguous counties in New Jersey that offer the same service for
32 which the referral is being made, and indicate whether the out-
33 of-State health care service will be considered to be, and
34 reimbursed at, an out-of-network level by your health plan or
35 other third party payer. This disclosure shall also include
36 information related to any additional transportation costs that
37 may be incurred by the patient or another party as a result of the
38 referral to an out-of-State health care service.

39 Accordingly, please be advised that _____ [name
40 of practitioner or practitioner's professional corporation, as
41 applicable] has a business relationship with the following out-of-
42 State health care service(s) to which I [or the professional
43 corporation] refer patients:

44 [list applicable health care services]

45 • The business relationship involves _____
46 [describe the nature of the business relationship].

47 • You may, of course, seek treatment at a health care service
48 provider of your own choice, and you may be able to access

1 this service within the State of New Jersey. Health care
2 service providers located in this county and contiguous
3 counties in the State that are licensed to provide this health
4 care service include: [list applicable health care services and
5 their addresses].

6 • Please be further advised that the health care service to which
7 you are being referred DOES DOES NOT participate
8 in your health plan or other third party's provider network. If
9 the health care service does not participate in your network,
10 reimbursement for the services by your health plan or other
11 third party payer will be at an out-of-network level, and may
12 result in higher costs to you than if you received the health
13 care service at a network provider. Please contact your health
14 plan or other third party payer for additional information
15 related to differences in reimbursement for in-network and out-
16 of-network providers.

17 • There may an increased cost associated with the out-of-State
18 referral as compared to a referral to a comparable health care
19 service located in New Jersey. [provide information about the
20 cost differential, if any]

21 • If the health care service that is the subject of the referral
22 involves an overnight stay, your recovery may be affected by
23 the location of the health care service, in terms of the ability of
24 family and friends to provide needed support during and after
25 hospitalization, and with respect to post-hospitalization care or
26 rehabilitation. You may discuss this aspect of the referral with
27 your practitioner.

28 c. As used in this act:

29 "Business relationship" means any financial relationship between
30 a practitioner or a practitioner's professional corporation and a
31 health care service, including, but not limited to: an employment,
32 investment, or independent contractor relationship; any relationship
33 involving payments made by or between the parties; or a
34 relationship involving an exchange of any item or service of value
35 by or between the parties.

36 "Cost differential" means the difference in total cost, regardless
37 of the person or entity responsible for or making payment,
38 associated with accessing the out-of-State health care services, as
39 compared with accessing the health care service at a location within
40 the county or contiguous counties of the practitioner's office where
41 the patient was seen or treated and from which the referral is made.
42 Cost differential shall include amounts associated with
43 transportation to the out-of-State health care service, including
44 ambulance transport, when necessary.

45 "Health care service" means a business entity that provides on an
46 inpatient or outpatient basis: testing for, diagnosis, or treatment of
47 human disease or dysfunction; or dispensing of drugs or medical
48 devices for the treatment of human disease or dysfunction. Health

1 care service includes, but is not limited to, a bioanalytical
2 laboratory, pharmacy, home health care agency, rehabilitation
3 facility, nursing home, hospital, or a facility that provides
4 radiological or other diagnostic imagery services, physical therapy,
5 ambulatory surgery, or ophthalmic services.

6 “Out-of-State health care service” means any health care service
7 that bills for its services in the name of a business entity located
8 out-of-State, regardless of whether the location at which health care
9 services are provided, and to which the patient is referred, is located
10 within the State.

11 “Practitioner” means a physician or podiatrist licensed to
12 practice in this State pursuant to Title 45 of the Revised Statutes.

13 d. A practitioner who violates the provisions of this act shall be
14 subject to disciplinary action by the State Board of Medical
15 Examiners pursuant to section 12 of P.L.1978, c.73 (C. 45:1-25).

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

21
22 3. This act shall take effect on the 90th day after enactment.
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25 STATEMENT

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27 This bill seeks to ensure that when patients are referred by their
28 practitioners to health care services located, or owned by an entity
29 that is located, outside this State, the patients are notified of any
30 business relationships that the practitioner may have with the out-
31 of-State health care entity to which the patient is referred and other
32 relevant information that the patient should consider.

33 Specifically, the bill provides that a practitioner (a physician or
34 podiatrist), who refers his patients to an out-of-State health care
35 service in which the practitioner has a business relationship, shall
36 provide the patient with a written disclosure of that relationship at
37 or prior to the time that the referral is made, and post a copy of the
38 disclosure in a conspicuous public place in the practitioner’s
39 medical office and on the practitioner’s or the practitioner’s
40 professional corporation’s website, if applicable. The bill defines
41 “out-of-State health care service” to mean any health care service
42 that bills for its services in the name of a business entity located
43 out-of-State, regardless of whether the location at which health care
44 services are provided, and to which the patient is referred, is located
45 within the State.

46 The written disclosure shall be in the following form:

47 *New Jersey law requires that a practitioner provide his*
48 *patients with this disclosure form if the practitioner or the*

1 *practitioner's professional corporation may have a business*
2 *relationship with an out-of-State health care service, prior to*
3 *referring his patient to that health care service.*

4 *The law also requires that this disclosure include a list of*
5 *health care service providers located within the county and*
6 *contiguous counties in New Jersey that offer the same service for*
7 *which the referral is being made, and indicate whether the out-*
8 *of-State health care service will be considered to be, and*
9 *reimbursed at, an "out-of-network" level by your health plan or*
10 *other third party payer. This disclosure shall also include*
11 *information related to any additional transportation costs that*
12 *may be incurred by the patient or another party as a result of the*
13 *referral to an out-of-State health care service.*

14 *Accordingly, please be advised that _____ [name*
15 *of practitioner or practitioner's professional corporation, as*
16 *applicable] has a business relationship with the following out-of-*
17 *State health care service(s) to which I [or the professional*
18 *corporation] refer patients: [list applicable health care services]*

19 • *The business relationship involves _____*
20 *[describe the nature of the business relationship]*

21 • *You may, of course, seek treatment at a health care service*
22 *provider of your own choice, and you may be able to access*
23 *this service within the State of New Jersey. Health care service*
24 *providers located in this county and contiguous counties in the*
25 *State that are licensed to provide this health care service*
26 *include: [list applicable health care services and their*
27 *addresses]."*

28 • *Please be further advised that the health care service to which*
29 *you are being referred ____DOES ____DOES NOT participate in*
30 *your health plan or other third party's provider network. If the*
31 *health care service does not participate in your network,*
32 *reimbursement for the services by your health plan or other*
33 *third party payer will be at an "out-of-network" level, and may*
34 *result in higher costs to you than if you received the health care*
35 *service at a "network" provider. Please contact your health*
36 *plan or other third party payer for additional information*
37 *related to differences in reimbursement for in-network and out-*
38 *of-network providers.*

39 • *There may an increased cost associated with the out-of-State*
40 *referral as compared to a referral to a comparable health care*
41 *service located in New Jersey. [provide information about the*
42 *cost differential, if any]*

43 • *If the health care service that is the subject of the referral*
44 *involves an overnight stay, your recovery may be affected by*
45 *the location of the health care service, in terms of the ability of*
46 *family and friends to provide needed support during and after*
47 *hospitalization, and with respect to post-hospitalization care or*

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1 *rehabilitation. You may discuss this aspect of the referral with*
2 *your practitioner.*

3 The bill defines “business relationship” to mean any financial
4 relationship between a practitioner or a practitioner’s professional
5 corporation and a health care service, including, but not limited to:
6 an employment, investment, or independent contractor relationship;
7 any relationship involving payments made by or between the
8 parties; or a relationship involving an exchange of any item or
9 service of value by or between the parties.

10 A practitioner who violates the provisions of this bill shall be
11 subject to disciplinary action by the State Board of Medical
12 Examiners pursuant to section 12 of P.L.1978, c.73 (C.45:1-25).

13 The bill takes effect on the 90th day after enactment.