SYNOPSIS
Requires obstetrical providers to perform domestic violence screenings and all health care professionals to take certain actions to prevent perpetrator of domestic violence from obtaining copies of victim’s medical record.

CURRENT VERSION OF TEXT
As introduced.
AN ACT concerning domestic violence screenings and the disclosure of a victim’s medical records to the perpetrator of the domestic violence, and supplementing Title 52 of the Revised Statutes.

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

1. As used in this act:
   “Domestic violence” means the same as that term is defined by section 3 of P.L.1991, c.261 (C.2C:25:19) and section 1 of P.L.2003, c.41 (C.17:29B-16).
   “Health care professional” means a person who is licensed or otherwise authorized, pursuant to Title 45 of the Revised Statutes, to provide health care services in the State, including, but not limited to, a physician, nurse, or physician assistant.
   “Obstetrical provider” means a licensed obstetrician/gynecologist, a certified midwife, or a certified nurse midwife.
   “Victim of domestic violence” means the same as that term is defined by section 3 of P.L.1991, c.261 (C.2C:25-19).

2. a. An obstetrical provider in the State shall:
   (1) as part of each routine patient visit, conduct a screening to determine whether the patient is or may be a victim of domestic violence; and
   (2) document, in the patient’s medical record, the findings from each domestic violence screening and any specific evidence supporting the findings.
   b. A domestic violence screening conducted pursuant to this section shall be performed in a private area, where only the obstetrical provider and the patient are present.
   c. If an obstetrical provider finds, based on a screening performed pursuant to this section, that a patient is or may be a victim of domestic violence, the obstetrical provider shall:
      (1) advise the patient, during the same visit, of the resources and services that are available in the State and region to assist and protect victims of domestic violence; and
      (2) provide the patient with referrals to other appropriate health care providers, as deemed by the obstetrical provider to be necessary to help the patient fully address the physical or mental consequences of the domestic violence.
   d. The Department of Children and Families, in consultation with the Department of Health, shall develop, distribute to obstetrical providers in the State, and update on at least a biennial basis:
      (1) a screening tool or sample screening questionnaire, which reflects the most up-to-date standards for domestic violence
screening, and which shall be used by obstetrical providers in conducting the domestic violence screenings required by this section; and

(2) a list identifying all of the resources and services that are available in the State, and in each region of the State, to assist and protect victims of domestic violence.

3. An obstetrical provider who finds, pursuant to section 2 of this act, that a patient is or may be a victim of domestic violence, and any other health care professional who notes, in a patient’s medical record, any evidence or findings of domestic violence, shall, during the same visit in which the domestic violence is documented, require the patient to reapprove the list of persons who are authorized to obtain a copy of the patient’s medical record in accordance with the provisions of the “Health Insurance Portability and Accountability Act,” Pub.L.104-191, and the federal health privacy rule set forth at 45 CFR Parts 160 and 164. If the alleged perpetrator of the domestic violence was previously authorized by the patient to obtain a copy of the patient’s medical record, the obstetrical provider or other health care professional documenting the domestic violence shall encourage the patient to remove the alleged perpetrator from the list of persons who are authorized to receive copies of the medical record going forward.

4. The Commissioner of Children and Families and the Commissioner of Health, in consultation with each other, shall adopt 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 implement the provisions of this act.

5. This act shall take effect on the first day of the fourth month next following the date of enactment, except that the Commissioner of Children and Families and the Commissioner of Health, acting in consultation with each other, shall take anticipatory administrative action in advance of the effective date as may be necessary to implement the provisions of this act.

STATEMENT

This bill would require obstetrical providers in the State, including obstetrician/gynecologists, certified midwives, and certified nurse midwives, to perform regular domestic violence screenings as part of each routine patient visit and document the findings from each screening in the patient’s medical record. The bill would additionally require any obstetrical providers or other health care professionals who document evidence or findings of domestic violence in a patient’s medical record to encourage the
patient to take appropriate action to prevent the disclosure of the patient’s medical record to the perpetrator of the domestic violence.

A domestic violence screening performed under the bill is to be conducted in a private area, in which only the obstetrical provider and the patient are present. If the obstetrical provider determines, based on the screening, that a patient is or may be a victim of domestic violence, the obstetrical provider will be required to:

1) advise the patient, during the same visit, of the resources and services that are available in the State and region to assist and protect victims of domestic violence; and

2) provide the patient with referrals to other appropriate health care providers, as deemed by the obstetrical provider to be necessary to help the patient fully address the physical or mental consequences of the domestic violence.

The Department of Children and Families, in consultation with the Department of Health, will be required to develop, distribute to obstetrical providers in the State, and update on at least a biennial basis: 1) a screening tool or sample screening questionnaire, which reflects the most up-to-date standards for domestic violence screening, and which is to be used by obstetrical providers in conducting the domestic violence screenings required by the bill; and 2) a list identifying all of the resources and services that are available in the State, and in each region of the State, to assist and protect victims of domestic violence.

Whenever an obstetrical provider finds, pursuant to a domestic violence screening, that a patient is or may be a victim of domestic violence, and whenever any other health care professional documents, in a patient’s medical record, any evidence or findings of domestic violence, the obstetrical provider or other health care professional will be required, during the same visit in which the domestic violence is documented, to have the patient reapprove the list of persons who are authorized to obtain a copy of the patient’s medical record in accordance with the provisions of the “Health Insurance Portability and Accountability Act” (HIPAA), Pub.L.104-191, and the federal health privacy rule set forth at 45 CFR Parts 160 and 164. If the alleged perpetrator of the domestic violence was previously authorized by the patient to obtain a copy of the patient’s medical record, the obstetrical provider or other health care professional documenting the domestic violence will be required to encourage the patient to remove the alleged perpetrator from the list of persons who are authorized to receive copies of the medical record going forward.