

[Second Reprint]

SENATE, No. 2436

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED MAY 7, 2020

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SYNOPSIS

Authorizes pharmacists to order and cause to be administered test for coronavirus disease 2019 (COVID-19) or COVID-19 antibodies; requires health benefits and Medicaid coverage for tests.

CURRENT VERSION OF TEXT

As amended on August 27, 2020 by the Senate pursuant to the Governor's recommendations.

(Sponsorship Updated As Of: 9/14/2020)

1 AN ACT concerning testing for ²**coronavirus disease 2019**
 2 COVID-19 or COVID-19 antibodies² ¹and amending P.L.2020,
 3 c.7¹ .
 4

5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
 6 *of New Jersey:*
 7

8 1. ¹(New section)¹ a. ¹**Notwithstanding** any other provision of
 9 law to the contrary, consistent² ²**Consistent**¹ with federal guidance
 10 and waivers, a ²**A** pharmacist licensed pursuant to P.L.2003, c.280
 11 (C.45:14-40 et seq.) shall be authorized to order ¹**or** and¹
 12 ²**administer** cause to be administered² to any person any test for
 13 the ²**coronavirus disease 2019** SARS-CoV-2² (COVID-19) ²or
 14 COVID-19 antibodies² that the federal Food and Drug
 15 Administration ²**has authorized for use** granted emergency use
 16 authorization or approval² , provided that:

17 (1) the manufacturer of the test is registered with the federal
 18 Food and Drug Administration and is included in the Establishment
 19 Registration and Device Listing database maintained by the federal
 20 Food and Drug Administration;

21 (2) ¹**a** statistically significant number of samples of the test
 22 have been independently evaluated within the United States for
 23 reliability;

24 (3) ¹**the** place of manufacture provides reasonable assurance
 25 prior to or at the time of shipment that the test is genuine ¹**and**
 26 conforms to the specifications of the samples that have been found
 27 to be reliable as described in paragraph (2) of this subsection¹ ;
 28 and

29 ¹**(4)** ¹(3)¹ the pharmacy practice site distributes personal
 30 protection equipment to all pharmacy staff and establishes protocols
 31 and procedures to ensure that all persons presenting at the pharmacy
 32 for any reason, including to request testing for COVID-19, maintain
 33 social distancing appropriate to prevent transmission of COVID-19
 34 ², and complies with any other applicable requirements that the
 35 New Jersey Board of Pharmacy may establish.

36 For the purposes of this section, causing a test to be administered
 37 shall include collecting a specimen, or overseeing the collection of
 38 a specimen, and causing the specimen to be sent to a laboratory
 39 with the capacity to perform the test. The laboratory shall be
 40 authorized under federal and State law to perform the test,
 41 including, but not limited to, the federal "Clinical Laboratory
 42 Improvement Amendments of 1988 (CLIA)," Pub. L. 100-

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 SBA committee amendments adopted May 11, 2020.

²Senate amendments adopted in accordance with Governor's recommendations August 27, 2020.

1 578 (42 U.S.C. s.263a), the "New Jersey Clinical Laboratory
2 Improvement Act," P.L.1975, c.166 (C.45:9-42.26 et seq.), and
3 associated regulations. If the test which is administered is one for
4 which the analysis can be performed at a CLIA-waived facility, and
5 if the pharmacy at which the specimen is collected has a CLIA
6 waiver, then the test may be conducted at that pharmacy. In all
7 other cases, the test shall be conducted at an off-site laboratory,
8 which laboratory shall report the results of the test to the pharmacist
9 who ordered or administered the test² .

10 b. If an individual tests positive for COVID-19 using a test
11 administered by a pharmacist pursuant to subsection a. of this
12 section, the pharmacist shall advise the patient ¹to self-isolate at
13 home for at least 14 days ¹on self-isolation guidance¹ and provide
14 the individual with ¹a copy of any necessary resources, such as¹
15 the COVID-19 Home Care Guide ²developed by the New Jersey
16 Department of Health² , except that, if the patient is a member of a
17 group that is at high risk for health complications from COVID-19
18 or is experiencing symptoms of a severe adverse reaction to
19 COVID-19, the pharmacist shall ²also² advise the patient to
20 promptly seek treatment at a hospital ¹or contact the patient's health
21 care provider¹ . The pharmacist shall ensure compliance with all
22 other State and federal requirements concerning a positive test for
23 COVID-19, including applicable reporting and data collection
24 requirements.

25 ¹c. The Board of Pharmacy may extend the authority to order
26 and administer COVID-19 tests to any other professional subject to
27 licensure or oversight by the board.¹
28

29 ¹2. Section 1 of P.L.2020, c.7 is amended to read as follows:

30 1. a. During the Public Health Emergency and State of
31 Emergency declared by the Governor in Executive Order 103 of 2020,
32 the State Medicaid and NJ FamilyCare programs shall provide
33 coverage and payment for expenses incurred in:

34 (1) the testing for coronavirus disease 2019, provided that a
35 licensed medical practitioner health care professional licensed in
36 accordance with the provisions of Title 45 of the Revised Statutes, or
37 otherwise authorized to provide health care services in this State, has
38 issued a medical order for that testing; and

39 (2) the delivery of health care services through telemedicine or
40 telehealth in accordance with the provisions of P.L.2017, c.117
41 (C.45:1-61 et al.).

42 b. The coverage shall be provided to the same extent as for any
43 other health care services, except that no cost-sharing shall be imposed
44 on the coverage provided pursuant to this section.

45 c. The Commissioner of Human Services shall apply for such
46 State plan amendments or waivers as may be necessary to implement

1 the provisions of this act and to secure federal financial participation
2 for State Medicaid expenditures under the federal Medicaid program.¹
3 (cf: P.L.2020, c.7, s.1)

4
5 ¹3. Section 2 of P.L.2020, c.7 is amended to read as follows:

6 2. a. During the Public Health Emergency and State of
7 Emergency declared by the Governor in Executive Order 103 of 2020,
8 a carrier that offers a health benefits plan in this State shall provide
9 coverage and payment for expenses incurred in:

10 (1) the testing of coronavirus disease 2019, provided that a health
11 care professional licensed in accordance with the provisions of
12 【P.L.2017, c.117 (C.45:1-61 et al.)】 Title 45 of the Revised Statutes,
13 or otherwise authorized to provide health care services in this State,
14 has issued a medical order for the testing; and

15 (2) any health care services delivered to a covered person through
16 telemedicine or telehealth in accordance with the provisions of
17 P.L.2017, c.117 (C.45:1-61 et al.).

18 b. The coverage shall be provided to the same extent as for any
19 other health care services under the health benefits plan, except that no
20 cost-sharing shall be imposed on the coverage provided pursuant to
21 this section.

22 c. As used in this section, “carrier,” means an insurance company,
23 health service corporation, hospital service corporation, medical
24 service corporation, or health maintenance organization authorized to
25 issue health benefits plans in this State, and shall include the State
26 Health Benefits Program and the School Employees' Health Benefits
27 Program.¹

28 (cf: P.L.2020, c.7, s.2)

29
30 ¹**【2.】 4.**¹ This act shall take effect immediately.