

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, No. 3975

STATE OF NEW JERSEY

DATED: JUNE 27, 2022

The Assembly Budget Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 3975.

This Assembly committee substitute for Assembly Bill No. 3975 concerns protections with respect to the disclosure of patient information relating to reproductive health care services, as well as protecting access to health care, medical services, and procedures related to an abortion for persons who come to this State from jurisdictions in which these actions are illegal. The committee substitute defines “reproductive health care services” as all medical, surgical, counseling, or referral services relating to the human reproductive system including, but not limited to, services relating to pregnancy, contraception, or termination of a pregnancy.

The committee substitute generally provides that in any civil action or other proceeding preliminary thereto, a medical provider or other covered entity, as described under federal law concerning medical privacy and security, is barred from disclosing the following communications or information, unless the patient or patient’s conservator, guardian, or other authorized legal representative explicitly consented in writing to the disclosure:

- any communication made to the covered entity, or any information obtained by the covered entity from, a patient or the conservator, guardian, or other authorized legal representative of a patient relating to reproductive health care services; or
- any information obtained by personal examination of a patient relating to reproductive health care services that are permitted under the laws of this State.

A covered entity is required to inform the patient or the patient’s conservator, guardian, or other authorized legal representative of the patient’s right to withhold written consent at or before the time reproductive health care services are rendered, or at the time the patient discloses any information relating to reproductive health care services that have been previously rendered.

Written consent is not required for the disclosure if it is: pursuant to State law or the Rules of Court; by a covered entity to the entity’s attorney or liability insurer for use in defense of such action or proceeding; made to the Commissioner of Health, Human

Services, or Banking and Insurance, or any professional licensing board operating under the authority of the Division of Consumer Affairs in the Department of Law and Public Safety, when seeking patient records in connection with an investigation; or done in connection with an investigation of child abuse, or abuse of a person who is elderly, incapacitated, or has a physical or mental disability.

The committee substitute also specifies that its provisions are not to be construed to conflict with or displace any requirements or conditions for disclosure under federal law, or otherwise impede the lawful sharing of medical records as permitted by State or federal law or the Rules of Court.

Additionally, a public entity of this State or employee, appointee, officer or official or any other person acting on behalf of a public entity would be prohibited from providing any information, or expending or using time, money, facilities, property, equipment, personnel or other resources in furtherance of any interstate investigation or proceeding seeking to impose civil or criminal liability upon a person or entity for:

- the provision, receipt, or seeking of, or inquiring or responding to an inquiry about reproductive health care services that are legal in this State; or

- assisting, advising, aiding, abetting, facilitating, soliciting, or conspiring with any person or entity providing, receiving, seeking, or inquiring or responding to an inquiry about reproductive health care services that are legal in this State.

These provisions would not apply to any investigation or proceeding when the conduct being examined by the investigation or proceeding would be subject to liability under the laws of this State if committed in this State. The provisions would also not apply if it is necessary for the agency or person to engage in conduct otherwise prohibited by the bill in order to comply with a valid order issued by a court with jurisdiction over the public entity or person, or to comply with applicable provisions of State or federal law.

Lastly, the committee substitute provides that various professional licensing boards operating under the authority of the Division of Consumer Affairs could not refuse to admit a person to an examination and could not suspend, revoke, or refuse to renew any certificate, registration, or license based solely on grounds that the applicant's or the certificate, registration, or license holder's provision of, authorization of, participation in, referral for, or assistance with any health care, medical service, or procedure related to an abortion was for a person who resides in a jurisdiction where the provision, authorization, participation, referral, or assistance is illegal, if the provision, authorization, participation, referral, or assistance would not be a basis for refusing to admit a

person to an examination or for suspending, revoking, or refusing to renew a certificate, registration, or license in this State.

This Assembly committee substitute is identical to Senate Bill No. 2633, as amended and reported by the Senate Judiciary Committee on this same date.

FISCAL IMPACT:

This bill is not certified as requiring a fiscal note.