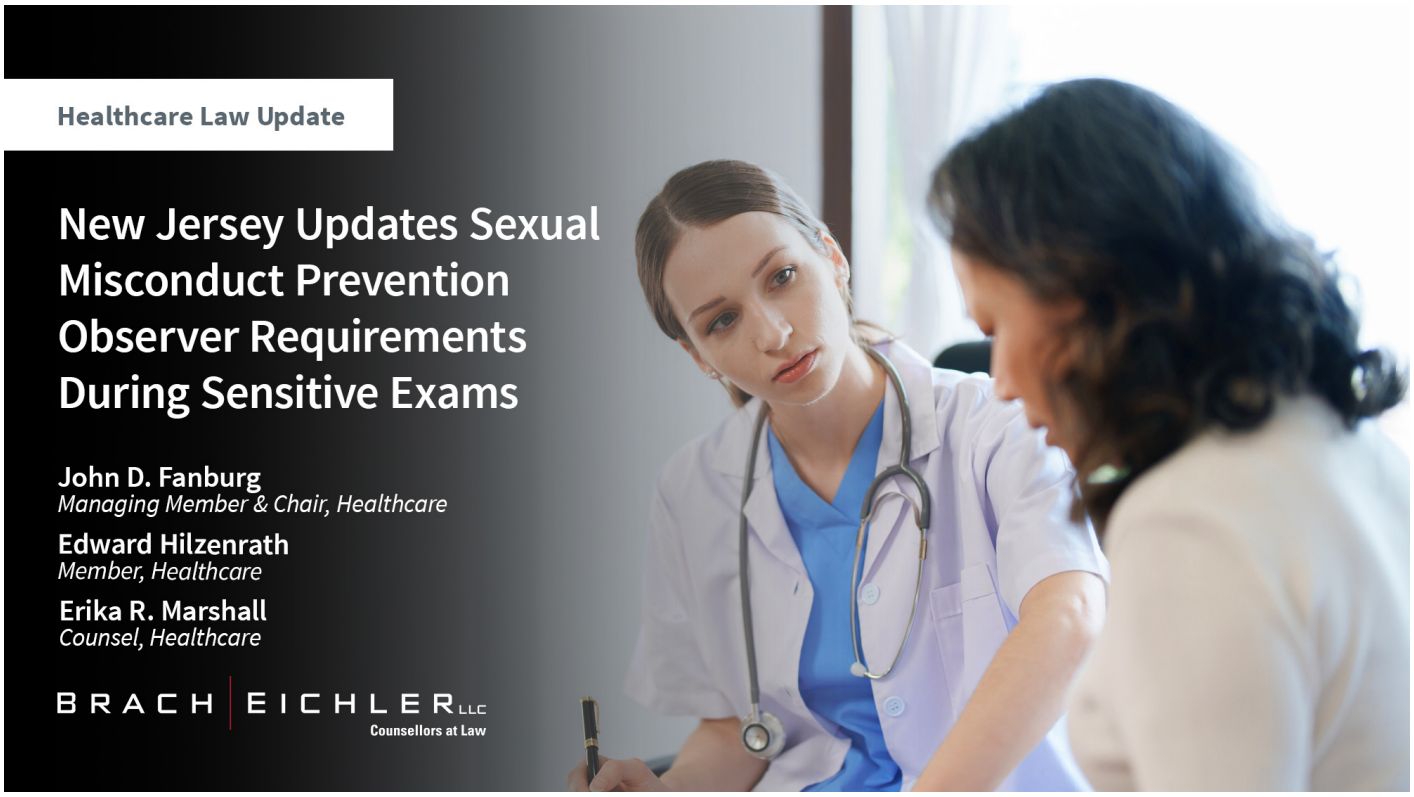
New Jersey Updates Sexual Misconduct Prevention Observer Requirements During Sensitive Exams



11/1/2025

Effective October 20, 2025, the New Jersey Board of Medical Examiners amended its regulation regarding sexual misconduct prevention, N.J.A.C. 13:35-6.23. The amendments to the regulation strengthen patients' rights and clarify licensee responsibilities when an observer is present during sensitive exams. Under the amended regulation, the licensee or the patient may request to have an observer present during breast, pelvic, genital, and rectal exams—and may decline care if an acceptable observer cannot be provided. In the event an acceptable observer cannot be provided, then neither the licensee nor the patient is required to proceed with the exam. If the exam is not conducted, the licensee will discuss the risks of delaying care, provide unbiased counseling, and, if possible, refer the patient to another practitioner.

Starting April 18, 2026, to be a qualified "observer", an observer must complete 2 hours of observer training and provide an affirmation that the observer has not been subject to discipline or civil/criminal liability for failure to report misconduct or been convicted of a crime that would disqualify the observer from being a licensee under New Jersey law. An observer may not be a friend or relative of the licensee or the patient. A licensee is required to inform the observer in writing that the observer must 1) stay in the exam room; 2) be free from distractions; 3) maintain a clear line of sight of the examination; 4) report any misconduct to the Board; and 5) advise that the licensee will not retaliate against the observer for any making any reports.

The amended regulation requires a licensee to notify patients of their right to an observer in writing and by posting a clear notice in all offices. Prior to any exams, the licensee must confirm the patient has read and understood the notice, obtain the patient's signature, and keep the signed notice in the patient's file. The required patient notices must be made available in

English, Spanish, and at least 10 additional languages designated by the Division of Consumer Affairs.

The amended regulation provides for 3 exceptions when a licensee will not need to obtain patient signature and confirm patient understanding regarding an observer: 1) emergencies; 2) when the licensee providing the sensitive examination provided the patient with written notice and confirmed understanding within the last 12 months; or 3) when an observer who has already completed training is already present in the normal course of the examination and it is documented in the patient record. In addition to keeping a patient's signed notice in the patient record, the identity of the observer should also be included in the patient record.

The Board of Medical Examiners clarified in its responses to comments that this regulation will apply to all locations where a licensee provides professional services, other than a health care facility licensed by the New Jersey Department of Health, meaning this regulation will not apply in a hospital or an ambulatory care facility.

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