

4-8-93 Referred to Human Res.

FILED APR 16 1993

SENATE FILE **313**  
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO SSB 115)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to health care provider referrals, and providing  
2 civil penalties.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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6  
7

SF313

**SENATE FILE 313**

**S-3361**

- 1 Amend Senate File 313 as follows:
- 2 1. Page 1, by striking lines 31 through 33 and
- 3 inserting the following: "services, and home health
- 4 care services."
- 5 2. Page 2, by striking lines 27 through 30 and
- 6 inserting the following: "under chapter 148, 149,
- 7 150A, or 151, or any health care provider licensed
- 8 under chapter 153 or 154."
- 9 3. Page 7, by striking lines 17 through 22.
- 10 4. By renumbering as necessary.

By JIM RIORDAN

S-3361 FILED APRIL 2, 1993

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1 Section 1. INTENT. The general assembly recognizes that  
2 the referral of a patient by a health care provider to a  
3 provider of health care services in which the referring health  
4 care provider has an investment interest represents a  
5 potential conflict of interest. The general assembly finds  
6 these referral practices may limit or eliminate competitive  
7 alternatives in the health care services market, may result in  
8 overutilization of health care services, may increase costs to  
9 the health care system, and may adversely affect the quality  
10 of health care. It is the intent of the general assembly to  
11 provide guidance to health care providers regarding prohibited  
12 patient referrals between health care providers and health  
13 care services entities and to protect Iowans from unnecessary  
14 and costly health care expenditures.

15 Sec. 2. NEW SECTION. 135L.1 TITLE.

16 This chapter shall be known and may be cited as the  
17 "Patient Self-Referral Act".

18 Sec. 3. NEW SECTION. 135L.2 DEFINITIONS.

19 1. "Board" means an examining board as defined in section  
20 147.1.

21 2. "Comprehensive rehabilitation services" means services  
22 that are provided by health care professionals licensed under  
23 chapter 147, 148A, or 148B, to provide speech and audiology,  
24 occupational, or physical therapy services on an outpatient or  
25 ambulatory basis.

26 3. "Department" means the Iowa department of public  
27 health.

28 4. "Designated health services" means clinical laboratory  
29 services, comprehensive rehabilitation services, diagnostic  
30 imaging services, radiation therapy services, pharmacy  
31 services, home health care services, rehabilitation facility  
32 services, nursing home services, hospital services, or  
33 ophthalmic services.

34 5. "Entity" means an individual, partnership, firm,  
35 corporation, or other business entity.

1 6. "Fair market value" means value in arms-length  
2 transactions, consistent with the general market value, and,  
3 with respect to rentals or leases, the value of rental  
4 property for general commercial purposes, not taking into  
5 account its intended use, and, in the case of a lease of  
6 space, not adjusted to reflect the additional value the  
7 prospective lessee or lessor would attribute to the proximity  
8 or convenience to the lessor where the lessor is a potential  
9 source of patient referrals to the lessee.

10 7. "Group practice" means two or more health care  
11 providers legally organized as a partnership, professional  
12 corporation, or similar association to which all of the  
13 following applies:

14 a. Each member of the group provides substantially the  
15 full range of services which the health care provider  
16 routinely provides, including medical care, consultation,  
17 diagnosis, or treatment, through the joint use of shared  
18 office space, facilities, equipment, and personnel.

19 b. Substantially all of the services of the members of the  
20 group are provided through the group and are billed in the  
21 name of the group and payments received are treated as  
22 receipts of the group.

23 c. The overhead expenses of and the income from the  
24 practice are distributed in accordance with methods previously  
25 determined by members of the group.

26 8. "Health care provider" means any physician licensed  
27 under chapter 148, 149, 150A, or 151, any health care provider  
28 licensed under chapter 153 or 154, a hospital licensed under  
29 chapter 135B, or a nursing facility licensed under chapter  
30 135C.

31 9. "Immediate family member" means a health care  
32 provider's spouse, child, child's spouse, grandchild,  
33 grandchild's spouse, parent, parent-in-law, sibling or  
34 sibling's spouse.

35 10. "Investment interest" means an equity or debt security

1 issued by an entity, including shares of stock in a  
2 corporation, units or other interests in a partnership, bonds,  
3 debentures, notes, or other equity interests or debt  
4 instruments.

5 "Investment interest" does not include either of the  
6 following:

7 a. An investment interest in notes, bonds, debentures, or  
8 other debt instruments issued by an entity which provides  
9 designated health services, as an integral part of a plan by  
10 the entity to acquire investor's equity investment interest in  
11 the entity, provided that the interest rate is consistent with  
12 fair market value, and that the maturity date of the notes,  
13 bonds, debentures, or other debt instruments issued by the  
14 entity to the investor is not later than October 1, 1997.

15 b. An investment interest in real property resulting in a  
16 landlord-tenant relationship between the health care provider  
17 and the entity in which the equity interest is held, unless  
18 the rent is determined, in whole or in part, by the business  
19 volume or profitability of the tenant or exceeds fair market  
20 value.

21 11. "Investor" means an entity owning a legal or  
22 beneficial ownership or investment interest, directly or  
23 indirectly, including but not limited to, through an immediate  
24 family member, trust, or another entity related to the  
25 investor within the meaning of 42 C.F.R. § 413.17, in an  
26 entity.

27 12. "Kickback" means a remuneration of payment back  
28 pursuant to an investment interest, compensation arrangement,  
29 or other agreement by a provider of health care services or  
30 items, of a portion of the charges for services rendered to a  
31 referring health care provider as an incentive or inducement  
32 to refer patients for future services or items, when the  
33 payment is not tax deductible as an ordinary and necessary  
34 expense.

35 13. a. "Referral" means a referral of a patient by a

1 health care provider for health care services, including but  
2 not limited to all of the following:

3 (1) The forwarding of a patient by a health care provider  
4 to another health care provider or to an entity which provides  
5 or supplies designated health services or any other health  
6 care item or service.

7 (2) The request or establishment of a plan of care by a  
8 health care provider, which includes the provision of  
9 designated health services or other health care item or  
10 service.

11 b. "Referral" does not include the following orders,  
12 recommendations, or plans of care:

13 (1) By a radiologist for diagnostic imaging services.

14 (2) By a physician specializing in the provision of  
15 radiation therapy services for those services.

16 (3) By a medical oncologist for drugs and solutions to be  
17 prepared and administered intravenously to the oncologist's  
18 patient, as well as for the supplies and equipment used in  
19 connection with the drugs or solutions to treat the patient  
20 for cancer and any complications.

21 (4) By a cardiologist for cardiac catheterization  
22 services.

23 (5) By a pathologist for diagnostic clinical laboratory  
24 tests and pathological examination services, if furnished by  
25 or under the supervision of the pathologist pursuant to a  
26 consultation requested by another physician.

27 (6) By a health care provider for services provided by an  
28 ambulatory surgical center.

29 (7) By a urologist for lithotripsy services.

30 (8) By a dentist for dental services performed by an  
31 employee of or health care provider who is an independent  
32 contractor with the dentist or group practice of which the  
33 dentist is a member.

34 (9) By a physician for infusion therapy services to a  
35 patient of that physician or a member of that physician's

1 group practice.

2 (10) By a nephrologist for renal dialysis services and  
3 supplies.

4 Sec. 4. NEW SECTION. 135L.3 PROHIBITED REFERRALS AND  
5 CLAIMS FOR PAYMENT.

6 1. A health care provider shall not refer a patient for  
7 the provision of designated health services to an entity in  
8 which the health care provider is an investor or has an  
9 investment interest.

10 2. A health care provider shall not refer a patient for  
11 the provision of any other health care item or service to an  
12 entity in which the health care provider is an investor unless  
13 either of the following applies:

14 a. The provider's investment interest is in registered  
15 securities purchased on a national exchange or over-the-  
16 counter market and issued by a publicly held corporation,  
17 whose shares are traded on a national exchange or on the over-  
18 the-counter market and whose total assets at the end of the  
19 corporation's most recent fiscal quarter exceeded fifty  
20 million dollars.

21 b. With respect to an entity other than a publicly held  
22 corporation described in paragraph "a", and a referring  
23 provider's investment interest in the entity, all of the  
24 following requirements arise:

25 (1) Not more than fifty percent of the value of the  
26 investment interests are held by investors who are in a  
27 position to make referrals to the entity.

28 (2) The terms under which an investment interest is  
29 offered to an investor, who is in a position to make referrals  
30 to the entity, are no different from the terms offered to  
31 investors who are not in a position to make referrals.

32 (3) The terms under which an investment interest is  
33 offered to an investor, who is in a position to make referrals  
34 to the entity, are not related to the previous or expected  
35 volume of referrals from the investor to the entity.

1 (4) There is no requirement that an investor make  
2 referrals or be in a position to make referrals to the entity  
3 as a condition for becoming or remaining an investor.

4 3. Except as provided under subsection 2, the entity or  
5 corporation shall not loan funds to or guarantee a loan for an  
6 investor who is in a position to make referrals to the entity  
7 or corporation. The investor shall not use any part of a loan  
8 obtained through an entity or corporation to obtain the  
9 investment interest.

10 4. Except as provided under subsection 2, the amount  
11 distributed to an investor representing a return on the  
12 investment interest shall be directly proportional to the  
13 amount of the capital investment, made by the investor in the  
14 entity or corporation, including the fair market value of any  
15 preoperational services rendered.

16 5. Each board shall develop a procedure to be used by  
17 licensees to determine the applicability of this section or  
18 any rule adopted pursuant to this section to the licensee.

19 6. A claim for payment shall not be presented by an entity  
20 to any individual, third-party payor, or other entity for a  
21 service furnished pursuant to a referral prohibited under this  
22 section.

23 7. If an entity collects an amount that was billed in  
24 violation of this section, the entity shall refund the amount  
25 and any interest or late fee assessed on a timely basis to the  
26 payor or individual as applicable.

27 8. Any person that presents or causes to be presented a  
28 bill or a claim for service that the person knows or should  
29 know is for a service for which payment may not be made under  
30 subsection 6, or for which a refund has not been made under  
31 subsection 7, is subject to a civil penalty of not more than  
32 fifteen thousand dollars for each service, to be imposed and  
33 collected by the appropriate board.

34 9. Any health care provider or other entity that enters  
35 into an arrangement or scheme, such as a cross-referral

1 arrangement, which the physician or entity knows or should  
2 know has a principal purpose of assuring referrals by the  
3 physician to a particular entity which, if the physician  
4 directly made referrals to the entity, would be in violation  
5 of this section, is subject to a civil penalty of not more  
6 than one hundred thousand dollars for each circumvention  
7 arrangement or scheme, to be imposed and collected by the  
8 appropriate board or boards.

9 10. A health care provider or any provider of health care  
10 services shall not offer, pay, solicit, or receive a kickback,  
11 directly or indirectly, overtly or covertly, in the form of  
12 cash, consulting fees, wages, or in kind, for referring or  
13 soliciting patients.

14 11. A violation of this section by a health care provider  
15 constitutes grounds for disciplinary action to be taken by the  
16 applicable board.

17 12. Any hospital licensed under chapter 135B or any  
18 nursing facility licensed under chapter 135C which violates  
19 this section, discriminates against, or otherwise penalizes a  
20 health care provider for compliance with this chapter is  
21 subject to suspension or revocation of license pursuant to  
22 section 135B.6 or 135C.10, as applicable.

23 13. A health care professional licensed pursuant to  
24 chapter 147, 148A, or 148B is subject to suspension or  
25 revocation of license if the person engages directly or  
26 indirectly in the division, transferring, assigning, rebating,  
27 or refunding of fees received for professional services or  
28 profits by means of a credit or other valuable consideration  
29 such as wages, an unearned commission, discount or gratuity  
30 with a person who referred a patient, or with any relative or  
31 business associate of the referring person. Nothing in this  
32 paragraph shall be construed as prohibiting the members of any  
33 legally organized business entity recognized by law and  
34 comprised of health care professionals licensed pursuant to  
35 chapter 147, 148A, or 148B from making any division of their

1 total fees among the health care professionals determined by  
2 contract necessary to defray their joint operating costs.

3 14. In addition to any other penalty or disciplinary  
4 action taken under this section, a health care provider who  
5 violates this section shall divest any investment interest  
6 which has resulted in the violation of this section.

7 Sec. 5. NEW SECTION. 135L.4 MARKUP ON CHARGES  
8 PROHIBITED.

9 A health care provider shall not charge an additional  
10 amount for services rendered by an entity outside of the  
11 provider's practice. A handling fee of no more than two  
12 dollars, however, may be charged if each charge is separately  
13 disclosed and itemized in the provider's bill for services.

14 Sec. 6. NEW SECTION. 135L.5 DESIGNATED HEALTH CARE SER-  
15 VICES -- LICENSURE, ACCREDITATION, OR CERTIFICATION REQUIRED.

16 1. An entity which furnishes designated health care  
17 services shall not operate in this state unless licensed by  
18 the department if required by law, accredited by a nationally  
19 recognized accrediting organization, or certified by the  
20 medicare program of Title XVIII of the federal Social Security  
21 Act.

22 2. An entity shall submit to the appropriate licensing  
23 board information regarding the ownership of the entity  
24 including identification of owners who are health care  
25 providers and each investor's percentage of ownership.

26 EXPLANATION

27 This bill prohibits health care providers from referring  
28 patients for services to an entity in which the health care  
29 provider or the health care provider's immediate family is an  
30 investor or has an investment interest. The bill also  
31 provides exceptions to the prohibited referral.

32 This bill also provides civil penalties and disciplinary  
33 actions to be taken for violation of the provisions of the  
34 bill.

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SENATE FILE 313  
FISCAL NOTE

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A fiscal note for Senate File 313 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

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Senate File 313 prohibits health care providers from referring patients for services to an entity in which the health care provider has an investment interest. The examining boards within the Department of Public Health (DPH) would develop procedures to determine rules and applicability. The bill provides civil penalties and disciplinary actions to be taken for violation of the provisions of the bill.

ASSUMPTIONS:

1. The DPH would require staffing and support for rules development, investigations, hearings, board member reimbursement, and printing. In total, 7 boards would be involved in the process.
2. This estimate does not assume any non-compliance. The cost of such findings would be largely offset by fines imposed by the boards.

FISCAL IMPACT:

The total fiscal effect of Senate File 313 would be \$105,000 in FY 1994 and each subsequent year. This includes \$70,000 for salaries and \$35,000 for support.

SOURCES:

Department of Public Health

(LSB 1494sv, JAM)

FILED MARCH 24, 1993

BY DENNIS PROUTY, FISCAL DIRECTOR

RIDGEMAN, CH.  
JUDGE  
RITTNER

SSB 115  
Human Resources

SENATE FILE 313  
BY (PROPOSED COMMITTEE ON HUMAN  
RESOURCES BILL BY CHAIR-  
PERSON SZYMONIAK)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

A BILL FOR

1 An Act relating to health care provider referrals, and providing  
2 civil penalties.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. INTENT. The general assembly recognizes that  
2 the referral of a patient by a health care provider to a  
3 provider of health care services in which the referring health  
4 care provider has an investment interest represents a  
5 potential conflict of interest. The general assembly finds  
6 these referral practices may limit or eliminate competitive  
7 alternatives in the health care services market, may result in  
8 overutilization of health care services, may increase costs to  
9 the health care system, and may adversely affect the quality  
10 of health care. It is the intent of the general assembly to  
11 provide guidance to health care providers regarding prohibited  
12 patient referrals between health care providers and health  
13 care services entities and to protect Iowans from unnecessary  
14 and costly health care expenditures.

15 Sec. 2. NEW SECTION. 135L.1 TITLE.

16 This chapter shall be known and may be cited as the  
17 "Patient Self-Referral Act".

18 Sec. 3. NEW SECTION. 135L.2 DEFINITIONS.

19 1. "Board" means an examining board as defined in section  
20 147.1.

21 2. "Comprehensive rehabilitation services" means services  
22 that are provided by health care professionals licensed under  
23 chapter 147, 148A, or 148B, to provide speech, occupational,  
24 or physical therapy services on an outpatient or ambulatory  
25 basis.

26 3. "Department" means the Iowa department of public  
27 health.

28 4. "Designated health services" means, but is not limited  
29 to, clinical laboratory services, comprehensive rehabilitation  
30 services, diagnostic imaging services, radiation therapy  
31 services, pharmacy services, home health care services,  
32 rehabilitation facility services, nursing home services,  
33 hospital services, or ophthalmic services.

34 5. "Entity" means an individual, partnership, firm,  
35 corporation, or other business entity.

1 6. "Fair market value" means value in arms-length  
2 transactions, consistent with the general market value, and,  
3 with respect to rentals or leases, the value of rental  
4 property for general commercial purposes, not taking into  
5 account its intended use, and, in the case of a lease of  
6 space, not adjusted to reflect the additional value the  
7 prospective lessee or lessor would attribute to the proximity  
8 or convenience to the lessor where the lessor is a potential  
9 source of patient referrals to the lessee.

10 7. "Group practice" means two or more health care  
11 providers legally organized as a partnership, professional  
12 corporation, or similar association to which all of the  
13 following applies:

14 a. Each member of the group provides substantially the  
15 full range of services which the health care provider  
16 routinely provides, including medical care, consultation,  
17 diagnosis, or treatment, through the joint use of shared  
18 office space, facilities, equipment, and personnel.

19 b. Substantially all of the services of the members of the  
20 group are provided through the group and are billed in the  
21 name of the group and payments received are treated as  
22 receipts of the group.

23 c. The overhead expenses of and the income from the  
24 practice are distributed in accordance with methods previously  
25 determined by members of the group.

26 8. "Health care provider" means any physician licensed  
27 under chapter 148, 149, 150A, or 151, any health care provider  
28 licensed under chapter 153 or 154, a hospital licensed under  
29 chapter 135B, or a nursing facility licensed under chapter  
30 135C.

31 9. "Immediate family member" means a health care  
32 provider's spouse, child, child's spouse, grandchild,  
33 grandchild's spouse, parent, parent-in-law, sibling or  
34 sibling's spouse.

35 10. "Investment interest" means an equity or debt security

1 issued by an entity, including shares of stock in a  
2 corporation, units or other interests in a partnership, bonds,  
3 debentures, notes, or other equity interests or debt  
4 instruments.

5 "Investment interest" does not including either of the  
6 following:

7 a. An investment interest in notes, bonds, debentures, or  
8 other debt instruments issued by an entity which provides  
9 designated health services, as an integral part of a plan by  
10 the entity to acquire investor's equity investment interest in  
11 the entity, provided that the interest rate is consistent with  
12 fair market value, and that the maturity date of the notes,  
13 bonds, debentures, or other debt instruments issued by the  
14 entity to the investor is not later than October 1, 1997.

15 b. An investment interest in real property resulting in a  
16 landlord-tenant relationship between the health care provider  
17 and the entity in which the equity interest is held, unless  
18 the rent is determined, in whole or in part, by the business  
19 volume or profitability of the tenant or exceeds fair market  
20 value.

21 11. "Investor" means an entity owning a legal or  
22 beneficial ownership or investment interest, directly or  
23 indirectly, including but not limited to, through an immediate  
24 family member, trust, or another entity related to the  
25 investor within the meaning of 42 C.F.R. § 413.17, in an  
26 entity.

27 12. "Kickback" means a remuneration of payment back  
28 pursuant to an investment interest, compensation arrangement,  
29 or other agreement by a provider of health care services or  
30 items, of a portion of the charges for services rendered to a  
31 referring health care provider as an incentive or inducement  
32 to refer patients for future services or items, when the  
33 payment is not tax deductible as an ordinary and necessary  
34 expense.

35 13. a. "Referral" means a referral of a patient by a

1 health care provider for health care services, including but  
2 not limited to all of the following:

3 (1) The forwarding of a patient by a health care provider  
4 to another health care provider or to an entity which provides  
5 or supplies designated health services or any other health  
6 care item or service.

7 (2) The request or establishment of a plan of care by a  
8 health care provider, which includes the provision of  
9 designated health services or other health care item or  
10 service.

11 b. "Referral" does not include any of the following:

12 (1) By a radiologist for diagnostic imaging services.

13 (2) By a physician specializing in the provision of  
14 radiation therapy services for those services.

15 (3) By a medical oncologist for drugs and solutions to be  
16 prepared and administered intravenously to the oncologist's  
17 patient, as well as for the supplies and equipment used in  
18 connection with the drugs or solutions to treat the patient  
19 for cancer and any complications.

20 (4) By a cardiologist for cardiac catheterization services.

21 (5) By a pathologist for diagnostic clinical laboratory  
22 tests and pathological examination services, if furnished by  
23 or under the supervision of the pathologist pursuant to a  
24 consultation requested by another physician.

25 (6) By a health care provider for services provided by an  
26 ambulatory surgical center.

27 (7) By a urologist for lithotripsy services.

28 (8) By a dentist for dental services performed by an  
29 employee of or health care provider who is an independent  
30 contractor with the dentist or group practice of which the  
31 dentist is a member.

32 (9) By a physician for infusion therapy services to a  
33 patient of that physician or a member of that physician's  
34 group practice.

35 (10) By a nephrologist for renal dialysis services and

1 supplies.

2 Sec. 4. NEW SECTION. 135L.3 PROHIBITED REFERRALS AND  
3 CLAIMS FOR PAYMENT.

4 1. A health care provider shall not refer a patient for  
5 the provision of designated health services to an entity in  
6 which the health care provider is an investor or has an  
7 investment interest.

8 2. A health care provider shall not refer a patient for  
9 the provision of any other health care item or service to an  
10 entity in which the health care provider is an investor unless  
11 either of the following applies:

12 a. The provider's investment interest is in registered  
13 securities purchased on a national exchange or over-the-  
14 counter market and issued by a publicly held corporation,  
15 whose shares are traded on a national exchange or on the over-  
16 the-counter market and whose total assets at the end of the  
17 corporation's most recent fiscal quarter exceeded fifty  
18 million dollars.

19 b. With respect to an entity other than a publicly held  
20 corporation described in paragraph "a", and a referring  
21 provider's investment interest in the entity, all of the  
22 following requirements arise:

23 (1) Not more than fifty percent of the value of the  
24 investment interests are held by investors who are in a  
25 position to make referrals to the entity.

26 (2) The terms under which an investment interest is  
27 offered to an investor, who is in a position to make referrals  
28 to the entity, are no different from the terms offered to  
29 investors who are not in a position to make referrals.

30 (3) The terms under which an investment interest is  
31 offered to an investor, who is in a position to make referrals  
32 to the entity, are not related to the previous or expected  
33 volume of referrals from the investor to the entity.

34 (4) There is no requirement that an investor make  
35 referrals or be in a position to make referrals to the entity

1 as a condition for becoming or remaining an investor.

2 3. Except as provided under subsection 2, the entity or  
3 corporation shall not loan funds to or guarantee a loan for an  
4 investor who is in a position to make referrals to the entity  
5 or corporation. The investor shall not use any part of a loan  
6 obtained through an entity or corporation to obtain the  
7 investment interest.

8 4. Except as provided under subsection 2, the amount  
9 distributed to an investor representing a return on the  
10 investment interest shall be directly proportional to the  
11 amount of the capital investment, made by the investor in the  
12 entity or corporation, including the fair market value of any  
13 preoperational services rendered.

14 5. Each board and the department shall develop a procedure  
15 to be used by licensees to determine the applicability of this  
16 section or any rule adopted pursuant to this section to the  
17 licensee. Each board shall submit to the department the name  
18 of any entity in which a provider investment interest has been  
19 approved pursuant to this section, and the department shall  
20 adopt rules providing for periodic quality assurance and  
21 utilization review of the entities.

22 6. A claim for payment shall not be presented by an entity  
23 to any individual, third-party payor, or other entity for a  
24 service furnished pursuant to a referral prohibited under this  
25 section.

26 7. If an entity collects an amount that was billed in  
27 violation of this section, the entity shall refund the amount  
28 and any interest or late fee assessed on a timely basis to the  
29 payor or individual as applicable.

30 8. Any person that presents or causes to be presented a  
31 bill or a claim for service that the person knows or should  
32 know is for a service for which payment may not be made under  
33 subsection 6, or for which a refund has not been made under  
34 subsection 7, is subject to a civil penalty of not more than  
35 fifteen thousand dollars for each service, to be imposed and

1 collected by the appropriate board.

2 9. Any health care provider or other entity that enters  
3 into an arrangement or scheme, such as a cross-referral  
4 arrangement, which the physician or entity knows or should  
5 know has a principal purpose of assuring referrals by the  
6 physician to a particular entity which, if the physician  
7 directly made referrals to the entity, would be in violation  
8 of this section, is subject to a civil penalty of not more  
9 than one hundred thousand dollars for each circumvention  
10 arrangement or scheme, to be imposed and collected by the  
11 appropriate board or boards.

12 10. A health care provider or any provider of health care  
13 services shall not offer, pay, solicit, or receive a kickback,  
14 directly or indirectly, overtly or covertly, in the form of  
15 cash, consulting fees, wages, or in kind, for referring or  
16 soliciting patients.

17 11. A violation of this section by a health care provider  
18 constitutes grounds for disciplinary action to be taken by the  
19 applicable board.

20 12. Any hospital licensed under chapter 135B or any  
21 nursing facility licensed under chapter 135C which violates  
22 this section, discriminates against, or otherwise penalizes a  
23 health care provider for compliance with this chapter is  
24 subject to suspension or revocation of license pursuant to  
25 section 135B.6 or 135C.10, as applicable.

26 13. A health care professional licensed pursuant to  
27 chapter 147, 148A, or 148B is subject to suspension or  
28 revocation of license if the person engages directly or  
29 indirectly in the division, transferring, assigning, rebating,  
30 or refunding of fees received for professional services or  
31 profits by means of a credit or other valuable consideration  
32 such as wages, an unearned commission, discount or gratuity  
33 with a person who referred a patient, or with any relative or  
34 business associate of the referring person. Nothing in this  
35 paragraph shall be construed as prohibiting the members of any

1 legally organized business entity recognized by law and  
2 comprised of health care professionals licensed pursuant to  
3 chapter 147, 148A, or 148B from making any division of their  
4 total fees among the health care professionals determined by  
5 contract necessary to defray their joint operating costs.

6 14. In addition to any other penalty or disciplinary  
7 action taken under this section, a health care provider who  
8 violates this section shall divest any investment interest  
9 which has resulted in the violation of this section.

10 Sec. 5. NEW SECTION. 135L.4 MARKUP ON CHARGES  
11 PROHIBITED.

12 A health care provider shall not charge an additional  
13 amount for services rendered by an entity outside of the  
14 provider's practice. A handling fee of no more than two  
15 dollars, however, may be charged if each charge is separately  
16 disclosed and itemized in the provider's bill for services.

17 Sec. 6. NEW SECTION. 135L.5 DESIGNATED HEALTH CARE SER-  
18 VICES -- LICENSURE REQUIRED.

19 1. An entity which furnishes designated health care  
20 services shall not operate in this state unless licensed by  
21 the department if required by law, accredited by a nationally  
22 recognized accrediting organization, or certified by the  
23 medicare program of Title XVIII of the federal Social Security  
24 Act.

25 2. The department shall adopt rules for licensing,  
26 accreditation, or certification requirements for designated  
27 health care services including, but not limited to, rules  
28 providing for:

29 a. An annual license fee of not less than four hundred  
30 dollars and not more than one thousand five hundred dollars.

31 b. Standards of quality with respect to the provision of  
32 ancillary services by respective entities.

33 c. Periodic inspection of the facilities of an entity for  
34 the purpose of evaluating the premises, operation,  
35 supervision, and procedures of the entity to ensure compliance

1 with standards of quality as established in department rules.

2 d. The submission by an entity of information on its  
3 ownership, including identification of the owners who are  
4 health care providers, and each investor's percentage of  
5 ownership.

6 EXPLANATION

7 This bill prohibits health care providers from referring  
8 patients for services to an entity in which the health care  
9 provider or the health care provider's immediate family is an  
10 investor or has an investment interest. The bill also  
11 provides exceptions to the prohibited referral.

12 This bill also provides civil penalties and disciplinary  
13 actions to be taken for violation of the provisions of the  
14 bill.

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