
A BILL FOR AN ACT

RELATING TO HEALTH CARE REFERRALS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that national and
2 government studies have shown that physician ownership of health
3 care facilities may lead to higher rates of self-referral,
4 unnecessary testing, and overutilization of services.

5 The legislature further finds that the recent decision in
6 *Pacific Radiation Oncology et al., v. The Queen's Medical Center*
7 *et al.*, 2014 WL 6749117 (Nov. 30, 2014), prohibits physicians
8 from referring patients to treatment centers in which the
9 physicians have a financial interest only for services subject
10 to no-fault motor vehicle insurance. This distinction created
11 by the court allows physicians to refer patients to facilities
12 in which the physician has a financial interest for all other
13 kinds of injury or sickness not arising from motor vehicle
14 accidents.

15 This court-created distinction is not consistent with the
16 language of section 431:10C-308.7, Hawaii Revised Statutes,
17 which requires health care providers to disclose their financial



1 interests when referring patients to facilities in which the
2 providers have a financial interest.

3 The purpose of this Act is to clarify that a health care
4 provider who refers patients to facilities in which the health
5 care provider has a financial interest must provide patients
6 with sufficient information regarding the financial incentives
7 for the referral, in order to allow the patient to make
8 meaningful treatment decisions.

9 SECTION 2. Chapter 431, Hawaii Revised Statutes, is
10 amended by adding a new section to article 10 to be
11 appropriately designated and to read as follows:

12 "§431:10- Prohibited health care provider self-referral
13 practices. (a) No health care provider shall refer, for any
14 service or treatment, a patient to any entity in which the
15 referring provider has a financial interest unless the referring
16 provider has disclosed that financial interest to the patient.

17 (b) The health care provider shall make the disclosure
18 required by this section in advance and in writing, and shall
19 obtain the signature of the patient and retain the disclosure
20 form for a period of two years. The health care provider shall



1 include in the disclosure a statement indicating that the
2 patient is free to choose a different health care provider.

3 (c) The regulated industries complaints office, department
4 of commerce and consumer affairs, may initiate investigations
5 and disciplinary action to enforce violations of this section.

6 (d) For the purposes of this section:

7 "Financial interest" means an ownership or investment
8 interest through debt, equity, or any other means. "Financial
9 interest" does not mean salary or other compensation paid to
10 physicians by a health maintenance organization, or any
11 compensation arrangement involving payment by a group practice
12 that contracts with a health maintenance organization to a
13 physician in the same group practice or entity affiliated with
14 the health maintenance organization for services provided to a
15 member of the health maintenance organization.

16 "Health care provider" means any person who is licensed to
17 provide health care services pursuant to chapter 436E, 442, 448,
18 452, 453, 455, 457G, 459, 461J, 463E, or 465.

19 (e) A violation of this section shall be deemed an unfair
20 method of competition and an unfair or deceptive trade act or
21 practice in violation of section 480-2."



S.B. NO. 3105

1 SECTION 3. New statutory material is underscored.

2 SECTION 4. This Act shall take effect upon its approval
3 and shall apply retroactively to January 1, 2008.
4

INTRODUCED BY:

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S.B. NO. 3105

Report Title:

Health Care Providers; Financial Interest; Referral Practices;
Disclosure

Description:

Requires that health care providers who refer patients to facilities in which the provider has a financial interest disclose the financial incentives associated with the referral to patients, and establishes that failure to do so is an unfair or deceptive trade act or practice. Effective retroactively to January 1, 2008.

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