

CF 7r2049

By: Delegates Morhaim and Guns

Introduced and read first time: January 30, 1997

Assigned to: Environmental Matters

Committee Report: Favorable

House action: Adopted

Read second time: February 25, 1997

CHAPTER ____

1 AN ACT concerning

2 **Health Occupations - Patient Referrals**

3 FOR the purpose of altering a certain provision of law that prohibits health care
4 practitioners from referring patients to health care entities in which the health care
5 practitioners' immediate family owns a beneficial interest; and generally relating to
6 the referral of patients by health care practitioners to health care entities.

7 BY repealing and reenacting, with amendments,
8 Article - Health Occupations
9 Section 1-302
10 Annotated Code of Maryland
11 (1994 Replacement Volume and 1996 Supplement)

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
13 MARYLAND, That the Laws of Maryland read as follows:

14 **Article - Health Occupations**

15 1-302.

16 (a) Except as provided in subsection (d) of this section, a health care practitioner
17 may not refer a patient, or direct an employee of or person under contract with the health
18 care practitioner to refer a patient to a health care entity:

19 (1) In which the health care practitioner [, the practitioner's immediate
20 family,] or the practitioner in combination with the practitioner's immediate family owns
21 a beneficial interest;

22 (2) IN WHICH THE PRACTITIONER'S IMMEDIATE FAMILY OWNS A
23 BENEFICIAL INTEREST OF 3 PERCENT OR GREATER; or

2

1 [(2)] (3) With which the health care practitioner, the practitioner's
2 immediate family, or the practitioner in combination with the practitioner's immediate
3 family has a compensation arrangement.

4 (b) A health care entity or a referring health care practitioner may not present or
5 cause to be presented to any individual, third party payor, or other person a claim, bill, or
6 other demand for payment for health care services provided as a result of a referral
7 prohibited by this subtitle.

8 (c) Subsection (a) of this section applies to any arrangement or scheme, including
9 a cross-referral arrangement, which the health care practitioner knows or should know
10 has a principal purpose of assuring indirect referrals that would be in violation of
11 subsection (a) of this section if made directly.

12 (d) The provisions of this section do not apply to:

13 (1) A health care practitioner when treating a member of a health
14 maintenance organization as defined in § 19-701 of the Health - General Article if the
15 health care practitioner does not have a beneficial interest in the health care entity;

16 (2) A health care practitioner who refers a patient to another health care
17 practitioner in the same group practice as the referring health care practitioner;

18 (3) A health care practitioner with a beneficial interest in a health care
19 entity who refers a patient to that health care entity for health care services or tests, if the
20 services or tests are personally performed by or under the direct supervision of the
21 referring health care practitioner;

22 (4) A health care practitioner who refers in-office ancillary services or tests
23 that are:

24 (i) Personally furnished by:

25 1. The referring health care practitioner;

26 2. A health care practitioner in the same group practice as the
27 referring health care practitioner; or

28 3. An individual who is employed and personally supervised by
29 the qualified referring health care practitioner or a health care practitioner in the same
30 group practice as the referring health care practitioner;

31 (ii) Provided in the same building where the referring health care
32 practitioner or a health care practitioner in the same group practice as the referring
33 health care practitioner furnishes services; and

34 (iii) Billed by:

35 1. The health care practitioner performing or supervising the
36 services; or

37 2. A group practice of which the health care practitioner
38 performing or supervising the services is a member;

3

1 (5) A health care practitioner who has a beneficial interest in a health care
2 entity if, in accordance with regulations adopted by the Secretary:

3 (i) The Secretary determines that the health care practitioner's
4 beneficial interest is essential to finance and to provide the health care entity; and

5 (ii) The Secretary, in conjunction with the Health Resources Planning
6 Commission, determines that the health care entity is needed to ensure appropriate
7 access for the community to the services provided at the health care entity;

8 (6) A health care practitioner employed or affiliated with a hospital, who
9 refers a patient to a health care entity that is owned or controlled by a hospital or under
10 common ownership or control with a hospital if the health care practitioner does not have
11 a direct beneficial interest in the health care entity;

12 (7) A health care practitioner or member of a single specialty group
13 practice, including any person employed or affiliated with a hospital, who has a beneficial
14 interest in a health care entity that is owned or controlled by a hospital or under common
15 ownership or control with a hospital if:

16 (i) The health care practitioner or other member of that single
17 specialty group practice provides the health care services to a patient pursuant to a
18 referral or in accordance with a consultation requested by another health care
19 practitioner who does not have a beneficial interest in the health care entity; or

20 (ii) The health care practitioner or other member of that single
21 specialty group practice referring a patient to the facility, service, or entity personally
22 performs or supervises the health care service or procedure; or

23 (8) A health care practitioner with a beneficial interest in, or compensation
24 arrangement with, a hospital or related institution as defined in § 19-301 of the Health -
25 General Article or a facility, service, or other entity that is owned or controlled by a
26 hospital or related institution or under common ownership or control with a hospital or
27 related institution if:

28 (i) The beneficial interest was held or the compensation arrangement
29 was in existence on January 1, 1993; and

30 (ii) Thereafter the beneficial interest or compensation arrangement of
31 the health care practitioner does not increase.

32 (e) A health care practitioner exempted from the provisions of this section in
33 accordance with subsection (d) shall be subject to the disclosure provisions of § 1-303 of
34 this subtitle.

35 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
36 October 1, 1997.

