

---

**By: Senator Hollinger**

Introduced and read first time: January 29, 1997

Assigned to: Economic and Environmental Affairs

---

A BILL ENTITLED

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

24 [(2)] (3) With which the health care practitioner, the practitioner's  
25 immediate family, or the practitioner in combination with the practitioner's immediate  
26 family has a compensation arrangement.

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

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

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

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

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

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

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

17 (i) Personally furnished by:

18 1. The referring health care practitioner;

19 2. A health care practitioner in the same group practice as the  
20 referring health care practitioner; or

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

24 (ii) Provided in the same building where the referring health care  
25 practitioner or a health care practitioner in the same group practice as the referring  
26 health care practitioner furnishes services; and

27 (iii) Billed by:

28 1. The health care practitioner performing or supervising the  
29 services; or

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

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

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

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

3

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

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

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

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

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

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

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

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

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