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By: **Senator Hollinger**

Introduced and read first time: February 6, 1998

Assigned to: Economic and Environmental Affairs

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 10, 1998

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **End Stage Renal Disease Program - Outpatient Facilities - Patient**  
3 **Referrals**

4 FOR the purpose of authorizing certain health care practitioners to refer ~~Kidney~~  
5 ~~Disease Program recipients who qualify under the federal End Stage Renal~~  
6 ~~Disease Program~~ patients with end stage renal disease to certain outpatient  
7 dialysis facilities, notwithstanding the practitioners' interest in or arrangements  
8 with the facilities; and generally relating to an exemption from the prohibition  
9 on certain patient referrals by health care practitioners.

10 BY repealing and reenacting, with amendments,  
11 Article - Health Occupations  
12 Section 1-302(d)  
13 Annotated Code of Maryland  
14 (1994 Replacement Volume and 1997 Supplement)

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

17 **Article - Health Occupations**

18 1-302.

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

20 (1) A health care practitioner when treating a member of a health  
21 maintenance organization as defined in § 19-701 of the Health - General Article if

1 the health care practitioner does not have a beneficial interest in the health care  
2 entity;

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

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

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

11 (i) Personally furnished by:

12 1. The referring health care practitioner;

13 2. A health care practitioner in the same group practice as  
14 the referring health care practitioner; or

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

18 (ii) Provided in the same building where the referring health care  
19 practitioner or a health care practitioner in the same group practice as the referring  
20 health care practitioner furnishes services; and

21 (iii) Billed by:

22 1. The health care practitioner performing or supervising the  
23 services; or

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

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

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

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

34 (6) A health care practitioner employed or affiliated with a hospital, who  
35 refers a patient to a health care entity that is owned or controlled by a hospital or

1 under common ownership or control with a hospital if the health care practitioner  
2 does not have a direct beneficial interest in the health care entity;

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

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

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

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

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

21 (ii) Thereafter the beneficial interest or compensation arrangement  
22 of the health care practitioner does not increase; OR

23 (9) A HEALTH CARE PRACTITIONER WHO REFERS A PATIENT TO A  
24 DIALYSIS FACILITY, IF THE PATIENT HAS BEEN DIAGNOSED WITH END STAGE RENAL  
25 DISEASE AS DEFINED IN THE MEDICARE REGULATIONS PURSUANT TO THE SOCIAL  
26 SECURITY ACT.

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
28 October 1, 1998.