

SENATE BILL 111

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SB 762/99 - EEA

2000 Regular Session  
0lr0723  
CF 0lr1117

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By: **Senators Hafer, Hollinger, and Exum**  
Introduced and read first time: January 17, 2000  
Assigned to: Economic and Environmental Affairs

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Committee Report: Favorable  
Senate action: Adopted  
Read second time: February 8, 2000

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Patient Referrals by Health Care Practitioners - Prohibition - Exemptions**

3 FOR the purpose of excluding certain payments made for the rental or lease of  
4 equipment, or for the sale of property or of a health care practice, from the  
5 definition of "compensation arrangement" for purposes of certain prohibitions  
6 and disclosure requirements relating to patient referrals; exempting from a  
7 certain prohibition against patient referrals a health care practitioner who  
8 refers a patient to a hospital in which the practitioner has a beneficial interest  
9 if the practitioner meets certain requirements; and generally relating to certain  
10 patient referrals by certain health care practitioners.

11 BY repealing and reenacting, with amendments,  
12 Article - Health Occupations  
13 Section 1-301(c) and 1-302  
14 Annotated Code of Maryland  
15 (1994 Replacement Volume and 1999 Supplement)

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

18 **Article - Health Occupations**

19 1-301.

20 (c) (1) "Compensation arrangement" means any agreement or system  
21 involving any remuneration between a health care practitioner or the immediate  
22 family member of the health care practitioner and a health care entity.

1 (2) "Compensation arrangement" does not include:

2 (i) Compensation or shares under a faculty practice plan or a  
3 professional corporation affiliated with a teaching hospital and comprised of health  
4 care practitioners who are members of the faculty of a university;

5 (ii) Amounts paid under a bona fide employment agreement  
6 between a health care entity and a health care practitioner or an immediate family  
7 member of the health care practitioner;

8 (iii) An arrangement between a health care entity and a health care  
9 practitioner or the immediate family member of a health care practitioner for the  
10 provision of any services, as an independent contractor, if:

11 1. The arrangement is for identifiable services;

12 2. The amount of the remuneration under the arrangement  
13 is consistent with the fair market value of the service and is not determined in a  
14 manner that takes into account, directly or indirectly, the volume or value of any  
15 referrals by the referring health care practitioner; and

16 3. The compensation is provided in accordance with an  
17 agreement that would be commercially reasonable even if no referrals were made to  
18 the health care provider;

19 (iv) Compensation for health care services pursuant to a referral  
20 from a health care practitioner and rendered by a health care entity, that employs or  
21 contracts with an immediate family member of the health care practitioner, in which  
22 the immediate family member's compensation is not based on the referral;

23 (v) An arrangement for compensation which is provided by a health  
24 care entity to a health care practitioner or the immediate family member of the health  
25 care practitioner to induce the health care practitioner or the immediate family  
26 member of the health care practitioner to relocate to the geographic area served by  
27 the health care entity in order to be a member of the medical staff of a hospital, if:

28 1. The health care practitioner or the immediate family  
29 member of the health care practitioner is not required to refer patients to the health  
30 care entity;

31 2. The amount of the compensation under the arrangement  
32 is not determined in a manner that takes into account, directly or indirectly, the  
33 volume or value of any referrals by the referring health care practitioner; and

34 3. The health care entity needs the services of the  
35 practitioner to meet community health care needs and has had difficulty in recruiting  
36 a practitioner; [or]

37 (vi) Payments made for the rental or lease of office space if the  
38 payments are:



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

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

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

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

13 (i) Personally furnished by:

14 1. The referring health care practitioner;

15 2. A health care practitioner in the same group practice as  
16 the referring health care practitioner; or

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

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

23 (iii) Billed by:

24 1. The health care practitioner performing or supervising the  
25 services; or

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

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

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

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

35 (6) A health care practitioner employed or affiliated with a hospital, who  
36 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;

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;

23 (9) A health care practitioner when treating an enrollee of a  
24 provider-sponsored organization as defined in § 19-7A-01 of the Health - General  
25 Article if the health care practitioner is referring enrollees to an affiliated health care  
26 provider of the provider-sponsored organization; [or]

27 (10) A health care practitioner who refers a patient to a dialysis facility, if  
28 the patient has been diagnosed with end stage renal disease as defined in the  
29 Medicare regulations pursuant to the Social Security Act; OR

30 (11) A HEALTH CARE PRACTITIONER WHO REFERS A PATIENT TO A  
31 HOSPITAL IN WHICH THE HEALTH CARE PRACTITIONER HAS A BENEFICIAL  
32 INTEREST IF:

33 (I) THE HEALTH CARE PRACTITIONER IS AUTHORIZED TO  
34 PERFORM SERVICES AT THE HOSPITAL; AND

35 (II) THE OWNERSHIP OR INVESTMENT INTEREST IS IN THE  
36 HOSPITAL ITSELF AND NOT SOLELY IN A SUBDIVISION OF THE HOSPITAL.

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

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
5 July 1, 2000.