

HOUSE BILL 849

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By: **Delegate Bohanan**

Introduced and read first time: February 9, 2007

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Patient Referrals – Group Practice – Radiology Services**

3 FOR the purpose of authorizing a multispecialty group practice located in a rural area
4 to provide certain radiology services as in-office ancillary services; including a
5 limited liability company in the definition of a “group practice”; and generally
6 relating to patient referrals for radiology services.

7 BY repealing and reenacting, with amendments,
8 Article – Health Occupations
9 Section 1–301
10 Annotated Code of Maryland
11 (2005 Replacement Volume and 2006 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 1–301.

16 (a) In this subtitle the following words have the meanings indicated.

17 (b) (1) “Beneficial interest” means ownership, through equity, debt, or
18 other means, of any financial interest.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2) “Beneficial interest” does not include ownership, through equity,
2 debt, or other means, of securities, including shares or bonds, debentures, or other
3 debt instruments:

4 (i) In a corporation that is traded on a national exchange or
5 over the counter on the national market system;

6 (ii) That at the time of acquisition, were purchased at the same
7 price and on the same terms generally available to the public;

8 (iii) That are available to individuals who are not in a position to
9 refer patients to the health care entity on the same terms that are offered to health
10 care practitioners who may refer patients to the health care entity;

11 (iv) That are unrelated to the past or expected volume of
12 referrals from the health care practitioner to the health care entity; and

13 (v) That are not marketed differently to health care
14 practitioners that may make referrals than they are marketed to other individuals.

15 (c) (1) “Compensation arrangement” means any agreement or system
16 involving any remuneration between a health care practitioner or the immediate
17 family member of the health care practitioner and a health care entity.

18 (2) “Compensation arrangement” does not include:

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

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

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

28 1. The arrangement is for identifiable services;

29 2. The amount of the remuneration under the
30 arrangement is consistent with the fair market value of the service and is not

1 determined in a manner that takes into account, directly or indirectly, the volume or
2 value of any referrals by the referring health care practitioner; and

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

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

10 (v) An arrangement for compensation which is provided by a
11 health care entity to a health care practitioner or the immediate family member of the
12 health care practitioner to induce the health care practitioner or the immediate family
13 member of the health care practitioner to relocate to the geographic area served by the
14 health care entity in order to be a member of the medical staff of a hospital, if:

15 1. The health care practitioner or the immediate family
16 member of the health care practitioner is not required to refer patients to the health
17 care entity;

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

22 3. The health care entity needs the services of the
23 practitioner to meet community health care needs and has had difficulty in recruiting
24 a practitioner;

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

27 1. At fair market value; and

28 2. In accordance with an arm's length transaction;

29 (vii) Payments made for the rental or lease of equipment if the
30 payments are:

31 1. At fair market value; and

- 1 2. In accordance with an arm’s length transaction; or
- 2 (viii) Payments made for the sale of property or a health care
3 practice if the payments are:
- 4 1. At fair market value;
- 5 2. In accordance with an arm’s length transaction; and
- 6 3. The remuneration is provided in accordance with an
7 agreement that would be commercially reasonable even if no referrals were made.

8 (d) “Direct supervision” means a health care practitioner is present on the
9 premises where the health care services or tests are provided and is available for
10 consultation within the treatment area.

11 (e) “Faculty practice plan” means a tax exempt organization established
12 under Maryland law by or at the direction of a university to accommodate the
13 professional practice of members of the faculty who are health care practitioners.

14 (f) “Group practice” means a group of two or more health care practitioners
15 legally organized as a partnership, professional corporation, foundation, not-for-profit
16 corporation, faculty practice plan, **LIMITED LIABILITY COMPANY**, or similar
17 association:

18 (1) In which each health care practitioner who is a member of the
19 group provides substantially the full range of services which the practitioner routinely
20 provides through the joint use of shared office space, facilities, equipment, and
21 personnel;

22 (2) For which substantially all of the services of the health care
23 practitioners who are members of the group are provided through the group and are
24 billed in the name of the group and amounts so received are treated as receipts of the
25 group; and

26 (3) In which the overhead expenses of and the income from the
27 practice are distributed in accordance with methods previously determined on an
28 annual basis by members of the group.

29 (g) “Health care entity” means a business entity that provides health care
30 services for the:

1 (1) Testing, diagnosis, or treatment of human disease or dysfunction;
2 or

3 (2) Dispensing of drugs, medical devices, medical appliances, or
4 medical goods for the treatment of human disease or dysfunction.

5 (h) “Health care practitioner” means a person who is licensed, certified, or
6 otherwise authorized under this article to provide health care services in the ordinary
7 course of business or practice of a profession.

8 (i) “Health care service” means medical procedures, tests and services
9 provided to a patient by or through a health care entity.

10 (j) “Immediate family member” means a health care practitioner’s:

11 (1) Spouse;

12 (2) Child;

13 (3) Child’s spouse;

14 (4) Parent;

15 (5) Spouse’s parent;

16 (6) Sibling; or

17 (7) Sibling’s spouse.

18 (k) (1) “In-office ancillary services” means those basic health care services
19 and tests routinely performed in the office of one or more health care practitioners.

20 (2) Except for a radiologist group practice, **A MULTISPECIALTY**
21 **GROUP PRACTICE LOCATED IN A RURAL AREA**, or an office consisting solely of one
22 or more radiologists, “in-office ancillary services” does not include:

23 (i) Magnetic resonance imaging services;

24 (ii) Radiation therapy services; or

25 (iii) Computer tomography scan services.

- 1 (1) (1) “Referral” means any referral of a patient for health care services.
- 2 (2) “Referral” includes:
- 3 (i) The forwarding of a patient by one health care practitioner
4 to another health care practitioner or to a health care entity outside the health care
5 practitioner’s office or group practice; or
- 6 (ii) The request or establishment by a health care practitioner of
7 a plan of care for the provision of health care services outside the health care
8 practitioner’s office or group practice.

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 June 1, 2007.