

Department of Legislative Services
Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE

House Bill 849 (Delegate Bohanan)
Health and Government Operations

Patient Referrals - Group Practice - Radiology Services

This bill authorizes a rural multispecialty group practice to perform magnetic resonance imaging (MRI), radiation therapy, or computer tomography (CT) scan services in addition to the basic health care services and tests routinely performed in the office of one or more health care practitioners. It also broadens the definition of “group practice” to include a limited liability company. As a result, a multispecialty group practice organized as a limited liability company and located in a rural area would be exempt from the statutory provisions prohibiting self-referrals.

The bill takes effect June 1, 2007.

Fiscal Summary

State Effect: The bill pertains to private-sector activities. Any decrease in State investigations and disciplinary actions as a result of the bill would not directly affect governmental finances.

Local Effect: None.

Small Business Effect: Meaningful for any rural multispecialty group practice interested in performing these services and tests that is organized as a limited liability company.

Analysis

Current Law: “Group practice” is a group of two or more health care practitioners legally organized as a partnership, professional corporation, foundation, nonprofit corporation, faculty practice plan, or similar association that meets specified conditions. Each practitioner who is a group member must provide substantially the full range of services routinely provided through the joint use of shared office space, facilities, equipment, and personnel. Substantially all of the practitioner’s services must be provided through the group and billed through the group’s name and amounts received must be treated as the group’s receipts. Overhead expenses of and income from the practice must be distributed according to methods the group determines.

“In-office ancillary services” are basic health services and tests routinely performed in the office of one or more health care practitioners. Except for a radiologist group practice or an office consisting of only one or more radiologists, this does not include MRI, radiation therapy, or CT scan services.

With certain exceptions, a health care practitioner may not refer a patient, or direct an employee of or person under contract with the health care practitioner to refer a patient to a health care entity • in which the practitioner or the practitioner and his immediate family owns a beneficial interest; • in which the practitioner’s immediate family owns a beneficial interest of 3% or greater; or • with which the practitioner, the practitioner’s immediate family, or the practitioner and the practitioner’s immediate family has a compensation arrangement.

The prohibition on self-referral does not apply when a health care practitioner refers a patient to another practitioner in the same group practice as the referring practitioner. In addition, a health care practitioner may refer in-office ancillary services or tests that are • personally furnished by the referring health care practitioner, a practitioner in the same group practice as the referring practitioner, or an individual employed and personally supervised by the qualified referring practitioner or a practitioner in the same group practice as the referring practitioner; • provided in the same building where the referring practitioner or a practitioner in the same group practice as the referring practitioner furnishes services; and • billed by the practitioner performing or supervising the services or a group practice of which the practitioner performing or supervising the services is a member.

Background: In a January 4, 2006 letter of advice to The Honorable Paula C. Hollinger, Assistant Attorney General Kathryn M. Rowe stated that the State’s self-referral law would bar a patient referral for an MRI if the MRI machine is being leased by the group practice of which the referring practitioner is a member and the test is being performed

by the group practice. State law would bar this referral even if the MRI is performed by or under the direct supervision of the referring practitioner. Further, the letter of advice states that the statutory definition of a “health care service” includes MRI, CT scans, and radiation therapy services and includes ordinary medical activities performed by a physician in the course of treatment. A February 23, 2006 opinion letter affirmed the analysis and conclusions in that letter of advice.

Additional Information

Prior Introductions: None.

Cross File: SB 740 (Senators Dyson and Middleton) – Education, Health, and Environmental Affairs.

Information Source(s): Department of Health and Mental Hygiene, Maryland Insurance Administration, Department of Legislative Services

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