

**Department of Legislative Services**  
Maryland General Assembly  
2015 Session

**FISCAL AND POLICY NOTE**

Senate Bill 539 (Senator Conway)  
Education, Health, and Environmental Affairs

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**Patient Referrals - Oncologists - Radiation Therapy Services and Nondiagnostic  
Computer Tomography Scan Services**

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This bill expands the definition of “in-office ancillary services” that are exempt from the general prohibitions against self-referrals by health care practitioners to include specified services provided by an oncology group practice or an office consisting of one or more oncologists that provides radiation therapy services or nondiagnostic computer tomography scan services for radiation therapy. The bill also requires an oncology group practice or office that is exempt to provide treatment to individuals who are covered by contracted private health insurance plans, Medicare, Medicaid, or the Maryland Children’s Health Program (MCHP). Specified for-profit oncology group practices or offices that are exempt must report annually to the Department of Health and Mental Hygiene (DHMH) on the number of patients they treat who are covered by Medicare, Medicaid, or MCHP.

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**Fiscal Summary**

**State Effect:** The bill does not directly affect State operations or finances.

**Local Effect:** The bill does not directly affect local government operations or finances.

**Small Business Effect:** Potential meaningful.

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**Analysis**

**Bill Summary:** The bill establishes that, for oncology group practices or offices consisting of one or more oncologists that provide radiation therapy services or nondiagnostic computer tomography scan services to plan and deliver radiation therapy, the following services are considered “in-office ancillary services,” which are exempt from the

prohibition against self-referrals by health care practitioners: magnetic resonance imaging services, radiation therapy services, and computer tomography scan services.

An oncology group practice or an office of one or more oncologists that provides radiation therapy services or nondiagnostic computer tomography scan services to plan and deliver radiation therapy, and that provides exempt in-office ancillary services, must provide treatment to any patient covered by a private health insurance plan (with which the group practice or office has contracted to be a network provider), Medicare, Medicaid, or MCHP.

A for-profit oncology group practice or a for-profit office consisting of one or more oncologists that provides radiation therapy services or nondiagnostic computer tomography scan services to plan and deliver radiation therapy, and that provides exempt in-office ancillary services, must report annually to DHMH on the number of patients it treats who are covered by Medicare, Medicaid, or MCHP.

**Current Law:** Under the Health Occupations Article, a health care practitioner may not refer a patient, or direct an employee or a person under contract with the health care practitioner to refer a patient, to a health care entity (1) in which the health care practitioner or the practitioner in combination with the practitioner's immediate family owns a beneficial interest; (2) in which the practitioner's immediate family owns a beneficial interest of 3% or greater; or (3) with which the health care practitioner, the practitioner's immediate family, or the practitioner in combination with the practitioner's immediate family has a compensation arrangement.

However, this prohibition does not apply to a health care practitioner who refers in-office ancillary services or tests that are (1) personally furnished by the referring health care practitioner, a health care practitioner in the same group practice as the referring health care practitioner, or an individual who is employed and personally supervised by the qualified referring health care practitioner or a health care practitioner in the same group practice as the referring health care practitioner; (2) provided in the same building where the referring health care practitioner or a health care practitioner in the same group practice as the referring health care practitioner furnishes services; and (3) billed by the health care practitioner performing or supervising the services or a group practice of which the health care practitioner performing or supervising the services is a member.

"In-office ancillary services" is defined as those basic health care 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 solely of one or more radiologists, in-office ancillary services do not include magnetic resonance imaging services, radiation therapy services, or computer tomography scan services.

Under the Insurance Article, each individual or group health insurance policy issued in the State by an entity must include a provision that excludes payment of any claim, bill, or other demand or request for payment for health care services that the appropriate regulatory board determines were provided as a result of a prohibited referral. An entity may seek repayment from a health care practitioner for any money paid for a claim, bill, or other demand or request for payment for health care services that were provided as a result of a prohibited referral. Additionally, an entity may seek a refund of a payment made for a claim, bill, or other demand or request for payment that is subsequently determined to be for a health care service provided as a result of a prohibited referral.

**Small Business Effect:** The Maryland Insurance Administration advises that the bill may benefit oncology practices that are small businesses since these businesses would be exempt from current self-referral prohibitions under certain circumstances. The insurance industry may also be affected, since the bill adds another category of services that are exempt from the current self-referral prohibition and, therefore, would not be excluded under insurance policies.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 944 (Delegate Pena-Melnyk, *et al.*) - Health and Government Operations.

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

**Fiscal Note History:** First Reader - March 4, 2015  
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