

ENGROSSED SENATE
BILL NO. 736

BY: BROWN of the SENATE

and

HAMILTON (Jeff) of the
HOUSE

AN ACT RELATING TO PSYCHIATRIC OR CHEMICAL DEPENDENCY
FACILITY CERTIFICATE OF NEED ACT; PROHIBITING
REMUNERATION FOR CERTAIN ACTS; PROVIDING FOR
PENALTIES; ALLOWING STATE DEPARTMENT OF HEALTH TO
INSTITUTE CERTAIN ACTION; CONSTRUING ACT; STATING
EXCEPTIONS; PROVIDING FOR CODIFICATION; AND
DECLARING AN EMERGENCY.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 1-880.12 of Title 63, unless
there is created a duplication in numbering, reads as follows:

A. 1. Any person who intentionally or knowingly pays to or
accepts anything of value from any person, firm, association of
persons, partnership, or corporation for securing or soliciting
patients for any psychiatric or chemical dependency facility in this
state shall be guilty of a misdemeanor, and upon conviction shall be
punishable by payment of a fine of not less than Five Hundred
Dollars (\$500.00) and not more than Two Thousand Dollars
(\$2,000.00).

2. Any person who has been previously convicted of violating this section, upon conviction for an additional violation of this section, shall be guilty of a felony, punishable by payment of a fine of not less than Five Thousand Dollars (\$5,000.00) and not more than Ten Thousand Dollars (\$10,000.00).

3. In addition to any other penalties or remedies provided, a violation of this section shall be grounds for disciplinary action by the State Department of Health.

B. This section shall not be construed to prohibit:

1. Advertising, except that advertising which:

- a. is false, misleading or deceptive,
- b. advertises professional superiority or the performance of a professional service in a superior manner, and
- c. is not readily subject to verification;

2. Remuneration for advertising, marketing or other services that are provided for the purpose of securing or soliciting patients, provided the remuneration is:

- a. set in advance,
- b. consistent with the fair market value of the services, and
- c. not based on the volume or value of any patient referrals or business otherwise generated between the parties; and

3. Any payment, business arrangements, or payments practice not prohibited by 42 U.S.C., Section 1320a-7b(b), or any regulations promulgated pursuant thereto.

C. This section shall not apply to licensed insurers, governmental entities, group hospital service corporations, or health maintenance organizations which reimburse, provide, offer to provide, or administer hospital, medical, dental, or other health-related benefits under a health benefits plan for which it is the payor.

SECTION 2. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 9th day of March, 1992.

President of the Senate

Passed the House of Representatives the ____ day of _____, 1992.

Speaker of the House of Representatives