

ENROLLED SENATE
BILL NO. 736

BY: BROWN, ROBINSON and COLE of
the SENATE

and

HAMILTON (Jeff), NIEMI,
MONSON, COLEMAN, McCORKELL,
LARASON and SULLIVAN of the
HOUSE

AN ACT RELATING TO PSYCHIATRIC OR CHEMICAL DEPENDENCY
FACILITY CERTIFICATE OF NEED ACT AND AMBULATORY
SURGICAL CENTERS; AMENDING 63 O.S. 1991, SECTION
2657, WHICH RELATES TO DEFINITIONS; PROHIBITING
REMUNERATION FOR CERTAIN ACTS; PROVIDING FOR
PENALTIES; PROVIDING FOR CERTAIN ACTION BY CERTAIN
AGENCY UNDER CERTAIN CIRCUMSTANCES; CONSTRUING ACT;
STATING EXCEPTIONS; DEFINING TERMS; MODIFYING
DEFINITIONS; REQUIRING WRITTEN DISCLOSURE UNDER
CERTAIN CIRCUMSTANCES; PROVIDING FOR CODIFICATION;
PROVIDING AN EFFECTIVE DATE; 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. In addition to any other penalties or remedies provided by
law:

- a. a violation of this section shall be grounds for
disciplinary action by the state agency licensing,
certifying, or registering such professional or
provider, and

- b. the state agency licensing, certifying, or registering such professional or provider may institute an action to enjoin a violation or potential violation of this section. The action for an injunction shall be in addition to any other action, proceeding, or remedy authorized by law.

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, including but not limited to, 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 when it is providing those services under a health benefits plan.

D. For purposes of this section:

1. "Health or mental health care professional" means any person who offers or provides counseling or health or mental health care under a license, certification or registration issued pursuant to Title 59 of the Oklahoma Statutes, and any drug and alcohol counselor certified by a private professional organization or association that offers drug and alcohol certification; and

2. "Health care provider" means any hospital or related institution offering or providing outpatient or inpatient psychiatric or chemical dependency care licensed pursuant to Section 1-702 of Title 63 of the Oklahoma Statutes, or private facility offering inpatient or outpatient psychiatric or chemical dependency care licensed or certified pursuant to Title 43A of the Oklahoma Statutes.

SECTION 2. AMENDATORY 63 O.S. 1991, Section 2657, is amended to read as follows:

Section 2657. As used in this act, unless the context clearly indicates otherwise:

1. "Ambulatory surgical center" means an establishment with an organized medical staff of physicians, with permanent facilities that are equipped and operated primarily for the purpose of performing surgical procedures, with continuous physician services available on call, and registered professional nursing services available on site, whenever a patient is in the facility, which provides services or other accommodations for patients to recover for a period not to exceed twenty-three (23) hours after surgery;

2. "Commissioner" means the Commissioner of Health;

3. "Governmental unit" means any city, county or other political subdivision of this state, or any department, division, board or other agency of any political subdivision of this state; and

4. "Person" means any individual, firm, partnership, corporation, company or association and the legal successors thereof.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 725.4 of Title 59, unless there is created a duplication in numbering, reads as follows:

Any health or mental health care professional or health care provider who refers patients or clients to a testing center or laboratory shall provide written disclosure to such patient or client or the guardian of such patient or client of any financial interest of the professional or provider in the center or laboratory or any remuneration received by the professional or provider for referrals to the center or laboratory.

SECTION 4. Section 2 of this act shall become effective September 1, 1992.

SECTION 5. 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.