

STATE OF OKLAHOMA

2nd Session of the 43rd Legislature (1992)

SENATE BILL NO. 736

BY: BROWN

AS INTRODUCED

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 offers to pay
or agrees to accept any remuneration directly or indirectly, overtly
or covertly, in cash or in kind, to or 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. The State Department of Health 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.

C. 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.

D. 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.

43-2-1411

CJ