

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

CONFERENCE COMMITTEE
SUBSTITUTE FOR ENGROSSED
HOUSE BILL NO. 2412

By: Stottlemire of the House

and

Long (Lewis) of the
Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to public health and safety; amending Section 3, Chapter 165, O.S.L. 1993, 63 O.S. 1991, Sections 1-1013 and 2505, as amended by Section 5, Chapter 343, O.S.L. 1993 (63 O.S. Supp. 1993, Sections 1-742 and 2505), which relate to certain prohibited acts and penalties concerning hospitals and other entities providing health care services and relating to public bathing places and relating to health maintenance organizations and prepaid health plans; clarifying and expanding language prohibiting acceptance of anything of value for securing patients to certain health facilities; modifying definition of "public bathing place"; requiring the providing of certain chiropractic services by an HMO or prepaid health plan under certain conditions; and providing an effective date.

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

SECTION 1. AMENDATORY Section 3, Chapter 165, O.S.L. 1993 (63 O.S. Supp. 1993, Section 1-742), is amended to read as follows:

Section 1-742. 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 ~~hospital~~ health care professional, health care provider or other entity providing health care services in this state, upon conviction, shall be guilty of a misdemeanor and shall be punished by 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 by a health care professional or health care provider 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 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 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

2. "Health care provider" means any hospital or related institution offering or providing health care services licensed pursuant to Section 1-702 of this title.

SECTION 2. AMENDATORY 63 O.S. 1991, Section 1-1013, is amended to read as follows:

Section 1-1013. The term "public bathing place," as used in the following sections of this article, includes all entirely artificially constructed wading pools, swimming pools, bathhouses used collectively by a number of persons for wading, swimming, recreative, or therapeutic bathing, together with all sanitary facilities, bathing suits, buildings, equipment, and appurtenances pertaining to such bathing places; provided, that such term shall not apply to those public or semipublic baths where the main object is the external cleansing of the body nor to bathing places maintained by an individual for the use of his family and friends, or owned and maintained by an association of thirty-five or fewer homeowners, the members of which own residential property adjacent to such bathing place.

SECTION 3. AMENDATORY 63 O.S. 1991, Section 2505, as amended by Section 5, Chapter 343, O.S.L. 1993 (63 O.S. Supp. 1993, Section 2505), is amended to read as follows:

Section 2505. A. Health maintenance organizations and prepaid health plans shall provide comprehensive health services directly or by contract or agreement with other persons, corporations, institutions, associations, foundations or other legal entities, public or private, ~~the services required of it~~ in accordance with this act and the laws governing such professions and services. With respect to chiropractic services, such services shall be provided on a referral basis at the request of

an enrollee who has a condition of an orthopedic or neurological nature if:

1. A referral is necessitated in the judgment of the primary care physician; and

2. Treatment for the condition falls within the scope of practice of a chiropractic physician.

B. Such organizations and plans may contract or agree with other persons to provide actuarial, underwriting, marketing, billing, fiscal, and other services as may be required for the operation of a health maintenance organization or prepaid health plan.

C. Health maintenance organizations and prepaid health plans may contract to provide certain selected comprehensive health services for organizations or corporations which provide certain other comprehensive health services to their members or employees through alternative health care plans.

D. A health maintenance organization or prepaid health plan shall not engage in the practice of medicine or any other profession except as provided by law.

E. A health maintenance organization or prepaid health plan may adjust its prepaid premium to permit financial risk-sharing with other organizations or corporations which contract with the health maintenance organization or prepaid health plan to provide such selected services.

SECTION 4. Section 1 of this act shall become effective September 1, 1994.

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