

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

COMMITTEE SUBSTITUTE

FOR HOUSE BILL NO. 1719

By: Larason

COMMITTEE SUBSTITUTE

An Act relating to health care providers and professionals; amending 36 O.S. 1991, Section 6060, which relates to mammography screening; deleting provision relating to advertising mammography services; amending Section 3, Chapter 356, O.S.L. 1992 (59 O.S. Supp. 1992, Section 725.4), which relates to patient or client referrals; modifying prohibition against referrals; providing penalties; prohibiting acceptance of anything of value for securing patients to certain health facilities; providing penalties; providing certain exceptions; exempting certain insurers which provide certain reimbursement; providing definition; requiring full cost disclosure when advertising mammography services; providing a penalty for violations; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 36 O.S. 1991, Section 6060, is amended to read as follows:

Section 6060. A. All individual and group health insurance policies providing coverage on an expense incurred basis, and all individual and group service or indemnity type contracts issued by a nonprofit corporation and all self-insurers which provide coverage for a female thirty-five (35) years old or older in this state, except for policies that provide coverage for specified disease or other limited benefit coverage, shall include the coverage specified by this section for a routine low-dose mammography screening in a reimbursement amount not to exceed Seventy-five Dollars (\$75.00) for the presence of occult breast cancer, within the provisions of the policy.

B. 1. Any female thirty-five (35) through thirty-nine (39) years of age shall be entitled pursuant to the provisions of this section to coverage for a low-dose mammography screening.

2. Any female forty (40) years of age or older shall be entitled pursuant to the provisions of this section to coverage for an annual low-dose mammography.

C. For the purposes of this section, the term low-dose mammography means the x-ray examination of the breast using equipment dedicated specifically for mammography, including but not limited to the x-ray tube, filter, compression device, screens, films, and cassettes, with an average radiation exposure delivery of less than one rad mid-breast, with two views for each breast.

~~D. Any entity advertising mammography services must include in its advertising the total cost of the procedure.~~

SECTION 2. AMENDATORY Section 3, Chapter 356, O.S.L. 1992 (59 O.S. Supp. 1992, Section 725.4), is amended to read as follows:

Section 725.4 A. 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 direct or indirect 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.

B. Any person who fails to comply with the requirements in subsection A of this section, 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).

C. In addition to any other penalties or remedies provided by law:

1. A violation of this section by a health or mental 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

2. A 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.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-742 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 hospital 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 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-743 of Title 63, unless there is created a duplication in numbering, reads as follows:

Any entity advertising mammography services must include in its advertising the total cost of the procedure. Any entity who has been determined to be in violation of this section by the State Board of Health, after notice and hearing by the Board, shall be subject to a fine of not less than One Hundred Dollars

(\$100.00) or more than One Thousand Dollars (\$1,000.00) for each violation.

SECTION 5. This act shall become effective September 1, 1993.

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