

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

HOUSE BILL NO. 1719

By: Larason

AS INTRODUCED

An Act relating to health care providers and professionals; 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; providing for codification; and providing an effective date.

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

SECTION 1. 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).

SECTION 2. 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 psychiatric or chemical dependency facility, 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 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
- 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 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 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 health care services, or outpatient or inpatient psychiatric chemical dependency care and 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 the Oklahoma Statutes.

SECTION 3. This act shall become effective September 1, 1993.

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