ENGROSSED HOUSE
BILL NO. 1665 By: Lindley

An Act relating to public health and safety; amending Section 3, Chapter 165, O.S.L. 1993 (63 O.S. Supp. 1996, Section 1-742), which relates to certain solicitations; adding to entities providing health care services to whom this section applies; clarifying language; 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. 1996, 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~~ <u>health care professional, health care provider</u> 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. This act shall become effective November 1, 1997.

Passed the House of Representatives the 3rd day of March, 1997.

Speaker of the House of Representatives

Passed the Senate the ____ day of _____, 1997.

President of the Senate