

1 AN ACT concerning business.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. The Health Care Worker Self-Referral Act is  
5 amended by adding Section 55 as follows:

6 (225 ILCS 47/55 new)

7 Sec. 55. Application of the Consumer Fraud and Deceptive  
8 Business Practices Act. A violation of any of the provisions of  
9 this Act constitutes an unlawful practice under the Consumer  
10 Fraud and Deceptive Business Practices Act. All remedies,  
11 penalties, and authority granted to the Attorney General or  
12 State's Attorney by the Consumer Fraud and Deceptive Business  
13 Practices Act shall be available to him or her for the  
14 enforcement of this Act.

15 Section 5. The Medical Practice Act of 1987 is amended by  
16 changing Section 22.2 as follows:

17 (225 ILCS 60/22.2)

18 (Section scheduled to be repealed on December 31, 2019)

19 Sec. 22.2. Prohibition against fee splitting.

20 (a) A licensee under this Act may not directly or  
21 indirectly divide, share or split any professional fee or other

1 form of compensation for professional services with anyone in  
2 exchange for a referral or otherwise, other than as provided in  
3 this Section 22.2.

4 (b) Nothing contained in this Section abrogates the right  
5 of 2 or more licensed health care workers as defined in the  
6 Health Care Worker Self-referral Act to each receive adequate  
7 compensation for concurrently rendering services to a patient  
8 and to divide the fee for such service, provided that the  
9 patient has full knowledge of the division and the division is  
10 made in proportion to the actual services personally performed  
11 and responsibility assumed by each licensee consistent with his  
12 or her license, except as prohibited by law.

13 (c) Nothing contained in this Section prohibits a licensee  
14 under this Act from practicing medicine through or within any  
15 form of legal entity authorized to conduct business in this  
16 State or from pooling, sharing, dividing, or apportioning the  
17 professional fees and other revenues in accordance with the  
18 agreements and policies of the entity provided:

19 (1) each owner of the entity is licensed under this  
20 Act;

21 (2) the entity is organized under the Medical  
22 Corporation Act, the Professional Services Corporation  
23 Act, the Professional Association Act, or the Limited  
24 Liability Company Act;

25 (3) the entity is allowed by Illinois law to provide  
26 physician services or employ physicians such as a licensed

1 hospital or hospital affiliate or licensed ambulatory  
2 surgical treatment center owned in full or in part by  
3 Illinois-licensed physicians;

4 (4) the entity is a combination or joint venture of the  
5 entities authorized under this subsection (c); or

6 (5) the entity is an Illinois not for profit  
7 corporation that is recognized as exempt from the payment  
8 of federal income taxes as an organization described in  
9 Section 501(c)(3) of the Internal Revenue Code and all of  
10 its members are full-time faculty members of a medical  
11 school that offers a M.D. degree program that is accredited  
12 by the Liaison Committee on Medical Education and a program  
13 of graduate medical education that is accredited by the  
14 Accreditation Council for Graduate Medical Education.

15 (d) Nothing contained in this Section prohibits a licensee  
16 under this Act from paying a fair market value fee to any  
17 person or entity whose purpose is to perform billing,  
18 administrative preparation, or collection services based upon  
19 a percentage of professional service fees billed or collected,  
20 a flat fee, or any other arrangement that directly or  
21 indirectly divides professional fees, for the administrative  
22 preparation of the licensee's claims or the collection of the  
23 licensee's charges for professional services, provided that:

24 (i) the licensee or the licensee's practice under  
25 subsection (c) of this Section at all times controls the  
26 amount of fees charged and collected; and

1           (ii) all charges collected are paid directly to the  
2           licensee or the licensee's practice or are deposited  
3           directly into an account in the name of and under the sole  
4           control of the licensee or the licensee's practice or  
5           deposited into a "Trust Account" by a licensed collection  
6           agency in accordance with the requirements of Section 8(c)  
7           of the Illinois Collection Agency Act.

8           (e) Nothing contained in this Section prohibits the  
9           granting of a security interest in the accounts receivable or  
10          fees of a licensee under this Act or the licensee's practice  
11          for bona fide advances made to the licensee or licensee's  
12          practice provided the licensee retains control and  
13          responsibility for the collection of the accounts receivable  
14          and fees.

15          (f) Excluding payments that may be made to the owners of or  
16          licensees in the licensee's practice under subsection (c), a  
17          licensee under this Act may not divide, share or split a  
18          professional service fee with, or otherwise directly or  
19          indirectly pay a percentage of the licensee's professional  
20          service fees, revenues or profits to anyone for: (i) the  
21          marketing or management of the licensee's practice, (ii)  
22          including the licensee or the licensee's practice on any  
23          preferred provider list, (iii) allowing the licensee to  
24          participate in any network of health care providers, (iv)  
25          negotiating fees, charges or terms of service or payment on  
26          behalf of the licensee, or (v) including the licensee in a

1 program whereby patients or beneficiaries are provided an  
2 incentive to use the services of the licensee.

3 (g) A violation of any of the provisions of this Section  
4 constitutes an unlawful practice under the Consumer Fraud and  
5 Deceptive Business Practices Act. All remedies, penalties, and  
6 authority granted to the Attorney General by the Consumer Fraud  
7 and Deceptive Business Practices Act shall be available to him  
8 or her for the enforcement of this Section.

9 (Source: P.A. 96-608, eff. 8-24-09; 96-1126, eff. 7-20-10.)

10 Section 10. The Consumer Fraud and Deceptive Business  
11 Practices Act is amended by adding Section 2VVV as follows:

12 (815 ILCS 505/2VVV new)

13 Sec. 2VVV. Deceptive marketing, advertising, and sale of  
14 mental health disorder and substance use disorder treatment.

15 (a) As used in this Section:

16 "Facility" has the meaning ascribed to that term in Section  
17 1-10 of the Alcoholism and Other Drug Abuse and Dependency Act.

18 "Mental health disorder" has the same meaning as "mental  
19 illness" under Section 1-129 of the Mental Health and  
20 Developmental Disabilities Code.

21 "Program" has the meaning ascribed to that term in Section  
22 1-10 of the Alcoholism and Other Drug Abuse and Dependency Act.

23 "Substance use disorder" has the same meaning as "substance  
24 abuse" under Section 1-10 of the Alcoholism and Other Drug

1 Abuse and Dependency Act.

2 "Treatment" has the meaning ascribed to that term in  
3 Section 1-10 of the Alcoholism and Other Drug Abuse and  
4 Dependency Act.

5 (b) It is an unlawful practice for any person to engage in  
6 misleading or false advertising or promotion that  
7 misrepresents the need to seek mental health disorder or  
8 substance use disorder treatment outside of the State of  
9 Illinois.

10 (c) Any marketing, advertising, promotional, or sales  
11 materials directed to Illinois residents concerning mental  
12 health disorder or substance use disorder treatment must:

13 (1) prominently display or announce the full physical  
14 address of the treatment program or facility;

15 (2) display whether the treatment program or facility  
16 is licensed in the State of Illinois;

17 (3) display whether the treatment program or facility  
18 has locations in Illinois;

19 (4) display whether the services provided by the  
20 treatment program or facility are covered by an insurance  
21 policy issued to an Illinois resident;

22 (5) display whether the treatment program or facility  
23 is an in-network or out-of-network provider;

24 (6) include a link to the Internet website for the  
25 Department of Human Services' Division of Mental Health and  
26 Division of Alcoholism and Substance Abuse, or any

1 successor State agency that provides information regarding  
2 licensed providers of services; and

3 (7) disclose that mental health disorder and substance  
4 use disorder treatment may be available at a reduced cost  
5 or for free for Illinois residents within the State of  
6 Illinois.

7 (d) It is an unlawful practice for any person to enter into  
8 an arrangement under which a patient seeking mental health  
9 disorder or substance use disorder treatment is referred to a  
10 mental health disorder or substance use disorder treatment  
11 program or facility in exchange for a fee, a percentage of the  
12 treatment program's or facility's revenues that are related to  
13 the patient, or any other remuneration that takes into account  
14 the volume or value of the referrals to the treatment program  
15 or facility. Such practice shall also be considered a violation  
16 of the prohibition against fee splitting in Section 22.2 of the  
17 Medical Practice Act of 1987 and a violation of the Health Care  
18 Worker Self-Referral Act. This Section does not apply to health  
19 insurance companies, health maintenance organizations, and  
20 managed care plans or organizations licensed in Illinois.