

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. This Section does not apply to
15 hospitals and hospital affiliates licensed in Illinois.

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

18 (225 ILCS 60/22.2)

19 (Section scheduled to be repealed on December 31, 2019)

20 Sec. 22.2. Prohibition against fee splitting.

21 (a) A licensee under this Act may not directly or

1 indirectly divide, share or split any professional fee or other
2 form of compensation for professional services with anyone in
3 exchange for a referral or otherwise, other than as provided in
4 this Section 22.2.

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

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

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

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

26 (3) the entity is allowed by Illinois law to provide

1 physician services or employ physicians such as a licensed
2 hospital or hospital affiliate or licensed ambulatory
3 surgical treatment center owned in full or in part by
4 Illinois-licensed physicians;

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

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

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

25 (i) the licensee or the licensee's practice under
26 subsection (c) of this Section at all times controls the

1 amount of fees charged and collected; and

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

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

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

1 behalf of the licensee, or (v) including the licensee in a
2 program whereby patients or beneficiaries are provided an
3 incentive to use the services of the licensee.

4 (g) A violation of any of the provisions of this Section
5 constitutes an unlawful practice under the Consumer Fraud and
6 Deceptive Business Practices Act. All remedies, penalties, and
7 authority granted to the Attorney General by the Consumer Fraud
8 and Deceptive Business Practices Act shall be available to him
9 or her for the enforcement of this Section. This subsection
10 does not apply to hospitals and hospital affiliates licensed in
11 Illinois.

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

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

15 (815 ILCS 505/2VVV new)

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

18 (a) As used in this Section:

19 "Facility" has the meaning ascribed to that term in Section
20 1-10 of the Alcoholism and Other Drug Abuse and Dependency Act.

21 "Hospital affiliate" has the meaning ascribed to that term
22 in Section 10.8 of the Hospital Licensing Act.

23 "Mental health disorder" has the same meaning as "mental
24 illness" under Section 1-129 of the Mental Health and

1 Developmental Disabilities Code.

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

4 "Substance use disorder" has the same meaning as "substance
5 abuse" under Section 1-10 of the Alcoholism and Other Drug
6 Abuse and Dependency Act.

7 "Treatment" has the meaning ascribed to that term in
8 Section 1-10 of the Alcoholism and Other Drug Abuse and
9 Dependency Act.

10 (b) It is an unlawful practice for any person to engage in
11 misleading or false advertising or promotion that
12 misrepresents the need to seek mental health disorder or
13 substance use disorder treatment outside of the State of
14 Illinois.

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

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

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

22 (3) display whether the treatment program or facility
23 has locations in Illinois;

24 (4) display whether the services provided by the
25 treatment program or facility are covered by an insurance
26 policy issued to an Illinois resident;

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

3 (6) include a link to the Internet website for the
4 Department of Human Services' Division of Mental Health and
5 Division of Alcoholism and Substance Abuse, or any
6 successor State agency that provides information regarding
7 licensed providers of services; and

8 (7) disclose that mental health disorder and substance
9 use disorder treatment may be available at a reduced cost
10 or for free for Illinois residents within the State of
11 Illinois.

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