

AN ACT concerning business.

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

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

(225 ILCS 47/55 new)

Sec. 55. Application of the Consumer Fraud and Deceptive Business Practices Act. A violation of any of the provisions of this Act constitutes an unlawful practice under the Consumer Fraud and Deceptive Business Practices Act. All remedies, penalties, and authority granted to the Attorney General or State's Attorney by the Consumer Fraud and Deceptive Business Practices Act shall be available to him or her for the enforcement of this Act. This Section does not apply to hospitals and hospital affiliates licensed in Illinois.

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

(225 ILCS 60/22.2)

(Section scheduled to be repealed on December 31, 2019)

Sec. 22.2. Prohibition against fee splitting.

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

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

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

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

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

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

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

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

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

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

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

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

amount of fees charged and collected; and

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

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

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

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

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

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

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

(815 ILCS 505/2VVV new)

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

(a) As used in this Section:

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

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

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

Developmental Disabilities Code.

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

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

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

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

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

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

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

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

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

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

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

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

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