

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1293 Session of  
2006

INTRODUCED BY VANCE, BROWNE, FONTANA, RHOADES AND M. WHITE,  
JULY 20, 2006

REFERRED TO CONSUMER PROTECTION AND PROFESSIONAL LICENSURE,  
JULY 20, 2006

AN ACT

1 Requiring disclosure of financial or ownership interests of  
2 health care practitioners in health care facilities;  
3 regulating self-referrals by health care practitioners;  
4 conferring powers and duties on the Department of State;  
5 imposing civil penalties; and making a repeal.

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3 The General Assembly of the Commonwealth of Pennsylvania  
4 hereby enacts as follows:

5 CHAPTER 1

6 PRELIMINARY PROVISIONS

7 Section 101. Short title.

8 This act shall be known and may be cited as the Health Care  
9 Practitioner Self-referral Act.

10 Section 102. Declaration of policy.

11 The General Assembly finds and declares as follows:

12 (1) It is the purpose of this act to prohibit health  
13 care practitioner self-referrals.

14 (2) Such self-referral practices often result in  
15 overutilization of certain health care services, increase  
16 costs generally in the health care system and may, in some  
17 instances, adversely affect the quality of health care.

18 (3) Health care practitioners should be required to  
19 fully disclose their financial arrangements in any health  
20 care entity.

21 Section 103. Definitions.

22 The following words and phrases when used in this act shall  
23 have the meanings given to them in this section unless the  
24 context clearly indicates otherwise:

25 "Department." The Department of State of the Commonwealth.

26 "Financial interest." A financial or ownership interest to  
27 any extent or degree through equity, debt or other means, held  
28 by the health care practitioner or an immediate family member of  
29 the practitioner. The term does not mean a financial or  
30 ownership interest of publicly traded companies if the financial

1 or ownership interest of the health care practitioner amounts to  
2 no more than 3% of the investment securities, including shares  
3 or bonds, debentures, notes or other debt instruments, of a  
4 corporation which were purchased on terms generally available to  
5 the public and which are in a corporation that:

6 (1) is listed for trading on the New York Stock Exchange  
7 or on the American Stock Exchange or is a national market  
8 system security traded under an automated interdealer  
9 quotation system operated by the National Association of  
10 Securities Dealers; and

11 (2) had, at the end of the corporation's most recent  
12 fiscal year, total assets exceeding \$100,000,000.

13 "Health care entity." A partnership, association, group  
14 practice, business corporation, professional corporation or  
15 health care practitioner, other than the referring health care  
16 practitioner, or an entity licensed under the act of June 13,  
17 1967 (P.L.31, No.21), known as the Public Welfare Code, or the  
18 act of July 19, 1979 (P.L.130, No.48), known as the Health Care  
19 Facilities Act.

20 "Health care practitioner." An individual who is authorized  
21 to practice the healing arts or some component thereof by a  
22 license, permit, certificate or registration issued by a  
23 Commonwealth agency or licensing board.

24 "Immediate family member." A parent, spouse, child or  
25 child's spouse, sibling or sibling's spouse.

26 "In-office health care services." The term includes  
27 diagnostic and therapeutic services provided directly or under  
28 the direct supervision of the health care practitioner in his  
29 office on an ongoing basis.

30 "Self-referral." Referral by a health care practitioner of a

1 patient for health care services to a health care entity in  
2 which the health care practitioner has a financial interest. The  
3 term does not include in-office health care services provided by  
4 a health care practitioner.

### 5 CHAPTER 3

#### 6 PROHIBITION ON HEALTH CARE PRACTITIONER SELF-REFERRALS

7 Section 301. Prohibition on self-referrals.

8 (a) General rule.--It is unlawful for a health care  
9 practitioner to make a self-referral or for a health care entity  
10 or health care practitioner to accept a referral from a health  
11 care practitioner who the health care entity or health care  
12 practitioner knows or has reason to know has a financial  
13 interest in such health care entity or health care practitioner.

14 (b) Billing.--No invoice or claim for payment may be  
15 presented by any health care entity or health care practitioner  
16 to any individual, third-party payer or other entity for health  
17 care services furnished pursuant to a referral prohibited under  
18 this act.

19 Section 302. Disclosure.

20 (a) General rule.--All health care practitioners shall  
21 register with and fully disclose to the department any financial  
22 interest held in a health care entity.

23 (b) Licensure.--The disclosure required under subsection (a)  
24 is a condition of licensure or renewal of a license for health  
25 care practitioners in this Commonwealth.

26 (c) Information.--The department shall have the authority to  
27 promulgate regulations regarding the collection, processing and  
28 retention of the health care practitioner disclosure  
29 information. This authority shall include the ability to assess  
30 fees for the collection and analysis of financial interests.

1 Section 303. Exceptions.

2 (a) Exceptions.--The provisions of section 301 do not apply  
3 to:

4 (1) a health care practitioner in the same group  
5 practice as the referring health care practitioner;

6 (2) a health care practitioner in an approved teaching  
7 program;

8 (3) a health care practitioner employed by a hospital;  
9 or

10 (4) a health care practitioner affiliated with a  
11 hospital that refers a patient to a health care entity that  
12 is jointly owned by the hospital and the health care  
13 practitioner and where the total financial interests of all  
14 of the health care practitioners do not exceed 40%.

15 (b) Disclosure.--A health care practitioner exempted from  
16 this section shall be subject to the disclosure provisions in  
17 section 302.

18 CHAPTER 5

19 ADMINISTRATION

20 Section 501. Civil penalties.

21 The department has the authority to assess the following  
22 civil penalties and to carry out the enforcement provisions of  
23 this act:

24 (1) Any health care practitioner that makes a referral  
25 in violation of section 301(a) shall be subject to a penalty  
26 of \$15,000 for each referral.

27 (2) Any health care practitioner that fails to disclose  
28 a financial interest under section 302 shall be subject to a  
29 civil penalty of not more than \$15,000 for each instance in  
30 which the financial interest has not been disclosed.

1           (3) Any health care entity that knowingly accepts a  
2       referral in violation of section 301(a) shall be subject to a  
3       penalty of \$15,000 for each referral.

4           (4) A health care practitioner found to be in violation  
5       of this act on more than one occasion within a two-year  
6       period shall be subject to disciplinary action by the  
7       department, including, but not limited to, a suspension of  
8       professional licensure for a period not to exceed two years.

9                               CHAPTER 21

10                           MISCELLANEOUS PROVISIONS

11   Section 2101. Repeal.

12       The act of May 26, 1988 (P.L.403, No.66), entitled "An act  
13   providing for certain disclosures by practitioners of the  
14   healing arts when making patient referrals; providing penalties;  
15   and conferring powers and duties on the several licensing boards  
16   in the Bureau of Professional and Occupational Affairs," is  
17   repealed.

18   Section 2102. Applicability.

19       (a) General rule.--Except as provided in subsection (b),  
20   this act shall apply to referrals for health care services made  
21   on or after the effective date of this act.

22       (b) Exception.--With respect to a financial interest  
23   obtained by a health care practitioner prior to the effective  
24   date of this act, the ban on self-referrals described in section  
25   301 shall not apply until two years after the effective date of  
26   this act.

27   Section 2103. Effective date.

28       This act shall take effect in 30 days.