
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 274 Session of
2015

INTRODUCED BY DeLUCA, PASHINSKI, CALTAGIRONE, THOMAS, McNEILL
AND D. COSTA, FEBRUARY 2, 2015

REFERRED TO COMMITTEE ON HEALTH, FEBRUARY 2, 2015

AN ACT

1 Providing for prohibition on health care provider self-referral.

2 The General Assembly of the Commonwealth of Pennsylvania

3 hereby enacts as follows:

4 Section 1. Short title.

5 This act shall be known and may be cited as the Prohibition
6 on Health Care Provider Self-referral Act.

7 Section 2. Definitions.

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

11 "Compensation arrangement." An arrangement involving
12 remuneration, direct or indirect, between a provider or a member
13 of a provider's immediate family, and a person or entity.

14 "Designated health service." The following goods or
15 services:

16 (1) clinical laboratory services;

17 (2) physical therapy, occupational therapy or speech

- 1 language pathology;
- 2 (3) chiropractic;
- 3 (4) radiation oncology;
- 4 (5) psychometric services;
- 5 (6) home health services; or
- 6 (7) diagnostic imaging.

7 "Financial interest." An ownership or investment interest or
8 a compensation arrangement.

9 "Health care provider." A person, corporation, facility or
10 institution licensed or otherwise authorized by the
11 Commonwealth to provide health care services, including, but not
12 limited to, a physician, coordinated care organization,
13 hospital, health care facility, dentist, nurse, optometrist,
14 podiatrist, physical therapist, psychologist, chiropractor or
15 pharmacist and an officer, employee or agent of the person
16 acting in the course and scope of employment or agency related
17 to health care services.

18 "Immediate family member." Husband or wife; birth or
19 adoptive parent, child or sibling; stepparent, stepchild,
20 stepbrother or stepsister; father-in-law, mother-in-law, son-in-
21 law, daughter-in-law, brother-in-law or sister-in-law;
22 grandparent or grandchild; and spouse of a grandparent or
23 grandchild.

24 "Ownership or investment interest." A direct or indirect
25 ownership or investment interest through equity, debt or other
26 means that includes an interest in an entity that holds an
27 ownership or investment interest in an entity that furnishes
28 designated health services. An ownership or investment interest
29 includes, but is not limited to, stock, stock options,
30 partnership shares, limited liability company memberships, as

1 well as loans, bonds or other financial instruments that are
2 secured with an entity's property or revenue or a portion of
3 that property or revenue.

4 "Referral."

5 (1) The term includes:

6 (i) The request by a health care provider for, or
7 ordering of, or the certifying or recertifying of the
8 need for a designated health service, including a request
9 for a consultation with another health care provider and
10 a test or procedure ordered by or to be performed by, or
11 under the supervision of, that other health care
12 provider, but not including a designated health service
13 personally performed or provided by the referring
14 provider. A designated health service is not personally
15 performed or provided by the referring health care
16 provider if it is performed or provided by another
17 person, including, but not limited to, the referring
18 health care provider's employees, independent contractors
19 or group practice members.

20 (ii) A request by a health care provider that
21 includes the provision of a designated health service,
22 the establishment of a plan of care by a health care
23 provider that includes the provision of the designated
24 health service or the certifying or recertifying of the
25 need for the designated health service, but not including
26 a designated health service personally performed or
27 provided by the referring health care provider. A
28 designated health service is not personally performed or
29 provided by the referring health care provider if it is
30 performed or provided by another person, including, but

1 not limited to, the referring health care provider's
2 employees, independent contractors or group practice
3 members.

4 (2) The term does not include a request by a pathologist
5 for clinical diagnostic laboratory tests and pathological
6 examination services by a radiologist for diagnostic
7 radiology services and by a radiation oncologist for
8 radiation therapy or ancillary services necessary for, and
9 integral to, the provision of radiation therapy, if:

10 (i) the request results from a consultation
11 initiated by another whether the request for a
12 consultation was made to a particular pathologist,
13 radiologist or radiation oncologist or to an entity with
14 which the pathologist, radiologist or radiation
15 oncologist is affiliated; and

16 (ii) the tests or services are furnished by or under
17 the supervision of the pathologist, radiologist or
18 radiation oncologist or under the supervision of a
19 pathologist, radiologist or radiation oncologist,
20 respectively, in the same group practice as the
21 pathologist, radiologist or radiation oncologist.

22 (3) A referral may be in any form, including, but not
23 limited to, written, oral or electronic.

24 "Secretary." The Secretary of Health of the Commonwealth.

25 Section 3. Unprofessional conduct.

26 (a) Referrals.--

27 (1) A health care provider may not refer a person for a
28 designated health service if the provider or an immediate
29 family member of the provider has a financial interest with
30 the person or entity that receives the referral.

1 (2) A health care provider may not enter into an
2 arrangement or scheme, such as a cross-referral arrangement,
3 which the health care provider knows or should know has a
4 principal purpose of assuring referrals of designated health
5 services by a health care provider to a particular entity
6 which, if the provider directly made referrals to such
7 entity, would be in violation of this act.

8 (b) Limitation on billing.--A claim for payment may not be
9 presented by an entity to an individual, third-party payer or
10 other entity for a designated health service furnished under a
11 referral prohibited under this section.

12 (c) Denial of payment.--

13 (1) Except as provided in paragraph (2), a payment may
14 not be made by a payer for a designated health service that
15 is furnished under a prohibited referral.

16 (2) Payment may be made to an entity that submits a
17 claim for a designated health service if the entity did not
18 have actual knowledge of, and did not act in reckless
19 disregard or deliberate ignorance of, the identity of the
20 provider who made the referral of the designated health
21 service to the entity.

22 (d) Exceptions.--The provisions of subsections (a), (b) and
23 (c) shall not apply to the following:

24 (1) Referrals permitted under the Safe Harbor
25 regulations promulgated under the Medicare and Medicaid
26 Patient and Program Protection Act (section 1128B(b)(1) and
27 (2) of the Social Security Act (49 Stat. 620, 42 U.S.C. §
28 1320a-7b) currently published at 42 CFR 1001.952 (relating to
29 exceptions)).

30 (2) Referrals permitted under the exceptions to the

1 Stark amendments to the Medicare Act (42 U.S.C. § 1395nn) of
2 the Social Security Act) and the regulations promulgated
3 thereunder, currently published at 42 CFR Pt. 411 Subpt. J
4 (relating to financial relationships between physicians and
5 entities furnishing designated health services).

6 (3) Referrals permitted by the secretary through
7 regulations upon a determination that the referrals do not
8 pose a risk of program or patient abuse.

9 (e) Prohibition.--An individual, third-party payor or other
10 entity may not deny payment to a health care provider involved
11 in a transaction or referral described in subsection (d).

12 Section 4. Penalties.

13 (a) Requiring refunds for certain claims.--If a person
14 collects amounts billed in violation of section 3(a), the person
15 shall be liable to the individual, payer or other entity for and
16 shall refund on a timely basis to the individual, payer or other
17 entity the collected amounts.

18 (b) Civil penalty for improper claims.--A person that
19 presents or causes to be presented a bill or a claim for a
20 service that the person knows is for a service for which payment
21 may not be made under section 3(a) or for which a refund has not
22 been made under subsection (a) or otherwise violates this act
23 shall be subject to a civil penalty of not more than \$15,000 for
24 each service.

25 (c) Civil penalty for circumvention schemes.--A provider or
26 other entity that enters into an arrangement or scheme, such as
27 a cross-referral arrangement which the provider or entity knows
28 or should know has a principal purpose of assuring referrals by
29 the provider to a particular entity which, if the provider
30 directly made referrals to such entity, would be in violation of

1 this section, shall be subject to a civil penalty of not more
2 than \$100,000 for each arrangement or scheme.

3 Section 5. Effective date.

4 This act shall take effect in 60 days.