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HOUSE BILL 1205

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State of Washington

54th Legislature

1995 Regular Session

By Representative Dyer; by request of Department of Social and Health Services

Read first time 01/17/95. Referred to Committee on Health Care.

1 AN ACT Relating to physician referral; and amending RCW 74.09.240.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

3 **Sec. 1.** RCW 74.09.240 and 1979 ex.s. c 152 s 5 are each amended to  
4 read as follows:

5 (1) Any person, including any corporation, that solicits or  
6 receives any remuneration (including any kickback, bribe, or rebate)  
7 directly or indirectly, overtly or covertly, in cash or in kind

8 (a) in return for referring an individual to a person for the  
9 furnishing or arranging for the furnishing of any item or service for  
10 which payment may be made in whole or in part under this chapter, or

11 (b) in return for purchasing, leasing, ordering, or arranging for  
12 or recommending purchasing, leasing, or ordering any goods, facility,  
13 service, or item for which payment may be made in whole or in part  
14 under this chapter,

15 shall be guilty of a class C felony: PROVIDED, That the fine, if  
16 imposed, shall not be in an amount more than twenty-five thousand  
17 dollars, except as authorized by RCW 9A.20.030.

18 (2) Any person, including any corporation, that offers or pays any  
19 remuneration (including any kickback, bribe, or rebate) directly or

1 indirectly, overtly or covertly, in cash or in kind to any person to  
2 induce such person

3 (a) to refer an individual to a person for the furnishing or  
4 arranging for the furnishing of any item or service for which payment  
5 may be made, in whole or in part, under this chapter, or

6 (b) to purchase, lease, order, or arrange for or recommend  
7 purchasing, leasing, or ordering any goods, facility, service, or item  
8 for which payment may be made in whole or in part under this chapter,  
9 shall be guilty of a class C felony: PROVIDED, That the fine, if  
10 imposed, shall not be in an amount more than twenty-five thousand  
11 dollars, except as authorized by RCW 9A.20.030.

12 (3)(a) Except as provided in 42 U.S.C. 1395 nn, physicians are  
13 prohibited from self-referring any client eligible under this chapter  
14 for the following designated health services to a facility in which the  
15 physician or an immediate family member has a financial relationship:

16 (i) Clinical laboratory services;

17 (ii) Physical therapy services;

18 (iii) Occupational therapy services;

19 (iv) Radiology or other diagnostic services;

20 (v) Durable medical equipment;

21 (vi) Parenteral and enteral nutrients equipment and supplies;

22 (vii) Prosthetics, orthotics, and prosthetic devices;

23 (viii) Home health services;

24 (ix) Outpatient prescription drugs;

25 (x) Inpatient and outpatient hospital services.

26 (b) For purposes of this subsection, "financial relationship" means  
27 the relationship between a physician and an entity that includes  
28 either:

29 (i) An ownership or investment interest; or

30 (ii) A compensation arrangement.

31 For purposes of this subsection, "compensation arrangement" means  
32 an arrangement involving remuneration between a physician, or an  
33 immediate family member of a physician, and an entity.

34 (c) The department is authorized to adopt by rule amendments to 42  
35 U.S.C. 1395 nn enacted after the effective date of this act.

36 (4) Subsections (1) and (2) of this section shall not apply to

37 (a) a discount or other reduction in price obtained by a provider  
38 of services or other entity under this chapter if the reduction in  
39 price is properly disclosed and appropriately reflected in the costs

1 claimed or charges made by the provider or entity under this chapter,  
2 and

3 (b) any amount paid by an employer to an employee (who has a bona  
4 fide employment relationship with such employer) for employment in the  
5 provision of covered items or services.

6 (~~(4)~~) (5) Subsections (1) and (2) of this section, if applicable  
7 to the conduct involved, shall supersede the criminal provisions of  
8 chapter 19.68 RCW, but shall not preclude administrative proceedings  
9 authorized by chapter 19.68 RCW.

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