
SUBSTITUTE SENATE BILL 5377

State of Washington

54th Legislature

1995 Regular Session

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Quigley and Fairley; by request of Department of Social and Health Services)

Read first time 02/09/95.

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, including magnetic resonance imaging, computerized
20 axial tomography, and ultrasound;

21 (v) Radiation therapy services and supplies, durable medical
22 equipment and supplies, and prosthetics and orthotics and prosthetic
23 devices and supplies;

24 (vi) Durable medical equipment;

25 (vii) Parenteral and enteral nutrients equipment and supplies;

26 (viii) Prosthetics, orthotics, and prosthetic devices;

27 (ix) Home health services;

28 (x) Outpatient prescription drugs;

29 (xi) Inpatient and outpatient hospital services.

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

33 (i) An ownership or investment interest; or

34 (ii) A compensation arrangement.

35 For purposes of this subsection, "compensation arrangement" means
36 an arrangement involving remuneration between a physician, or an
37 immediate family member of a physician, and an entity.

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

1 (4) Subsections (1) and (2) of this section shall not apply to
2 (a) a discount or other reduction in price obtained by a provider
3 of services or other entity under this chapter if the reduction in
4 price is properly disclosed and appropriately reflected in the costs
5 claimed or charges made by the provider or entity under this chapter,
6 and

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

10 (~~(4)~~) (5) Subsections (1) and (2) of this section, if applicable
11 to the conduct involved, shall supersede the criminal provisions of
12 chapter 19.68 RCW, but shall not preclude administrative proceedings
13 authorized by chapter 19.68 RCW.

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