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Provides additional exception to prohibition against practitioner referring patients to certain facilities in which practitioner has financial interest. (BDR 40-710)

Senate Bill 156 includes amendments proposed by:

Senator Titus

1. Specifies that the hospital will not offer intensive care services.
2. Decreases the limit (page 3, line 29) of the number of beds in the affected hospital from 50 to 15.
3. Provides that the affected hospital offer free indigent care in an amount representing 0.65 (.0065) percent of its net revenue from previous fiscal year.
4. The hospital shall provide further uncompensated care equivalent to the average bad debt of other general acute hospitals in the Las Vegas market.

Senator Rawson

5. The measure is effective upon passage and approval.

(A document incorporating amendments 1 through 5 is included.)

Proposed Amendment to Senate Bill No. 156

Amend the bill to renumber section 1 as sec. 4 and add 4 new sections so that the text of the bill reads as follows:

"Section 1. NRS 439A.100 is hereby amended to read as follows:

439A.100 1. Except as otherwise provided in this section, in a county whose population is less than 100,000, no person may undertake any proposed expenditure for new construction by or on behalf of a health facility in excess of the greater of \$2,000,000 or such an amount as the Department may specify by regulation, which under generally accepted accounting principles consistently applied is a capital expenditure, without first applying for and obtaining the written approval of the Director. The Health Division of the Department of Human Resources shall not issue a new license or alter an existing license for such a project unless the Director has issued such an approval.

2. [Intentionally deleted.]

3. The provisions of *subsection 1* do not apply to:

- (a) Any capital expenditure for:
- (1) The acquisition of land;
 - (2) The construction of a facility for parking;
 - (3) The maintenance of a health facility;
 - (4) The renovation of a health facility to comply with standards for safety, licensure, certification or accreditation;
 - (5) The installation of a system to conserve energy;
 - (6) The installation of a system for data processing or communications; or
 - (7) Any other project which, in the opinion of the Director, does not relate directly to the provisions of any health service; or
- (b) Any project for the development of health facility that has received legislative approval and authorization.

Upon determining that a project satisfies the requirements for an exemption pursuant to this subsection, the Director shall issue a certificate which states that the project is exempt from the requirements of this section.

4. In reviewing an application for approval, the Director shall:

- (a) Comparatively assess applications for similar projects affecting the same geographic area;
- (b) Base his decision on criteria established by the Director by regulation. The criteria must include:
- (1) The need for and the appropriateness of the project in the area to be served;
 - (2) The financial feasibility of the project;

- (3) The effect of the project on the cost of health care; and
- (4) The extent to which the project is consistent with the purposes set forth in NRS 439A.020 and the priorities set forth in NRS 439A.081.

[4.]5. The Department may by regulation require additional approval for a proposed change to a project which has previously been approved if the proposal would result in a change in the location of the project or a substantial increase in the cost of the project.

[5.]6. The decision of the Director is a final decision for the purposes of judicial review.
Sec. 2. [Intentionally deleted.]

Sec. 3. NRS 439B.425 is hereby amended to read as follows:

439B.425 1. Except as otherwise provided in this section[,] a practitioner shall not refer a patient, for a service or for goods related to health care, to a health facility, medical laboratory, diagnostic imaging or radiation oncology center or commercial establishment in which the practitioner has a financial interest.

2. Subsection 1 does not apply if:

(a) The service or goods required by the patient are not otherwise available within a 30-mile radius of the office of the practitioner;

(b) The service or goods are provided pursuant to a referral, to a practitioner who is participating in the health care plan of a health maintenance organization that has been issued a certificate of authority pursuant to chapter 695C of NRS;

(c) The practitioner is a member of a group practice and the referral is made to that group practice;

(d) The referral is made to a surgical center for ambulatory patients, as defined in NRS 449.019, that is licensed pursuant to chapter 449 of NRS;

(e) The referral is made by:

(1) A urologist for lithotripsy services; or

(2) A nephrologist for services and supplies for a renal dialysis;

(f) The financial interest represents an investment in a corporation that has shareholder equity of more than \$100,000,000, regardless of whether the securities of the corporation are publicly traded; or

(g) The referral is made by a physician to a surgical hospital in which the physician has an ownership interest and:

(1) The surgical hospital is:

(I) Located in a county whose population is less than 100,000; and

(II) Licensed pursuant to chapter 449 of NRS as a surgical hospital and not as a medical hospital, obstetrical hospital, combined-categories hospital, general hospital or center for the treatment of trauma;

(2) The physician making the referral:

(I) Is authorized to perform medical services and has staff privileges at the surgical hospital; and

(II) Has disclosed his ownership interest in the surgical hospital to the patient before making the referral;

(3) The ownership interest of the physician making the referral pertains to the surgical hospital in its entirety and is not limited to a department, subdivision or other portion of the hospital;

(4) Every physician who has an ownership interest in the surgical hospital has agreed to treat patients receiving benefits pursuant to Medicaid and Medicare;

(5) The terms of investment of each physician who has an ownership interest in the surgical hospital are not related to the volume or value of any referrals made by that physician;

(6) The payments received by each investor in the surgical hospital as a return on his investment are directly proportional to the relative amount of capital invested or shares owned by the investor in the hospital;

(7) None of the investors in the surgical hospital has received any financial assistance from the hospital or any other investor in the hospital for the purpose of investing in the hospital; and

(8) Either:

(I) The governing body of every other hospital that regularly provides surgical services to residents of the county in which the surgical hospital is located has issued its written general consent to the referral by such physicians of patients to that surgical hospital; or

(II) The board of county commissioners of the county in which the surgical hospital is located has issued a written declaration of its reasonable belief that the referral by such physicians of patients to that surgical hospital will not, during the 5-year period immediately following the commencement of such referrals, have a substantial adverse financial effect on any other hospital that regularly provides surgical services to residents of that county.

3. A person who violates the provisions of this section is guilty of a misdemeanor.

4. The provisions of this section do not prohibit a practitioner from owning and using equipment in his office solely to provide to his patients services or goods related to health care.

5. As used in this section:

(a) "Group practice" means two or more practitioners who organized as a business entity in accordance with the laws of this state to provide services related to health care; if:

(1) Each member of the group practice provides substantially all of the services related to health care that he routinely provides, including, without limitation, medical care, consultations, diagnoses and treatment, through the joint use of shared offices, facilities, equipment and personnel located at any site of the group practice;

(2) Substantially all of the services related to health care that are provided by the members of the group practice are provided through the group practice; and

(3) No member of the group practice receives compensation based directly on the volume of any services or goods related to health care which are referred to the group practice by that member.

(b) "Patient" means a person who consults with or is examined or interviewed by a practitioner or health facility for purposes of diagnosis or treatment.

(c) "Substantial adverse financial effect" includes, without limitation, a projected decline in the revenue of a hospital as a result of the loss of its surgical business, which is sufficient to cause a deficit in any cash balances, fund balances or retained earnings of the hospital.

Section 4. NRS 439B.425 is hereby amended to read as follows:

439B.425 1. Except as otherwise provided in this section, a practitioner shall not refer a patient, for a service or for goods related to health care, to a health facility, medical laboratory, diagnostic imaging or radiation oncology center or commercial establishment in which the practitioner has a financial interest.

2. Subsection 1 does not apply if:

(a) The service or goods required by the patient are not otherwise available within a 30-mile radius of the office of the practitioner;

(b) The service or goods are provided pursuant to a referral to a practitioner who is participating in the health care plan of a health maintenance organization that has been issued a certificate of authority pursuant to chapter 695C of NRS;

(c) The practitioner is a member of a group practice and the referral is made to that group practice;

(d) The referral is made to a surgical center for ambulatory patients, as defined in NRS 449.019, that is licensed pursuant to chapter 449 of NRS;

(e) The referral is made by:

(1) A urologist for lithotripsy services; or

(2) A nephrologist for services and supplies for a renal dialysis;

(f) The financial interest represents an investment in a corporation that has shareholder equity of more than \$100,000,000, regardless of whether the securities of the corporation are publicly traded;

(g) The referral is made by a physician to a surgical hospital in which the physician has an ownership interest and;

(1) The surgical hospital is:

(I) Located in a county whose population is less than 100,000; and

(II) Licensed pursuant to chapter 449 of NRS as a surgical hospital and not as a medical hospital, obstetrical hospital, combined-categories hospital, general hospital or center for the treatment of trauma;

(2) The physician making the referral:

(I) Is authorized to perform medical services and has staff privileges at the surgical hospital; and

(II) Has disclosed his ownership interest in the surgical hospital to the patient before making the referral;

(3) The ownership interest of the physician making the referral pertains to the surgical hospital in its entirety and is not limited to a department, subdivision or other portion of the hospital;

(4) Every physician who has an ownership interest in the surgical hospital has agreed to treat patients receiving benefits pursuant to Medicaid and Medicare;

(5) The terms of investment of each physician who has an ownership interest in the surgical hospital are not related to the volume or value of any referrals made by that physician;

(6) The payments received by each investor in the surgical hospital as a return on his investment are directly proportional to the relative amount of capital invested or shares owned by the investor in the hospital;

(7) None of the investors in the surgical hospital has received any financial assistance from the hospital or any other investor in the hospital for the purpose of investing in the hospital; and

(8) Either:

(I) The governing body of every other hospital that regularly provides surgical services to residents of the county in which the surgical hospital is located has issued its written general consent to the referral by such physicians of patients to that surgical hospital; or

(II) The board of county commissioners of the county in which the surgical hospital is located has issued a written declaration of its reasonable belief that the referral by such physicians of patients to that surgical hospital will not, during the 5-year period immediately following the commencement of such referrals, have a substantial adverse financial effect on any other hospital that regularly provides surgical services to residents of that county;
or

(h) The referral is made by a physician to a surgical hospital or a medical-surgical hospital in which the physician has an ownership interest and:

(1) The hospital:

(I) Is centrally located in a county whose population is 400,000 or more to serve the residents of that county conveniently;

(II) Is licensed pursuant to chapter 449 of NRS as a surgical hospital or a medical-surgical hospital;

(III) Primarily provides services relating to principally to neurosurgery, the spine, the musculoskeletal system and the control and alleviation of pain, and rehabilitative services;

(IV) Has a capacity of not more than 15 beds;

(V) Has and maintains a policy providing for the care of indigent patients (and provides the same percentage of indigent care as is required by Nevada law for hospitals, i.e., .0065 of the prior years net revenue is provided to the county's indigent patients without compensation. Further, the hospital shall provide care on an annual basis such that its bad debt write-offs are the same average of bad debt to gross charges as other hospitals in southern Nevada);

(VI) Provides education concerning techniques to alleviate pain; and

(VII) Does not include an intensive care unit.

(2) The physician making the referral:

(I) Is authorized to perform medical services and has staff privileges at the hospital; and

(II) Has disclosed his ownership interest in the hospital to the patient before making the referral;

(3) The ownership interest of the physician making the referral pertains to the hospital in its entirety and is not limited to a department, subdivision or other portion of the hospital;

(4) Every physician who has an ownership interest in the hospital has agreed to treat patients receiving benefits pursuant to Medicaid and Medicare, and to provide services to indigent patients;

(5) The terms of investment of each physician who has an ownership interest in the hospital are not related to the volume or value of referrals made by that physician;

(6) *The payments received by each investor in the hospital as a return on his investment are directly proportional to the relative amount of capital invested or shares owned by the investor in the hospital;*

(7) *None of the investors in the hospital has received any financial assistance from the hospital or any other investor in the hospital for the purpose of investing in the hospital; and*

(8) *The hospital provides surgical and rehabilitative services, and such related and ancillary services as are necessary and incident to the provision of those services.*

3. A person who violates the provisions of this section is guilty of a misdemeanor.

4. The provisions of this section do not prohibit a practitioner from owning and using equipment in his office solely to provide to his patients services or goods related to health care.

5. As used in this section:

(a) "Group practice" means two or more practitioners who organized as a business entity in accordance with the laws of this state to provide services related to health care, if:

(1) Each member of the group practice provides substantially all of the services related to health care that he routinely provides, including, without limitation, medical care, consultations, diagnoses and treatment, through the joint use of shared offices, facilities, equipment and personnel located at any site of the group practice;

(2) Substantially all of the services related to health care that are provided by the members of the group practice are provided through the group practice; and

(3) No member of the group practice receives compensation based directly on the volume of any services or goods related to health care which are referred to the group practice by that member.

(b) "Patient" means a person who consults with or is examined or interviewed by a practitioner or health facility for purposes of diagnosis or treatment.

(c) "Substantial adverse financial effect" includes, without limitation, a projected decline in the revenue of a hospital as a result of the loss of its surgical business, which is sufficient to cause a deficit in any cash balances, fund balances or retained earnings of the hospital.

Sec 5. 1. This section and sections 1, 3 and 4 of this act become effective upon passage and approval.

Amend the bill as a whole to add a preamble, following the title of the bill, to read as follows:

"WHEREAS, The potential for the location of one or more new specialty hospitals in Nevada has recently been brought to the attention of this Legislature; and

WHEREAS, This type of hospital, that is smaller and specializes in specific areas of medicine, presents a unique and potentially very beneficial opportunity for the residents of this state because of the expertise that will be built within the health care providers in Nevada and the attraction of medical experts from around the world; and

WHEREAS, It is therefore incumbent upon this Legislature to ensure that the laws of this state facilitate the location of this type of hospital in Nevada but at the same time balance the needs of the residents of this state for quality health care at all levels as well as encourage a relationship of trust between a patients and their health care providers; and

WHEREAS, Through the years, this Legislature has been very firm in its resolve to ensure that conflicts of interest do not disadvantage a person in Nevada who seeks