
SENATE BILL NO. 156—SENATOR TITUS

FEBRUARY 18, 2003

JOINT SPONSOR: ASSEMBLYWOMAN BUCKLEY

Referred to Committee on Human Resources and Facilities

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

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to health care; providing an additional exception to the prohibition against a practitioner referring patients to certain facilities in which the practitioner has a financial interest; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** NRS 439B.425 is hereby amended to read as
2 follows:
3 439B.425 1. Except as otherwise provided in this section, a
4 practitioner shall not refer a patient, for a service or for goods
5 related to health care, to a health facility, medical laboratory,
6 diagnostic imaging or radiation oncology center or commercial
7 establishment in which the practitioner has a financial interest.
8 2. Subsection 1 does not apply if:
9 (a) The service or goods required by the patient are not
10 otherwise available within a 30-mile radius of the office of the
11 practitioner;



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- 1 (b) The service or goods are provided pursuant to a referral to a
- 2 practitioner who is participating in the health care plan of a health
- 3 maintenance organization that has been issued a certificate of
- 4 authority pursuant to chapter 695C of NRS;
- 5 (c) The practitioner is a member of a group practice and the
- 6 referral is made to that group practice;
- 7 (d) The referral is made to a surgical center for ambulatory
- 8 patients, as defined in NRS 449.019, that is licensed pursuant to
- 9 chapter 449 of NRS;
- 10 (e) The referral is made by:
- 11 (1) A urologist for lithotripsy services; or
- 12 (2) A nephrologist for services and supplies for a renal
- 13 dialysis;
- 14 (f) The financial interest represents an investment in a
- 15 corporation that has shareholder equity of more than \$100,000,000,
- 16 regardless of whether the securities of the corporation are publicly
- 17 traded; ~~for~~
- 18 (g) The referral is made by a physician to a surgical hospital in
- 19 which the physician has an ownership interest and:
- 20 (1) The surgical hospital is:
- 21 (I) Located in a county whose population is less than
- 22 100,000; and
- 23 (II) Licensed pursuant to chapter 449 of NRS as a surgical
- 24 hospital and not as a medical hospital, obstetrical hospital,
- 25 combined-categories hospital, general hospital or center for the
- 26 treatment of trauma;
- 27 (2) The physician making the referral:
- 28 (I) Is authorized to perform medical services and has staff
- 29 privileges at the surgical hospital; and
- 30 (II) Has disclosed his ownership interest in the surgical
- 31 hospital to the patient before making the referral;
- 32 (3) The ownership interest of the physician making the
- 33 referral pertains to the surgical hospital in its entirety and is not
- 34 limited to a department, subdivision or other portion of the hospital;
- 35 (4) Every physician who has an ownership interest in the
- 36 surgical hospital has agreed to treat patients receiving benefits
- 37 pursuant to Medicaid and Medicare;
- 38 (5) The terms of investment of each physician who has an
- 39 ownership interest in the surgical hospital are not related to the
- 40 volume or value of any referrals made by that physician;
- 41 (6) The payments received by each investor in the surgical
- 42 hospital as a return on his investment are directly proportional to the
- 43 relative amount of capital invested or shares owned by the investor
- 44 in the hospital;



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

4 (8) Either:

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

10 (II) The board of county commissioners of the county in
11 which the surgical hospital is located has issued a written
12 declaration of its reasonable belief that the referral by such
13 physicians of patients to that surgical hospital will not, during the
14 5-year period immediately following the commencement of such
15 referrals, have a substantial adverse financial effect on any other
16 hospital that regularly provides surgical services to residents of that
17 county **H**; or

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

21 *(1) The hospital:*

22 *(I) Is centrally located in a county whose population is*
23 *400,000 or more to serve the residents of that county conveniently;*

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

26 *(III) Primarily provides services relating to the spine,*
27 *the musculoskeletal system and the control and alleviation of pain,*
28 *and rehabilitative services;*

29 *(IV) Has a capacity of not more than 50 beds;*

30 *(V) Has and maintains a policy providing for the care of*
31 *indigent patients; and*

32 *(VI) Provides education concerning techniques to*
33 *alleviate pain;*

34 *(2) The physician making the referral:*

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

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

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

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



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

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

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

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

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

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

19 5. As used in this section:

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

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

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

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

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

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

