

SENATE BILL NO. 156—SENATOR TITUS

FEBRUARY 18, 2003

JOINT SPONSOR: ASSEMBLYWOMAN BUCKLEY

Referred to Committee on Human Resources and Facilities

SUMMARY—Makes various changes concerning facilities which are excepted from prohibition against practitioner referring patients to facility 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; prohibiting the Health Division of the Department of Human Resources from issuing licenses to certain medical facilities under certain circumstances; 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:



* S B 1 5 6 R 1 *

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



1 relative amount of capital invested or shares owned by the investor
2 in the hospital;

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

6 (8) Either:

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

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

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

23 (1) *The hospital:*

24 (I) *Is centrally located in a county whose population is*
25 *400,000 or more to serve the residents of that county conveniently;*

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

28 (III) *Is a spine and pain hospital at which services are*
29 *performed primarily by neurosurgeons;*

30 (IV) *Has 15 licensed or approved beds;*

31 (V) *Does not have a unit for intensive care;*

32 (VI) *Operates research and educational programs for*
33 *spinal disorders and pain as an integral component of the*
34 *hospital;*

35 (VII) *Provides a proportionate share of care for indigent*
36 *inpatients pursuant to NRS 439B.320; and*

37 (VIII) *Designates the same ratio of bad debt as other*
38 *hospitals in the community in which it is located;*

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

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

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



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

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

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

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

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

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

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

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

26 5. As used in this section:

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

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

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

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

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

44 (c) "Substantial adverse financial effect" includes, without
45 limitation, a projected decline in the revenue of a hospital as a result



1 of the loss of its surgical business, which is sufficient to cause a
2 deficit in any cash balances, fund balances or retained earnings of
3 the hospital.

4 **Sec. 2.** Notwithstanding the provisions of NRS 449.080, if the
5 Health Division of the Department of Human Resources issues a
6 license pursuant to chapter 449 of NRS to a hospital described in
7 subparagraph (1) of paragraph (h) of subsection 2 of NRS 439B.425
8 before October 1, 2009, the Health Division shall not issue a license
9 pursuant to chapter 449 of NRS to a similar facility until on or after
10 October 1, 2009.

11 **Sec. 3.** On or before January 1 of each odd-numbered year
12 before January 1, 2010, a hospital which qualifies for an exemption
13 pursuant to paragraph (h) of subsection 2 of NRS 439B.425 shall
14 submit a report to the Legislative Committee on Health Care and to
15 the Office for Consumer Health Assistance. The report must include
16 for the 2 years immediately preceding the date of the report:

- 17 1. The total number of patients served by the hospital;
- 18 2. The number of indigent patients served by the hospital;
- 19 3. The impact of the hospital on the other hospitals that are
20 located in the county in which the hospital is located, including,
21 without limitation, any adverse economic impact on those hospitals;
22 and
- 23 4. Such other information as the Legislative Committee on
24 Health Care requires.

