HB 2333

Introduced by
Representatives Campbell: Stringer, Senator Fann

AN ACT

AMENDING TITLE 13, CHAPTER 37, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-3730; RELATING TO PATIENT REFERRAL INDUCEMENTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Title 13, chapter 37, Arizona Revised Statutes, is amended by adding section 13-3730, to read:

13-3730. Unlawful patient brokering; exceptions; classification; definition

A. IT IS UNLAWFUL FOR ANY PERSON, INCLUDING ANY HEALTH CARE PROVIDER, HEALTH CARE FACILITY OR STRUCTURED SOBER LIVING HOME, TO:

1. OFFER OR PAY ANY COMMISSION, BONUS, REBATE, KICKBACK OR BRIBE, DIRECTLY OR INDIRECTLY, IN CASH OR IN KIND, OR ENGAGE IN ANY SPLIT-FEE ARRANGEMENT, IN ANY FORM WHATSOEVER, TO INDUCE THE REFERRAL OF PATIENTS OR PATRONAGE TO OR FROM A HEALTH CARE PROVIDER, HEALTH CARE FACILITY OR STRUCTURED SOBER LIVING HOME.

2. SOLICIT OR RECEIVE ANY COMMISSION, BONUS, REBATE, KICKBACK OR BRIBE, DIRECTLY OR INDIRECTLY, IN CASH OR IN KIND, OR ENGAGE IN ANY SPLIT-FEE ARRANGEMENT, IN ANY FORM WHATSOEVER, IN RETURN FOR REFERRING PATIENTS OR PATRONAGE TO OR FROM A HEALTH CARE PROVIDER, HEALTH CARE FACILITY OR STRUCTURED SOBER LIVING HOME.

3. SOLICIT OR RECEIVE ANY COMMISSION, BONUS, REBATE, KICKBACK OR BRIBE, DIRECTLY OR INDIRECTLY, IN CASH OR IN KIND, OR ENGAGE IN ANY SPLIT-FEE ARRANGEMENT, IN ANY FORM WHATSOEVER, IN RETURN FOR THE ACCEPTANCE OR ACKNOWLEDGMENT OF TREATMENT FROM A HEALTH CARE PROVIDER, HEALTH CARE FACILITY OR STRUCTURED SOBER LIVING HOME.

B. THIS SECTION DOES NOT APPLY TO ANY OF THE FOLLOWING:

1. ANY REBATE, REFUND, COMMISSION, PREFERENCE OR OTHER CONSIDERATION THAT IS PAID TO A NURSE REGISTRY FOR REFERRING A PERSON WHO PROVIDES HEALTH CARE SERVICES TO CLIENTS OF THE NURSE REGISTRY.

2. ANY DISCOUNT, PAYMENT, WAIVER OF PAYMENT OR PAYMENT PRACTICE THAT IS NOT PROHIBITED BY 42 UNITED STATES CODE SECTION 1320a-7b(b) OR ANY REGULATION ADOPTED UNDER THAT SECTION.

3. ANY PAYMENT, COMPENSATION OR FINANCIAL ARRANGEMENT WITHIN A GROUP PRACTICE IF THE PAYMENT, COMPENSATION OR ARRANGEMENT IS NOT TO OR FROM A PERSON WHO IS NOT A MEMBER OF THE GROUP PRACTICE.

4. ANY COMMISSION, FEE OR OTHER REMUNERATION THAT IS LAWFULLY PAID TO AN INSURANCE AGENT PURSUANT TO TITLE 20.

5. PAYMENTS BY A HEALTH INSURER THAT REIMBURSES, PROVIDES, OFFERS TO PROVIDE OR ADMINISTERS HEALTH, MENTAL HEALTH OR SUBSTANCE ABUSE GOODS OR SERVICES UNDER A HEALTH BENEFIT PLAN.

6. PAYMENTS TO OR BY A HEALTH CARE PROVIDER OR HEALTH CARE FACILITY OR A HEALTH CARE PROVIDER NETWORK ENTITY THAT HAS CONTRACTED WITH A HEALTH INSURER, A HEALTH CARE PURCHASING GROUP OR THE MEDICARE OR MEDICAID PROGRAM TO PROVIDE HEALTH, MENTAL HEALTH OR SUBSTANCE ABUSE GOODS OR SERVICES UNDER A HEALTH BENEFIT PLAN IF SUCH PAYMENTS ARE FOR GOODS OR SERVICES UNDER THE PLAN.

7. INSURANCE INDUCEMENTS THAT ARE NOT PROHIBITED BY SECTION 20-452.
8. PAYMENTS BY A HEALTH CARE PROVIDER OR HEALTH CARE FACILITY TO A HEALTH, MENTAL HEALTH OR SUBSTANCE ABUSE INFORMATION SERVICE THAT PROVIDES INFORMATION ON REQUEST AND WITHOUT CHARGE TO CONSUMERS ABOUT PROVIDERS OF HEALTH CARE GOODS OR SERVICES TO ENABLE CONSUMERS TO SELECT APPROPRIATE PROVIDERS OR FACILITIES, IF THE INFORMATION SERVICE:

(a) THROUGH ITS STANDARD QUESTIONS FOR SOLICITATION OF CONSUMER CRITERIA OR THROUGH ANY OTHER MEANS, DOES NOT ATTEMPT TO STEER OR LEAD A CONSUMER TO SELECT OR CONSIDER THE SELECTION OF A PARTICULAR HEALTH CARE PROVIDER OR HEALTH CARE FACILITY.

(b) DOES NOT PROVIDE OR REPRESENT ITSELF AS PROVIDING DIAGNOSTIC OR COUNSELING SERVICES OR ASSESSMENTS OF ILLNESS OR INJURY AND DOES NOT MAKE ANY PROMISES OF CURE OR GUARANTEES OF TREATMENT.

(c) DOES NOT PROVIDE OR ARRANGE FOR TRANSPORTATION OF A CONSUMER TO OR FROM THE LOCATION OF A HEALTH CARE PROVIDER OR HEALTH CARE FACILITY.

(d) CHARGES AND COLLECTS FEES FROM A HEALTH CARE PROVIDER OR HEALTH CARE FACILITY PARTICIPATING IN ITS SERVICES THAT ARE SET IN ADVANCE, THAT ARE CONSISTENT WITH THE FAIR MARKET VALUE FOR THOSE INFORMATION SERVICES AND THAT ARE NOT BASED ON THE POTENTIAL VALUE OF A PATIENT TO A HEALTH CARE PROVIDER OR HEALTH CARE FACILITY OR OF THE GOODS OR SERVICES PROVIDED BY THE HEALTH CARE PROVIDER OR HEALTH CARE FACILITY.

C. A VIOLATION OF THIS SECTION IS:

1. A CLASS 3 FELONY IF THE CONSIDERATION HAS A VALUE OF ONE THOUSAND DOLLARS OR MORE.

2. A CLASS 4 FELONY IF THE CONSIDERATION HAS A VALUE OF MORE THAN ONE HUNDRED DOLLARS BUT LESS THAN ONE THOUSAND DOLLARS.

3. A CLASS 6 FELONY IF THE CONSIDERATION HAS A VALUE OF ONE HUNDRED DOLLARS OR LESS.

D. FOR THE PURPOSES OF THIS SECTION, “STRUCTURED SOBER LIVING HOME” HAS THE SAME MEANING PRESCRIBED IN SECTIONS 9-500.40 AND 11-269.18.