

REFERENCE TITLE: patient referral inducements; unlawful compensation

State of Arizona  
House of Representatives  
Fifty-third Legislature  
First Regular Session  
2017

## **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)

1 Be it enacted by the Legislature of the State of Arizona:

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

4 13-3730. Unlawful patient brokering: exceptions:  
5 classification; definition

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

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

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

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

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

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

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

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

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

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

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

44 7. INSURANCE INDUCEMENTS THAT ARE NOT PROHIBITED BY SECTION 20-452.

1           8. PAYMENTS BY A HEALTH CARE PROVIDER OR HEALTH CARE FACILITY TO A  
2 HEALTH, MENTAL HEALTH OR SUBSTANCE ABUSE INFORMATION SERVICE THAT PROVIDES  
3 INFORMATION ON REQUEST AND WITHOUT CHARGE TO CONSUMERS ABOUT PROVIDERS OF  
4 HEALTH CARE GOODS OR SERVICES TO ENABLE CONSUMERS TO SELECT APPROPRIATE  
5 PROVIDERS OR FACILITIES, IF THE INFORMATION SERVICE:  
6           (a) THROUGH ITS STANDARD QUESTIONS FOR SOLICITATION OF CONSUMER  
7 CRITERIA OR THROUGH ANY OTHER MEANS, DOES NOT ATTEMPT TO STEER OR LEAD A  
8 CONSUMER TO SELECT OR CONSIDER THE SELECTION OF A PARTICULAR HEALTH CARE  
9 PROVIDER OR HEALTH CARE FACILITY.  
10          (b) DOES NOT PROVIDE OR REPRESENT ITSELF AS PROVIDING DIAGNOSTIC OR  
11 COUNSELING SERVICES OR ASSESSMENTS OF ILLNESS OR INJURY AND DOES NOT MAKE  
12 ANY PROMISES OF CURE OR GUARANTEES OF TREATMENT.  
13          (c) DOES NOT PROVIDE OR ARRANGE FOR TRANSPORTATION OF A CONSUMER TO  
14 OR FROM THE LOCATION OF A HEALTH CARE PROVIDER OR HEALTH CARE FACILITY.  
15          (d) CHARGES AND COLLECTS FEES FROM A HEALTH CARE PROVIDER OR HEALTH  
16 CARE FACILITY PARTICIPATING IN ITS SERVICES THAT ARE SET IN ADVANCE, THAT  
17 ARE CONSISTENT WITH THE FAIR MARKET VALUE FOR THOSE INFORMATION SERVICES  
18 AND THAT ARE NOT BASED ON THE POTENTIAL VALUE OF A PATIENT TO A HEALTH  
19 CARE PROVIDER OR HEALTH CARE FACILITY OR OF THE GOODS OR SERVICES PROVIDED  
20 BY THE HEALTH CARE PROVIDER OR HEALTH CARE FACILITY.  
21          C. A VIOLATION OF THIS SECTION IS:  
22           1. A CLASS 3 FELONY IF THE CONSIDERATION HAS A VALUE OF ONE  
23 THOUSAND DOLLARS OR MORE.  
24           2. A CLASS 4 FELONY IF THE CONSIDERATION HAS A VALUE OF MORE THAN  
25 ONE HUNDRED DOLLARS BUT LESS THAN ONE THOUSAND DOLLARS.  
26           3. A CLASS 6 FELONY IF THE CONSIDERATION HAS A VALUE OF ONE HUNDRED  
27 DOLLARS OR LESS.  
28          D. FOR THE PURPOSES OF THIS SECTION, "STRUCTURED SOBER LIVING HOME"  
29 HAS THE SAME MEANING PRESCRIBED IN SECTIONS 9-500.40 AND 11-269.18.