

By: Duncan

S.B. No. 1101

A BILL TO BE ENTITLED

AN ACT

relating to the reporting and disclosure of financial arrangements between referring health care providers and diagnostic imaging providers; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle A, Title 3, Occupations Code, is amended by adding Chapter 113 to read as follows:

CHAPTER 113. REPORTING AND DISCLOSURE OF
HEALTH CARE PROVIDER REFERRALS

Sec. 113.001. DEFINITIONS. In this chapter:

(1) "Center" means the Center for Health Statistics of the Department of State Health Services.

(2) "Diagnostic imaging provider" means any person or entity that has an investment interest in any facility, office, clinic, imaging center, hospital, or other location in which a diagnostic imaging service is provided or in any machine or equipment that is used to provide a diagnostic imaging service.

(3) "Diagnostic imaging service" means magnetic resonance imaging, computed tomography, positron emission tomography, and any hybrid technology that combines any of those imaging modalities.

(4) "Health care provider" means a person licensed as a health care professional or authorized to practice in health care under Subtitle B or C.

1 (5) "Immediate family member" means a person's spouse,
2 child, child's spouse, grandchild, grandchild's spouse, parent,
3 parent-in-law, or sibling.

4 (6) "Investment interest" means an equity or debt
5 security issued by a person, including shares of stock in a
6 corporation, membership or other interest in a company, including a
7 limited liability company, units or other interests in a
8 partnership, including a limited liability partnership, bonds,
9 debentures, notes, or other equity interests or debt instruments.
10 The term includes the rental or time sharing of imaging equipment in
11 which a referring physician receives a portion of the billing
12 revenue.

13 (7) "Investor" means a person who directly or
14 indirectly holds a legal, beneficial ownership, or investment
15 interest, including an interest held through an immediate family
16 member, trust, or another person related to the investor within the
17 meaning of 42 C.F.R. Section 413.17.

18 (8) "Licensing authority" means a department, board,
19 office, or other agency of this state that regulates a health care
20 provider subject to this chapter.

21 (9) "Patient" means a person who receives a physical
22 examination, evaluation, diagnosis, or treatment by a health care
23 provider.

24 (10) "Referral" means a health care provider's request
25 for or ordering of a diagnostic imaging service for a patient.

26 Sec. 113.002. RULES. The executive commissioner of the
27 Health and Human Services Commission, on behalf of the center,

1 shall adopt rules specifying the procedures and forms health care
2 providers must use to comply with this chapter.

3 [Sections 113.003-113.050 reserved for expansion]

4 SUBCHAPTER B. REFERRALS

5 Sec. 113.051. REPORTING AND DISCLOSURE OF REFERRALS. (a) A
6 health care provider who refers a patient for a diagnostic imaging
7 service provided by a diagnostic imaging provider in which the
8 health care provider is an investor or has an investment interest
9 shall provide the licensing authority with a quarterly report
10 containing:

11 (1) the total number of referrals to any diagnostic
12 imaging provider; and

13 (2) all claims data related to those referrals that
14 are required by the center.

15 (b) A diagnostic imaging provider that performs services
16 for a referring health care provider shall report to the center:

17 (1) the identity of the referring health care
18 provider;

19 (2) the exact nature of any investment interest the
20 health care provider has in the diagnostic imaging provider;

21 (3) the total number of patients receiving diagnostic
22 imaging services who were referred by the health care provider; and

23 (4) the additional claims data required by the center.

24 (c) The report required under Subsection (b) may be in the
25 form of a bill for services provided by the diagnostic imaging
26 provider in accordance with rules for filing a clean claim adopted
27 by the Texas Department of Insurance (28 TAC 21.2803), as those

1 rules existed on September 1, 2007.

2 (d) A health care provider making a referral for diagnostic
3 imaging services as described by this section must:

4 (1) disclose in writing to the provider's patients the
5 provider's investment interest in the diagnostic imaging provider;

6 (2) advise the provider's patients that the patient
7 may choose to have another diagnostic imaging provider provide the
8 diagnostic imaging services; and

9 (3) obtain and record the patient's written consent
10 after the disclosure and before the diagnostic imaging services are
11 provided.

12 (e) A report required by this section must be made to the
13 appropriate licensing agency and the center on a form provided to
14 each health care provider by the center.

15 Sec. 113.052. PUBLIC INFORMATION. Information collected
16 under Section 113.051 shall be made available to the public.

17 Sec. 113.053. FEES FOR DISCLOSURE. (a) A health care
18 provider or diagnostic imaging provider shall pay to the center a
19 fee in the amount of \$500:

20 (1) at the time of submitting an initial disclosure to
21 the center under Section 113.051; and

22 (2) once each calendar year in which the health care
23 provider or diagnostic imaging provider provides a report to the
24 center.

25 (b) Fees collected under this section shall be maintained in
26 a separate account outside the state treasury by the center to be
27 used in the collection and analysis of data collected under this

1 chapter.

2 [Sections 113.054-113.100 reserved for expansion]

3 SUBCHAPTER C. DISCIPLINARY ACTION; PENALTIES

4 Sec. 113.101. DISCIPLINARY ACTION. A health care
5 provider's or a diagnostic imaging provider's failure to report or
6 disclose information required by this chapter is grounds for
7 disciplinary action, including the imposition of an administrative
8 penalty, by the licensing authority that regulates the health care
9 provider or diagnostic imaging provider.

10 Sec. 113.102. CIVIL PENALTY. (a) A health care provider or
11 diagnostic imaging provider that violates rules adopted under this
12 chapter is subject to a civil penalty of not more than \$1,000 for
13 each violation.

14 (b) The attorney general at the request of the center shall
15 bring an action to collect penalties under this section. In the
16 suit, the center and the attorney general each may recover
17 reasonable expenses incurred in obtaining the penalty, including
18 investigation and court costs and reasonable attorney's fees.

19 (c) Expenses recovered by the center under this section
20 shall be deposited in a separate account outside the state treasury
21 to be used by the center in the enforcement of this chapter.

22 SECTION 2. (a) The Department of State Health Services
23 shall conduct a study of the financial impact of the use of
24 diagnostic imaging services required to be reported under Section
25 113.051, Occupations Code, as added by this Act.

26 (b) In conducting the study, the department shall compare
27 the rates at which diagnostic imaging services were used by

1 physicians of the same specialty who have a financial interest in
2 the diagnostic imaging services prescribed for the patient's care
3 and those who do not have a financial interest in the prescribed
4 diagnostic imaging services.

5 (c) Not later than December 1, 2008, the department shall
6 submit a report regarding the study to the lieutenant governor and
7 the speaker of the house of representatives.

8 SECTION 3. Section 113.051, Occupations Code, as added by
9 this Act, applies only to a referral or service that occurs on or
10 after the effective date of this Act. A referral or service that
11 occurs before the effective date of this Act is governed by the law
12 as it existed immediately before the effective date of this Act, and
13 that law is continued in effect for that purpose.

14 SECTION 4. This Act takes effect September 1, 2007.