

1-1 By: Duncan S.B. No. 1101
1-2 (In the Senate - Filed March 2, 2007; March 14, 2007, read
1-3 first time and referred to Committee on State Affairs;
1-4 April 27, 2007, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 5, Nays 2; April 27, 2007,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1101 By: Duncan

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the reporting and disclosure of financial arrangements
1-11 between referring health care providers and diagnostic imaging
1-12 providers; providing penalties.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Subtitle A, Title 3, Occupations Code, is
1-15 amended by adding Chapter 113 to read as follows:

1-16 CHAPTER 113. REPORTING AND DISCLOSURE OF

1-17 HEALTH CARE PROVIDER REFERRALS

1-18 SUBCHAPTER A. GENERAL PROVISIONS

1-19 Sec. 113.001. DEFINITIONS. In this chapter:

1-20 (1) "Center" means the Center for Health Statistics of
1-21 the Department of State Health Services.

1-22 (2) "Diagnostic imaging provider" means any person or
1-23 entity that has an investment interest in any facility, office,
1-24 clinic, imaging center, hospital, or other location in which a
1-25 diagnostic imaging service is provided or in any machine or
1-26 equipment that is used to provide a diagnostic imaging service.

1-27 (3) "Diagnostic imaging service" means magnetic
1-28 resonance imaging, computed tomography, positron emission
1-29 tomography, and any hybrid technology that combines any of those
1-30 imaging modalities.

1-31 (4) "Health care provider" means a person licensed as
1-32 a health care professional or authorized to practice in health care
1-33 under Subtitle B or C.

1-34 (5) "Immediate family member" means a person's spouse,
1-35 child, child's spouse, grandchild, grandchild's spouse, parent,
1-36 parent-in-law, or sibling.

1-37 (6) "Investment interest" means an equity or debt
1-38 security issued by a person, including shares of stock in a
1-39 corporation, membership or other interest in a company, including a
1-40 limited liability company, units or other interests in a
1-41 partnership, including a limited liability partnership, bonds,
1-42 debentures, notes, or other equity interests or debt instruments.
1-43 The term includes the rental or time sharing of imaging equipment in
1-44 which a referring health care provider receives a portion of the
1-45 billing revenue.

1-46 (7) "Investor" means a person who directly or
1-47 indirectly holds a legal, beneficial ownership, or investment
1-48 interest, including an interest held through an immediate family
1-49 member, trust, or another person related to the investor within the
1-50 meaning of 42 C.F.R. Section 413.17.

1-51 (8) "Licensing authority" means a department, board,
1-52 office, or other agency of this state that regulates a health care
1-53 provider subject to this chapter.

1-54 (9) "Patient" means a person who receives a physical
1-55 examination, evaluation, diagnosis, or treatment by a health care
1-56 provider.

1-57 (10) "Referral" means a health care provider's request
1-58 for or ordering of a diagnostic imaging service for a patient.

1-59 Sec. 113.002. RULES. The executive commissioner of the
1-60 Health and Human Services Commission, on behalf of the center,
1-61 shall adopt rules specifying the procedures health care providers
1-62 and diagnostic imaging providers must use to comply with this
1-63 chapter.

[Sections 113.003-113.050 reserved for expansion]

SUBCHAPTER B. REFERRALS

Sec. 113.051. REPORTING AND DISCLOSURE OF REFERRALS.

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

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

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

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

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

(b) The report required under Subsection (a) may be in the form of a bill for services provided by the diagnostic imaging provider in accordance with rules for filing a clean claim adopted by the Texas Department of Insurance (28 T.A.C. Section 21.2803), as those rules existed on September 1, 2007.

(c) A health care provider who refers a patient for a diagnostic imaging service provided by a diagnostic imaging provider in which the health care provider is an investor or has an investment interest must:

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

(2) advise the provider's patients that the patient may choose to have another diagnostic imaging provider provide the diagnostic imaging services.

(d) A report required by this section must be submitted to the center in the format or method required by the Department of State Health Services.

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

Sec. 113.053. FEES FOR REPORT. (a) A diagnostic imaging provider shall pay to the center a fee in the amount necessary to cover the costs of administering this chapter, not to exceed \$500:

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

(2) once each calendar year in which the diagnostic imaging provider provides a report to the center.

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

[Sections 113.054-113.100 reserved for expansion]

SUBCHAPTER C. DISCIPLINARY ACTION; PENALTIES

Sec. 113.101. DISCIPLINARY ACTION. A diagnostic imaging provider's failure to report information required by this chapter or failure to pay a fee required by this chapter is grounds for disciplinary action, including the imposition of an administrative penalty, by the licensing authority that regulates the diagnostic imaging provider.

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

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

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

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

(b) In conducting the study, the Department of State Health

3-1 Services shall compare the rates at which diagnostic imaging
3-2 services were used by physicians of the same specialty who have a
3-3 financial interest in the diagnostic imaging services prescribed
3-4 for the patient's care and those who do not have a financial
3-5 interest in the prescribed diagnostic imaging services.

3-6 (c) Not later than December 1, 2008, the Department of State
3-7 Health Services shall submit a report regarding the study to the
3-8 lieutenant governor and the speaker of the house of
3-9 representatives.

3-10 SECTION 3. Section 113.051, Occupations Code, as added by
3-11 this Act, applies only to a referral or service that occurs on or
3-12 after the effective date of this Act. A referral or service that
3-13 occurs before the effective date of this Act is governed by the law
3-14 as it existed immediately before the effective date of this Act, and
3-15 that law is continued in effect for that purpose.

3-16 SECTION 4. This Act takes effect September 1, 2007.

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