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SENATE BILL NO. 134

INTRODUCED BY

Kranz

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THAT MEDICAL PRACTITIONERS AND HEALTH CARE PROVIDERS INFORM PATIENTS OF ANY FINANCIAL INTEREST IN A HEALTH CARE SERVICE UPON A REFERRAL FOR TREATMENT, DIAGNOSIS, OR PRESCRIPTION; REQUIRING DISCLOSURE BY A FOR-PROFIT DENTAL REFERRAL SERVICE OF THE FACT THAT A DENTIST HAS PAID FOR THE REFERRAL; AND REQUIRING FOR-PROFIT DENTAL REFERRAL SERVICES TO REGISTER WITH THE BOARD OF DENTISTRY AND COMPLY WITH BOARD RULES."

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

NEW SECTION. Section 1. Notification of financial interest for referrals to health care services -- report of violation. (1) Except as provided in subsection (4), a medical practitioner or health care provider shall disclose to a patient or a patient's representative any financial interest in a health care service to which the patient has been referred for treatment, diagnosis, or prescription.

(2) A patient who is not informed or whose representative is not informed by the medical practitioner or health care provider of any financial interest of the medical practitioner, health care provider, or an immediate family member of either in a health care service at the time of referral to that service may report this violation to the medical practitioner's or health care provider's appropriate licensing board.

(3) A violation of subsection (1) is unprofessional conduct, and the medical practitioner or the health care provider is subject to the disciplinary authority of the medical practitioner's or health care provider's appropriate licensing board.

(4) This section does not apply to a referral by one health care provider to another health care provider or by one medical practitioner to another medical practitioner within a group practice.

NEW SECTION. Section 2. Definitions. As used in [section 1], the following definitions apply:

(1) "Health care provider" means:

(a) a person licensed by the state of Montana to engage in the practice of optometry, chiropractic, podiatry, naturopathic medicine, psychology, physical therapy, occupational therapy, speech-language

1 pathology, audiology, direct-entry midwifery, dentistry, or selling, dispensing, and fitting hearing aids; or

2 (b) a physician assistant-certified in the practice of medicine.

3 (2) "Health care service" means a diagnostic or treatment facility or goods or services intended for
4 the diagnosis or treatment of a human illness.

5 (3) "Immediate family" means a spouse, natural or adopted children, parents, brothers, and sisters.

6 (4) "Medical practitioner" has the meaning provided in 37-2-101.

7 (5) "Representative" means a person:

8 (a) who is a member of the patient's immediate family or who is acting on the patient's behalf; and

9 (b) who is not a medical practitioner, a health care provider, or another person who may profit from
10 a referral.

11
12 **NEW SECTION. Section 3. Dental referral practices -- disclosure.** (1) It is an unfair trade practice
13 for a person who engages in a for-profit business or service that includes the referral or recommendation
14 of persons to a licensed dentist or dental practice for dental care or treatment to fail to disclose to a
15 prospective patient at the point of initial contact and in subsequent contacts by any means of
16 communication, including advertising, that the licensed dentist has paid a fee for the referral and that the
17 dentist is no more or less qualified than a dentist who does not participate in the referral business or
18 service.

19 (2) A person who engages in a for-profit business or service that includes the referral or
20 recommendations of persons to a licensed dentist or dental practice is required to:

21 (a) register with the board of dentistry provided for in Title 37, chapter 4; and

22 (b) comply with the board's administrative rules on advertising.

23 (3) A violation of this section is subject to the provisions of 30-14-220.
24

25 **NEW SECTION. Section 4. Codification instruction.** (1) [Sections 1 and 2] are intended to be
26 codified as an integral part of Title 37, chapter 2, and the provisions of Title 37, chapter 2, apply to
27 [sections 1 and 2].

28 (2) [Section 3] is intended to be codified as an integral part of Title 30, chapter 14, part 2, and the
29 provisions of Title 30, chapter 14, part 2, apply to [section 3].

30 -END-

1 SENATE BILL NO. 134

2 INTRODUCED BY KLAMPE

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THAT MEDICAL PRACTITIONERS AND HEALTH
5 CARE PROVIDERS INFORM PATIENTS OF ANY FINANCIAL INTEREST IN A HEALTH CARE SERVICE UPON
6 A REFERRAL FOR TREATMENT, DIAGNOSIS, OR PRESCRIPTION; REQUIRING DISCLOSURE BY A
7 FOR-PROFIT ~~DENTAL~~ HEALTH CARE PROVIDER REFERRAL SERVICE OF THE FACT THAT A ~~DENTIST~~
8 HEALTH CARE PROVIDER HAS PAID FOR THE REFERRAL; AND REQUIRING FOR-PROFIT ~~DENTAL~~ HEALTH
9 CARE PROVIDER REFERRAL SERVICES TO REGISTER WITH THE APPROPRIATE BOARD OF DENTISTRY
10 AND COMPLY WITH BOARD RULES."
11

12 STATEMENT OF INTENT

13 THIS BILL REQUIRES A STATEMENT OF INTENT BECAUSE IT REQUIRES BOARDS IN THE
14 DEPARTMENT OF COMMERCE THAT GOVERN HEALTH CARE SERVICES TO ADOPT RULES FOR THE
15 REGISTRATION OF FOR-PROFIT REFERRAL SERVICES AND FOR ADMINISTRATIVE PENALTIES FOR
16 VIOLATIONS. IT IS THE INTENT OF THE LEGISLATURE TO PROTECT CONSUMERS OF HEALTH CARE
17 SERVICES FROM BEING MISLED BY FOR-PROFIT REFERRAL SERVICES.
18

19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
20

21 NEW SECTION. Section 1. Notification of financial interest for referrals to health care services --
22 report of violation. (1) Except as provided in subsection (4), a medical practitioner or health care provider
23 shall disclose to a patient or a patient's representative any financial interest in a health care service to
24 which the patient has been referred for treatment, diagnosis, or prescription.

25 (2) A patient who is not informed or whose representative is not informed by the medical
26 practitioner or health care provider of any financial interest of the medical practitioner, health care provider,
27 or an immediate family member of either in a health care service at the time of referral to that service may
28 report this violation to the medical practitioner's or health care provider's appropriate licensing board.

29 (3) A violation of subsection (1) is unprofessional conduct, and the medical practitioner or the
30 health care provider is subject to the disciplinary authority of the medical practitioner's or health care

1 provider's appropriate licensing board.

2 (4) This section does not apply to a referral by one health care provider to another health care
3 provider or by one medical practitioner to another medical practitioner within a group practice.

4

5 **NEW SECTION. Section 2. Definitions.** As used in [section 1], the following definitions apply:

6 (1) "Health care provider" means:

7 (a) a person licensed by the state of Montana to engage in the practice of optometry, chiropractic,
8 podiatry, naturopathic medicine, psychology, physical therapy, occupational therapy, speech-language
9 pathology, audiology, direct-entry midwifery, denturistry, or selling, dispensing, and fitting hearing aids; or

10 (b) a physician assistant-certified in the practice of medicine.

11 (2) "Health care service" means a diagnostic or treatment facility or goods or services intended for
12 the diagnosis or treatment of a human illness.

13 (3) "Immediate family" means a spouse, natural or adopted children, parents, brothers, and sisters.

14 (4) "Medical practitioner" has the meaning provided in 37-2-101.

15 (5) "Representative" means a person:

16 (a) who is a member of the patient's immediate family or who is acting on the patient's behalf; and

17 (b) who is not a medical practitioner, a health care provider, or another person who may profit from
18 a referral.

19

20 **NEW SECTION. Section 3. ~~Dental~~ HEALTH CARE PROVIDER referral practices -- disclosure.** (1)

21 ~~It is an unfair trade practice for a~~ A person who engages in a for-profit business or service that includes
22 the referral or recommendation of persons to a licensed ~~dentist or dental~~ HEALTH CARE PROVIDER OR
23 ~~practice for dental care or treatment to fail to~~ HEALTH CARE SERVICE SHALL disclose to a prospective
24 patient at the point of initial contact and in subsequent contacts by any means of communication, including
25 advertising, that the licensed ~~dentist~~ HEALTH CARE PROVIDER has paid a fee for the referral and that the
26 ~~dentist~~ HEALTH CARE PROVIDER is no more or less qualified than a ~~dentist~~ HEALTH CARE PROVIDER who
27 does not participate in the referral business or service.

28 (2) A person who engages in a for-profit business or service that includes the referral or
29 recommendations of persons to a licensed ~~dentist or dental~~ HEALTH CARE PROVIDER OR practice is
30 required to:

1 (a) register with the APPROPRIATE LICENSING board of dentistry provided for in Title 37, chapter
2 4; and

3 (b) comply with the board's administrative rules on advertising, IF ANY.

4 (3) A violation of this section is subject to ~~the provisions of 30-14-220~~ ADMINISTRATIVE
5 PENALTIES ADOPTED BY EACH RESPECTIVE BOARD.

6

7 NEW SECTION. Section 4. Codification instruction. (1) [Sections 1 and 2 THROUGH 3] are
8 intended to be codified as an integral part of Title 37, chapter 2, and the provisions of Title 37, chapter 2,
9 apply to [sections 1 and 2 THROUGH 3].

10 (2) ~~[Section 3] is intended to be codified as an integral part of Title 30, chapter 14, part 2, and the~~
11 ~~provisions of Title 30, chapter 14, part 2, apply to [section 3].~~

12

-END-

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 6 A REFERRAL FOR TREATMENT, DIAGNOSIS, OR PRESCRIPTION; REQUIRING DISCLOSURE BY A
 7 FOR-PROFIT ~~DENTAL~~ HEALTH CARE PROVIDER REFERRAL SERVICE OF THE FACT THAT A ~~DENTIST~~
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 9 CARE PROVIDER REFERRAL SERVICES TO REGISTER WITH THE APPROPRIATE BOARD OF DENTISTRY
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 16 VIOLATIONS. IT IS THE INTENT OF THE LEGISLATURE TO PROTECT CONSUMERS OF HEALTH CARE
 17 SERVICES FROM BEING MISLED BY FOR-PROFIT REFERRAL SERVICES.

18
 19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

20
 21 NEW SECTION. Section 1. Notification of financial interest for referrals to health care services
 22 -- report of violation. (1) Except as provided in ~~subsection~~ SUBSECTIONS (4) AND (5), a medical
 23 practitioner or health care provider shall disclose to a patient or a patient's representative any financial
 24 interest in a health care service to which the patient has been referred for treatment, diagnosis, or
 25 prescription.

26 (2) A patient who is not informed or whose representative is not informed by the medical
 27 practitioner or health care provider of any financial interest of the medical practitioner, health care provider,
 28 or an immediate family member of either in a health care service at the time of referral to that service may
 29 report this violation to the medical practitioner's or health care provider's appropriate licensing board.

30 (3) A violation of subsection (1) is unprofessional conduct, and the medical practitioner or the

1 health care provider is subject to the disciplinary authority of the medical practitioner's or health care
2 provider's appropriate licensing board.

3 (4) This section does not apply to a referral by one health care provider to another health care
4 provider or by one medical practitioner to another medical practitioner within a group practice.

5 (5) THIS SECTION DOES NOT APPLY TO A REFERRAL TO A HEALTH CARE SERVICE IN WHICH
6 INTERESTS ARE PUBLICLY OFFERED FOR SALE TO THE GENERAL PUBLIC.

7
8 NEW SECTION. Section 2. Definitions. As used in [section 1], the following definitions apply:

9 (1) "Health care provider" means:

10 (a) a person licensed by the state of Montana to engage in the practice of optometry, chiropractic,
11 podiatry, naturopathic medicine, psychology, physical therapy, occupational therapy, speech-language
12 pathology, audiology, direct-entry midwifery, dentistry, or selling, dispensing, and fitting hearing aids; or

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14 (2) "Health care service" means a diagnostic or treatment facility or goods or services intended
15 for the diagnosis or treatment of a human illness.

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18 (5) "Representative" means a person:

19 (a) who is a member of the patient's immediate family or who is acting on the patient's behalf;
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28 patient at the point of initial contact and in subsequent contacts by any means of communication, including
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30 ~~dentist~~ HEALTH CARE PROVIDER is no more or less qualified than a ~~dentist~~ HEALTH CARE PROVIDER who

1 does not participate in the referral business or service.

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6 4; and

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9 PENALTIES ADOPTED BY EACH RESPECTIVE BOARD.

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11 NEW SECTION. Section 4. Codification instruction. (1) [Sections 1 and 2 THROUGH 3] are
12 intended to be codified as an integral part of Title 37, chapter 2, and the provisions of Title 37, chapter
13 2, apply to [sections 1 and 2 THROUGH 3].

14 (2) [Section 3] is intended to be codified as an integral part of Title 30, chapter 14, part 2, and
15 the provisions of Title 30, chapter 14, part 2, apply to [section 3].

16 -END-