

# Louisiana Revised Statutes of 1950

## Title 37 – Professions and Occupations

### Chapter 20 – Miscellaneous Provisions Common to Certain Professions

#### Part VII – Health Care Providers

##### **§1744. Disclosure of financial interest by referring health care provider**

- A. For the purposes of this Section, the following terms shall have the following meanings:
- (1) “*Board*” means Louisiana State Board of Medical Examiners, Louisiana State Board of Dentistry, Louisiana Board of Chiropractic Examiners, Louisiana State Board of Optometry Examiners, Louisiana State Board of Physical Therapy Examiners, Louisiana State Board of Examiners for Psychologists, Louisiana State Board of Nursing, Louisiana Licensed Professional Counselors Board of Examiners, Louisiana State Board of Practical Nurse Examiners, or Louisiana Board of Pharmacy.
  - (2) “*Health care provider*” means a person, partnership, or corporation, licensed by the state to provide health care or professional services as a physician, dentist, chiropractor, podiatrist, optometrist, physical therapist, psychologist, medical psychologist, licensed professional counselor, registered or licensed practical nurse, pharmacist, and any officer, employee, or agent thereof acting in the course and scope of his employment.
  - (3) “*Financial interest*” means a significant ownership or investment interest established through debt, equity, or other means and held by a health care provider or a member of a health care provider’s immediate family, or any form of direct or indirect remuneration for referral.
- B. No health care provider shall make referrals outside the same group practice as that of the referring health care provider to any other health care provider, licensed health care facility, or provider of health care goods and services including but not limited to providers of clinical laboratory services, diagnostic services, medicinal suppliers, and therapeutic services when the referring health care provider has a financial interest served by such referral, unless in advance of any such referral the referring health care provider discloses to the patient, in writing, the existence of such financial interest.
- C. (1) It shall be a violation of this Section for any licensee to enter into any arrangement or scheme, including cross-referral arrangements, if the licensee knows, or should know, that he or she has a principal purpose of ensuring referrals by the licensee to a particular entity, which referral, if made directly by the licensee, would be a violation of this Section.
- (2) Notwithstanding any other law to the contrary, any health care provider who violates of this Section shall refund all such sums received in payment for the goods and services furnished or rendered without disclosure of financial interest. Such a refund shall be paid to the individual patient, third-party payor, or other entity who made the payment.
- (3) Each respective board shall promulgate rules and regulations for enforcement of the provisions of this Section. Such rules and regulations shall include sanctions and restitution provisions and shall provide that a violation of this Section constitutes grounds for suspension or revocation of license or other credentials. Each board shall submit to the commissioner of insurance an annual report listing the investigations undertaken pursuant to this Section, including the number of violations and the sanctions imposed, if any.

*(Added by Act 657 of 1993 Legislature; amended by Act 303 of 2003 Legislature; amended by Act 251 of 2009 Legislature, effective January 1, 2010.)*

##### **§1745. Prohibition on payment for patient referrals**

- A. For the purposes of this Section, the following terms shall have the following meanings:
- (1) “*Board*” means Louisiana State Board of Medical Examiners, Louisiana Board of Chiropractic Examiners, Louisiana State Board of Dentistry, Louisiana State Board of Optometry Examiners, Louisiana State Board of Physical Therapy Examiners, Louisiana State Board of Examiners for Psychologists, Louisiana State Board of Nursing, Louisiana Licensed Professional Counselor Board of Examiners, Louisiana State Board of Practical Nurse Examiners, or Louisiana Board of Pharmacy.
  - (2) “*Health care provider*” means a person, partnership, or corporation, licensed by the state to provide

health care or professional services as a physician, chiropractor, dentist, dental hygienist, podiatrist, optometrist, physical therapist, psychologist, medical psychologist, licensed professional counselor, registered or licensed practical nurse, pharmacist, and any officer, employee, or agent thereof acting in the course and scope of his employment.

- B. No health care provider shall offer, make, solicit, or receive payment, directly or indirectly, overtly or covertly, in cash or in-kind, for referring or soliciting patients. Payments representing a return on investment based on a percentage of ownership are not considered a direct or indirect payment for the purposes of this Section.
- C.
  - (1) Each board shall promulgate rules and regulation for the implementation and enforcement of the provisions of Subsection B of this Section in accordance with the Administrative Procedure Act. Such rules and regulations shall include, at a minimum, sanctions and penalty provisions and permissible contracting activities known as “safe harbors.”
  - (2) Any activity permissible under the corresponding provisions of Title XVIII of the Social Security Act shall not be a violation of this Section.
  - (3) Violation of Subsection B of this Section by a health care provider may constitute grounds for suspension or revocation of license or other credentials by the appropriate board.

*(Added by Act 827 of 1993 Legislature; amended by 782 of 1999 Legislature; amended by 303 of 2003 Legislature; amended by Act 251 of 2009 Legislature, effective January 1, 2010.)*

(end of Part VII of Chapter 20)

(end of Chapter 20)