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Senate Bill 517 (as introduced 5-30-01)  
Sponsor: Senator Bev Hammerstrom  
Committee: Health Policy

Date Completed: 10-2-01

## **CONTENT**

**The bill would amend the Public Health Code to eliminate provisions that prevent licensed health professionals from referring patients to a facility or business in which the licensees have a financial interest; instead, the bill would restrict referrals by a physician for a designated health service in violation of the Federal Social Security Act.**

Currently, under the Code, the Department of Consumer and Industry Services may investigate activities related to the practice of a licensed health professional (i.e., someone licensed under Article 15 of the Code, which regulates the following health professions: chiropractic, dentistry, marriage and family therapy, medicine, nursing, optometry, osteopathic medicine and surgery, pharmacy practice and drug control, physical therapy, podiatric medicine and surgery, counseling, psychology, occupational therapy, sanitation, social work, and veterinary medicine). The Department must report its findings to the appropriate disciplinary subcommittee.

A disciplinary subcommittee may take various actions against a licensee if it finds certain grounds for action, such as unprofessional conduct. Unprofessional conduct includes "Directing or requiring an individual to purchase or secure a drug, device, treatment, procedure, or service from another person, place, facility, or business in which the licensee has a financial interest". The bill would eliminate this provision.

The bill would include as unprofessional conduct a referral by a physician for a designated health service that violated Section 1877 of Part D of Title 18 of the Social Security Act (42 USC 1395 nn), or a regulation promulgated under that section. (Section 1877 prohibits a physician or a physician's immediate family member, who has a financial relationship with an entity specified in Section 1877, from making a referral to the entity for designated health services for which payment otherwise may be made; and prohibits an entity from presenting a claim or bill to an individual, third party payor, or other entity for designated health services furnished pursuant to a prohibited referral. Section 1877 also contains a list of exceptions to the prohibited referrals.)

The bill states that Section 1877 and the regulations promulgated under it, as they would exist on the bill's effective date, would be incorporated by reference for purposes of the unprofessional conduct provisions. A disciplinary subcommittee would have to apply Section 1877 and the regulations promulgated under it regardless of the source of payment for the designated health service referred and rendered.

"Designated health service" would mean that term as defined in Section 1877 and the regulations promulgated under it. (Section 1877 defines "designated health services" as any

of the following: clinical laboratory services; physical therapy services; occupational therapy services; radiology services, including magnetic resonance imaging, computerized axial tomography scans, and ultrasound services; radiation therapy services and supplies; durable medical equipment and supplies; parenteral and enteral nutrients, equipment, and supplies; prosthetics, orthotics, and prosthetic devices and supplies; home health services; outpatient prescription drugs; and inpatient and outpatient hospital services.)

MCL 333.16221

Legislative Analyst: G. Towne

**FISCAL IMPACT**

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: M. Tyszkiewicz