

# HOUSE BILL 1519

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CF SB 1024

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By: **Delegates Pena–Melnik, Bromwell, West, Angel, Barron, Cullison, Kipke, Krebs, McDonough, Metzgar, Miele, Morgan, Saab, Szeliga, and K. Young**

Introduced and read first time: February 9, 2018

Assigned to: Health and Government Operations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Self-Referrals – Oncology Group Practices – Exemption**

3 FOR the purpose of requiring the Maryland Health Care Commission to establish a process  
4 to exempt one oncology group practice in certain geographic regions from a certain  
5 prohibition against self-referral; requiring the Commission to adopt regulations on  
6 or before a certain date that include a certain application process and certain  
7 authorization for a certain oncology group practice to obtain a certain exemption;  
8 requiring an oncology group practice applying for the exemption to submit an  
9 application to the Commission on the form the Commission requires; requiring  
10 certain applicants to demonstrate, to the satisfaction of the Commission, that the  
11 applicant meets certain requirements; requiring the Commission to review a certain  
12 application and notify the applicant as to whether the applicant is approved as an  
13 integrated community oncology group practice within a certain period of time;  
14 requiring a certain integrated community oncology group practice to participate in  
15 certain programs, file a certain performance report, and comply with any other  
16 requirements established by the Commission; prohibiting a certain health care  
17 practitioner from collecting or attempting to collect certain money under certain  
18 circumstances, reducing or withholding certain care, or ordering or delivering certain  
19 care; requiring a certain health care practitioner to comply with certain  
20 requirements when making a certain referral; requiring an integrated community  
21 oncology group practice to file a certain performance report with the Commission on  
22 or before a certain date for certain years; requiring the Commission to review a  
23 certain performance report and make a certain determination within a certain period  
24 of time; requiring the Commission to make a certain report to the General Assembly  
25 under certain circumstances; defining certain terms and altering certain definitions;  
26 making conforming changes; and generally relating to self-referrals and oncology  
27 group practices.

28 BY repealing and reenacting, with amendments,  
29 Article – Health Occupations

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Section 1–301 and 1–302(d)(11) and (12)  
Annotated Code of Maryland  
(2014 Replacement Volume and 2017 Supplement)

BY repealing and reenacting, without amendments,  
Article – Health Occupations  
Section 1–302(a), (b), (c), and (e) and 1–303  
Annotated Code of Maryland  
(2014 Replacement Volume and 2017 Supplement)

BY adding to  
Article – Health Occupations  
Section 1–302(d)(13) and 1–302.1  
Annotated Code of Maryland  
(2014 Replacement Volume and 2017 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
That the Laws of Maryland read as follows:

### **Article – Health Occupations**

1–301.

(a) In this subtitle the following words have the meanings indicated.

(b) (1) “Beneficial interest” means ownership, through equity, debt, or other means, of any financial interest.

(2) “Beneficial interest” does not include ownership, through equity, debt, or other means, of securities, including shares or bonds, debentures, or other debt instruments:

(i) In a corporation that is traded on a national exchange or over the counter on the national market system;

(ii) That at the time of acquisition, were purchased at the same price and on the same terms generally available to the public;

(iii) That are available to individuals who are not in a position to refer patients to the health care entity on the same terms that are offered to health care practitioners who may refer patients to the health care entity;

(iv) That are unrelated to the past or expected volume of referrals from the health care practitioner to the health care entity; and

(v) That are not marketed differently to health care practitioners that may make referrals than they are marketed to other individuals.

**(C) “COMMISSION” MEANS THE MARYLAND HEALTH CARE COMMISSION.**

**[(c)] (D)** (1) “Compensation arrangement” means any agreement or system involving any remuneration between a health care practitioner or the immediate family member of the health care practitioner and a health care entity.

(2) “Compensation arrangement” does not include:

(i) Compensation or shares under a faculty practice plan or a professional corporation affiliated with a teaching hospital and comprised of health care practitioners who are members of the faculty of a university;

(ii) Amounts paid under a bona fide employment agreement between a health care entity and a health care practitioner or an immediate family member of the health care practitioner;

(iii) An arrangement between a health care entity and a health care practitioner or the immediate family member of a health care practitioner for the provision of any services, as an independent contractor, if:

1. The arrangement is for identifiable services;

2. The amount of the remuneration under the arrangement is consistent with the fair market value of the service and is not determined in a manner that takes into account, directly or indirectly, the volume or value of any referrals by the referring health care practitioner; and

3. The compensation is provided in accordance with an agreement that would be commercially reasonable even if no referrals were made to the health care provider;

(iv) Compensation for health care services pursuant to a referral from a health care practitioner and rendered by a health care entity, that employs or contracts with an immediate family member of the health care practitioner, in which the immediate family member’s compensation is not based on the referral;

(v) An arrangement for compensation which is provided by a health care entity to a health care practitioner or the immediate family member of the health care practitioner to induce the health care practitioner or the immediate family member of the health care practitioner to relocate to the geographic area served by the health care entity in order to be a member of the medical staff of a hospital, if:

1. The health care practitioner or the immediate family member of the health care practitioner is not required to refer patients to the health care entity;

2. The amount of the compensation under the arrangement is not determined in a manner that takes into account, directly or indirectly, the volume or value of any referrals by the referring health care practitioner; and

3. The health care entity needs the services of the practitioner to meet community health care needs and has had difficulty in recruiting a practitioner;

(vi) Payments made for the rental or lease of office space if the payments are:

1. At fair market value; and

2. In accordance with an arm's length transaction;

(vii) Payments made for the rental or lease of equipment if the payments are:

1. At fair market value; and

2. In accordance with an arm's length transaction; or

(viii) Payments made for the sale of property or a health care practice if the payments are:

1. At fair market value;

2. In accordance with an arm's length transaction; and

3. The remuneration is provided in accordance with an agreement that would be commercially reasonable even if no referrals were made.

**[(d)] (E)** "Direct supervision" means a health care practitioner is present on the premises where the health care services or tests are provided and is available for consultation within the treatment area.

**(F) "EASTERN SHORE REGION" MEANS CAROLINE COUNTY, CECIL COUNTY, DORCHESTER COUNTY, KENT COUNTY, QUEEN ANNE'S COUNTY, SOMERSET COUNTY, TALBOT COUNTY, WICOMICO COUNTY, AND WORCESTER COUNTY.**

**[(e)] (G)** "Faculty practice plan" means a tax-exempt organization established under Maryland law by or at the direction of a university to accommodate the professional practice of members of the faculty who are health care practitioners.

**[(f)] (H)** "Group practice" means a group of two or more health care practitioners

1 legally organized as a partnership, professional corporation, foundation, nonprofit  
2 corporation, faculty practice plan, or similar association:

3 (1) In which each health care practitioner who is a member of the group  
4 provides substantially the full range of services which the practitioner routinely provides  
5 through the joint use of shared office space, facilities, equipment, and personnel;

6 (2) For which substantially all of the services of the health care  
7 practitioners who are members of the group are provided through the group and are billed  
8 in the name of the group and amounts so received are treated as receipts of the group; and

9 (3) In which the overhead expenses of and the income from the practice are  
10 distributed in accordance with methods previously determined on an annual basis by  
11 members of the group.

12 **[(g)] (I)** “Health care entity” means a business entity that provides health care  
13 services for the:

14 (1) Testing, diagnosis, or treatment of human disease or dysfunction; or

15 (2) Dispensing of drugs, medical devices, medical appliances, or medical  
16 goods for the treatment of human disease or dysfunction.

17 **[(h)] (J)** “Health care practitioner” means a person who is licensed, certified, or  
18 otherwise authorized under this article to provide health care services in the ordinary  
19 course of business or practice of a profession.

20 **[(i)] (K)** “Health care service” means medical procedures, tests and services  
21 provided to a patient by or through a health care entity.

22 **[(j)] (L)** “Immediate family member” means a health care practitioner’s:

23 (1) Spouse;

24 (2) Child;

25 (3) Child’s spouse;

26 (4) Parent;

27 (5) Spouse’s parent;

28 (6) Sibling; or

29 (7) Sibling’s spouse.

30 **[(k)] (M)** (1) “In-office ancillary services” means those basic health care

services and tests routinely performed in the office of one or more health care practitioners.

(2) Except for a radiologist group practice [or], an office consisting solely of one or more radiologists, **OR AN ONCOLOGY GROUP PRACTICE OR AN OFFICE CONSISTING SOLELY OF ONE OR MORE ONCOLOGISTS THAT PROVIDES RADIATION THERAPY SERVICES OR NONDIAGNOSTIC COMPUTER TOMOGRAPHY SCAN SERVICES TO PLAN AND DELIVER RADIATION THERAPY**, “in-office ancillary services” does not include:

(i) Magnetic resonance imaging services;

(ii) Radiation therapy services; or

(iii) Computer tomography scan services.

**(N) “INTEGRATED COMMUNITY ONCOLOGY GROUP PRACTICE” MEANS AN ONCOLOGY GROUP PRACTICE THAT:**

**(1) IS LOCATED IN A TARGET REGION; AND**

**(2) HAS RECEIVED AN EXEMPTION UNDER § 1-302.1 OF THIS SUBTITLE.**

**(O) “ONCOLOGY GROUP PRACTICE” MEANS A GROUP PRACTICE THAT, ON JANUARY 1, 2018, AND FOR THE DURATION OF TIME THE ONCOLOGY GROUP PRACTICE IS PRACTICING UNDER AN EXEMPTION UNDER § 1-302.1 OF THIS SUBTITLE, IS COMPOSED SOLELY OF ONCOLOGISTS WHO:**

**(1) ARE OWNERS OF THE PRACTICE; AND**

**(2) PRACTICE MEDICINE IN THE STATE UNDER A LICENSE ISSUED BY THE STATE BOARD OF PHYSICIANS.**

**(P) “PERFORMANCE REPORT” MEANS A REPORT TO THE COMMISSION UNDER § 1-302.1 OF THIS SUBTITLE.**

**[ (l) ] (Q)** (1) “Referral” means any referral of a patient for health care services.

(2) “Referral” includes:

(i) The forwarding of a patient by one health care practitioner to another health care practitioner or to a health care entity outside the health care practitioner’s office or group practice; or

(ii) The request or establishment by a health care practitioner of a plan of care for the provision of health care services outside the health care practitioner's office or group practice.

**(R) "SOUTHERN MARYLAND REGION" MEANS CALVERT COUNTY, CHARLES COUNTY, AND ST. MARY'S COUNTY.**

**(S) "TARGET REGION" MEANS A COUNTY IN THE WESTERN MARYLAND REGION, THE SOUTHERN MARYLAND REGION, OR THE EASTERN SHORE REGION.**

**(T) "WESTERN MARYLAND REGION" MEANS ALLEGANY COUNTY, CARROLL COUNTY, FREDERICK COUNTY, GARRETT COUNTY, AND WASHINGTON COUNTY.**

1-302.

(a) Except as provided in subsection (d) of this section, a health care practitioner may not refer a patient, or direct an employee of or person under contract with the health care practitioner to refer a patient to a health care entity:

(1) In which the health care practitioner or the practitioner in combination with the practitioner's immediate family owns a beneficial interest;

(2) In which the practitioner's immediate family owns a beneficial interest of 3 percent or greater; or

(3) With which the health care practitioner, the practitioner's immediate family, or the practitioner in combination with the practitioner's immediate family has a compensation arrangement.

(b) A health care entity or a referring health care practitioner may not present or cause to be presented to any individual, third party payor, or other person a claim, bill, or other demand for payment for health care services provided as a result of a referral prohibited by this subtitle.

(c) Subsection (a) of this section applies to any arrangement or scheme, including a cross-referral arrangement, which the health care practitioner knows or should know has a principal purpose of assuring indirect referrals that would be in violation of subsection (a) of this section if made directly.

(d) The provisions of this section do not apply to:

(11) A health care practitioner who refers a patient to a hospital in which the health care practitioner has a beneficial interest if:

(i) The health care practitioner is authorized to perform services at the hospital; and

(ii) The ownership or investment interest is in the hospital itself and not solely in a subdivision of the hospital; [or]

(12) Subject to subsection (f) of this section, a health care practitioner who has a compensation arrangement with a health care entity, if the compensation arrangement is funded by or paid under:

(i) A Medicare shared savings program accountable care organization authorized under 42 U.S.C. § 1395jjj;

(ii) As authorized under 42 U.S.C. § 1315a:

1. An advance payment accountable care organization model;

2. A pioneer accountable care organization model; or

3. A next generation accountable care organization model;

(iii) An alternative payment model approved by the federal Centers for Medicare and Medicaid Services; or

(iv) Another model approved by the federal Centers for Medicare and Medicaid Services that may be applied to health care services provided to both Medicare beneficiaries and individuals who are not Medicare beneficiaries; OR

**(13) A HEALTH CARE PRACTITIONER WHO HAS A BENEFICIAL INTEREST IN AND PRACTICES MEDICINE AT AN ONCOLOGY GROUP PRACTICE THAT HAS BEEN GRANTED AN EXEMPTION BY THE COMMISSION UNDER § 1-302.1 OF THIS SUBTITLE.**

(e) A health care practitioner exempted from the provisions of this section in accordance with subsection (d) shall be subject to the disclosure provisions of § 1-303 of this subtitle.

**1-302.1.**

**(A) (1) THE COMMISSION SHALL ESTABLISH A PROCESS TO EXEMPT ONE ONCOLOGY GROUP PRACTICE FROM EACH TARGET REGION FROM THE PROHIBITION AGAINST SELF-REFERRAL UNDER § 1-302 OF THIS SUBTITLE.**

**(2) ON OR BEFORE DECEMBER 1, 2018, THE COMMISSION SHALL ADOPT REGULATIONS TO CARRY OUT THIS SECTION, INCLUDING:**

**(I) AN APPLICATION PROCESS FOR THE COMMISSION TO BEGIN**



1 ACCEPTING APPLICATIONS FOR THE EXEMPTION UNDER PARAGRAPH (1) OF THIS  
2 SUBSECTION ON OR BEFORE APRIL 1, 2019; AND

3 (II) AUTHORIZING AN ONCOLOGY GROUP PRACTICE WITH MORE  
4 THAN ONE PRACTICE LOCATION TO OBTAIN AN EXEMPTION UNDER PARAGRAPH (1)  
5 OF THIS SUBSECTION FOR MORE THAN ONE LOCATION, BUT NOT MORE THAN ONE  
6 EXEMPTION FOR EACH TARGET REGION.

7 (B) AN ONCOLOGY GROUP PRACTICE APPLYING FOR AN EXEMPTION UNDER  
8 SUBSECTION (A) OF THIS SECTION SHALL SUBMIT AN APPLICATION TO THE  
9 COMMISSION ON THE FORM THAT THE COMMISSION REQUIRES.

10 (C) EACH APPLICANT SHALL DEMONSTRATE, TO THE SATISFACTION OF THE  
11 COMMISSION, THAT THE APPLICANT:

12 (1) (I) HAS PARTICIPATED IN MEDICARE AND THE MARYLAND  
13 MEDICAL ASSISTANCE PROGRAM, AND, IF THE APPLICANT SPECIALIZES IN  
14 PEDIATRIC ONCOLOGY OR PEDIATRIC HEMATOLOGY SERVICES, THE MARYLAND  
15 CHILDREN'S HEALTH PROGRAM, FOR THE IMMEDIATELY PRECEDING 3 CALENDAR  
16 YEARS; AND

17 (II) COMMITS TO ACCEPTING PATIENTS ENROLLED IN  
18 MEDICARE AND THE MARYLAND MEDICAL ASSISTANCE PROGRAM, AND, IF THE  
19 APPLICANT SPECIALIZES IN PEDIATRIC ONCOLOGY OR PEDIATRIC HEMATOLOGY  
20 SERVICES, THE MARYLAND CHILDREN'S HEALTH PROGRAM, FOR THE DURATION  
21 OF THE EXEMPTION;

22 (2) HAS SUFFICIENT EXPERTISE AND TECHNICAL CAPABILITIES TO:

23 (I) CONDUCT INNOVATIVE ONCOLOGY PAYMENT MODEL  
24 STUDIES;

25 (II) ENROLL PATIENTS IN CLINICAL TRIALS; AND

26 (III) SUPPORT THE COLLECTION AND REPORTING OF  
27 INFORMATION AS REQUIRED BY THE COMMISSION IN ACCORDANCE WITH  
28 SUBSECTION (H) OF THIS SECTION;

29 (3) HAS THE ABILITY TO MEET A MINIMUM NUMBER OF PATIENT  
30 ENCOUNTERS PER YEAR IN THE STATE, AS ESTABLISHED BY THE COMMISSION;

31 (4) PLANS TO PARTICIPATE IN EVIDENCE-BASED QUALITY AND  
32 STANDARDIZED CARE PROGRAMS TO:

1                   **(I)    ACHIEVE THE GOALS OF MARYLAND’S ALL-PAYER MODEL**  
2 **CONTRACT; AND**

3                   **(II)   PREVENT POSSIBLE REDUCTION OR WITHHOLDING OF**  
4 **MEDICALLY NECESSARY ONCOLOGY OR HEMATOLOGY CARE OR THE ORDERING OR**  
5 **THE DELIVERY OF CARE THAT IS NOT MEDICALLY NECESSARY;**

6                   **(5)   IS ACCREDITED TO PROVIDE RADIATION THERAPY OR**  
7 **NONDIAGNOSTIC COMPUTER TOMOGRAPHY SCAN SERVICES BY:**

8                   **(I)    THE AMERICAN COLLEGE OF RADIOLOGY;**

9                   **(II)   THE AMERICAN COLLEGE OF RADIATION ONCOLOGY;**

10                  **(III)   THE INTERSOCIETAL ACCREDITATION COMMISSION;**

11                  **(IV)   THE JOINT COMMISSION’S AMBULATORY CARE**  
12 **ACCREDITATION PROGRAM; OR**

13                  **(V)   ANY OTHER NATIONALLY RECOGNIZED ACCREDITATION**  
14 **ORGANIZATION; AND**

15                  **(6)   IS ABLE TO:**

16                  **(I)    SAFELY AND APPROPRIATELY DELIVER RADIATION**  
17 **THERAPY TO PATIENTS; AND**

18                  **(II)   ACHIEVE THE GOALS AND MILESTONES OF THE STATE’S**  
19 **ALL-PAYER MODEL CONTRACT.**

20                  **(D)   THE COMMISSION SHALL REVIEW AN APPLICATION AND NOTIFY THE**  
21 **ONCOLOGY GROUP PRACTICE WITHIN 60 DAYS AFTER RECEIVING THE APPLICATION**  
22 **AS TO WHETHER THE ONCOLOGY GROUP PRACTICE IS APPROVED AS AN INTEGRATED**  
23 **COMMUNITY ONCOLOGY GROUP PRACTICE.**

24                  **(E)   AN INTEGRATED COMMUNITY ONCOLOGY GROUP PRACTICE SHALL:**

25                  **(1)   PARTICIPATE IN MEDICARE, THE MARYLAND MEDICAL**  
26 **ASSISTANCE PROGRAM, AND, IF THE INTEGRATED COMMUNITY ONCOLOGY GROUP**  
27 **PRACTICE INCLUDES ONCOLOGISTS SPECIALIZING IN PEDIATRIC ONCOLOGY OR**  
28 **PEDIATRIC HEMATOLOGY SERVICES, THE MARYLAND CHILDREN’S HEALTH**  
29 **PROGRAM;**

1                   **(2) FILE AN ANNUAL PERFORMANCE REPORT WITH THE COMMISSION**  
2 **AS REQUIRED UNDER SUBSECTION (H) OF THIS SECTION; AND**

3                   **(3) COMPLY WITH ANY OTHER REQUIREMENTS ESTABLISHED BY THE**  
4 **COMMISSION.**

5           **(F) (1) A HEALTH CARE PRACTITIONER MAY NOT COLLECT OR ATTEMPT**  
6 **TO COLLECT ANY MONEY FROM A PATIENT FOR A SERVICE PROVIDED IN AN**  
7 **INTEGRATED COMMUNITY ONCOLOGY GROUP PRACTICE IF:**

8                   **(i) THE PAYOR ISSUES AN ADVERSE DECISION THAT THE CARE**  
9 **PROVIDED IS OR WAS NOT MEDICALLY NECESSARY, APPROPRIATE, OR EFFICIENT;**  
10 **AND**

11                   **(ii) THE HEALTH CARE PRACTITIONER, AS AUTHORIZED BY THE**  
12 **PATIENT, HAS EXHAUSTED ALL AVAILABLE APPEALS.**

13           **(2) A HEALTH CARE PRACTITIONER MAY NOT COLLECT OR ATTEMPT**  
14 **TO COLLECT AN AMOUNT OF MONEY FROM A PATIENT FOR A COVERED SERVICE**  
15 **PROVIDED IN AN INTEGRATED COMMUNITY ONCOLOGY GROUP PRACTICE THAT IS**  
16 **GREATER THAN ANY DEDUCTIBLE, COPAYMENT, OR COINSURANCE AMOUNT**  
17 **PAYABLE BY THE PATIENT FOR COVERED SERVICES, TO BE CALCULATED AS IF THE**  
18 **SERVICE WERE PROVIDED BY AN IN-NETWORK PROVIDER OR FACILITY.**

19           **(3) A HEALTH CARE PRACTITIONER WHO PROVIDES SERVICES AT AN**  
20 **INTEGRATED COMMUNITY ONCOLOGY GROUP PRACTICE MAY NOT:**

21                   **(i) REDUCE OR WITHHOLD MEDICALLY NECESSARY CARE; OR**

22                   **(ii) ORDER OR DELIVER CARE THAT IS NOT MEDICALLY**  
23 **NECESSARY.**

24           **(G) AT THE TIME A HEALTH CARE PRACTITIONER IN AN INTEGRATED**  
25 **COMMUNITY ONCOLOGY GROUP PRACTICE MAKES A LAWFUL REFERRAL, THE**  
26 **HEALTH CARE PRACTITIONER SHALL COMPLY WITH THE REQUIREMENTS OF § 1-303**  
27 **OF THIS SUBTITLE.**

28           **(H) (1) ON OR BEFORE DECEMBER 31 OF THE YEAR IN WHICH AN**  
29 **EXEMPTION IS GRANTED TO AN INTEGRATED COMMUNITY ONCOLOGY GROUP**  
30 **PRACTICE AND ON OR BEFORE DECEMBER 31 FOR EACH OF THE IMMEDIATELY**  
31 **FOLLOWING 3 YEARS, THE INTEGRATED COMMUNITY ONCOLOGY GROUP PRACTICE**  
32 **SHALL FILE A PERFORMANCE REPORT WITH THE COMMISSION.**

33                   **(2) THE PERFORMANCE REPORT SHALL CONTAIN INFORMATION**

1 REQUIRED BY THE COMMISSION TO EVALUATE THE PERFORMANCE OF THE  
2 INTEGRATED ONCOLOGY GROUP PRACTICE.

3 (3) WITHIN 60 DAYS AFTER RECEIVING A PERFORMANCE REPORT,  
4 THE COMMISSION SHALL REVIEW THE PERFORMANCE REPORT AND DETERMINE  
5 WHETHER THE INTEGRATED COMMUNITY ONCOLOGY GROUP PRACTICE SHALL:

6 (I) RETAIN ITS EXEMPTION; OR

7 (II) RETAIN ITS EXEMPTION SUBJECT TO A CORRECTIVE  
8 ACTION PLAN.

9 (4) WITHIN 60 DAYS AFTER RECEIVING AN INTEGRATED COMMUNITY  
10 ONCOLOGY GROUP PRACTICE'S FOURTH PERFORMANCE REPORT, THE COMMISSION  
11 SHALL SUBMIT A REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH  
12 § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON WHETHER THE INTEGRATED  
13 COMMUNITY ONCOLOGY GROUP PRACTICE HAS ACHIEVED THE GOALS AND  
14 MILESTONES OF THE STATE'S ALL-PAYER MODEL CONTRACT.

15 1-303.

16 (a) Except as provided in subsection (c) of this section and Title 12 of this article,  
17 a health care practitioner making a lawful referral shall disclose the existence of the  
18 beneficial interest in accordance with provisions of this section.

19 (b) Prior to referring a patient to a health care entity in which the practitioner,  
20 the practitioner's immediate family, or the practitioner in combination with the  
21 practitioner's immediate family owns a beneficial interest, the health care practitioner  
22 shall:

23 (1) Except if an oral referral is made by telephone, provide the patient with  
24 a written statement that:

25 (i) Discloses the existence of the ownership of the beneficial interest  
26 or compensation arrangement;

27 (ii) States that the patient may choose to obtain the health care  
28 service from another health care entity; and

29 (iii) Requires the patient to acknowledge in writing receipt of the  
30 statement;

31 (2) Except if an oral referral is made by telephone, insert in the medical  
32 record of the patient a copy of the written acknowledgement;

(3) Place on permanent display a written notice that is in a typeface that is large enough to be easily legible to the average person from a distance of 8 feet and that is in a location that is plainly visible to the patients of the health care practitioner disclosing all of the health care entities:

(i) In which the practitioner, the practitioner's immediate family, or the practitioner in combination with the practitioner's immediate family owns a beneficial interest; and

(ii) To which the practitioner refers patients; and

(4) Documents in the medical record of the patient that:

(i) A valid medical need exists for the referral; and

(ii) The practitioner has disclosed the existence of the beneficial interest to the patient.

(c) The provisions of this section do not apply to:

(1) A health care practitioner when treating a member of a health maintenance organization as defined in § 19-701 of the Health – General Article and the health care practitioner does not have a beneficial interest in the health care entity; or

(2) A health care practitioner who refers a patient:

(i) To another health care practitioner in the same group practice as the referring health care practitioner;

(ii) For in-office ancillary services; or

(iii) For health care services provided through or by a health care entity owned or controlled by a hospital.

(d) A health care practitioner who fails to comply with any provision of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$5,000.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2018.