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# A BILL FOR AN ACT

RELATING TO HEALTH CARE REFERRALS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that self-referrals,  
2           which occur when a health care provider refers a patient for  
3           services or treatments at facilities in which the health care  
4           provider has a financial interest, raise questions about  
5           financial and medical conflicts of interest. The legislature  
6           further finds that national and government studies have shown  
7           that physician ownership of health care facilities may lead to  
8           higher rates of self-referral, unnecessary testing, and  
9           overutilization of services.

10           The legislature additionally finds that the recent decision  
11           in *Pac. Radiation Oncology, LLC, v. Queen's Med. Ctr.*, 2014 WL  
12           6749117 (D. Haw. Nov. 30, 2014), prohibits physicians from  
13           referring patients to treatment centers in which the physicians  
14           have a financial interest only for services subject to no-fault  
15           motor vehicle insurance. This distinction created by the court  
16           allows physicians to refer patients to facilities in which the  
17           physician has a financial interest for all other kinds of injury  
18           or sickness not arising from motor vehicle accidents.



1           Accordingly, the purpose of this Act is to clarify that a  
2 health care provider who refers patients to facilities in which  
3 the health care provider has a financial interest must provide  
4 patients with sufficient information regarding the financial  
5 incentives for the referral, in order to allow the patient to  
6 make meaningful treatment decisions.

7           SECTION 2. Chapter 451D, Hawaii Revised Statutes, is  
8 amended by adding a new section to be appropriately designated  
9 and to read as follows:

10           "§451D- Prohibited health care provider self-referral  
11 practices. (a) No health care provider shall refer, for any  
12 service or treatment, a patient to any entity in which the  
13 referring health care provider has a financial interest unless  
14 the referring health care provider has disclosed that financial  
15 interest to the patient.

16           (b) The health care provider shall make the disclosure  
17 required by this section in advance and in writing, and shall  
18 obtain the signature of the patient and retain the disclosure  
19 form for a period of two years. The health care provider shall  
20 include in the disclosure a statement indicating that the  
21 patient is free to choose a different health care provider.



1        (c) The regulated industries complaints office of the  
2 department may initiate investigations and disciplinary action  
3 to enforce violations of this section.

4        (d) A violation of this section shall be deemed an unfair  
5 method of competition and an unfair or deceptive trade act or  
6 practice in violation of section 480-2.

7        (e) For the purposes of this section:

8        "Financial interest" means an ownership or investment  
9 interest through debt, equity, or any other means. "Financial  
10 interest" does not mean salary or other compensation paid to  
11 health care providers by a health maintenance organization, or  
12 any compensation arrangement involving payment by a group  
13 practice that contracts with a health maintenance organization  
14 to a health care provider in the same group practice or entity  
15 affiliated with the health maintenance organization for services  
16 provided to a member of the health maintenance organization.

17        "Health care provider" means any person who is licensed by  
18 the department of commerce and consumer affairs to provide  
19 health care services pursuant to chapter 436E, 442, 448, 452,  
20 453, 455, 457G, 459, 461J, 463E, or 465."

21        SECTION 3. New statutory material is underscored.



1 SECTION 4. This Act shall take effect on January 1, 2050.

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**Report Title:**

Health Care Providers; Financial Interest; Self-referral;  
Referral Practices; Disclosure

**Description:**

Requires that health care providers who refer patients to facilities in which the provider has a financial interest disclose the financial incentives associated with the referral to patients, and establishes that failure to do so is an unfair or deceptive trade act or practice. Effective 1/1/2050. (SD1)

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