

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 2544

By Delegates Criss, Heckert and W. Hall

[Introduced January 13, 2023; Referred to the
Committee on Health and Human Resources]

1 A BILL to amend and reenact §16-62-2 of the Code of West Virginia, 1931, as amended, relating to
 2 making the investigation and enforcement of the Patient Brokering Act the responsibility of
 3 the Office of Health Facility Licensure and Certification ("OHFLAC"); and requiring
 4 OHFLAC to develop a tool to facilitate public complaints about the Patient Brokering Act.

Be it enacted by the Legislature of West Virginia:

ARTICLE 62. THE PATIENT BROKERING ACT.

§16-62-2. Patient brokering prohibited.

1 (a) It is unlawful for any person, including any health care provider or health care facility, to:

2 (1) Offer or pay a commission, benefit, bonus, rebate, kickback, or bribe, directly or
 3 indirectly, in cash or in kind, or engage in any split-fee arrangement, in any form whatsoever, to
 4 induce the referral of a patient or patronage to or from a health care provider or health care facility;

5 (2) Solicit or receive a commission, benefit, bonus, rebate, kickback, or bribe, directly or
 6 indirectly, in cash or in kind, or engage in any split-fee arrangement, in any form whatsoever, in
 7 return for referring a patient or patronage to or from a health care provider or health care facility;

8 (3) Solicit or receive a commission, benefit, bonus, rebate, kickback, or bribe, directly or
 9 indirectly, in cash or in kind, or engage in any split-fee arrangement, in any form whatsoever, in
 10 return for the acceptance or acknowledgment of treatment from a health care provider or health
 11 care facility;

12 (4) Aid, abet, advise, or otherwise participate in the conduct prohibited under this
 13 subsection; or

14 (5) Engage in any of the unlawful acts provided for in this subsection in regard to a
 15 recovery residence as defined in §16-59-1 of this code.

16 (b) *Penalties.* –

17 (1) Any person who violates the provisions of subsection (a) of this section is guilty of a
 18 felony and, upon conviction thereof, shall be fined not more than \$50,000, or imprisoned in a state

19 correctional facility for not less than one year nor more than five years, or both fined and
20 imprisoned.

21 (2) Notwithstanding the provisions of subdivision (1) of this section, any person who
22 violates subsection (a) of this section, where the prohibited conduct involves 10 or more patients,
23 is guilty of a felony and, upon conviction, shall be fined not more than \$100,000, or imprisoned in a
24 state correctional facility not less than two years nor more than five years, or both fined and
25 imprisoned.

26 (c) The investigation and enforcement of the Patient Brokering Act shall be the primary
27 responsibility of the Office of Health Facility Licensure and Certification ("OHFLAC"). OHFLAC
28 shall be required to develop a tool that facilitates public complaints about such activity relating to
29 the Patient Brokering Act.

NOTE: The purpose of this bill is to make the investigation and enforcement of the Patient Brokering Act the primary responsibility of the Office of Health Facility Licensure and Certification ("OHFLAC").

Strike-throughs indicate language that would be stricken from a heading or the present law, and underscoring indicates new language that would be added.