

## SENATE BILL NO. 51

INTRODUCED BY T. MURPHY

BY REQUEST OF THE CHILDREN, FAMILIES, HEALTH, AND HUMAN SERVICES INTERIM COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT ~~ADOPTING A POLICY~~ DESCRIBING RESPONSIBILITIES OF HEALTH CARE PROVIDERS PRACTITIONERS TOWARD PATIENTS; AND REQUIRING DISCLOSURE BY REFERRING HEALTH CARE PROVIDERS PRACTITIONERS OF ~~INVESTMENT INTERESTS OR EMPLOYMENT RELATIONSHIPS; PROVIDING EXCEPTIONS; AND CLARIFYING THE PRIMARY RESPONSIBILITY OF HEALTH CARE PROVIDERS~~ ANY FINANCIAL INTEREST ASSOCIATED WITH A REFERRAL."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

(Refer to Introduced Bill)

Strike everything after the enacting clause and insert:

**NEW SECTION. Section 1. Patient information -- disclosure required when making referrals -- definitions.** (1) It is public policy of the state of Montana that a patient receives from a health care practitioner information that allows the patient to make informed decisions not only relating to the patient's medical conditions but also to the financial or quality aspects of the patient's health care decisions.

(2) A health care practitioner who has a financial interest in an entity that provides diagnostic services or therapeutic services or who receives compensation or remuneration for referral of the patient to an entity that provides diagnostic services or therapeutic services shall disclose the interest to a patient prior to referring the patient for diagnostic services or therapeutic services.

(a) The information must be disclosed on a written referral to each patient at the time of referral or, if referred by phone, verbal disclosure must be made at the time of referral and a written referral must be promptly sent to the patient.

(b) The referral must contain the following notice written conspicuously on its face:

"During the course of your relationship with this health care practitioner, you may be referred to another health care provider or health care facility in which the practitioner has an investment, employment, or contractual interest. You have the freedom to choose among health care providers and health care facilities."

(3) Subsection (2) applies to an entity that provides diagnostic services and therapeutic services within

a hospital even though the entity is not owned by the hospital.

(4) (a) Except as provided in subsection (4)(b), this section does not apply to a patient receiving emergency care or to a patient admitted to a hospital or critical access hospital.

(b) Upon discharge, the inpatient or outpatient must be provided with the disclosure and referral information contained in subsection (2).

(5) Failure to provide disclosure of a financial interest may result in a \$100 penalty assessed by the department. The department shall report the violation to the appropriate licensing board.

(6) For the purposes of this section, the following definitions apply:

(a) "Department" means the department of public health and human services provided for in 2-15-2201.

(b) "Diagnostic services" means providing any test to determine or identify the nature of a disease, including laboratory and exploratory tests.

(c) "Financial interest" means that the health care practitioner or a partner or employee of the practitioner directly or indirectly holds through business or investment an ownership, contractual, or employment interest in or with another health care practitioner, health care facility, or other person or entity that is the beneficiary of the referral.

(d) "Health care facility" has the meaning provided in 50-5-101.

(e) "Health care practitioner" means an individual licensed by the department of labor and industry who has assessment, admission, and prescription authority.

(f) "Health care provider" has the meaning provided in 50-4-504.

(g) "Therapeutic services" means physical therapy, radiation therapy, and rehabilitation services, including physical therapy, occupational therapy, speech pathology, and any combination of those services.

**NEW SECTION. Section 2. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 50, chapter 4, and the provisions of Title 50, chapter 4, apply to [section 1].

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