

Introduced by Senator Price

February 17, 2011

An act to amend Section 650 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 544, as introduced, Price. Healing arts.

Under existing law, a healing arts licensee, except as specified, may refer a person to any laboratory, pharmacy, clinic, or health care facility, as defined, even if the licensee has a proprietary interest or coownership in the laboratory, pharmacy, clinic, or health care facility.

This bill would make a technical, nonsubstantive change to a related provision.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 650 of the Business and Professions Code
2 is amended to read:
3 650. (a) Except as provided in Chapter 2.3 (commencing with
4 Section 1400) of Division 2 of the Health and Safety Code, the
5 offer, delivery, receipt, or acceptance by any person licensed under
6 this division or the Chiropractic Initiative Act of any rebate, refund,
7 commission, preference, patronage dividend, discount, or other
8 consideration, whether in the form of money or otherwise, as
9 compensation or inducement for referring patients, clients, or
10 customers to any person, irrespective of any membership,

1 proprietary interest, or coownership in or with any person to whom
2 these patients, clients, or customers are referred is unlawful.

3 (b) The payment or receipt of consideration for services other
4 than the referral of patients which is based on a percentage of gross
5 revenue or similar type of contractual arrangement shall not be
6 unlawful if the consideration is commensurate with the value of
7 the services furnished or with the fair rental value of any premises
8 or equipment leased or provided by the recipient to the payer.

9 (c) The offer, delivery, receipt, or acceptance of any
10 consideration between a federally qualified health center, as defined
11 in Section 1396d(l)(2)(B) of Title 42 of the United States Code,
12 and any individual or entity providing goods, items, services,
13 donations, loans, or a combination thereof to the health center
14 entity pursuant to a contract, lease, grant, loan, or other agreement,
15 if that agreement contributes to the ability of the health center
16 entity to maintain or increase the availability, or enhance the
17 quality, of services provided to a medically underserved population
18 served by the health center, shall be permitted only to the extent
19 sanctioned or permitted by federal law.

20 (d) Except as provided in Chapter 2.3 (commencing with Section
21 1400) of Division 2 of the Health and Safety Code and in Sections
22 654.1 and 654.2 of this code, it shall not be unlawful for any person
23 licensed under this division to refer a person to any laboratory,
24 pharmacy, clinic (including entities exempt from licensure pursuant
25 to Section 1206 of the Health and Safety Code), or health care
26 facility solely because the licensee has a proprietary interest or
27 coownership in the laboratory, pharmacy, clinic, or health care
28 facility, provided, however, that the licensee's return on investment
29 for that proprietary interest or coownership shall be based upon
30 the amount of the capital investment or proportional ownership of
31 the licensee which ownership interest is not based on the number
32 or value of any patients referred. Any referral excepted under this
33 section shall be unlawful if the prosecutor proves that there was
34 no valid medical need for the referral.

35 (e) Except as provided in Chapter 2.3 (commencing with Section
36 1400) of Division 2 of the Health and Safety Code and in Sections
37 654.1 and 654.2 of this code, it shall not be unlawful to provide
38 nonmonetary remuneration, in the form of hardware, software, or
39 information technology and training services, as described in
40 subsections (x) and (y) of Section 1001.952 of Title 42 of the Code

1 of Federal Regulations, as amended October 4, 2007, as published
2 in the Federal Register (72 Fed. Reg. 56632 and 56644), and
3 subsequently amended versions.

4 (f) “Health care facility” ~~means~~ *shall mean* a general acute care
5 hospital, acute psychiatric hospital, skilled nursing facility,
6 intermediate care facility, and any other health facility licensed by
7 the State Department of Public Health under Chapter 2
8 (commencing with Section 1250) of Division 2 of the Health and
9 Safety Code.

10 (g) A violation of this section is a public offense and is
11 punishable upon a first conviction by imprisonment in a county
12 jail for not more than one year, or by imprisonment in the state
13 prison, or by a fine not exceeding fifty thousand dollars (\$50,000),
14 or by both that imprisonment and fine. A second or subsequent
15 conviction is punishable by imprisonment in the state prison or by
16 imprisonment in the state prison and a fine of fifty thousand dollars
17 (\$50,000).

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