S T A T E O F N E W Y O R K

10385

I N A S S E M B L Y

May 25, 2016

Introduced by M. of A. BUCHWALD -- read once and referred to the Committee on Health

AN ACT to amend the public health and education law, in relation to the provision of practice management, billing and health information technology services for healthcare facilities and professionals

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 2811 of the public health law, as added by chapter 776 of the laws of 1971 and as renumbered by chapter 649 of the laws of 1975, is amended to read as follows:

S 2811. Discounts and splitting fees with medical referral services; prohibited. No hospital or facility delivering health care shall grant or receive a discount to or from any medical referral service or in any manner split fees with a medical referral service; PROVIDED, HOWEVER, THAT NOTHING CONTAINED IN THIS CHAPTER SHALL PROHIBIT SUCH FACILITIES OR LICENSED PROFESSIONALS FROM PAYING A FAIR MARKET VALUE FEE TO ANY PERSON OR ENTITY WHOSE PURPOSE IS TO PERFORM PRACTICE MANAGEMENT, BILLING OR HEALTH INFORMATION TECHNOLOGY SERVICES BASED UPON A PERCENTAGE OF FEES BILLED OR COLLECTED, A FLAT FEE, OR ANY OTHER ARRANGEMENT THAT DIRECTLY OR INDIRECTLY DIVIDES FEES, FOR SUCH PURPOSES, PROVIDED THAT:

1. THE PERSON OR ENTITY PROVIDING PRACTICE MANAGEMENT, BILLING OR HEALTH INFORMATION TECHNOLOGY SERVICES IS NOT RESPONSIBLE FOR THE AMOUNT OF FEES CHARGED AND COLLECTED FOR THE SERVICES RENDERED BY SUCH FACILITY OR LICENSED PROFESSIONAL;

2. ALL CHARGES COLLECTED ARE PAID DIRECTLY TO THE FACILITY OR TO THE LICENSED PROFESSIONAL OR ARE DEPOSITED DIRECTLY INTO AN ACCOUNT IN THE NAME OF AND UNDER THE SOLE CONTROL OF THE FACILITY OR LICENSED PROFESSIONAL; AND

3. THE PERSON OR ENTITY PROVIDING PRACTICE MANAGEMENT, BILLING OR HEALTH INFORMATION TECHNOLOGY SERVICES DOES NOT REFER PATIENTS TO THE FACILITY OR LICENSED PROFESSIONAL AND THAT PAYMENTS MADE ARE NOT RELATED TO OR COMPENSATING FOR THE REFERRAL OF PATIENTS TO THE FACILITY OR LICENSED PROFESSIONAL.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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S 2. Section 6509-a of the education law, as amended by chapter 555 of the laws of 1993, is amended to read as follows:

S 6509-a. Additional definition of professional misconduct; limited application. Notwithstanding any inconsistent provision of this article or of any other provision of law to the contrary, the license or registration of a person subject to the provisions of articles one hundred thirty-two, one hundred thirty-three, one hundred thirty-six, one hundred thirty-seven, one hundred thirty-nine, one hundred forty-one, one hundred forty-three, one hundred forty-four, one hundred fifty-six, one hundred fifty-nine and one hundred sixty-four of this chapter may be revoked, suspended or annulled or such person may be subject to any other penalty provided in section sixty-five hundred eleven of this article in accordance with the provisions and procedure of this article for the following:

That any person subject to the above enumerated articles, has directly or indirectly requested, received or participated in the division, transference, assignment, rebate, splitting or refunding of a fee for, or has directly requested, received or profited by means of a credit or other valuable consideration as a commission, discount or gratuity in connection with the furnishing of professional care, or service, including x-ray examination and treatment, or for or in connection with the sale, rental, supplying or furnishing of clinical laboratory services or supplies, x-ray laboratory services or supplies, inhalation therapy service or equipment, ambulance service, hospital or medical supplies, physiotherapy or other therapeutic service or equipment, artificial limbs, teeth or eyes, orthopedic or surgical appliances or supplies, optical appliances, supplies or equipment, devices for aid of hearing, drugs, medication or medical supplies or any other goods, services or supplies prescribed for medical diagnosis, care or treatment under this chapter, except payment, not to exceed thirty-three and one-third per centum of any fee received for x-ray examination, diagnosis or treatment, to any hospital furnishing facilities for such examination, diagnosis or treatment. Nothing contained in this section shall prohibit such persons from practicing as partners, in groups or as a professional corporation or as a university faculty practice corporation nor from pooling fees and moneys received, either by the partnerships, professional corporations, university faculty practice corporations or groups by the individual members thereof, for professional services furnished by any individual professional member, or employee of such partnership, corporation or group, nor shall the professionals constituting the partnerships, corporations or groups be prohibited from sharing, dividing or apportioning the fees and moneys received by them or by the partnership, corporation or group in accordance with a partnership or other agreement; provided that no such practice as partners, corporations or in groups or pooling of fees or moneys received or shared, division or apportionment of fees shall be permitted with respect to care and treatment under the workers' compensation law except as expressly authorized by the workers' compensation law. Nothing contained in this chapter shall prohibit a medical or dental expense indemnity corporation pursuant to its contract with the subscriber from prorationing a medical or dental expense indemnity allowance among two or more professionals in proportion to the services rendered by each such professional at the request of the subscriber, provided that prior to payment thereof such professionals shall submit both to the medical or dental expense indemnity corporation and to the subscriber statements itemizing the services rendered by each such professional and the charges therefor. NOTHING

CONTAINED IN THIS CHAPTER SHALL PROHIBIT SUCH PROFESSIONALS FROM PAYING A FAIR MARKET VALUE FEE TO ANY PERSON OR ENTITY WHOSE PURPOSE IS TO PERFORM PRACTICE MANAGEMENT, BILLING OR HEALTH INFORMATION TECHNOLOGY SERVICES BASED UPON A PERCENTAGE OF FEES BILLED OR COLLECTED, A FLAT FEE, OR ANY OTHER ARRANGEMENT THAT DIRECTLY OR INDIRECTLY DIVIDES FEES, FOR SUCH PURPOSES, PROVIDED THAT:

(1) THE PERSON OR ENTITY PROVIDING PRACTICE MANAGEMENT, BILLING OR HEALTH INFORMATION TECHNOLOGY SERVICES IS NOT RESPONSIBLE FOR THE AMOUNT OF FEES CHARGED AND COLLECTED FOR THE SERVICES RENDERED BY SUCH PROFESSIONAL;

(2) ALL CHARGES COLLECTED ARE PAID DIRECTLY TO THE PROFESSIONAL OR ARE DEPOSITED DIRECTLY INTO AN ACCOUNT IN THE NAME OF AND UNDER THE SOLE CONTROL OF THE PROFESSIONAL; AND

(3) THE PERSON OR ENTITY PROVIDING PRACTICE MANAGEMENT, BILLING OR HEALTH INFORMATION TECHNOLOGY SERVICES DOES NOT REFER PATIENTS TO THE PROFESSIONAL AND THAT PAYMENTS MADE ARE NOT RELATED TO OR COMPENSATING FOR THE REFERRAL OF PATIENTS TO THE PROFESSIONAL.

S 3. Subdivision 19 of section 6530 of the education law, as added by chapter 606 of the laws of 1991, is amended to read as follows:

19. Permitting any person to share in the fees for professional services, other than: a partner, employee, associate in a professional firm or corporation, professional subcontractor or consultant authorized to practice medicine, or a legally authorized trainee practicing under the supervision of a licensee. This prohibition shall include any arrangement or agreement whereby the amount received in payment for furnishing space, facilities, equipment or personnel services used by a licensee constitutes a percentage of, or is otherwise dependent upon, the income or receipts of the licensee from such practice, except as otherwise provided by law with respect to a facility licensed pursuant to article twenty-eight of the public health law or article thirteen of the mental hygiene law. NOTHING CONTAINED IN THIS CHAPTER SHALL PROHIBIT SUCH PROFESSIONALS FROM PAYING A FAIR MARKET VALUE FEE TO ANY PERSON OR ENTITY WHOSE PURPOSE IS TO PERFORM PRACTICE MANAGEMENT, BILLING OR HEALTH INFORMATION TECHNOLOGY SERVICES BASED UPON A PERCENTAGE OF FEES BILLED OR COLLECTED, A FLAT FEE, OR ANY OTHER ARRANGEMENT THAT DIRECTLY OR INDIRECTLY DIVIDES FEES, FOR SUCH PURPOSES, PROVIDED THAT:

(A) THE PERSON OR ENTITY PROVIDING PRACTICE MANAGEMENT, BILLING OR HEALTH INFORMATION TECHNOLOGY SERVICES IS NOT RESPONSIBLE FOR THE AMOUNT OF FEES CHARGED AND COLLECTED FOR THE SERVICES RENDERED BY SUCH PROFESSIONAL;

(B) ALL CHARGES COLLECTED ARE PAID DIRECTLY TO THE PROFESSIONAL OR ARE DEPOSITED DIRECTLY INTO AN ACCOUNT IN THE NAME OF AND UNDER THE SOLE CONTROL OF THE PROFESSIONAL; AND

(C) THE PERSON OR ENTITY PROVIDING PRACTICE MANAGEMENT, BILLING OR HEALTH INFORMATION TECHNOLOGY SERVICES DOES NOT REFER PATIENTS TO THE PROFESSIONAL AND THAT PAYMENTS MADE ARE NOT RELATED TO OR COMPENSATING FOR THE REFERRAL OF PATIENTS TO THE PROFESSIONAL.

S 4. This act shall take effect immediately.