

RURAL HEALTH CARE INFRASTRUCTURE

2005 GENERAL SESSION

STATE OF UTAH

Sponsor: Michael E. Noel

LONG TITLE

General Description:

This bill modifies provisions of the Utah Medical Practice Act.

Highlighted Provisions:

This bill:

- ▶ creates an administrative penalty for licensed medical practitioners in rural areas who make a referral to a facility in which they have a financial interest;
- ▶ creates definitions for health care facilities and licensee-owned health care facilities;
- ▶ prohibits licensed medical practitioners in rural areas from making a referral to a facility in which they have a financial interest if the financial interest is created after January 1, 2005; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-67-402, as enacted by Chapter 248, Laws of Utah 1996

58-67-801, as enacted by Chapter 248, Laws of Utah 1996

Be it enacted by the Legislature of the state of Utah:



28 Section 1. Section **58-67-402** is amended to read:

29 **58-67-402. Authority to assess penalty.**

30 (1) After proceeding pursuant to Title 63, Chapter 46b, Administrative Procedures Act,
31 and Title 58, Chapter 1, Division of Occupational and Professional Licensing Act, the division
32 may impose administrative penalties of up to \$10,000 for:

33 (a) acts of unprofessional conduct under this chapter~~[-]; or~~

34 (b) a violation under Subsection 58-67-801(4)(b).

35 (2) Assessment of a penalty under this section does not affect any other action the
36 division is authorized to take regarding a license issued under this chapter.

37 Section 2. Section **58-67-801** is amended to read:

38 **58-67-801. Disclosure of financial interest by licensee.**

39 (1) As used in this section:

40 (a) "health care facility" means a:

41 (i) clinical laboratory;

42 (ii) ambulatory or surgical facility;

43 (iii) treatment or rehabilitation service, including:

44 (A) physical therapy;

45 (B) cardiac rehabilitation;

46 (C) radiology;

47 (D) dispensing optical lens facility; or

48 (E) lithotripsy; or

49 (iv) other health care facility licensed under Title 26, Chapter 21, Health Care Facility
50 Licensing and Inspection Act; and

51 (b) "licensee-owned health care facility" means a health care facility in which the
52 licensee or a member of the licensee's immediate family has any financial relationship as that
53 term is described in 42 U.S.C. 1395nn.

54 ~~[(+)] (2) Licensees under this chapter practicing medicine in counties with more than~~
55 ~~60,000 residents may not refer patients, clients, or customers to [~~any clinical laboratory,~~~~
56 ~~~~ambulatory or surgical care facilities,~~ or other treatment or rehabilitation services such as~~
57 ~~~~physical therapy, cardiac rehabilitation, radiology services, dispensing optical lens facility, or~~~~
58 ~~~~lithotripsy, in which the licensee or a member of the licensee's immediate family has any~~~~

59 ~~financial relationship as that term is described in 42 U.S.C. 1395nn]~~ a licensee-owned health
60 care facility, unless the licensee at the time of making the referral discloses that relationship, in
61 writing, to the patient, client, or customer.

62 [~~2~~] (3) The written disclosure under Subsection [~~1~~] (2) shall also state the patient
63 may choose any facility or service center [~~for purpose of having~~] to have the laboratory work or
64 treatment service performed.

65 (4) (a) Licensees under this chapter practicing medicine in counties with fewer than
66 60,000 residents may not refer patients, clients, or customers to any licensee-owned health care
67 facility.

68 (b) A licensee who violates Subsection (4)(a) shall be subject to penalties under
69 Section 58-67-402.

70 (c) A licensee does not violate Subsection (4)(a) if:

71 (i) the licensee refers patients to a licensee-owned health care facility;

72 (ii) the licensee's financial relationship with the licensee-owned health care facility was
73 established prior to January 1, 2005; and

74 (iii) the licensee:

75 (A) discloses that relationship, in writing, to the patient, client, or customer at the time
76 of making the referral; and

77 (B) informs the patient, client, or customer that the patient, client, or customer may
78 choose any facility or service center to have the laboratory work or treatment service
79 performed.

Legislative Review Note
as of 2-9-05 1:22 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number HB0328

Rural Health Care Infrastructure

22-Feb-05

4:18 PM

State Impact

No fiscal impact.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst