

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Enrolled

Senate Bill 241

By Senators Azinger, Woelfel, and Plymale

[Passed February 9, 2023; in effect from passage]

1 AN ACT to amend and reenact §16-62-2 of the Code of West Virginia, 1931, as amended, relating
2 to patient brokering; requiring a state agency to regulate patient brokering; and requiring
3 the development of a tool to facilitate complaints.

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 thereof, shall be fined not more than \$100,000, or
24 imprisoned in a state correctional facility not less than two years nor more than five years, or both
25 fined and imprisoned.

26 (c) The Office of the Inspector General shall develop a tool that facilitates the submission of
27 complaints. The Office of the Inspector General shall investigate complaints and enforce the
28 provisions of this article.