

# **WEST VIRGINIA LEGISLATURE**

**2023 REGULAR SESSION**

**Introduced**

## **Senate Bill 241**

BY SENATORS AZINGER, WOELFEL, AND PLYMALE

[Introduced January 16, 2023; referred  
to the Committee on Health and Human Resources]



1 A BILL to amend and reenact §16-62-2 of the Code of West Virginia, 1931, as amended, relating  
2 to making the investigation and enforcement of the Patient Brokering Act the responsibility  
3 of the Office of Health Facility Licensure and Certification (OHFLAC); and requiring  
4 OHFLAC to develop a tool to facilitate public complaints about the Patient Brokering Act.

*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,  
2 to:

3 (1) Offer or pay a commission, benefit, bonus, rebate, kickback, or bribe, directly or  
4 indirectly, in cash or in kind, or engage in any split-fee arrangement, in any form whatsoever, to  
5 induce the referral of a patient or patronage to or from a health care provider or health care facility;

6 (2) Solicit or receive a commission, benefit, bonus, rebate, kickback, or bribe, directly or  
7 indirectly, in cash or in kind, or engage in any split-fee arrangement, in any form whatsoever, in  
8 return for referring a patient or patronage to or from a health care provider or health care facility;

9 (3) Solicit or receive a commission, benefit, bonus, rebate, kickback, or bribe, directly or  
10 indirectly, in cash or in kind, or engage in any split-fee arrangement, in any form whatsoever, in  
11 return for the acceptance or acknowledgment of treatment from a health care provider or health  
12 care facility;

13 (4) Aid, abet, advise, or otherwise participate in the conduct prohibited under this  
14 subsection; or

15 (5) Engage in any of the unlawful acts provided for in this subsection in regard to a  
16 recovery residence as defined in §16-59-1 of this code.

17 (b) *Penalties.* –

18           (1) Any person who violates the provisions of subsection (a) of this section is guilty of a  
19 felony and, upon conviction thereof, shall be fined not more than \$50,000, or imprisoned in a state  
20 correctional facility for not less than one year nor more than five years, or both fined and  
21 imprisoned.

22           (2) Notwithstanding the provisions of subdivision (1) of this section, any person who  
23 violates subsection (a) of this section, where the prohibited conduct involves 10 or more patients,  
24 is guilty of a felony and, upon conviction thereof, shall be fined not more than \$100,000, or  
25 imprisoned in a state correctional facility not less than two years nor more than five years, or both  
26 fined and imprisoned.

27           (c) The investigation and enforcement of the Patient Brokering Act shall be the primary  
28 responsibility of the Office of Health Facility Licensure and Certification (OHFLAC). OHFLAC  
29 shall be required to develop a tool that facilitates public complaints about such activity relating to  
30 the Patient Brokering Act.