

Senate Bill 145

By: Senators Stokes of the 43<sup>rd</sup> and Harbison of the 15<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

To amend Title 31 of the Official Code of Georgia Annotated, relating to health, so as to prohibit health services purveyors from engaging in certain activities with respect to the referral of patients to other health services purveyors for clinical laboratory services and with respect to services provided by clinical laboratories; to prohibit health services purveyors from receiving or accepting certain services from clinical laboratories; to prohibit clinical laboratories from engaging in certain activities that might reasonably be expected to influence any person's independent judgment concerning the referral by such person of a specimen or sample derived from a human body to a clinical laboratory for examination by the laboratory; to prohibit clinical laboratories from engaging in certain other activities relating to the referral of specimens or samples derived from human bodies to a clinical laboratory for examination by the laboratory; to prohibit clinical laboratories from supplying certain services to health services purveyors; to define certain terms; to provide exceptions; to provide for enforcement and the reporting of violations of this Act; to provide additional grounds for the suspension, revocation, cancellation, or refusal to renew a license of a clinical laboratory; to provide for civil and criminal penalties; to amend Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses, so as to provide an additional ground for the suspension, revocation, cancellation, or refusal to renew a license with respect to the practice of dentistry, medicine, or podiatry; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by adding at the end of Article 1 of Chapter 1, relating to general provisions applicable to health, a new Code Section 31-1-10 to read as follows:

"31-1-10.

(a) As used in this Code section, the term:

(1) 'Clinical laboratory' shall have the same meaning as is set forth in paragraph (2) of Code Section 31-22-1.

(2) 'Health services purveyor' means any person, firm, partnership, group, association, corporation, professional corporation, or professional association, or any agent, employee, fiduciary, or representative thereof, including but not limited to a physician, dentist, podiatrist, or chiropractor, either in individual practice, group practice, or

1 employed in a facility owned by any person, group, association, corporation, professional  
2 corporation, or professional association hiring any of the aforementioned practitioners,  
3 who provides health or health related services.

4 (b) No health services purveyor shall offer, solicit, receive, or accept, directly or indirectly,  
5 any payment or other consideration in any form to the extent such payment or other  
6 consideration might reasonably be expected:

7 (1) To influence the independent professional judgment of such health services purveyor  
8 concerning the referral of patients to other health services purveyors for clinical  
9 laboratory services; or

10 (2) To participate in the division, transference, assignment, rebate, or splitting of fees  
11 with any clinical laboratory, or its agent, employee, or fiduciary, or with another health  
12 services purveyor in relation to clinical laboratory services; provided, however, that this  
13 paragraph shall not apply to arm's length, bona fide business arrangements between or  
14 among health services purveyors and clinical laboratories that otherwise apportion fees  
15 and expenses lawfully and consistent with fair market value.

16 (c) No health services purveyor shall receive or accept any phlebotomist, laboratory  
17 technician, laboratory technologist, employee, agent, or other fiduciary of any clinical  
18 laboratory to perform any duties in the facility of any health services purveyor; provided,  
19 however, that nothing in this subsection shall prohibit an institution as defined in paragraph  
20 (1) of Code Section 31-7-1, a medical facility as defined in paragraph (2) of Code Section  
21 31-7-1, or a health maintenance organization operating in accordance with Chapter 21 of  
22 Title 33 and a clinical laboratory from contracting for laboratory management services  
23 including the provision of technical services and employees for the performance of  
24 functions directly related to clinical laboratory operations; provided, further, that such  
25 contracting is carried out at arm's length and such services are provided in exchange for  
26 payments that are consistent with the fair market value thereof.

27 (d) Upon learning of a violation of this Code section, the Department of Human Resources  
28 shall promptly report such violation to the local prosecutor and to the board or professional  
29 licensing board which licenses the health services purveyor who is in violation of this Code  
30 section.

31 (e) Any person who violates any provision of this Code section shall be guilty of a  
32 misdemeanor."

## 33 SECTION 2.

34 Said title is further amended by striking in its entirety paragraph (8) of subsection (d) of Code  
35 Section 31-22-2, relating to licenses for clinical laboratories, and inserting in lieu thereof a  
36 new paragraph (8) to read as follows:

37 "(8) Violating or aiding in the violation of Code Section 31-22-5.1 or of any other  
38 provision of this chapter or the rules or regulations promulgated hereunder pursuant to  
39 this chapter; or"

**SECTION 3.**

Said title is further amended by adding between Code Sections 31-22-5 and 31-22-6 a new Code Section 31-22-5.1 to read as follows:

"31-22-5.1.

(a) A clinical laboratory shall not offer or give a commission, rebate, or other compensation, consideration, or remuneration, directly or indirectly, that might reasonably be expected to influence any person's independent judgment concerning the referral by such person of a specimen or sample derived from a human body to a clinical laboratory for examination by the laboratory.

(b) A clinical laboratory shall not solicit or accept a commission, rebate, or other compensation, consideration, or remuneration, directly or indirectly, from any person as consideration for the referral of a specimen or sample derived from a human body to a clinical laboratory for examination by the laboratory; provided, however, that this subsection shall not apply to fees received by a laboratory as consideration for performing clinical laboratory testing on a referred specimen or sample derived from a human body unless such fees are in excess of fair market value.

(c) A clinical laboratory shall not supply any phlebotomist, laboratory technician, laboratory technologist, employee, agent, or other fiduciary of such clinical laboratory to perform any duties in the facility of any health services purveyor as such term is defined in paragraph (2) of subsection (a) of Code Section 31-1-10; provided, however, that nothing in this subsection shall prohibit an institution as defined in paragraph (1) of Code Section 31-7-1, a medical facility as defined in paragraph (2) of Code Section 31-7-1, or a health maintenance organization operating in accordance with Chapter 21 of Title 33 and a clinical laboratory from contracting for laboratory management services including the provision of technical services and employees for the performance of functions directly related to clinical laboratory operations; provided, further, that such contracting is carried out at arm's length and such services are provided in exchange for payments that are consistent with the fair market value thereof.

(d) In addition to any other penalty or action authorized under this chapter, the commissioner may impose upon a licensee a civil penalty not to exceed \$500.00 for each violation of this Code section."

**SECTION 4.**

Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses, is amended by striking in its entirety paragraph (13) of subsection (a) of Code Section 43-11-47, relating to refusal to grant or revocation of licenses of dentists and dental hygienists, and inserting in lieu thereof a new paragraph (13) to read as follows:

"(13) ~~Reserved~~ Violated Code Section 31-1-10;".

**SECTION 5.**

Said title is further amended by striking the word "or" at the end of paragraph (12) of subsection (a) of Code Section 43-34-37, relating to authority to refuse license or discipline a physician, by striking the period at the end of subparagraph (a)(13)(C) of said Code section and inserting in lieu thereof the symbol and word "; or", and by adding following said subparagraph (a)(13)(C) of said Code section a new paragraph (14) to read as follows:

"(14) Violated Code Section 31-1-10."

**SECTION 6.**

Said title is further amended by striking the word "or" at the end of paragraph (13) of subsection (a) of Code Section 43-35-16, relating to suspension, revocation, cancellation, or denial of a license with respect to a podiatrist, by striking the period at the end of paragraph (14) of said subsection (a) of said Code section and inserting in lieu thereof the symbol and word "; or", and by adding following said paragraph (14) of said subsection (a) of said Code section a new paragraph (15) to read as follows:

"(15) Violating Code Section 31-1-10."

**SECTION 7.**

All laws and parts of laws in conflict with this Act are repealed.