

House Bill 825

By: Representative Henson of the 65th

A BILL TO BE ENTITLED
AN ACT

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

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

21 style="text-align:center">**SECTION 1.**

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

25 "31-1-10.

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

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

29 (2) 'Health services purveyor' means any person, firm, partnership, group, association,
30 corporation, professional corporation, or professional association, or any agent,
31 employee, fiduciary, or representative thereof, including but not limited to a physician,
32 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;".

