

By Senator Broxson

1-00805A-18

20181862\_\_

1                                   A bill to be entitled  
 2       An act relating to physician fee sharing; amending ss.  
 3       458.331 and 459.015, F.S.; revising an exemption  
 4       relating to grounds for disciplinary action by the  
 5       Boards of Medicine and Osteopathic Medicine and the  
 6       Department of Health to authorize specified forms of  
 7       payment to a physician or osteopathic physician,  
 8       respectively; providing an effective date.

9  
 10 Be It Enacted by the Legislature of the State of Florida:

11  
 12       Section 1. Paragraph (i) of subsection (1) of section  
 13       458.331, Florida Statutes, is amended to read:

14       458.331 Grounds for disciplinary action; action by the  
 15       board and department.—

16       (1) The following acts constitute grounds for denial of a  
 17       license or disciplinary action, as specified in s. 456.072(2):

18       (i) Paying or receiving any commission, bonus, kickback, or  
 19       rebate, or engaging in any split-fee arrangement in any form  
 20       whatsoever with a physician, organization, agency, or person,  
 21       either directly or indirectly, for patients referred to  
 22       providers of health care goods and services, including, but not  
 23       limited to, hospitals, nursing homes, clinical laboratories,  
 24       ambulatory surgical centers, or pharmacies. ~~The provisions of~~  
 25       This paragraph may shall not be construed to preclude a  
 26       physician from entering into an alternative payment arrangement  
 27       that otherwise complies with federal and state law or to  
 28       preclude prevent a physician from receiving one or more of the  
 29       following forms of payment or compensation, as long as the forms

1-00805A-18

20181862\_\_

30 of payment or compensation comply with federal and state law:

31 1. A fee for professional consultation services; or

32 2. If the physician is an employee or independent  
 33 contractor of the entity compensating the physician, a share of:

34 a. Profits, collections, or revenues based on the  
 35 professional services provided by the physician, or on his or  
 36 her direct supervision of the provision of such professional  
 37 services, which are provided on behalf of the entity  
 38 compensating the physician; or

39 b. Overall profit or revenue of the entity compensating the  
 40 physician, provided that such share is not determined in a  
 41 manner that directly takes into account the volume or value of  
 42 services ordered by, but not performed by, or performed under  
 43 the direct supervision of, the physician.

44 Section 2. Paragraph (j) of subsection (1) of section  
 45 459.015, Florida Statutes, is amended to read:

46 459.015 Grounds for disciplinary action; action by the  
 47 board and department.—

48 (1) The following acts constitute grounds for denial of a  
 49 license or disciplinary action, as specified in s. 456.072(2):

50 (j) Paying or receiving any commission, bonus, kickback, or  
 51 rebate, or engaging in any split-fee arrangement in any form  
 52 whatsoever with a physician, organization, agency, person,  
 53 partnership, firm, corporation, or other business entity, for  
 54 patients referred to providers of health care goods and  
 55 services, including, but not limited to, hospitals, nursing  
 56 homes, clinical laboratories, ambulatory surgical centers, or  
 57 pharmacies. ~~The provisions of~~ This paragraph may shall not be  
 58 construed to preclude an osteopathic physician from entering

1-00805A-18

20181862\_\_

59 into an alternative payment arrangement that otherwise complies  
60 with federal and state law or to preclude ~~prevent~~ an osteopathic  
61 physician from receiving one or more of the following forms of  
62 payment or compensation, as long as the forms of payment or  
63 compensation comply with federal and state law:

64 1. A fee for professional consultation services; or

65 2. If the osteopathic physician is an employee or  
66 independent contractor of the entity compensating the  
67 osteopathic physician, a share of:

68 a. Profits, collections, or revenues based on the  
69 professional services provided by the osteopathic physician, or  
70 on his or her direct supervision of the provision of such  
71 professional services, which are provided on behalf of the  
72 entity compensating the osteopathic physician; or

73 b. Overall profit or revenue of the entity compensating the  
74 osteopathic physician, provided that such share is not  
75 determined in a manner that directly takes into account the  
76 volume or value of services ordered by, but not performed by, or  
77 performed under the direct supervision of, the osteopathic  
78 physician.

79 Section 3. This act shall take effect July 1, 2018.