

SB3528



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB3528

Introduced 2/14/2020, by Sen. Sara Feigenholtz

SYNOPSIS AS INTRODUCED:

815 ILCS 505/2VVV

Amends the Consumer Fraud and Deceptive Business Practices Act. Provides that a violation of the federal Eliminating Kickbacks in Recovery Act of 2018 constitutes a violation of the Consumer Fraud and Deceptive Business Practices Act. Effective immediately.

LRB101 17931 JLS 67367 b

A BILL FOR

1 AN ACT concerning business.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Consumer Fraud and Deceptive Business
5 Practices Act is amended by changing Section 2VVV as follows:

6 (815 ILCS 505/2VVV)

7 Sec. 2VVV. Deceptive marketing, advertising, and sale of
8 mental health disorder and substance use disorder treatment.

9 (a) As used in this Section:

10 "Facility" has the meaning ascribed to that term in Section
11 1-10 of the Substance Use Disorder Act when used in reference
12 to a facility that provides substance use disorder treatment.

13 "Facility" has the same meaning as "mental health facility"
14 under Section 1-114 of the Mental Health and Developmental
15 Disabilities Code when used in reference to a facility that
16 provides mental health disorder treatment.

17 "Hospital affiliate" has the meaning ascribed to that term
18 in Section 10.8 of the Hospital Licensing Act.

19 "Mental health disorder" has the same meaning as "mental
20 illness" under Section 1-129 of the Mental Health and
21 Developmental Disabilities Code.

22 "Program" means a licensable or fundable activity or
23 service, or a coordinated range of such activities or services,

1 established or licensed by the Department of Human Services.

2 "Substance use disorder" has the same meaning as "substance
3 abuse" under Section 1-10 of the Substance Use Disorder Act.

4 "Treatment" has the meaning ascribed to that term in
5 Section 1-10 of the Substance Use Disorder Act when used in
6 reference to treatment for a substance use disorder.
7 "Treatment" has the meaning ascribed to that term in Section
8 1-128 of the Mental Health and Developmental Disabilities Code
9 when used in reference to treatment for a mental health
10 disorder.

11 (b) It is an unlawful practice for any person to engage in
12 misleading or false advertising or promotion that
13 misrepresents the need to seek mental health disorder or
14 substance use disorder treatment outside of the State of
15 Illinois.

16 (c) Any marketing, advertising, promotional, or sales
17 materials directed to Illinois residents concerning mental
18 health disorder or substance use disorder treatment must:

19 (1) prominently display or announce the full physical
20 address of the treatment program or facility;

21 (2) display whether the treatment program or facility
22 is licensed in the State of Illinois;

23 (3) display whether the treatment program or facility
24 has locations in Illinois;

25 (4) display whether the services provided by the
26 treatment program or facility are covered by an insurance

1 policy issued to an Illinois resident;

2 (5) display whether the treatment program or facility
3 is an in-network or out-of-network provider;

4 (6) include a link to the Internet website for the
5 Department of Human Services' Division of Mental Health and
6 Division of Substance Use Prevention and Recovery, or any
7 successor State agency that provides information regarding
8 licensed providers of services; and

9 (7) disclose that mental health disorder and substance
10 use disorder treatment may be available at a reduced cost
11 or for free for Illinois residents within the State of
12 Illinois.

13 (d) It is an unlawful practice for any person to enter into
14 an arrangement under which a patient seeking mental health
15 disorder or substance use disorder treatment is referred to a
16 mental health disorder or substance use disorder treatment
17 program or facility in exchange for a fee, a percentage of the
18 treatment program's or facility's revenues that are related to
19 the patient, or any other remuneration that takes into account
20 the volume or value of the referrals to the treatment program
21 or facility. Such practice shall also be considered a violation
22 of the prohibition against fee splitting in Section 22.2 of the
23 Medical Practice Act of 1987 and a violation of the Health Care
24 Worker Self-Referral Act. A violation of the federal
25 Eliminating Kickbacks in Recovery Act of 2018, 18 U.S.C. 220,
26 constitutes a violation of this Section. Any exception to

1 liability available under the federal Eliminating Kickbacks in
2 Recovery Act shall be available under this Section. This
3 Section does not apply to health insurance companies, health
4 maintenance organizations, managed care plans, or
5 organizations, including hospitals and hospital affiliates
6 licensed in Illinois.

7 (Source: P.A. 100-1058, eff. 1-1-19; 100-1188, eff. 4-5-19;
8 101-81, eff. 7-12-19.)

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.