

SB2312



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB2312

Introduced 2/26/2021, 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.

LRB102 09982 JLS 15300 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
11 Section 1-10 of the Substance Use Disorder Act when used in
12 reference to a facility that provides substance use disorder
13 treatment. "Facility" has the same meaning as "mental health
14 facility" under Section 1-114 of the Mental Health and
15 Developmental Disabilities Code when used in reference to a
16 facility that 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

1 services, established or licensed by the Department of Human
2 Services.

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

6 "Treatment" has the meaning ascribed to that term in
7 Section 1-10 of the Substance Use Disorder Act when used in
8 reference to treatment for a substance use disorder.

9 "Treatment" has the meaning ascribed to that term in Section
10 1-128 of the Mental Health and Developmental Disabilities Code
11 when used in reference to treatment for a mental health
12 disorder.

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

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

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

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

25 (3) display whether the treatment program or facility
26 has locations in Illinois;

1 (4) display whether the services provided by the
2 treatment program or facility are covered by an insurance
3 policy issued to an Illinois resident;

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

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

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

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

1 federal Eliminating Kickbacks in Recovery Act of 2018, 18
2 U.S.C. 220, constitutes a violation of this Section. Any
3 exception to liability available under the federal Eliminating
4 Kickbacks in Recovery Act shall be available under this
5 Section. This Section does not apply to health insurance
6 companies, health maintenance organizations, managed care
7 plans, or organizations, including hospitals and hospital
8 affiliates licensed in Illinois.

9 (Source: P.A. 100-1058, eff. 1-1-19; 100-1188, eff. 4-5-19;
10 101-81, eff. 7-12-19.)

11 Section 99. Effective date. This Act takes effect upon
12 becoming law.