

**As Introduced**

**125th General Assembly  
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**H. B. No. 71**

**Representatives Peterson, Hughes, Wolpert, Kearns, Carano, G. Smith, Allen,  
Aslanides, DeBose**

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**A B I L L**

To amend sections 4731.65, 4731.67, 4731.68, and 1  
4731.70 of the Revised Code to prohibit a 2  
physician or podiatrist from making certain 3  
referrals for inpatient hospital services and to 4  
make other revisions to the law prohibiting 5  
certain referrals for designated health services. 6

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 4731.65, 4731.67, 4731.68, and 7  
4731.70 of the Revised Code be amended to read as follows: 8

**Sec. 4731.65.** As used in sections 4731.65 to 4731.71 of the 9  
Revised Code: 10

(A)(1) "Clinical laboratory services" means either of the 11  
following: 12

(a) Any examination of materials derived from the human body 13  
for the purpose of providing information for the diagnosis, 14  
prevention, or treatment of any disease or impairment or for the 15  
assessment of health; 16

(b) Procedures to determine, measure, or otherwise describe 17  
the presence or absence of various substances or organisms in the 18

body.	19
(2) "Clinical laboratory services" does not include the mere collection or preparation of specimens.	20 21
(B) "Designated health services" means any of the following:	22
(1) Clinical laboratory services;	23
(2) Home health care services;	24
(3) Outpatient prescription drugs;	25
<u>(4) Inpatient hospital services.</u>	26
(C) "Fair market value" means the value in arms-length transactions, consistent with general market value and:	27 28
(1) With respect to rentals or leases, the value of rental property for general commercial purposes, not taking into account its intended use;	29 30 31
(2) With respect to a lease of space, not adjusted to reflect the additional value the prospective lessee or lessor would attribute to the proximity or convenience to the lessor if the lessor is a potential source of referrals to the lessee.	32 33 34 35
(D) "Governmental health care program" means any program providing health care benefits that is administered by the federal government, this state, or a political subdivision of this state, including the medicare program established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, health care coverage for public employees, health care benefits administered by the bureau of workers' compensation, the medical assistance program established under Chapter 5111. of the Revised Code, and disability assistance medical assistance established under Chapter 5115. of the Revised Code.	36 37 38 39 40 41 42 43 44 45
(E)(1) "Group practice" means a group of two or more holders of certificates under this chapter legally organized as a partnership, professional corporation or association, limited	46 47 48

liability company, foundation, nonprofit corporation, faculty 49  
practice plan, or similar group practice entity, including an 50  
organization comprised of a nonprofit medical clinic that 51  
contracts with a professional corporation or association of 52  
physicians to provide medical services exclusively to patients of 53  
the clinic in order to comply with section 1701.03 of the Revised 54  
Code and including a corporation, limited liability company, 55  
partnership, or professional association described in division (B) 56  
of section 4731.226 of the Revised Code formed for the purpose of 57  
providing a combination of the professional services of 58  
optometrists who are licensed, certificated, or otherwise legally 59  
authorized to practice optometry under Chapter 4725. of the 60  
Revised Code, chiropractors who are licensed, certificated, or 61  
otherwise legally authorized to practice chiropractic under 62  
Chapter 4734. of the Revised Code, psychologists who are licensed, 63  
certificated, or otherwise legally authorized to practice 64  
psychology under Chapter 4732. of the Revised Code, registered or 65  
licensed practical nurses who are licensed, certificated, or 66  
otherwise legally authorized to practice nursing under Chapter 67  
4723. of the Revised Code, pharmacists who are licensed, 68  
certificated, or otherwise legally authorized to practice pharmacy 69  
under Chapter 4729. of the Revised Code, physical therapists who 70  
are licensed, certificated, or otherwise legally authorized to 71  
practice physical therapy under sections 4755.40 to 4755.53 of the 72  
Revised Code, mechanotherapists who are licensed, certificated, or 73  
otherwise legally authorized to practice mechanotherapy under 74  
section 4731.151 of the Revised Code, and doctors of medicine and 75  
surgery, osteopathic medicine and surgery, or podiatric medicine 76  
and surgery who are licensed, certificated, or otherwise legally 77  
authorized for their respective practices under this chapter, to 78  
which all of the following apply: 79

(a) Each physician who is a member of the group practice 80  
provides substantially the full range of services that the 81

physician routinely provides, including medical care, 82  
consultation, diagnosis, or treatment, through the joint use of 83  
shared office space, facilities, equipment, and personnel. 84

(b) Substantially all of the services of the members of the 85  
group are provided through the group and are billed in the name of 86  
the group and amounts so received are treated as receipts of the 87  
group. 88

(c) The overhead expenses of and the income from the practice 89  
are distributed in accordance with methods previously determined 90  
by members of the group. 91

(d) The group practice meets any other requirements that the 92  
state medical board applies in rules adopted under section 4731.70 93  
of the Revised Code. 94

(2) In the case of a faculty practice plan associated with a 95  
hospital with a medical residency training program in which 96  
physician members may provide a variety of specialty services and 97  
provide professional services both within and outside the group, 98  
as well as perform other tasks such as research, the criteria in 99  
division (E)(1) of this section apply only with respect to 100  
services rendered within the faculty practice plan. 101

(F) "Home health care services" and "immediate family" have 102  
the same meanings as in the rules adopted under section 4731.70 of 103  
the Revised Code. 104

(G) "Hospital" has the same meaning as in section 3727.01 of 105  
the Revised Code. 106

(H) "Inpatient hospital services" means the use of 107  
facilities, personnel, and supplies in the admission, diagnosis, 108  
prevention, or treatment of an individual's medical condition, 109  
disease, or impairment, or for the assessment of health of an 110  
individual during a hospital inpatient admission, including 111  
services a hospital provides for its patients that are furnished 112

either by the hospital or by others under arrangements with the 113  
hospital. "Inpatient hospital services" do not include 114  
professional services performed by a health care practitioner if a 115  
third-party payer or governmental health care program reimburses 116  
the services independently and not as part of the inpatient 117  
hospital services. 118

(I) A "referral" includes both of the following: 119

(1) A request by a holder of a certificate under this chapter 120  
for ~~an item or~~ a designated health service, including a request 121  
for a consultation with another physician and any test or 122  
procedure ordered by or to be performed by or under the 123  
supervision of the other physician; 124

(2) A request for or establishment of a plan of care by a 125  
certificate holder that includes the provision of designated 126  
health services. 127

~~(I)~~(J) "Third-party payer" has the same meaning as in section 128  
3901.38 of the Revised Code. 129

**Sec. 4731.67.** Section 4731.66 of the Revised Code does not 130  
apply to any of the following referrals by the holder of a 131  
certificate under this chapter: 132

(A) Referrals for physicians' services that are performed by 133  
or under the personal supervision of a physician in the same group 134  
practice as the referring physician; 135

(B) Referrals for clinical laboratory services by a 136  
certificate holder specializing in the practice of pathology if 137  
those services are provided by or under the supervision of the 138  
pathologist pursuant to a consultation requested by another 139  
physician; 140

(C) Referrals for in-office ancillary services, excluding 141  
inpatient hospital services, to which all of the following apply: 142

(1) The services are furnished by the referring physician, a 143  
physician in the same group practice as the referring physician, 144  
or individuals who are employed by the referring physician or the 145  
group practice and who are supervised by the referring physician 146  
or a physician in the group practice, and are furnished either: 147

(a) In a building in which the referring physician, or 148  
another physician in the same group practice as the referring 149  
physician, furnishes physicians' services unrelated to the 150  
furnishing of designated health services; 151

(b) In another building used by the referring physician's 152  
group practice for the centralized provision of the group's 153  
designated health services. 154

(2) The services are billed by the physician performing or 155  
supervising the services, the physician's group practice, or an 156  
entity wholly owned by the group practice. 157

(3) The physician's ownership or investment interest in the 158  
services described in this division meets any other requirements 159  
that the state medical board applies in rules adopted under 160  
section 4731.70 of the Revised Code. 161

(D) Referrals for in-office ancillary services, excluding 162  
inpatient hospital services, if the third-party payer is aware of 163  
and has agreed in writing to reimburse the services 164  
notwithstanding the financial arrangement between the physician 165  
and the provider of such ancillary services. 166

(E) Referrals for services furnished by a health insuring 167  
corporation to an enrollee of the corporation; 168

~~(F) Referrals to a hospital for designated health services,~~ 169  
~~if all of the following apply:~~ 170

~~(1) The financial arrangement between the referring physician or immediate family member and the hospital consists of an ownership or investment interest described in division (A)(1) of section 4731.66 of the Revised Code and not a compensation arrangement described in division (A)(2) of that section.~~

~~(2) The referring physician is authorized to perform services at the hospital.~~

~~(3) The ownership or investment interest is in the hospital itself and not merely in a subdivision of the hospital.~~

~~(G) Referrals to a hospital with which the certificate holder's or immediate family member's financial relationship does not relate to the provision of designated health services;~~

~~(H) Referrals to a laboratory located in a rural area as defined in section 1886(d)(2)(D) of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1395ww(d)(2)(D), as amended, if the financial relationship consists of an ownership or investment interest described in division (A)(1) of section 4731.66 of the Revised Code, and not a compensation arrangement described in division (A)(2) of that section;~~

~~(I)(G) Any other referrals in which the financial relationship between the certificate holder or immediate family member and the person furnishing services has been specified in rules adopted by the state medical board under section 4731.70 of the Revised Code.~~

**Sec. 4731.68.** (A) Ownership of investment securities in a corporation, including bonds, debentures, notes, other debt instruments, or shares, shall not be considered an ownership or investment interest described in division (A)(1) of section 4731.66 of the Revised Code if all of the following apply:

(1) The securities were purchased on terms generally

le to the public.	201
(2) The corporation is listed for trading on the New York stock exchange or the American stock exchange or is a national market system security traded under an automated interdealer quotation system operated by the national association of securities dealers.	202 203 204 205 206
(3) The corporation had, at the end of its most recent fiscal year, total assets exceeding one hundred million dollars.	207 208
(B) Payments for the rental or lease of office space shall not be considered a compensation arrangement described in division (A)(2) of section 4731.66 of the Revised Code if all of the following apply:	209 210 211 212
(1) There is a written agreement signed by the parties for the rental or lease of the space that does all of the following:	213 214
(a) Specifies the space covered by the agreement and dedicated for the use of the lessee;	215 216
(b) Provides for a term of rental or lease of at least one year;	217 218
(c) Provides for payment on a periodic basis of an amount that is consistent with fair market value;	219 220
(d) Provides for an amount of aggregate payments that does not directly or indirectly vary based on the volume or value of any referrals of business between the parties;	221 222 223
(e) Would be commercially reasonable even if no referrals were made between the parties.	224 225
(2) In the case of a rental or lease arrangement between a holder of a certificate under this chapter or member of the certificate holder's immediate family and another person in which the certificate holder or family member also has an ownership or investment interest described in division (A)(1) of section	226 227 228 229 230



4731.66 of the Revised Code, the office space is in the same 231  
building as the building in which the certificate holder or the 232  
certificate holder's group practice has a practice. 233

(3) The arrangement meets any other requirements that the 234  
state medical board applies in rules adopted under section 4731.70 235  
of the Revised Code. 236

(C) An arrangement between a hospital and a certificate 237  
holder or a member of the certificate holder's immediate family 238  
for the employment of the certificate holder or family member or 239  
for the provision of administrative services shall not be 240  
considered a compensation arrangement described in division (A)(2) 241  
of section 4731.66 of the Revised Code if all of the following 242  
apply: 243

(1) The arrangement is for identifiable services. 244

(2) The amount of the remuneration under the arrangement is 245  
consistent with the fair market value of the services and is not 246  
determined in a manner that directly or indirectly takes into 247  
account the volume or value of any referrals by the certificate 248  
holder. 249

(3) The remuneration is provided pursuant to an agreement 250  
that would be commercially reasonable even if the certificate 251  
holder made no referrals to the hospital. 252

(4) The arrangement meets any other requirements that the 253  
state medical board applies in rules adopted under section 4731.70 254  
of the Revised Code. 255

(D) Remuneration by a hospital of a certificate holder to 256  
induce the certificate holder to relocate to the geographic area 257  
served by the hospital in order to be a member of the hospital's 258  
medical staff shall not be considered a compensation arrangement 259  
described in division (A)(2) of section 4731.66 of the Revised 260  
Code if all of the following apply: 261

(1) The certificate holder is not required to refer patients to the hospital.	262 263
(2) The amount of the remuneration is not determined in a manner that directly or indirectly takes into account the volume or value of any referrals by the certificate holder to the hospital.	264 265 266 267
(3) The arrangement meets any other requirements that the state medical board applies in rules adopted under section 4731.70 of the Revised Code.	268 269 270
(E) Remuneration of a certificate holder or member of the certificate holder's immediate family by a person other than a hospital shall not be considered a compensation arrangement described in division (A)(2) of section 4731.66 of the Revised Code if all of the following apply:	271 272 273 274 275
(1) The remuneration is for any of the following:	276
(a) Specific, identifiable services as the medical director or a member of a medical advisory board of the person;	277 278
(b) Specific, identifiable physicians' services furnished to an individual in a hospice if the physicians' services are payable by the individual's third-party payer only to the hospice;	279 280 281
(c) Specific, identifiable physicians' services furnished to a nonprofit blood center;	282 283
(d) Specific, identifiable administrative services other than direct patient care services in circumstances specified in rules adopted by the state medical board under section 4731.70 of the Revised Code.	284 285 286 287
(2) The amount of the remuneration under the arrangement is consistent with the fair market value of the services and is not determined in a manner that directly or indirectly takes into account the volume or value of any referrals by the certificate	288 289 290 291

holder.	292
(3) The remuneration is provided pursuant to an agreement	293
that would be commercially reasonable even if the certificate	294
holder made no referrals to the person.	295
(4) The arrangement meets any other requirements that the	296
state medical board applies in rules adopted under section 4731.70	297
of the Revised Code.	298
(F) Isolated financial transactions, including a one-time	299
sale of property, shall not be considered a compensation	300
arrangement described in division (A)(2) of section 4731.66 of the	301
Revised Code if all of the following apply:	302
(1) The amount of the remuneration under the arrangement is	303
consistent with fair market value and is not determined in a	304
manner that directly or indirectly takes into account the volume	305
or value of any referrals by the certificate holder.	306
(2) The remuneration is provided pursuant to an agreement	307
that would be commercially reasonable even if the certificate	308
holder made no referrals to the other parties to the transaction.	309
(3) The transaction meets any other requirements that the	310
state medical board applies in rules adopted under section 4731.70	311
of the Revised Code.	312
(G) Payment of the salary of a certificate holder by the	313
certificate holder's group practice shall not be considered a	314
compensation arrangement described in division (A)(2) of section	315
4731.66 of the Revised Code.	316
<u>(H) Remuneration by a hospital to a certificate holder or</u>	317
<u>certificate holder's immediate family member shall not be</u>	318
<u>considered a compensation arrangement described in division (A)(2)</u>	319
<u>of section 4731.66 of the Revised Code if the remuneration does</u>	320
<u>not relate to the provision of designated health services.</u>	321

**Sec. 4731.70.** The state medical board shall adopt rules in accordance with Chapter 119. of the Revised Code to implement sections 4731.65 to 4731.69 of the Revised Code. The rules shall include all of the following:

(A) Definitions of "home health care services" and "immediate family";

(B) Any additional requirements to be applied to group practices under division (E)(1)(d) of section 4731.65 of the Revised Code that the board determines necessary to protect against abuse of patients and third-party payers;

(C) Any additional requirements to be applied to the exceptions provided in division (C) of section 4731.67 and divisions (B), (C), (D), (E), and (F) of section 4731.68 of the Revised Code that the board determines necessary to protect against abuse of patients and third-party payers;

(D) Any financial relationships that the board determines do not pose a risk of abuse of patients and third-party payers for purposes of exempting, under division ~~(I)~~(G) of section 4731.67 of the Revised Code, referrals from the provisions of section 4731.66 of the Revised Code;

(E) Any circumstances under division (E)(1)(d) of section 4731.68 of the Revised Code in which the board determines that remuneration for administrative services shall not be considered a compensation arrangement.

**Section 2.** That existing sections 4731.65, 4731.67, 4731.68, and 4731.70 of the Revised Code are hereby repealed.