

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

SESSION LAW 2023-141
HOUSE BILL 415

AN ACT ESTABLISHING THE STOP ADDICTION FRAUD ETHICS (SAFE) ACT OF 2023
AND AMENDING THE LAW REGARDING EARWAX REMOVAL BY
AUDIOLOGISTS.

The General Assembly of North Carolina enacts:

SECTION 1. This act shall be known and may be cited as the "Stop Addiction Fraud Ethics Act of 2023" or the "SAFE Act of 2023."

SECTION 2. Chapter 90 of the General Statutes is amended by adding a new Article to read:

"Article 5H.

"Stop Addiction Fraud Ethics Act.

"§ 90-113.150. Definitions.

The following definitions apply in this Article:

- (1) Patient. – An individual who will potentially be admitted to or receive services from, or who is admitted to or receiving services from, or has been admitted to or received services from, a treatment provider or recovery residence.
- (2) Recovery residence. – A shared living environment that is, or is intended to be, free from alcohol and illicit drug use and centered on peer support and connection to services that promote sustained recovery from substance use disorders.
- (3) Referral. – A person or entity shall be considered to have made a referral if the provider or operator of a recovery residence has informed a patient by any means of the name, address, or other identifying information for a licensed treatment provider or recovery residence.
- (4) Treatment facility. – A facility or program that is, or is required to be, licensed, accredited, or certified to provide substance use disorder treatment services.
- (5) Treatment provider. – A person or entity that is, or is required to be, licensed, accredited, or certified to provide substance use disorder treatment services.
For purposes of this Article, the term includes treatment facilities.

"§ 90-113.151. Truth in marketing.

(a) Any marketing or advertising materials published or provided by any treatment provider, treatment facility, recovery residence, or third party providing services to any treatment provider, treatment facility, or recovery residence shall convey accurate and complete information, in plain language that is easy to understand, and shall include all of the following:

- (1) Information about the types and methods of services provided or used, and information about where they are provided. Treatment providers and facilities shall also identify the categories of treatment and levels of care described in the American Society of Addiction Medicine, Patient Placement Criteria, Revised.



- (2) The average lengths of stay at the residence, provider site, or facility during the preceding 12-month period for each of the categories of treatment and levels of care referenced in subdivision (1) of this subsection.
- (3) The residence, provider site, or facility's name and brand.
- (4) A brief summary of any financial relationships between the residence, provider site, or facility and any publisher of marketing or advertising.

(b) Each operator of a recovery residence or licensed residential treatment facility that also provides separately licensed outpatient substance use disorder services shall clearly (i) disclose the nature of those relationships, (ii) label each facility and service separately in any marketing or advertising material published or provided by the operator, and (iii) distinguish the recovery residence or licensed residential treatment facility from the licensed outpatient substance use disorder services.

(c) It is unlawful for any treatment provider, treatment facility, recovery residence, or third party providing services to any treatment provider, treatment facility, or recovery residence to do any of the following:

- (1) Knowingly make a materially false or misleading statement, or provide false or misleading information, with the intent to defraud any person, about the nature, identity, or location of substance use disorder treatment services or a recovery residence in advertising materials, on a call line, on an internet website, or in any other marketing materials.
- (2) Knowingly make a false or misleading statement, with the intent to defraud any person, about the following:
 - a. The treatment provider's status as an in-network or out-of-network provider.
 - b. The credentials, qualifications, or experiences of persons providing treatment or services.
 - c. The rate of recovery or success in providing services.

(d) It is unlawful for any person or entity to do any of the following:

- (1) To knowingly provide, or direct any other person or entity to provide, false or misleading information, with the intent to defraud another person, about the identity of, or contact information for, any treatment provider.
- (2) To knowingly include false or misleading information, with the intent to defraud another person, about the internet website of any treatment provider, or to surreptitiously direct or redirect the reader to another internet website.
- (3) To knowingly make a materially false or misleading statement that a relationship with a treatment provider exists, with the intent to defraud another person, unless the treatment provider has provided express, written consent to indicate such a relationship.
- (4) To knowingly make a materially false or misleading statement about substance use disorder treatment services, with the intent to defraud another person.

(e) A violation of subsection (c) or (d) of this section constitutes an unfair or deceptive trade practice under G.S. 75-1.1.

(f) Any person or entity that violates subsection (c) or (d) of this section shall be guilty of a Class G felony. Each violation of subsection (c) or (d) of this section constitutes a separate offense.

"§ 90-113.152. Patient brokering and kickbacks.

(a) It is unlawful for any person or entity, including a treatment provider, treatment facility, recovery residence, or third party providing services to any of these persons or entities, to do any of the following:

- (1) Knowingly offer or pay anything of value, directly or indirectly, in cash or in kind, or engage in any split-fee arrangement, in any form whatsoever, to induce the referral of a patient or patronage to or from a treatment provider or laboratory.
 - (2) Knowingly solicit or receive anything of value, directly or indirectly, in cash or in kind, or engage in any split-fee arrangement, in any form whatsoever, in return for referring a patient or patronage to or from a treatment provider or laboratory.
 - (3) Knowingly solicit or receive anything of value, directly or indirectly, in cash or in kind, or engage in any split-fee arrangement, in any form whatsoever, in return for the acceptance or acknowledgment of treatment from a health care provider or health care facility.
 - (4) Knowingly aid or abet any conduct that violates subdivisions (1) through (3) of this subsection.
- (b) This section does not apply to either of the following:
- (1) Any discount, payment, waiver of payment, or payment practice that is expressly authorized by 42 U.S.C. § 1320a-7b(b)(3) or any regulation adopted under that statute.
 - (2) A reasonable contingency management technique or other reasonable motivational incentive that is part of the treatment provided by an accredited, licensed, or certified treatment provider.
- (c) A person who violates this section shall be guilty of a Class G felony. Each violation of this section constitutes a separate offense.

"§ 90-113.153. Exemptions.

This Article does not apply to any of the following:

- (1) A general hospital licensed under Article 5 of Chapter 131E of the General Statutes.
- (2) A hospital authority organized under Article 2 of Chapter 131E of the General Statutes."

SECTION 2.7. If House Bill 125, 2023 Regular Session, becomes law, then G.S. 90-293, as amended by Section 12.1 of that act, reads as rewritten:

"§ 90-293. Definitions.

As used in this Article, unless the context otherwise requires:

- ...
- (6) The practice of audiology. – The application of principles, methods, and procedures not including non-auditory and non-vestibular testing, writing prescriptions for pharmaceutical agents or surgery. Areas of audiology practice include the following, delivered to people across the life span:
- ...
- k. Conducting otoscopic examinations, removing cerumen obstructions, and taking ear canal impressions. The use of a microscope is allowed as part of audiological practice but shall not be used when cerumen is impacted to the point that it would require the use of anesthesia in conjunction with microscopes or micro instrumentation. Audiologists shall not perform complex cerumen removal, which includes instances where cerumen is impacted to the point that removal requires the use of anesthesia or microinstrumentation.

...."

SECTION 3. This act becomes effective January 1, 2024, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 10th day of October, 2023.

s/ Phil Berger
President Pro Tempore of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Roy Cooper
Governor

Approved 1:37 p.m. this 20th day of October, 2023