



HOUSE BILL 415: Stop Addiction Fraud Ethics Act of 2023.

2023-2024 General Assembly

Committee:		Date:	September 12, 2023
Introduced by:	Reps. Reeder, Chesser, K. Baker	Prepared by:	Susan Sitze*
Analysis of:	Third Edition		Staff Attorney

OVERVIEW: *House Bill 415 would enact new laws related to truth in marketing, and patient brokering and kickbacks, for substance use disorder treatment providers and facilities.*

BILL ANALYSIS: House Bill 415 would establish a new Article 5H in Chapter 90 entitled "Stop Addiction Fraud Ethics Act" and provide the elements below.

Definitions (G.S. 90-113.150) – Provides definitions for "Patient" and "Referral" as well as the following:

- Recovery residence – A shared living environment centered on peer support and connection to services that promote recovery from substance use disorders.
- Treatment facility – A facility or program that is, or is required to be, licensed, accredited, or certified to provide substance use disorder treatment services.
- Treatment provider – A person or entity that is, or is required to be, licensed, accredited, or certified to provide substance use disorder treatment facilities. This term includes treatment facilities.

Truth in Marketing (G.S. 90-113.151) – Establishes laws for advertising and marketing materials; the operation of a recovery residence or treatment facility while also providing outpatient services; and prohibited actions and consequences for violation.

Advertising/Marketing Materials – Requires advertising and marketing materials to provide accurate and complete information, in plain language, and to include the following:

1. Information about the types and methods of services provided or used and where they are provided, including identification of the categories 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 item 1.
3. The residence, provider site, or facility's name and brand.
4. A brief summary of any financial relationships between the treatment facility and any publisher of marketing or advertising.

Operating Residence/Facility and Outpatient Services – Requires an operator of a recovery residence or licensed residential treatment facility that also provides outpatient substance use disorder services to: 1) disclose the nature of those relationships, 2) label each facility and service separately in marketing and advertising material, and 3) distinguish the recovery residence or licensed residential treatment facility from the licensed outpatient substance use disorder services.

Prohibited actions for providers/facilities/residences/third parties – Makes it unlawful for any treatment provider, treatment facility, recovery residence, or third party providing services to a treatment provider treatment facility, or recovery residence to knowingly do any of the following with the intent to defraud another person:

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- Make statements or provide information that is materially false or misleading about the nature, identity, or location of substance use disorder treatment services or a recovery residence in advertising materials, or on a call line, on a website, or any other marketing materials.
- Make false or misleading statements about: the treatment provider's status with regard to being in-network or out-of-network; the credentials, qualifications or experiences of persons providing treatment or services; the rate of recovery or success in providing services.

Prohibited actions for persons or entities – Makes it unlawful for a person or entity to knowingly do the following with the intent to defraud another person:

- Provide, or direct another person or entity to provide, false or misleading information with regard to the identity or contact information for a treatment provider.
- Include false or misleading information about the website of a treatment provider or surreptitiously direct or redirect a reader to another website.
- Make a materially false or misleading statement that a relationship with a treatment provider exists unless there is express, written consent to indicate such a relationship.
- Make a materially false or misleading statement about substance use disorder treatment services.

Violation – A violation of the prohibited acts outlined above constitutes an unfair or deceptive trade practice under G.S. 75-1.1 and a person or entity in violation will be guilty of a Class G felony and each violation will be a separate offense.

Patient Brokering and Kickbacks (G.S. 90-113.152) – Makes it unlawful for a person, entity, treatment provider, treatment facility, recovery residence, or third party providing service to knowingly do any of the following:

1. Offer to pay anything of value, directly or indirectly, or engage in a split-fee arrangement, to induce the referral of a patient or patronage to or from a treatment provider or laboratory.
2. Solicit or receive anything of value, directly or indirectly, or engage in a split-fee arrangement, in return for referring a patient or patronage to or from a treatment provider or laboratory.
3. Solicit or receive anything of value, directly or indirectly, or engage in a split-fee arrangement, in return for the acceptance or acknowledgement of treatment from a health care provider or any health care facility.
4. Aid or abet any conduct that violates items 1, 2, or 3 above.

Application/Violation – Provides that this section of the law would not apply to a discount, payment, waiver of payment practice authorized by, or regulation adopted in accordance with, 42 USC § 1320-7b(b)(3); or a reasonable contingency management technique or motivational incentive that is part of a treatment provided by a treatment provider. Further, a person who violates this section would be guilty of a Class G felony.

Exemptions (G.S. 90-113.153) – The article would not apply to a hospital licensed under Article 5 of Chapter 131E, or a hospital authority organized under Article 2 of Chapter 131E.

EFFECTIVE DATE: The bill would become effective January 1, 2024, and apply to offenses committed on or after that date.

**Robert Ryan, Staff Attorney, and Theresa Matula, Legislative Analyst, substantially contributed to this summary.*