WEST VIRGINIA CODE: §16-62-2

§16-62-2. Patient brokering prohibited.

(a) It is unlawful for any person, including any health care provider, health care facility, or recovery residence to:

(1) Offer or pay a commission, benefit, bonus, rebate, kickback, or bribe, 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 health care provider, health care facility or recovery residence;

(2) Solicit or receive a commission, benefit, bonus, rebate, kickback, or bribe, 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 health care provider, health care facility, or recovery residence;

(3) Solicit or receive a commission, benefit, bonus, rebate, kickback, or bribe, 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, health care facility, or recovery residence;

(4) Aid, abet, advise, or otherwise participate in the conduct prohibited under this subsection; or

(5) Engage in any of the unlawful acts provided for in this subsection in regard to a recovery residence as defined in §16-59-1 of this code;

(b) Penalties –

(1) Any person who violates the provisions of subsection (a) of this section is guilty of a felony and, upon conviction thereof, shall be fined not more than $50,000, or imprisoned in a state correctional facility for not less than one year nor more than five years, or both fined and imprisoned.

(2) Notwithstanding the provisions of subdivision (1) of this section, any person who violates subsection (a) of this section, where the prohibited conduct involves 10 or more patients, is guilty of a felony and, upon conviction thereof, shall be fined not more than $100,000, or imprisoned in a state correctional facility not less than two years nor more than five years, or both fined and imprisoned.

(c) The Office of the Inspector General shall develop a tool that facilitates the submission of complaints. The Office of the Inspector General shall investigate complaints, review data for violations of this article, and shall refer matters to state, or local law-enforcement authorities to coordinate, investigate, or prosecute violations of this article.

WV Legislature

(d) Law enforcement shall investigate each referral upon receipt for violation this article.

(e) The Office of the Inspector General shall receive data from the department related to recovery residences based upon intervals determined by the department, but not less than annually. This data may contain personally identifiable health information. It shall be transmitted and stored in conformity with applicable Health Insurance and Portability and Accountability Act standards.

(f) The Office of the Inspector General and the certifying agency set forth in §16-59-2 *et seq*. of this code may coordinate investigations as further set forth in legislative rule.

WV Legislature