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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO BUSINESSES AND PROFESSIONS - PATIENT PROTECTION ACT

Introduced By: Representatives Naughton, Slater, Valencia, and Diaz

Date Introduced: February 28, 2012

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 5-48.1-3 of the General Laws in Chapter 5-48.1 entitled "Patient  
2 Protection Act" is hereby amended to read as follows:

3 **5-48.1-3. Prohibited acts.** -- (a) Whoever knowingly and willfully solicits or receives  
4 any remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly or  
5 covertly, in cash or in kind; (1) in return for referring an individual to a person for the furnishing,  
6 or arranging for the furnishing, of any health care service or item; or (2) in return for purchasing,  
7 leasing, ordering, or arranging for or recommending purchasing, leasing, or ordering, any health  
8 care good, facility, service, or item is guilty of a misdemeanor, and upon conviction, shall be  
9 fined not more than one thousand dollars (\$1,000), or imprisoned for not more than one year, or  
10 both.

11 (b) Whoever knowingly and willfully offers or pays any remuneration (including any  
12 kickback, bribe, or rebate) directly or indirectly, overtly or covertly, in cash or in kind, to any  
13 person to induce that person: (1) to refer an individual to a person for the furnishing, or arranging  
14 for the furnishing of, any health care item or service; or (2) to purchase, lease, order, or arrange  
15 for or recommend purchasing, leasing, or ordering any health care good, facility, service, or item  
16 is guilty of a misdemeanor, and upon conviction, shall be fined not more than one thousand  
17 dollars (\$1,000), or imprisoned for not more than one year, or both.

18 (c) Subsections (a) and (b) of this section do not apply to:

19 (1) A discount or other reduction in price obtained by a provider of services or other

1 entity if the reduction in price is properly disclosed and appropriately reflected in the costs  
2 claimed or charges made by the provider;

3 (2) Any amount paid by an employer to an employee (who has a bona fide employment  
4 relationship with the employer) for employment in the provision of health care services;

5 (3) Any amount paid by a vendor of goods or services to a person authorized to act as a  
6 purchasing agent for a group of individuals or entities who are furnishing health care services, if:

7 (i) The person has a written contract, with each individual or entity, which specifies the  
8 amount to be paid the person, which amount may be a fixed amount or a fixed percentage of the  
9 value of the purchases made by each individual or entity under the contract; and

10 (ii) In the case of an entity that is a provider of services, the person shall disclose (in the  
11 form and manner that the director requires) to the entity and, upon request, to the director, the  
12 amount received from each vendor with respect to purchases made by or on behalf of the entity.

13 (4) A waiver of any coinsurance under part B of title XVIII by a federally qualified  
14 health care center with respect to an individual who qualifies for subsidized services under a  
15 provision of the Public Health Service Act.

16 (5) Any payment practice specified in regulations promulgated pursuant to section 14(a)  
17 of the Medicare and Medicaid Patient and Program Protection Act of 1987, (see 42 U.S.C. section  
18 1320a-7b), or to chapter 66.2 of title 42 relating to Pharmaceutical Assistance to the Elderly.

19 (6) A discount or other reduction in price ~~on a health care item~~ or a limited-time free  
20 supply of such item which is made available to an individual, ~~if such item is~~ provided through a  
21 "point of sale" or "mail-in" coupon or through other similar means, for either: (i) a drug licensed  
22 by the United States food and drug administration (FDA) as a biological product, pursuant to  
23 section 351 of the public health services act, 42 USC 262 or by FDA regulations and policies; or  
24 (ii) a drug for which there is no other alternative within the same therapeutic class, as defined and  
25 identified in the U.S. pharmacopeia/national formulary compendium.

26 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO BUSINESSES AND PROFESSIONS - PATIENT PROTECTION ACT

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- 1           This act would limit the “point of sale”/“mail in coupon” exemption under the Patient
- 2 Protection Act to certain products determined by the FDA to be biological products pursuant to
- 3 federal law, or to products for which there is no generic alternative.
- 4           This act would take effect upon passage.

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