

Maryland Board of Physicians
Planned Enforcement of the Self-Referral Law
February 28, 2011

Background

On January 24, 2011, the Court of Appeals ruled that the referral of a patient for an MRI scan on equipment in which the referring physician has a financial interest violates the Maryland Patient Referral Law. This ruling addresses the legality of several specific fact patterns of referrals. The Board is implementing this law as discussed below.

MRI/CT Scans

The Board has posted an explanation of the self-referral law, the declaratory ruling on MRI scans, and links to the declaratory ruling and the Court of Appeals decision on its website. The reasoning applies as well to CT scans.

To educate physicians in Maryland about self-referral for MRI and CT scans, the Board will provide information on the ruling to all licensed physicians practicing in Maryland. This information will include how to report concerns about violations of the self-referral law.

In addition, on March 1, 2011, the Board will send letters to all physicians about whom the Board received information of possible violation of self-referral statute with respect to MRI or CT scans. The letters will request that physicians supply, within 10 business days, current information about his or her practice, his or her ownership in the practice, practice ownership of MRI equipment; and referral of patients to practice-owned MRI equipment by individual physicians.

For those physicians who respond to this request with information indicating he or she is in violation of the law, the Board will ask the physician to provide evidence that the physician has stopped illegal self-referrals within 60 days.

Other physicians may be subject to investigation as determined appropriate by the Board.

Radiation Therapy

The Board considered the relevant concerns with respect to enforcement of the ban on self-referrals enacted by the 1993 self-referral statute, and determined that a period of public comment was unnecessary because the law does not distinguish between the provision of radiation therapy services, magnetic resonance imaging services, and computer tomography scan services. Accordingly, the Board will proceed with the investigation of complaints concerning radiation therapy services and with enforcement of the law if the Board determines that none of the exemptions to the law apply.

The Board understands that radiation therapy is a progressive, multi-treatment process; it is not the intent of the Board to interrupt ongoing therapy regimens. In investigating any complaints the Board may receive, it will examine specific therapy circumstances for patients whose therapy has begun after May 1, 2011. Patients whose radiation therapy begins before May 1, 2011 may complete their treatment regimen with existing providers.

All other self-referral complaints

The Board will provide information to the public and physicians about how to make self-referral complaints. The Board will investigate these complaints as appropriate.